

# Doing Business in Bulgaria

[www.practicallaw.com/3-500-6825](http://www.practicallaw.com/3-500-6825)



Vladimir Penkov and Svetlin Adrianov  
Penkov, Markov & Partners (Lex Mundi Member Firm)

## LEGAL SYSTEM

### 1. What is the legal system (civil law, common law or a mixture of both)?

Bulgaria is a civil law jurisdiction.

## FOREIGN INVESTMENT

### 2. Are there any restrictions on foreign investment (including authorisations required by central or local government)?

There are no restrictions on foreign investment and foreign investors are considered equal to local investors in all respects. However, there are certain restrictions on foreign persons acquiring ownership or limited property rights over land, with EU citizens being privileged in comparison to other foreign persons.

In 2014, EU citizens will have the same right as Bulgarian citizens regarding real estate in Bulgaria.

### 3. Are there any exchange control or currency regulations?

Currency regulations are given in the Currency Act (*State Gazette No. 83/21.09.1999, as amended*). There are generally no restrictions on payments or currency exchanges, but the following should be considered:

- Commercial banks and the Bulgarian National Bank only make payments and transfers to recipients abroad after receiving evidence for due declaration before the Bulgarian National Bank of the respective payment and transfer describing the grounds for the transfer.
- Persons making transfers or currency payments exceeding BGN25,000 (about US\$18,700) to recipients

abroad must provide the bank with certain information including an agreement, invoice, import document or any other document justifying the payment.

Transactions or payments between domestic and foreign persons must be registered for statistical purposes.

Local entities must report to the Bulgarian National Bank their:

- Claims on and liabilities to foreign persons.
- Direct investments made abroad.
- Transactions concerning the granting or receiving of financial credits to or from foreign persons exceeding BGN5,000 (about US\$3,740).

### 4. What grants or incentives are available to investors? Are any of these aimed specifically at foreign investors?

A foreign investor has the same rights as a resident (*Investments Promotion Act (State Gazette No. 97/24.10.1997)*). In some cases, international agreements give more favourable conditions for foreign persons' economic activity.

## BUSINESS VEHICLES

### 5. What is the most common form of business vehicle used by foreign companies to conduct business in your jurisdiction? In relation to this vehicle, please provide details on:

- Registration formalities (including timing).
- Minimum (and maximum) share capital.
- Whether shares can be issued for non-cash consideration, such as assets or services (and any formalities).
- Any restrictions on the rights that can attach to shares.

- **Any restrictions on foreign shareholders.**
  - **Management structure and any restrictions on foreign managers.**
  - **Directors' liability.**
  - **Parent company liability.**
  - **Reporting requirements (including filing of accounts) and cost of compliance.**
- making payments from the company's property in bad faith, constituting a hidden profit or dividend distribution;
  - transferring any of the company's property for no consideration or consideration substantially lower than the market price.
- criminal liability for crimes against the creditors, including (*Criminal Code (State Gazette No. 26/02.04.1968, as amended)*):
    - deliberate bankruptcy;
    - imprudent bankruptcy;
    - failure to request insolvency proceedings where appropriate.

The most common form of business vehicle used by foreign companies is a limited liability company.

- **Registration formalities.** From 1 January 2008 companies must be registered with the Trade Register at the Recordation Agency. The Trade Registry Act allows a one-day term to complete the registration procedure, counted from the moment of filing the application for registration together with the respective documents at the Trade Register. This term is usually observed.
- **Share capital.** The minimum share capital for limited liability companies is BGN5,000 (about US\$3,740). An amendment to the Commercial Act is expected to be approved, setting the minimum capital for limited liability companies to BGN2 (about US\$1.50).
- **Non-cash consideration.** Non-cash consideration is allowed but subject to special valuation procedure.
- **Rights attaching to shares.** Shareholders have voting rights, rights to dividends and certain information rights.
- **Foreign shareholders.** There are no restrictions on foreign shareholders.
- **Management structure.** The typical management structure has one or more managing directors acting jointly or severally (no board).
- **Directors' liability.** Managing directors can have:
  - civil liability for damages caused to the company. Additional obligations and responsibilities towards the company can also be explicitly given in the management contract.
  - administrative liability for (*Tax and Social Insurance Procedure Code (State Gazette No. 105/29.12.2005, as amended)*):
    - failure to properly disclose relevant facts to the authorities;

- **Parent company liability.** The parent companies are not liable for their subsidiaries' liabilities after making the entire contribution to the capital.
- **Reporting requirements.** The company's annual financial statements must be announced by 30 June on the following year before the Trade Register at the Recording Agency.

