

Cross-Border Joint Venture and Strategic Alliance Guide (Bulgaria)

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This Cross-Border Joint Venture and Strategic Alliance Guide (Bulgaria) discusses relevant law and practice related to the formation and operation of cross-border joint ventures, including corporate and contractual joint ventures, in Bulgaria. For other jurisdictions see the [Cross-Border Joint Venture and Strategic Alliance Resource Kit](#).

Structures

What are the standard forms of joint ventures / strategic alliances and common features of each?

Bulgarian law does not specifically regulate joint ventures and strategic alliances. The Bulgarian Commercial Act merely defines a “consortium” as a contractual alliance of entrepreneurs for the realization of a specific activity. A consortium may be established in the form of:

- A contractual relationship (so-called civil partnership), governed by the Obligations and Contracts Act –or–
- A legal entity, governed by the corporate provisions of the Commercial Act

Civil Partnership

By establishing a civil partnership, two or more partners agree to join their activity for achieving a common business purpose. The civil partnership is not a separate legal entity.

A civil partnership is similar to legal entities (described below) for tax purposes only. It is required to draw up accounts and its revenues are subject to corporate income tax. A civil partnership cannot own assets. Revenues/assets acquired by the partnership are deemed jointly owned by the partners. Unless otherwise agreed, all partners have equal shares in the civil partnership. Unless otherwise agreed, partners are (directly) responsible for the partnership’s liabilities in proportion to their shares. A partner may not be entirely released from the responsibility for the partnership’s liabilities.

Legal Entities

The Bulgarian commercial law regulates the following types of legal entities:

- General partnership
- Limited partnership
- Limited liability company
- Joint-stock company
- General partnership limited by shares

The main differences among these types of legal entities are the partners’/shareholders’ direct, limited, or unlimited liability for the company’s liabilities; the requirement for share capital and contributions to the company’s capital; and the corporate governance.

These aspects are discussed below in the answers to the questions:

1. *What are some of the key corporate governance, tax, regulatory, and timing considerations that could impact the choice of structure?*

2. What are the different levels of equity and voting participation in the various forms of joint ventures and strategic alliances? How flexible is each of the structures? – and –

3. How is the joint venture or strategic alliance managed in the different structures? Are there statutorily mandated supermajority provisions?

What are some of the key corporate governance, tax, regulatory, and timing considerations that could impact the choice of structure?

One of the main aspects to consider when choosing the form of a joint venture or a strategic alliance is the potential liability of the partners:

- **Civil partnership.** The partners are responsible directly for the partnerships' liabilities in proportion to their shares (unless a different proportion is agreed to).
- **General partnership.** The partners are responsible directly, jointly, and without limitation, for the partnership's liabilities.
- **Limited partnership.** One or more partners is/are responsible directly, jointly, and without limitation (partners with unlimited liability) and one or more partners is/are responsible directly and jointly, but only up to the amount of their agreed contributions (partners with limited liability) for the partnership's liabilities.
- **Limited liability company.** The company is responsible for its liabilities with its own assets. The shareholders' responsibility is limited to their respective contributions to the company's capital.
- **Joint-stock company.** The company is responsible for its liabilities with its own assets. The shareholders' responsibility is limited to the subscription value of their respective shares.
- **General partnership limited by shares.** One or more partners is/are responsible directly, jointly, and without limitation (partners with unlimited liability) and one or more partners is/are responsible directly and jointly, but only up to the amount of the paid-in issue value of their respective shares (partners limited by shares). The general partnership limited by shares is infrequently used, and accordingly, will not be addressed in this Guide.

To limit liability, partners in a joint venture or strategic alliance typically choose an entity-based structure, usually in the form of a limited liability company or a joint-stock company.

In joint ventures or strategic alliances for temporary projects, a civil partnership can be viewed as more desirable because there is no formal liquidation procedure required at the end of the project. Rather, the parties merely agree on the separation of remaining assets, if any.

In public procurement processes, the contracting authority may determine if "consortia" may participate and, if so, whether such consortia shall be in the form of a civil partnership or in an entity-based structure.

