

Legal 500

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Montenegro

Doing Business In

Contributor

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This country-specific Q&A provides an overview of doing business in laws and regulations applicable in Montenegro.

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Montenegro: Doing Business In

1. Is the system of law in your jurisdiction based on civil law, common law or something else?

The legal system in Montenegro is a civil law system.

2. What are the different types of vehicle / legal forms through which people carry on business in your jurisdiction?

The Montenegrin Company Law recognizes following legal structures:

1. **Partnership** ("Ortačko društvo") – A partnership is established by two or more individuals or legal entities to engage in business under a shared name. The formation of the partnership is governed by a partnership agreement. In this structure, partners bear joint, several, and unlimited liability for the company's obligations, with personal assets fully at risk.
2. **Limited Partnership** ("Komanditno društvo") – This entity consists of one or more general partners and one or more limited partners. The general partners bear joint, several, and unlimited liability for the company's obligations, while the limited partners are liable only under circumstances expressly outlined.
3. **Joint Stock Company** ("Akcionarsko društvo") – A joint stock company is a corporate entity where the founding capital is divided into shares owned by one or more shareholders. The company's liabilities are distinct from those of its shareholders, thus offering limited liability protection.
4. **Limited Liability Company** ("Društvo sa ograničenom odgovornošću") – This type of company is established by one or more natural or legal persons who contribute monetary or non-monetary assets. The capital is divided into shares that do not represent securities. The liability of the members is limited to the amount of their registered share capital, and the company may have up to 30 members.
5. **Entrepreneurship** ("Preduzetnik") – An entrepreneur is a natural person engaged in economic activities on their own account and

not on behalf of another. Entrepreneurs do not have the status of a legal entity and are subject to unlimited liability, as they are personally liable for their business obligations.

6. **Branch of a Foreign Company** ("Dio stranog društva") – This refers to a division of a company that was established and registered outside Montenegro but operates within the country's territory, conducting business activities on behalf of the parent foreign entity.
7. **Branch of a Company** ("Dio privrednog društva") – Branch of a company represents a separate organizational unit of the company established in Montenegro, conducting business on behalf of the parent company.

Each of these forms provides distinct legal and liability frameworks tailored to various types of business operations in Montenegro.

3. Can non-domestic entities carry on business directly in your jurisdiction, i.e., without having to incorporate or register an entity?

The Montenegrin legal system mandates that any foreign legal entity or organization engaging in activities or generating income within Montenegro shall register with the relevant authorities.

Hence, a foreign legal entity that carries out economic activity in Montenegro, independently and permanently, with the intention of generating income, or making a profit, is obliged to register in accordance with the regulation governing the performance of economic activity.

Depending on the nature and frequency of the business activities, this may involve appointing a tax representative, establishing a branch, or setting up a permanent business establishment in the country.

4. Are there any capital requirements to consider when establishing different entity types?

The minimum required founding capital for a Joint Stock Company is EUR 25,000 in cash, while for a Limited Liability Company, it is EUR 1,00.

However, for certain business activities, such as those involving investment companies, banks, and similar entities, the law may prescribe higher amounts for the minimum founding capital.

5. How are the different types of vehicle established in your jurisdiction? And which is the most common entity / branch for investors to utilise?

All business entities must be registered with the Central Registry of Business Entities of Montenegro (CRBE). Among these, the Limited Liability Company (LLC) is the most commonly used form by investors.

To establish an LLC, the founder(s) must sign a decision or agreement to open the company using a qualified e-signature, which must be notarized by a public notary using tools for electronic video identification, qualified e-signature, and qualified electronic seal. In addition, the founders are required to adopt the Articles of Association and make a decision on the appointment of a director or board of directors. The administrative taxes for registering a LLC before CRBE are total of EUR 15,00 (without additional fees for stamp or translation).

Once the application is submitted to the CRBE, the registration process typically takes between 7 to 10 days. However, CRBE has switched to fully digital system of receiving requests/issuing documentation. Currently, the system is not fully operational, therefore it is possible that the estimated duration is extended.

6. How is the entity operated and managed, i.e., directors, officers or others? And how do they make decisions?

The management structure of a Joint Stock Company in Montenegro can be organized under either a single-tier or dual-tier system.

Single-Tier Management: In this system, the governing bodies of the Joint Stock Company are as follows:

1. **Shareholders' Assembly** – Composed of all shareholders, this body has the authority to elect and dismiss members of the Board of Directors or Director, appoint and dismiss the company's auditor, enact the Articles of Association, and exercise other powers in accordance with the Company Law and the Articles of Association.
2. **Board of Directors or Director** – the company

can opt either for appointing the Board or a Director to conduct the management function. In each case, they are authorized to establish business strategies, supervising company operations, and determining the amount of extraordinary dividends. If appointed, the Board consists of executive and non-executive directors.