## EMPLOYEES

### 6. What are the main laws regulating employment relationships?

The Labour Code (*State Gazette No. 26/01.02.1986*) regulates employment relationships in Bulgaria irrespective of the employees' nationality. Most of its provisions are mandatory and cannot be excluded by choice of law. Subsidiary provisions include the:

- Working Hours, Breaks and Vacations Regulation.
- Reduced Working Hours Regulation.
- Regulation for Free Work and Uniform Clothing.
- Regulation for the Personal Working Book and Working Experience.

### 7. Is a written contract of employment required? Are any agreements and/or implied terms likely to govern the employment relationship?

A written contract of employment is required and must determine the main contract parameters, such as position, workplace, working hours, remuneration. The Labour Code applies to all employment contracts (*see Question 6*).

---

### 8. Are employees entitled to management representation and/or to be consulted in relation to corporate transactions (such as redundancies and disposals)?

---

Where a business enterprise is transferred or a company is reorganised and the legal entity of the employer is formally changed, both the old and the new employer must inform the trade union and employee representatives of, among other things:

- The planned transformation.
- The transformation date.
- The reasons for the transformation.
- The possible legal, economic and social implications of the transformation for the employees.

---

### 9. How is the termination of individual employment contracts regulated?

---

The Labour Code sets out certain limited grounds for the lawful termination of an employment contract for example, by the parties' mutual consent, on expiry of the agreed term or giving due notice for termination. An unlawfully terminated employee can claim in court for indemnification and restoration to the job.

The grounds for termination of an employment contract by the employer's initiative are limited by the law.

---

### 10. Are redundancies/mass layoffs regulated? If so, please give details.

---

The respective procedures and employer's obligations concerning redundancies and mass layoffs are regulated in the Labour Code. Where mass layoffs are contemplated, the employer must consult with the trade union and employee representatives and make efforts to:

- Reach an agreement to avoid the mass layoff.
- Reduce the number of employees affected.
- Mitigate the consequences of the dismissals.

Before the beginning of the consultations the employer must provide employee representatives with information on the reasons of the projected layoffs, the number of employees to be dismissed and so on. A copy of this information must be sent to the National Employment Agency.

---

### 11. Do foreign employees require work permits and/or residency permits? If so, how long does it take to obtain them and how much do they cost?

---

Foreign persons (except for EU citizens) require work or residency permits. Obtaining the permits takes about three to four months.

---

## TAX

---

### 12. In relation to employees, what constitutes tax residency in your jurisdiction?

---

Unless there is a double taxation avoidance treaty stipulating other standards, tax residency is constituted by a person either:

- Having his permanent address in Bulgaria.
- Being present in Bulgaria for over 183 days in any 12-month period.
- Having his centre of vital interests situated in Bulgaria.

Bulgarians (and their families) working abroad for a Bulgarian state body or Bulgarian enterprise are considered tax resident in Bulgaria.

---

### 13. What income tax or social security contributions must the following pay:

- Tax resident employees?
  - Non-tax resident employees?
  - Employers, in relation to their employees?
- 

#### Tax resident employees

The tax rates for tax resident employees are:

- Personal income tax: 10% on taxable income.
- Social insurance contributions: These are paid to the public social insurance funds as follows:
  - between 13% and 21% for the Pension Fund, depending on the year of birth and specifics of the executed work (for example, the first and second category of labour or certain jobs within the judiciary system);
  - 3.5% for the Common Disease and Maternity Fund;
  - 1% for the Unemployment Fund;

- between 0.4% and 1.1% for the Industrial Accidents and Occupational Diseases Fund, as provided for by the Public Social Insurance Budget Act for the relevant year by main types of economic activities.
- Health insurance contributions: 8%.