Given that profits generated by contractual joint ventures are taxed in the same manner and at the same corporate tax rate as legal entities (currently flat 10%), taxation (under Bulgarian law) is not necessarily the main driver when choosing the structure of a joint venture or a strategic alliance. The corporate form of the Bulgarian joint venture or strategic alliance (contractual joint venture or legal entity) may be relevant for the taxation of the profits and dividends distributed to partners abroad.

Can a joint venture or strategic alliance be formed for any purpose?

Principally, there is no statutory limitation for the purpose for which a joint venture or a strategic alliance may be formed.

Some regulated fields of business require that the service provider is incorporated in a specific corporate form (e.g., banks and insurances have to be incorporated as joint-stock companies).

Are there any forms of joint ventures or strategic alliances that are more typically used in certain industries (such as real estate, pharmaceutical, or technology)? Why are such forms favored?

Joint ventures and strategic alliance are most commonly used when local and international partners join forces. The local partner usually has the relevant local market know-how (including of the relevant regulatory requirements), and local resources (including workforce), while the international partner has the substantial know-how and references (which may be of particular importance when the joint venture is intending to participate in public procurement or other tenders). We most commonly see joint ventures and strategic alliances in the construction and infrastructure sectors (e.g., road construction).

Are there any industries that would not permit or would not be conducive to a joint venture or strategic alliance?

There are generally no such industries. In case of certain regulated industries, it may not be possible to conduct the relevant activity in the form of a civil partnership. Some regulated fields of business require that the service provider is incorporated in a specific corporate form (e.g., banks and insurances have to be incorporated as joint-stock companies).

How is a joint venture or strategic alliance structured to minimize potential liability? Are there instances where parties to a venture or alliance may knowingly choose a vehicle without limited liability and, if so, why would such party make that choice?

Principally, the entity-based structure in the form of a limited liability company or a joint-stock company serves to limit the partners' liability. The partners are liable solely to the extent of their contributions to the capital/the subscription value of their shares. Shareholder loans given to the entity would, however, be subordinated to third-party loans in the event of insolvency of the joint company.

The partners may alternatively decide, or may have to choose, to adopt the form of a civil partnership, as in the case of a specific public procurement, or if the joint venture or the strategic alliance is to have a short-term or temporary duration.

Statutory Framework

What is the applicable statutory framework for each structure discussed above?

Civil Partnership

The provisions on civil partnerships are set out in Articles 357–364 of the Obligations and Contracts Act.

Legal Entities

General Bulgarian corporate law is incorporated in the Commercial Act. Certain specific regulations, applicable to specific types of regulated business are contained in the relevant regulatory laws. For example, the Credit Institutions Act contains corporate regulations on banks and the Insurance Code regulates insurance companies.

The provisions on corporate reorganization (merger, spin-off, and split-off), as well as the insolvency regulations, are

generally common for all types of legal entities and are also set out in the Commercial Act. Incorporation, corporate governance, and liquidation/winding up of the various corporate forms are regulated by separate chapters of the Commercial Act:

- General partnership – Chapter 11 (Articles 76–98)
- Limited partnership – Chapter 12 (Articles 99–112)
- Limited liability company – Chapter 13 (Articles 113–157)
- Joint-stock company – Chapter 14 (Articles 158–252)
- General partnership limited by shares – Chapter 15 (Articles 253–260)

Are there statutory or other limits on the duration of a joint venture or strategic alliance?

In general, there are no limitations impacting the duration of a joint venture or strategic alliance. They are usually established for an indefinite term and wound up when agreed to by the partners.

Do joint ventures or strategic alliances have to be registered with any federal or local body other than the Bulgarian Commercial Registry where the organizational documents must be filed in order to effect the entity's formation?

Civil Partnership

The civil partnership is not subject to registration with the commercial registry but has to be registered with the BULSTAT registry—a national administrative register maintained by the Bulgarian Agency for Registrations. Upon registration, civil partnerships are assigned a uniform identification code (UIC or BULSTAT number).

Legal Entities

Generally, legal entities do not have to register with a public body other than the commercial registry, as outlined in the answer to the question below: *What filings with governmental authorities (if any) are required to form the joint venture or strategic alliance?*

Regulatory Environment

Are joint ventures or strategic relationships specifically regulated?