Dual-Tier Management: In this structure, the governing organs are:

1. **Shareholders' Assembly** – Similar to the single-tier system, the Shareholders' Assembly holds authority over various matters, including the appointment of the Supervisory Board and the adoption of the company's Articles of Association.
2. **Supervisory Board** – The Supervisory Board oversees the management of the company's business and appoints the members of the Management Board.
3. **Management Board** – The Management Board is responsible for managing the company's affairs and executing decisions made by the Shareholders' Assembly and the Supervisory Board.

Quorum: Generally, the quorum for the Shareholders' Assembly consists of shareholders holding more than half of the total voting shares, either present or represented by proxy, or those who have voted by ballot.

In a **Limited Liability Company (LLC)**, the mandatory bodies are:

1. **Shareholders' Assembly** (if there is more than one founder) – This body appoints the Director. If not, there is only a founder performing authorities of the assembly.
2. **Board of Directors or Director** – The company can opt either for appointing the Board or a Director to conduct the management function. Appointed by the shareholders, the Board of Directors/Director have broad powers to represent the company, conclude contracts, and make financial decisions. These powers can be limited by the Articles of Association or require the countersignature of an Authorized Representative. Shareholders may also appoint one or more Authorized Representatives, who may be collectively or individually authorized.

This governance structure ensures clear delegation of

powers and responsibilities, depending on the company's chosen management model.

7. Are there general requirements or restrictions relating to the appointment of (a) authorised representatives / directors or (b) shareholders, such as a requirement for a certain number, or local residency or nationality?

In general, there are no restrictions, but the Director must be employed in the company and have work/residence permit if a non-national.

8. Apart from the creation of an entity or establishment, what other possibilities are there for expanding business operations in your jurisdiction? Can one work with trade /commercial agents, resellers and are there any specific rules to be observed?

Business relations in Montenegro can be established through various types of contracts, as recognized by the Montenegrin Law on Contracts and Torts. These contracts may include, but are not limited to, the following:

1. Agency Agreement – An agreement whereby one party (the agent) is authorized to act on behalf of another (the principal) in business dealings with third parties.
2. Commission Agreement – A contract where one party (the commission agent) undertakes to perform certain tasks or transactions for another party (the principal), typically in return for a commission or fee.

Other types of contracts may also be utilized depending on the specific business relationship and activities being carried out, with all contracts being subject to the provisions of the Montenegrin Law on Contracts and Torts.

9. Are there any corporate governance codes or equivalent for privately owned companies or groups of companies? If so, please provide a summary of the main provisions and how they apply.

Montenegro does not have specific corporate governance codes; however, the Company Law outlines mandatory provisions and procedures for privately owned

companies. These provisions ensure that corporate governance is conducted in accordance with the legal framework established by the law. Relevant details regarding corporate governance practices, including the structure and management of companies, have been provided in previous responses.

10. What are the options available when looking to provide the entity with working capital? i.e., capital injection, loans etc.

In a **Limited Liability Company (LLC)**, the basic (founding) capital may be increased through the following means:

1. **New Contributions by Existing Members or New Members** – This involves additional contributions from current members or the admission of new members to the company.
2. **Conversion of Company Reserves or Profits into Basic Capital** – This involves transferring the company's reserves or retained earnings into the basic capital.
3. **Conversion of Claims into Basic Capital** – The conversion of outstanding claims against the company into equity.
4. **Status Changes** – Any restructuring or changes in the company's status that result in an increase in basic capital.
5. **Conversion of Additional Contributions into Share Capital** – This refers to the obligation of the founders to make additional payments to the company, if it is provided in the Articles of Association of the company.

For a Joint Stock Company, the basic share capital can be increased through the following methods:

1. **Additional Contributions from Existing or New Shareholders** – Shareholders may contribute more capital, or new shareholders may be introduced.
2. **Conversion of Receivables and Exchangeable Securities into Shares** – Receivables owed to the company or convertible securities may be exchanged for shares.
3. **Utilizing Reserves and Retained Earnings** – The company may increase its capital by converting reserves or retained earnings into share capital.
4. **Conditional Increase of Share Capital** – This includes exercising the rights arising from convertible bonds and warrants.
5. **Company Restructuring** – Changes to the company's structure may also lead to an

increase in capital.

Additionally, a company may secure financing through loans from shareholders or third parties. It is important to note that when a loan is provided between related parties, the interest rate must comply with the arm's length principles, ensuring that the terms are consistent with those that would apply in transactions between unrelated parties.