### Non-tax resident employees

Non-tax resident employees pay personal income tax at 10% on income from work performed inside Bulgaria. Social insurance contributions are the same as for tax resident employees (see above, *Tax resident employees*).

Double taxation treaties can also apply.

### Employers

As of 1 January 2009 the social insurance contribution to the Common Disease and Maternity Fund and the Unemployment Fund is divided between the employer and employee at a ratio of 60:40. The ratio of contributions to the Pension Fund is differentiated depending on the employee's year of birth and the specifics of the executed work.

---

### 14. In relation to business vehicles, what constitutes tax residency in your jurisdiction?

---

Business vehicles that are registered in Bulgaria and have their registered office in Bulgaria are considered resident. Business vehicles include:

- Legal persons incorporated under Bulgarian law.
- Companies under Regulation (EC) No. 2157/2001 on the statute for a European company.
- Co-operative societies under Regulation (EC) No. 1435/2003 on the Statute for a European Co-operative Society (SCE).

If a relevant double taxation treaty exists it defines tax residency for legal persons.

---

### 15. Please give details of the main taxes that potentially apply to a tax resident business vehicle (including rates).

---

A tax resident business vehicle pays tax on its worldwide income including:

- Corporate tax on profits at 10%.

- Tax on certain expenses (such as business entertainment expenses and social expenses in kind provided to employees) at 10%.
- Value added tax (VAT) at a standard rate of 20%.

---

### 16. How are the activities of non-tax resident business vehicles taxed?

---

Non-tax resident business vehicles pay tax as follows (unless a double taxation treaty provides otherwise):

- Corporation tax at 10% on profits realised through a Bulgarian permanent establishment.
- Withholding tax at 5% on dividends and proceeds of selling shares. This tax does not apply to foreign legal persons who are resident for tax purposes in an EU member state or in another state which is a contracting party to the EEA Agreement.
- Withholding tax at 10% on certain types of Bulgarian source income, for example:
  - dividends and proceeds of selling shares;
  - interest payments;
  - income from rent or other uses of movable or immovable property;
  - copyright and licence royalties.

The withholding taxes should be withheld at source and are final.

---

### 17. Please explain how each of the following is taxed:

- Dividends paid to foreign corporate shareholders.
- Dividends received from foreign companies.
- Interest paid to foreign corporate shareholders.
- Intellectual property (IP) royalties paid to foreign corporate shareholders.

See *Question 16*.

---

### 18. Are there any thin capitalisation rules (restrictions on loans from foreign affiliates)? If so, please give details.

---

Loans from both foreign and local affiliates come under the same thin capitalisation rules.

Interest on loans from affiliates can be deducted from a company's gross income, provided the interest payable does not exceed 75% of the company's profits.

The interest in excess of this limit is deducted from the taxable profit during the next succeeding five years until they are depleted.

---

**19. Must the profits of a foreign subsidiary be imputed to a parent company that is tax resident in your jurisdiction (controlled foreign company rules)?**

---

The profits of a foreign subsidiary do not have to be imputed to a parent company.

---

**20. Are there any transfer pricing rules? If so, please give details.**

---

There are transfer pricing rules to prevent tax avoidance. Transactions between related parties are taxed as transactions between unrelated parties at the relevant market prices. This includes transactions between a non-resident enterprise's permanent establishment in Bulgaria and its other divisions situated outside the country.

---

**21. How are imports and exports taxed?**

---

There are no import or export duties on trade with EU countries. The VAT rates are:

- Exports: 0%.
- Imports: 20%, payable by the importer.

Goods from non-EU countries must pay import duties, as well as VAT of 20%. Exports are generally subject to VAT at 0%.

---

**22. Is there a wide network of double tax treaties? If so, please give details.**

---

Bulgaria has concluded more than 60 double tax treaties.

---

## COMPETITION

---

**23. Are restrictive agreements and practices regulated by competition law in your jurisdiction? If so, please give brief details.**

---

Bulgarian law is harmonised with EU competition law. Local regulations, such as Article 15 and 21 of the

Law on Protection of Competition (*State Gazette No. 102/28.11.2008*), follow Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) (formerly Articles 81 and 82 of the EC Treaty).