There is no specific regulation (e.g., requirements for an approval, clearance, or reporting requirements) for joint ventures or strategic alliances.

Merger Control

Pursuant to Article 22 of the Bulgarian Competition Protection Act, a “concentration” arises where a “full-function” joint venture is established.

This means that a joint venture is subject to merger control, provided it (1) carries out a commercial activity on a lasting basis and (2) functions as an autonomous economic entity.

A joint venture is considered to be economically independent when it:

1. Maintains its own management
2. Has independent access to the market –and–
3. Has not been established for the sole purpose of carrying out a specific activity, as part of the business of the “parent entities”

If the joint venture is dependent on the deliveries and sales to the persons that control it, it is not likely to be considered a concentration between entities.

A joint venture established on a lasting basis, which functions as an autonomous economic entity is subject to the same thresholds as any other entities in Bulgaria. In particular, these are (1) a combined turnover (revenues) in Bulgaria of BGN 25 m (approx. €12.8 m) and (2) a turnover of BGN 3 m (approx. €1.5 m) of (a) at least two of the entities to the transaction or (b) the target company.

As a general rule, the turnover of any party to the transaction comprises the total turnover of the group it belongs to (i.e., its subsidiaries, mother entities, its mother entities’ subsidiaries, and any other entities jointly controlled by two or more entities belonging to the group), after deducting intra-group sales. If two or more undertakings concerned in a transaction exercise joint control of another company (joint venture), the joint venture’s turnover shall be allocated equally to its parent entities after deduction of sales to mother entities. Such a rule is explicitly provided only with respect to situations where the mother entities controlling the joint venture are also entities concerned with the economic concentration.

If the concentration relates to the establishment of a joint venture, the group turnover of the two (or more) mother entities must be taken into account.

The Bulgarian Commission for Protection of the Competition applies the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between

undertakings when assessing the full-functionality of the joint venture and when calculating the turnover.

Antitrust

There are no specific antitrust rules applicable to joint ventures (i.e., the general rules under the Bulgarian and EU competition law would apply vis-à-vis the joint venture’s partners and the joint venture itself (if it performs economic activity)).

Such restriction would apply in the following instances:

1. When entering into prohibited agreements (described in Article 15 of the Competition Protection Act and Article 101 of the TFEU)
2. Abuse of dominance (described in Article 21 of the Competition Protection Act and Article 102 of the TFEU) –or–
3. Abuse of stronger bargaining power (described in Article 37 “a” of the Competition Protection Act)

Formation

What are the procedures in forming a joint venture or strategic alliance?

After reaching a commercial agreement on the joint venture or the strategic alliance, including the partners’ contributions (cash, in kind, or services) and the management and the representation, the partners convene to the “foundation meeting” where the foundation/incorporation documents are signed (see below). In most cases, the foundation/incorporation documents may be signed also by way of circular vote, without the partners meeting in person.

Following the execution of the foundation/incorporation documents, the newly appointed directors or board members are required to sign standard form declarations (e.g., that they agree to take their appointed position, that they are not prohibited from taking such position, etc.) and provide a sample of their signature.

When all foundation/incorporation documents are executed:

- The civil partnership (when a contractual relationship is established) is filed for registration with the BULSTAT registry
- The company (when a legal entity is established) is filed for registration with the commercial registry

For a more detailed discussion of filing requirements, see answers to the questions: *Do joint ventures or strategic alliances have to be registered with any federal or local body other than the Bulgarian Commercial Registry where the organizational documents must be filed in order to effect the entity's formation?* and *What filings with governmental authorities (if any) are required to form the joint venture or strategic alliance?*

What documentation/agreements are required to form a joint venture or strategic alliance?

Civil Partnership

The civil partnership is created on the basis of a partnership agreement. The partnership agreement is executed in simple written form (no certification of signatures is required). There is no need to hold a physical meeting for the execution of the partnership agreement. It may be executed remotely.

The partners have to agree in the partnership agreement, among others, on their respective contributions to the partnership (cash or in kind), on the manner of representation of the partnership vis-à-vis third parties and the allocation of profits and liabilities.