11. What are the processes for returning proceeds from entities? i.e., dividends, returns of capital, loans etc.

Shareholders have the right to participate in the distribution of a company's profits through dividends, once a decision on the distribution has been made.

In a Joint Stock Company, shareholders holding preferred shares have a preferential right to receive dividends. These dividends are either a pre-determined monetary amount or a percentage of the nominal value of the preferred share and are paid out before any dividends are distributed to the holders of ordinary shares.

While dividends are typically paid in cash, they may also be distributed in the form of company shares or other securities, as determined by the company's decision on profit distribution.

12. Are specific voting requirements / percentages required for specific decisions?

Two-thirds majority of shareholders attending the Assembly are required to decide on:

1. Acquisition of assets from a founder following the registration of a joint-stock company;
2. Deprivation or restriction of pre-emptive subscription rights;
3. Financial assistance to its shareholders, employees, or third parties for the acquisition of shares of the company or shares of its parent company;
4. Decision on the increase / decision on the reduction of share capital;

A two-thirds majority is also needed for decisions like acquiring shares from members or liquidating the company.

13. Are shareholders authorised to issue binding

instructions to the management? Are these rules the same for all entities? What are the consequences and limitations?

Management of the company shall generally comply with the decisions of the Shareholders' assembly enacted within their authorizations and scope of decisions.

14. What are the core employment law protection rules in your country (e.g., discrimination, minimum wage, dismissal etc.)?

Minimal wage in Montenegro is EUR 600,00 for employees employed at working position for high school graduated and EUR 800,00 for employed at working position for university graduated.

The Labor Law in Montenegro includes provisions that prohibit discrimination, work harassment, and provide special protection for individuals such as people with disabilities, youth, women, and legal guardians of children.

Additionally, there are specific laws addressing the prohibition of discrimination, discrimination against people with disabilities, and work harassment.

The Labor Law outlines unjustified grounds for dismissal, including:

1. Refusal to accept an annex to the contract.
2. Temporary inability to work due to illness, work-related injury, or professional disease.
3. Absence for pregnancy, maternity, parental, adoptive parental, foster parental leave, or child care.
4. Discriminatory reasons such as political affiliation, trade union membership, or personal characteristics.
5. Acting as an employee representative in accordance with the law.
6. Contacting a trade union or relevant authorities for protection of employment rights.
7. Reporting corruption or environmental risks related to the employer's operations to state authorities.

These provisions aim to ensure fair treatment and protect workers from unjust dismissal.

15. On what basis can an employee be dismissed

in your country, what process must be followed and what are the associated costs? Does this differ for collective dismissals and if so, how?

The Labor Law allows employers to dismiss employees through collective dismissal, individual dismissal or by taking disciplinary action for a breach of work duties.

Individual Dismissal: Justified reasons for individual dismissal include failure to achieve work results, abuse of absence rights, or committing a criminal offense related to work. The employer must in most cases provide a written warning notice to the employee, specifying the reasons for dismissal, and give the employee at least 5 working days to respond before making a final decision.

Disciplinary Procedure: For serious breaches of work duties, such as failure to perform tasks, harassment, or mishandling of funds, the employer may terminate employment through a disciplinary procedure. This procedure may involve an oral hearing before the employer's competent body to determine whether the employee has violated work duties.

Employee Rights: If dismissed, the employee can challenge the employer's decision by initiating proceedings with the Agency for Peaceful Labor Dispute Resolution, the Center for Alternative Dispute Resolution, or the competent court.

Collective Dismissal: If the employer dismisses at least 20 employees within 90 days, a collective dismissal procedure must be followed. The employer is required to consult with employee representatives and notify the Employment Agency before making a final decision. Employees dismissed under collective dismissal are entitled to severance pay as determined by law and collective agreements.

16. Does your jurisdiction have a system of employee representation / participation (e.g., works councils, co-determined supervisory boards, trade unions etc.)? Are there entities which are exempt from the corresponding regulations?

The Labor Law guarantees employees the right to freely establish trade unions. Employers are required to provide trade unions with the necessary conditions to carry out their activities effectively.

Employers must notify the trade union about ongoing matters and consider their opinion before making

decisions on important issues such as professional and financial matters affecting employees, collective dismissals, and job classifications.

Trade unions, representing employees, are entitled to negotiate and conclude Collective Agreements at various levels—general, sector-level, and workplace-level. These provisions apply to all employers.

17. Is there a system governing anti-bribery or anti-corruption or similar? Does this system extend to nondomestic constellations, i.e., have extraterritorial reach?