---

## INTELLECTUAL PROPERTY

---

**24. Please outline the main intellectual property rights that are capable of protection in your jurisdiction. In each case, please state:**

- **Nature of right.**
  - **How protected.**
  - **How enforced.**
  - **Length of protection.**
- 

### Patents

- **Nature of right.** To be patentable inventions must:
  - be new;
  - involve an inventive step;
  - be capable of industrial application.
- **How protected.** Inventions are protected by a patent issued by the Bulgarian Patent Office (BPO), which certifies the proprietor's exclusive rights over the invention.
- **How enforced.** The patent holder, and an exclusive licensee, are entitled to bring an action for infringed patent rights before the competent court to:
  - establish the fact of the infringement;
  - claim compensation for damages and loss of profit;
  - stop the infringement;
  - reprocess or destroy the infringing goods;
  - have the court judgment published in two daily newspapers at the infringer's expense.
- **Length of protection.** Patents are protected for 20 years from the date of filing the application.

### Trade marks

- **Nature of right.** The right is acquired by registration and starts from the date of filing the application.
- **How protected.** Trade marks are protected by registration with the BPO after research and issuance of a registration certificate.
- **How enforced.** The trade mark holder, and an exclusive licensee, have independent rights to bring an

action before the competent court to:

- establish the fact of the infringement;
- claim compensation for damages and loss of profit;
- stop the infringement;
- seize or destroy the infringing goods;
- claim costs related to storage and destruction of the goods;
- have the court judgment published in two daily newspapers and screened on national television at the infringer's expense.
- **Length of protection.** Protection is for ten years from the date of filing the application. The registration can be renewed for an unlimited number of further ten-year periods.

### Registered designs

- **Nature of right.** The design must be new and original.
- **How protected.** The right to a design is acquired by registration with the BPO.
- **How enforced.** The design right holder, and an exclusive licensee, have independent rights to undertake actions for infringement. The court has similar powers as those for trade marks (*see above, Trade marks*).
- **Length of protection.** This is the same as for trade marks (*see above, Trade marks*).

### Copyright

- **Nature of right.** A person whose name or identifying mark is inscribed in the customary manner on the original of a work, its replicas or copies, and/or the packaging, is considered its author. An author gains copyright over their literary, artistic and scientific works with the act of creation.
- **How protected.** The copyright does not need to be registered. The Bulgarian Copyright and Neighbouring Rights Act (*State Gazette No. 56/29.06, as amended*) regulates copyright protection.
- **How enforced.** The copyright holder, or a person given exclusive user rights, can bring an action against an infringer to:
  - claim damages immediately resulting from the infringement;
  - establish the fact of the infringement;
  - stop or ban the illegitimate use;

- seize and destroy illegitimately produced copies of the work, including negatives, master copies, printing forms and other materials;
- seize and put out of operation the copying, decoding and reproducing equipment used exclusively for committing violations;
- publish the court judgment in two daily newspapers and to be screened on national television at the infringer's expense.

- **Length of protection.** Protection lasts for the life of the author plus 70 years. For works having two or more authors the 70-year term starts at the death of the last surviving author.

### Confidential information

- **Nature of right.** Manufacturing or trade secrets can be protected. They are defined as facts, information, decisions and data pertaining to economic activities, which are of interest to their owner, and which the owner has taken measures to maintain as confidential.
- **How protected.** Trade secrets can be defined and protected through explicit clauses in contractual agreements.
- **How enforced.** The methods of enforcing the rights over a trade secret are subject to negotiations between the parties to an agreement and are enforced through all applicable means by general civil law.
- **Length of protection.** The length of protection must be agreed between the parties.

## MARKETING AGREEMENTS

25. Are marketing agreements regulated in your jurisdiction? If so, please give brief details in respect of the following arrangements:

- **Agency.**
  - **Distribution.**
  - **Franchising.**
- 
- **Agency.** Agency is regulated by the Commerce Act (*State Gazette No. 48/18.06.1991, as amended*) and by written agency agreements. The agent is a professional person engaged independently to act as a merchant's representative, with separate rights and obligations. An agent can be authorised to effect transactions in the merchant's name, or in its own name but on the merchant's behalf.