Legal Entities

Legal entities are incorporated on the basis of:

1. A partners'/shareholders' resolution on the incorporation setting out generally the legal form, the firm name, the seat and business address of the new entity, the manner of representation vis-à-vis third parties and appointing the first directors or board members, whichever applies
2. Articles of association –and–
3. An application for registration with the commercial registry

Ultimate Beneficial Owner Registration

Legal entities and civil partnerships have to register their ultimate beneficial owner(s) with the commercial registry or the BULSTAT registry, respectively. Generally, the ultimate beneficial owners are those individuals who hold directly or indirectly more than 25% in the respective legal entity or civil partnership. Subject to registration are also all entities in the chain of ownership up to the beneficial owner(s). If no director is residing in Bulgaria, a local contact person has to be notified to the relevant registry. These requirements have been introduced by updated anti-money laundering laws. Compliance is increasingly pursued by the competent authorities.

Where the partners/shareholders are legal entities, they have to provide up-to-date certificates of good standing (i.e., excerpts from the competent companies' registry in their respective jurisdiction of incorporation evidencing their existence).

The partners'/shareholders' resolution is executed in simple written form (no certification of signatures is required).

The manner of execution of the articles of association varies depending on the legal form of the joint venture, as follows:

- General partnership and limited partnership: notarized signatures of the partners (or, if the partners are legal entities, of their authorized representatives)
- Limited liability company and joint-stock company: simple written form

The persons authorized to file the application for registration with the commercial registry also depends on the legal form of the joint venture:

- General partnership: all partners
- Limited partnership: the partners with unlimited liability
- Limited liability company: newly appointed managing director(s)
- Joint-stock company: newly appointed CEO(s)

The application for registration with the commercial registry may be (1) signed in hard copy with notarized signature(s), (2) brought to the registry and signed (in simple written form) before the registry's officials, or (3) filed electronically. In the latter case, especially if more than one individual has to sign the application, as well in order to facilitate the registration process, the persons authorized to file for registration with the commercial registry may authorize an attorney to act as proxy. In such case, the authorization must be explicit and set out in a written power of attorney that the proxy must present to the companies registry.

What other steps are required to form a joint venture or strategic alliance?

Unless the joint venture or strategic alliance is subject to regulation by some specific regulatory regime, no further steps are required.

The BULSTAT registry (as regards civil partnerships) and the commercial registry (as regards legal entities) will forward the information relating to the formation of the newly formed joint venture or strategic alliance ex officio to the relevant tax authority.

If there is no documentation forming the joint venture or strategic alliance, is there a standard form that exists by default? Are there any attendant risks of falling within that category?

There is a requirement for certain documentation and, depending on the corporate type, there may be certain minimum requirements as to the contents of the foundation/incorporation documents. However, there are no standard forms that have to be mandatorily complied with. For a discussion of the documentation required to be filed when forming a joint venture or strategic alliance, see answer to question: *What documentation/agreements are required to form a joint venture or strategic alliance?*

There are standard forms for the applications for registration with the commercial registry that have to be used. Those are available on the homepage of the Bulgarian commercial registry (in Bulgarian only).

What filings with governmental authorities (if any) are required to form the joint venture or strategic alliance?

Civil Partnership

The civil partnership is filed for registration with the BULSTAT registry.

Legal Entities

Newly incorporated legal entities are filed for registration with the commercial registry.

The Bulgarian commercial registry is a centralized electronic database, maintained by the Registry Agency, an administrative authority. The commercial registry is accessible online for free and, to a great extent, in the Bulgarian language only. Searches are possible in Cyrillic letters only. All documents that are filed and pursuant to Bulgarian law “announced” (made public) in the registry are freely accessible. Other documents filed with the commercial registry in relation to a registration can be reviewed and downloaded as pdf files with an electronic signature only.

Becoming a Member/Partner

What are the different levels of equity and voting participation in the various forms of joint ventures and strategic alliances? How flexible is each of the structures?

Bulgarian law does not provide for specific regulation with respect to joint ventures or strategic alliances. The general

rules applicable to civil partnerships and corporate entities apply.

Civil Partnership

The civil partnership does not have equity capital. The partners are directly responsible for the partnership’s liabilities. The contributions made by partners to the civil partnership (which may be cash or other assets) are not considered equity.