The anti-corruption regulations are included in the Law on Prevention of Corruption and its provisions refer to corruption in context of functions exercised by the public officials. The Law on Prevention of Corruption does not contain provisions on extraterritorial reach.

18. What, if any, are the laws relating to economic crime? If such laws exist, is there an obligation to report economic crimes to the relevant authorities?

Criminal offenses related to payment transactions and commercial activities are specifically outlined in the Criminal Code of Montenegro. These include economic crimes such as tax and contribution evasion, smuggling, money laundering, and both passive and active bribery in commercial contexts, etc.

Montenegro also has the Law on Liability of Legal Entities for Criminal Offenses, which holds both legal entities and their authorized representatives accountable for criminal offenses as defined by the Criminal Code. Legal entities can face monetary fines or even dissolution.

The Criminal Code mandates a general obligation to report the preparation of any criminal offense punishable by a prison sentence of five years or more. This includes crimes like money laundering and bribery.

19. How is money laundering and terrorist financing regulated in your jurisdiction?

The Law on Money Laundering and Terrorist Financing outlines measures and actions aimed at preventing and detecting money laundering and terrorist financing that shall be followed by all obliges of the law.

Both money laundering and terrorist financing are also

explicitly defined as offenses under the Criminal Code of Montenegro.

20. Are there rules regulating compliance in the supply chain (for example comparable to the UK Modern Slavery Act, the Dutch wet kinderearbeid, the French loi de vigilance)?

Montenegro does not have a special law or any kind of special act regulating compliance in the supply chain. However, the listed examples are prohibited by different regulations.

21. Please describe the requirements to prepare, audit, approve and disclose annual accounts / annual financial statements in your jurisdiction.

The obligations related to financial reporting vary based on the size of the legal entity (micro, small, medium, large). However, all legal entities and entrepreneurs must submit an annual financial report to the Tax Authority for the reporting year.

- Legal Entities: Must submit both financial and management reports in written and electronic form to the Tax Authority by March 31 of the following year. Consolidated financial statements and the consolidated management report must be submitted by May 31.
- Entrepreneurs: Must submit their annual financial report by April 30.

Audit Requirements: An audit is mandatory for entities of public interest, medium-sized legal entities, and parent legal entities that, together with their subsidiaries, meet the criteria for classification as medium or large entities. This also applies to investment companies, investment funds, pension funds, and other collective investment schemes.

Medium-sized Legal Entities: These entities are those that do not qualify as micro or small entities and do not exceed two of the following three criteria:

1. The average number of employees up to 250.
2. Total annual income up to €50,000,000.
3. Total assets up to €25,000,000.

22. Please detail any corporate / company secretarial annual compliance requirements?

Company Law prescribes that the Shareholders adopt

annual financial statements and reports on the company's operations (joint-stock company) or financial reports and auditor's reports if they were made (LLC).

23. Is there a requirement for annual meetings of shareholders, or other stakeholders, to be held? If so, what matters need to be considered and approved at the annual shareholder meeting?

The Shareholders' Assembly shall be held once a year, within six months from the end of each business year, except for the first year after the company was founded (ordinary). Assembly may also be extraordinary.

The Ordinary discusses proposals and the adopted agenda, which generally includes discussing the financial reports and statements.

24. Are there any reporting / notification / disclosure requirements on beneficial ownership / ultimate beneficial owners (UBO) of entities? If yes, please briefly describe these requirements.

The Register of Beneficial Owners is an electronic database in which information on the beneficial owners is maintained and is operated by the CRBE.

Invoked forms of legal entities are obliged to enter data on beneficial owners and changes in beneficial owners in the Register of Beneficial Owners within eight days from the date of their registration in the CRBE or the Register of Taxpayers, i.e. within eight days from the change of data on the beneficial owner.

25. What main taxes are businesses subject to in your jurisdiction, and on what are they levied (usually profits), and at what rate?

The legal entity which in the last 12 months has turnover exceeding 30,000 euros shall calculate and pay Value Added Tax. The general VAT rate is 21%.

Rates for Corporate Income Tax are progressive. Tax rates on the amount of taxable profit amount to 1) up to EUR 100,000.00 9%; 2) from EUR 100,000.01 to EUR 1,500,000.00: EUR 9,000.00 + 12% on the amount over EUR 100,000.01; 3) over 1,500,000.01 euros: 177,000.00 euros + 15% on the amount over 1,500,000.01 euros.

The company shall also pay contributions for compulsory social insurance and unemployment insurance for its employees.

26. Are there any particular incentive regimes that make your jurisdiction attractive to businesses from a tax perspective (e.g. tax holidays, incentive regimes, employee schemes, or other?)