The agent is entitled to a commission for all transactions effected or assistance given during the term of its contract. Where an agent is entrusted with a specified territory or circle of clients, it is entitled to commission for all transactions concluded without its assistance but with persons from the same territory or with the same clientele.

Upon termination of an agency contract the agent has the right of a single compensation payment when the principle continues to profit from the clientele created by the agent.

- **Distribution.** Distribution agreements are not specifically regulated. There is an interpretation of the concept by the Supreme Court, but no legal regulations to deal with this type of agreement.
- **Franchising.** Franchising agreements are not specifically regulated. There is a definition of franchise in the Corporate Income Tax Act and certain rules of taxation on franchising fees but no specific regulation of this type of agreement.

## E-COMMERCE

### 26. Are there any laws regulating e-commerce (such as electronic signatures and distance selling)? If so, please give brief details.

Relations between providers and recipients in e-commerce are regulated by the:

- **Law of Electronic Commerce (State Gazette No. 51/23.06.2006, as amended).** This gives providers specific obligations and liabilities regarding their services and the acceptance of electronic statements.
- **Law of Protection of Consumers (State Gazette No. 99/09.12.2005, as amended).** This gives general rules for the protection of consumers and specific requirements in distance selling contracts, including:
  - consumer rights to withdraw;
  - payment requirements;
  - liabilities and burdens of proof in any resulting litigation.
- **Law of Electronic Documents and Electronic Signature (State Gazette No. 34/06.04.2001, as amended).** This regulates the exchange of electronic documents and statements. It recognises the validity of electronic documents and regulates the certification of services providers.

## DATA PROTECTION

### 27. Are there any data protection laws? If so, please give brief details.

The Law of Protection of Personal Data (*State Gazette No. 1/04.01.2002, as amended*) gives the main obligations and regulatory requirements for personal data administrators.

Personal data is any information related to a natural person, identified directly or indirectly by an identification number or one or more specific indices. Personal data administrators are any natural or legal person, as well as state bodies, that process personal data. Personal data administrators must register with the Commission for Protection of Personal Data.

## PRODUCT LIABILITY

### 28. Are there any laws regulating product liability and product safety? If so, please give brief details.

The Law of Protection of Consumers regulates product liability and product safety. In general the producer, the distributor and the merchant are responsible for damages caused by stock defects.

Damages can be recovered for:

- Death or physical injury.
- Damage to personal property of over BGN1,000 (about US\$748).
- All other damage under the civil law rules.

The producer is responsible irrespective of whether it caused the defect.

### CONTRIBUTOR DETAILS

**Vladimir Penkov and Svetlin Adrianov**

**Penkov, Markov & Partners**

**T** +359 2 971 39 35

**F** +359 2 971 11 91

**E** [lawyers@penkov-markov.eu](mailto:lawyers@penkov-markov.eu)

**W** [www.penkov-markov.eu](http://www.penkov-markov.eu)



# PENKOV, MARKOV & PARTNERS

ATTORNEYS AT LAW



Certified with ISO 9001:2000  
by Bureau Veritas Certification

## Legal 500:

“Excellent,  
comprehensive  
and  
responsive service”

## Chambers Europe:

“More western than others”

## Chambers Global:

“The firm has  
an impressive network  
of offices across Bulgaria”

**EFFECTIVENESS  
FOR US,  
IS GETTING VALUE  
FOR OUR CLIENTS.**

LITIGATION  
CORPORATE  
RENEWABLE ENERGY  
BANKING  
COMPETITION  
INSOLVENCY  
LABOUR  
TELECOMMUNICATION  
REAL ESTATE  
MEDIA  
TAX

MEMBER

LEX  MUNDI

THE WORLD'S LEADING ASSOCIATION  
OF INDEPENDENT LAW FIRMS

SOFIA · BOURGAS · VARNA · PLEVEN · ROUSSE · LOVECH  
VIENNA · DOBRICH · STARA ZAGORA

e-mail: [lawyers@penkov-markov.eu](mailto:lawyers@penkov-markov.eu)

[www.penkov-markov.eu](http://www.penkov-markov.eu)