Each partner has one vote, regardless of the amount of its contribution to the partnership. Partners’ decisions require the consent of all partners, but the partnership agreement may provide for a majority vote.

Legal Entities

The regulations with regard to legal entities vary depending on the corporate type:

- **General partnership.** The general partnership does not have equity capital. All partners are directly responsible for the partnership’s liabilities. The partners’ contributions, if any, are agreed in the articles of association.

Partners’ decisions require the consent of all partners, but the articles of association may provide for a majority vote. In such case, each partner has one vote.

- **Limited partnership.** The limited partnership does not have equity capital. The partners with unlimited liability for the partnership’s liabilities do not have to make any contributions. The partners with limited liability have to make contributions as agreed to in the articles of association (i.e., in an amount corresponding to their liability).

Each partner has one vote. The voting rights, pursuant to the agreed-upon terms, may be proportionate or disproportionate to the contributions of the partners with limited liability among each other.

- **Limited liability company.** The equity capital shall be a minimum BGN 2 (€1). Each shareholder’s contribution to the share capital has to be at least BGN 1 (€0.5). Each shareholder may have a different capital contribution.

The shareholders’ voting rights are proportionate to their shareholding. The articles of association may provide otherwise (i.e., for disproportionate voting rights) but each shareholder has to have at least one vote.

- **Joint-stock company.** The equity capital shall be a minimum BGN 50,000 (€25,500). The minimal nominal value of each share (and, respectively the minimal shareholding of each shareholder) is BGN 1 (€0.5). Each shareholder may subscribe for shares in a different total nominal value.

The shareholders' voting rights are proportionate to their shareholding. The joint-stock company may issue privileged shares. Privileged shares may be issued for a guaranteed dividend payment. Privileged shares may be issued without voting rights (but no more than one-half of the issued shares may be without voting rights).

What forms of contributions (e.g., cash versus in-kind) may be made by members/partners?

Generally, partners and shareholders may make cash contributions, as well as in-kind contributions.

In-kind contributions by shareholders in a limited liability company, a joint-stock company and a general partnership limited by shares are considered contributions to the equity capital (initial contribution upon incorporation of the entity or a contribution in the course of a capital increase). Such contributions have to be evaluated by three independent evaluators appointed by the commercial registry. The evaluation has to set out the value of the in-kind contribution, the equity acquired against such contribution, and has to be presented to the commercial registry upon incorporation of the entity or upon the registration of a capital increase.

Should contributions to the joint venture or strategic alliance be documented? If so, what is the typical form of documentation?

Cash contributions are usually documented by the payment order. The parties may agree that the joint venture confirms the receipt.

Cash contributions made to the equity of limited liability companies, joint-stock companies, and a general partnerships limited by shares are made to a bank account opened in the name of the entity. The "know your client" (KYC) rules and procedures of Bulgarian banks became stricter over time. They are nowadays that time consuming that they should be considered in the timeline for the establishment of the entity. Cash contributions had to be confirmed by the bank maintaining the relevant bank account. Meanwhile, the commercial registry accepts also a copy of the payment order for the relevant contribution.

In-kind contributions to the equity of legal entities have to be reflected in the articles of association, to include a description of the contributed asset and its evaluation. If the contributed asset is real property, then the contribution has to be recorded also in the real estate registry.

Are there any statutory or other requirements regarding the number (i.e., minimum or maximum) or type of members (as in age requirements or legal status; individual or juridical person) in the joint venture or strategic alliance?

A partnership (civil partnership, general partnership, or limited partnership) has to naturally have at least two members. The general partnership limited by shares has to have three or more partners with limited liability. Other than that, there are no minimum or maximum requirements as to the number of partners/shareholders.

What documentation would typically govern the relationship between partners/members?

The partnership agreement (in a civil partnership) and the articles of association (for legal entities) are the documents typically governing the relationship between the partners. The shareholders in limited liability companies and in joint-stock companies would also often enter (parallel to the articles of association) into a joint venture agreement or a shareholders' agreement regulating in more detail those relations are not required to be contained in the articles of association to be binding on the partners. The articles of association are published in the commercial registry and, accordingly, are public. Entering into a joint venture agreement or a shareholders' agreement allows the shareholders to make additional contractual arrangements without making them public.