Tax benefits are provided for companies that are established in underdeveloped municipalities. Corporate Profit Tax Law states that the calculated profit tax for the first eight years is reduced by 100% for a newly established legal entity that performs activities in economically underdeveloped municipalities. The total amount of tax exemption for a period of eight years cannot exceed EUR 200,000.00

In addition, a taxpayer who has established company in underdeveloped municipalities and who employs a person for an indefinite period of time or at least for five years, is released from the obligation to pay the calculated and withheld income tax for that employee, for a period of four years from the date of employment.

According to the Regulation on Business Zones, a company, legal entity, or entrepreneur may become a beneficiary of a business zone through a public call. This status grants the right to an exemption or reduction in mandatory social insurance contributions on wages, contributions to the Labor Fund, and personal income tax for employees working within the business zone. The total incentives provided cannot exceed the maximum allowable aid intensity, which is set at 60% for medium-sized companies and 70% for small companies. These tax incentives may be utilized for a maximum period of five years from the date of the employee's commencement of work within the business zone.

27. Are there any impediments / tax charges that typically apply to the inflow or outflow of capital to and from your jurisdiction (e.g., withholding taxes, exchange controls, capital controls, etc.)?

Legal entity (resident or nonresident) is obliged to calculate, withhold and pay withholding tax on income paid on the basis of: dividends and profit shares paid to resident and non-resident legal entities; interest, compensation for copyright and other intellectual property rights, capital gains, compensation for lease of movable and immovable property, compensation for consulting services, market research services and audit services, which are paid to a non-resident legal entity; distribution of the liquidation balance to legal entities, at the rate of 15%.

28. Are there any significant transfer taxes, stamp duties, etc. to be taken into consideration?

Real estate transfer tax rates are progressive and amount to (i) up to EUR 150,000.00 – 3%; (ii) above EUR 150,000.01 – EUR 4,500.00 + 5% of the amount exceeding EUR 150,000.01 and (iii) above EUR 500,000.01 – EUR 22,000.00 + 6% of the amount exceeding EUR 500,000.01.

29. Are there any public takeover rules?

Yes. The threshold for a mandatory takeover bid is 30% voting rights. Takeover rules are provided for Joint-stock companies. The squeeze out right is set at 95%.

30. Is there a merger control regime and is it mandatory / how does it broadly work?

Participants in a concentration (merger or acquisition) are required to notify the Competition Protection Agency under the following conditions:

1. The combined total annual income of at least two participants in the concentration, achieved in the Montenegrin market, exceeds EUR 5 million in the previous financial year.
2. The joint total annual income of the participants in the concentration, achieved on the global market, exceeds EUR 20 million in the previous financial year, provided that at least one participant earned EUR 1 million in income within the territory of Montenegro during that period.

31. Is there an obligation to negotiate in good faith?

Yes, in establishing contractual relations and exercising rights and obligations from those relations, the parties are obliged to adhere to the principles of conscientiousness and honesty.

32. What protections do employees benefit from when their employer is being acquired, for example, are there employee and / or employee representatives' information and consultation or co-determination obligations, and what process must be followed? Do these obligations differ depending on whether an asset or share deal is

undertaken?

There are no specific rules or obligations regarding share or asset acquisitions. However, if there is a change of employer or part of the employer due to a corporate statutory change (e.g., a merger), the successor employer assumes responsibility for the employees of the predecessor employer. The successor must respect all existing employee rights and obligations from the employment relationship as of the takeover date and ensure the continuation of trade union activities.

Employers must notify employees of the acquisition at least 15 days before the acquisition date. If an employee opposes the takeover, they are entitled to severance pay. Additionally, employers must notify the trade union 30 days before the acquisition.

33. Please detail any foreign direct investment restrictions, controls or requirements? For example, please detail any limitations, notifications and / or approvals required for corporate acquisitions.

In general, there are no restrictions or controls. There are

requirements for notifying the Central Bank of FDIS, but only for statistical purposes.

34. Does your jurisdiction have any exchange control requirements?

No, it does not have.

35. What are the most common ways to wind up / liquidate / dissolve an entity in your jurisdiction? Please provide a brief explanation of the process.

The most common way to dissolve an entity is the procedure of voluntary liquidation, which can be a long or short procedure.

The short procedure includes a statement of the founder's responsibility for all the company obligations for three years from the date of liquidation. A long procedure would include notifying creditors and tax control of the company's records and conducted tax obligation payments.

A company may also be dissolved in bankruptcy proceeding when over indebted.

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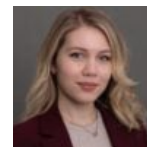
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