Can a public sector body be a member/partner in the joint venture or strategic alliance?

Public bodies (e.g., the state or municipalities) may be partners/shareholders to joint ventures and strategic alliances via wholly owned (100%) subsidiaries. The state may be a partner/shareholder to a joint venture and strategic alliance also via special "state enterprises" that are formed by specific laws in certain sectors (e.g., the state owned National Company for Railway Infrastructure).

What restrictions, other than contractual ones, are there on a member/partner transferring its interest in the joint venture or strategic alliance?

Civil Partnership

The transfer of the membership in a civil partnership requires the consent of all other partners.

Legal Entities

- **General partnership and limited partnership.** The transfer of the membership is not legally regulated. We tend to believe that a partner may exit and a new partner may succeed to the partnership, but that no direct transfer of the membership is possible.
- **Limited liability company.** The law does not restrict the transfer between shareholders. The transfer to third parties requires a notarized (notarization of signatures and content) shareholders' resolution with a vote of more than 75% of the equity.
- The selling shareholder(s) and the target company's representative(s) have to declare by express written declarations in a standardized form that the target company owes no outstanding salaries and social security contributions. These declarations have to be provided to the commercial registry along with the application for registration of the share transfer. In the absence of such declarations, the commercial registry will reject registering a share transfer.
- **Joint-stock company.** The law does not restrict the transfer of shares.

Restrictive Covenants

What restrictive covenants can apply to members/partners relating to corporate opportunity, noncompetition and non-solicitation?

Bulgarian law contains only limited restrictive covenants and those are mainly on noncompetition. An express non-compete obligation is provided for only with respect to (1) the partners in a general partnership and (2) the partners with unlimited liability in the limited partnership. No express non-complete obligation exists for the shareholders in a limited liability company, but a shareholder may be expelled if it acts "against the company's interest."

Due to the lack of legal regulation on point, it is advisable that restrictive covenants such as non-compete and non-solicit obligations are addressed in the partner agreement/the joint venture agreement/the shareholders' agreement. In the absence of relevant court practice, it is also advisable that breaches of these obligations are linked to liquidated damages payable by the noncompliant partner/shareholder.

Management

How is the joint venture or strategic alliance managed in the different structures? Are there statutorily mandated supermajority provisions?

Civil Partnership

Decisions require the consent of all partners. The partnership agreement may provide that a majority of the partners may take decisions, where each partner has one (equal) vote.

Legal Entities

- **General partnership.** Partnership decisions require the consent of all partners, but the articles of association may provide for a majority vote. In such case, each partner has one vote.
- **Limited partnership.** Each partner has one vote. The articles of association may provide for the voting rights to be proportionate or disproportionate to the contributions of the partners with limited liability. Otherwise, even though the law is somewhat unclear on the point, decisions would require a unanimous vote.
- **Limited liability company.** Decisions require the majority of the outstanding equity (i.e., not merely of the share present or represented). Certain decisions require a qualified majority of more than 75% of the outstanding equity (changes to the articles of association, corporate reorganization, additional monetary contributions, acceptance of new shareholders, and expelling shareholders—in which case the expelled shareholder's equity does not count when calculating the majority). The articles of association can provide for higher majority requirements. The decrease and/or increase of share capital (i.e., of the equity contributions) requires unanimous approval.
- **Joint-stock company.** Decisions relating to changes to the articles of association, the decrease and/or increase of share capital (i.e., of the equity contributions), corporate reorganization or the termination of the company may be adopted only if at least half of the equity is present (or represented by proxies) (presence quorum). The articles of association may provide for a presence quorum also other shareholders resolutions as well. Decisions require the majority of the present (or represented) shares. Certain decisions require more than

66.66% (changes to the articles of association, decrease and/or increase of share capital, or termination of the company). The articles of association can also provide for higher majority requirements.

What mechanisms are there for resolving deadlocks on major decisions?

The statutory mechanisms under Bulgarian law for resolving deadlocks are fairly limited. The scarce regulations are not sufficiently detailed and relevant court practice is lacking. It is therefore recommended that joint ventures adopt their own mechanisms to take effect upon a deadlock. There are no locally established specific standards for a deadlock resolution. The arrangements usually correspond to those that are widely recognized internationally (e.g., triggering of call and put options or appointing experts).

Civil Partnership

The law provides that in the event of a deadlock, the majority shall decide. The law does not provide the dissenting shareholder with specific rights. The partners may agree in the partnership agreement on an exit right for the dissenting shareholder(s).

Legal Entities

- **General partnership and limited partnership.** If a partner does not to comply with the obligations undertaken in the articles of association or acts against the interest of the company, any (other) partner may commence court action requiring that (1) the partnership be terminated or (2) the defaulting partner be expelled from the partnership.
- **Limited liability company.** The other shareholders may expel a shareholder (with a vote of more than 75% of the equity held by the other shareholders) following a written warning, if the shareholder:
 - (1) Does not assist the company with its activity
 - (2) Does not comply with shareholders' resolutions
 - (3) Acts against the interest of the company –or–
 - (4) Does not make additional monetary contributions if voted by the shareholders meeting
- While the possibility to expel shareholders has not been designed to resolve deadlocks, it has turned, in practice, to a “Bulgarian shoot-out” instrument. In cases where there is a deadlock, it is not uncommon that the disagreeing shareholders will engage in a “race” to take action to convene a meeting to vote on expelling the

other shareholder and then register the exit with the commercial registry. The unlawfully expelled and de-registered shareholder has legal protection and may appeal, however until it succeeds in court (which may take several years) the remaining shareholder(s) has/have control over the company.

What procedures apply for electing and removing managers in joint ventures and strategic alliances?

Civil Partnership

Unless the partners agree otherwise, each partner individually manages and represents the civil partnership. The other partners may object to an action before it has been undertaken. In the event of dissent, the majority of the partners decide on the action.

Legal Entities

- **General partnership.** Unless the partners agree otherwise in the articles of association, each partner individually manages and represents the general partnership. Restrictions in the authority of a partner to represent the entity are effective against third parties, only if registered with the commercial registry.
- **Limited partnership.** Only the partners with unlimited liability are authorized to manage and represent the limited partnership.
- **Limited liability company.** The shareholders appoint by notarized resolution (with a majority vote, unless a higher majority is agreed in the articles of association) one or more managing directors. The directors manage and represent the company severally, but the articles of association may provide for joint representation powers. The names of the directors and the manner of representation must be registered with the commercial registry.
- **Joint-stock company.** The articles of association must set forth whether the company shall have (1) a one-tier management system (i.e., a board of directors only) or (2) a two-tier management system (i.e., a management board and a supervisory board). The members of the board of directors or the management board, respectively, have joint representation powers but may elect, among their members, one or more authorized representatives who represent the joint venture jointly or individually. The names of the representatives and the manner of representation must be registered with the commercial registry.

Allocating Profits, Losses, and Distributions

How are profits, losses, and distributions allocated among partners/members? Are there legal or regulatory restrictions that may limit the ability of the partners/members to make such allocations on their own?

Civil Partnership

Unless the partners agree otherwise, profits and losses are allocated to the partners proportionately to their share. The partners may not validly agree that a partner does not participate at all in the profits and/or in the losses.

Legal Entities

- **General partnership.** Profits and losses are allocated among the partners as agreed (at the partners discretion) in the articles of association.
- **Limited partnership.** Profits and losses are allocated among the partners as agreed in the articles of association. The partners are not restricted from making such allocation at their discretion, with the exception that partners with limited liability may be allocated losses only up to the amount of their contribution.
- **Limited liability company.** The shareholders share profits (i.e., are entitled to dividends), proportionate to their shareholding, unless agreed otherwise in the articles of association. Losses are borne by the company. The shareholders are responsible for the company's losses only to the extent of their respective equity contributions.
- **Joint-stock company.** The shareholders share profits (i.e., are entitled to dividends), proportionate to their shareholding, unless (1) there are preferential shares issued that may have guaranteed dividends or (2) there are different classes of shares issued which may participate in profits in a disproportionate manner. Losses are borne by the company.

Indemnification

What Indemnification provisions would apply in a joint venture or strategic alliance?

Civil Partnership

Partners are entitled to reimbursement of the cost, including interest, as well as of the losses that they

have incurred, in relation to the management of the civil partnership. The partners may agree on further indemnification and reimbursement in the partnership agreement.

Legal Entities

- **General partnership and limited partnership.** Partners are entitled to reimbursement of the expenditure that they have incurred for the partnership, as well as for losses incurred in relation thereto, including in each case interest.
- **Limited liability company and joint-stock company.** There are no specific indemnification provisions. Cost and expenses related to the company's businesses should be borne directly by the company. Any potential reimbursement or indemnification to a shareholder shall be made at cost to prevent it from being deemed a hidden capital repayment.

Exit or Termination

How does a partner/member exit a joint venture or strategic alliance?

Civil Partnership

The law does not specifically regulate a partner's exit. It is common that the exit, if an exit is in fact possible, would be regulated in the partners' agreement. Otherwise, a partner wishing to exit will have to take action to terminate the partnership in its entirety. See answer to question below: *How is a joint venture or strategic alliance terminated?*

Legal Entities

- **General partnership and limited partnership.** If the partnership is incorporated for an indefinite term and, unless the articles of association provide otherwise, partners may require the termination of the partnership with at least six-month prior notice addressed to all other partners. The possibility for individual exits, their timing, and the settlement of the proprietary/financial matters may be regulated in the articles of association.
- **Limited liability company.** A shareholder may exit (terminate its shareholding) with at least three-month prior notice. The financial matters are settled on the basis of financial statements prepared as of the end of the month in which the exit has become effective.
- **Joint-stock company.** No specific rules apply. A shareholder who wishes to exit would have to transfer its shares.

How is a joint venture or strategic alliance terminated?

Civil Partnership

The civil partnership is terminated:

- When the aim of the partnership is reached or has become impossible to reach
- Upon expiration of the term for which the partnership has been established
- Upon the death of a partner (if an individual), unless the partnership agreement provides otherwise
- With a termination notice by a partner made in good faith at a reasonable time—applicable if the partnership was established for an indefinite term and unless the articles of association provide that the partnership shall continue with the other partners –and–
- By a court decision, if there are justified reasons for termination—applicable when the partnership was established for a definitive term

Legal Entities

The general partnership and the limited partnership are terminated:

- Upon expiration of the agreed term or upon the occurrence of a termination event agreed to in the articles of association
- Upon agreement of the partners
- Unless agreed otherwise, with the death of a partner (if an individual) or the termination of a partner (if an entity)
- Upon request by the insolvency administrator in the insolvency proceedings of a partner
- Upon notice by a partner (see answer to question above: How does a partner/member exit a joint venture or strategic alliance?)
- By decision of the insolvency court in the partnership's insolvency proceedings (when the restructuring has failed)
- By court decision, upon the occurrence of the events provided for in applicable law

The limited liability company is terminated:

- Upon expiration of the term agreed to in the articles of association
- Upon decision of the shareholders with a 75% majority (unless the articles of association provide for a higher majority)

- Upon merger into or with another limited liability company or joint-stock company
- By decision of the insolvency court in the company's insolvency proceedings (when the restructuring has failed)
- By the court, upon request by the state prosecution if, for a period of three months, the company has no appointed managing director –and–
- By court decision, upon the occurrence of the other events provided for in the Commercial Act

The joint-stock company is terminated:

- Upon a decision of the shareholders with a 66.66% majority (unless the articles of association provide for a higher majority)
- Upon expiration of the term agreed to in the articles of association, subject to the shareholders deciding to continue the term prior to its expiration
- By decision of the insolvency court in the company's insolvency proceedings (when the restructuring has failed)
- By court decision, upon request by the state prosecution if the company pursues illegal purposes
- By the court, upon request by the state prosecution if the net asset value of the company falls below the amount of the registered share capital and, within one year, the shareholders meeting does not resolve on decreasing the capital, restructuring, or terminating the company
- By the court, upon request by the state prosecution if, for a period of six months, the number of board members is below the minimum provided for in the law –and–
- Upon occurrence of the termination events provided for in the articles of association

Is the termination of a joint venture or strategic alliance subject to the approval of any governmental body?

No, such approval is required.

Foreign Members/Partners

What statutes or rules govern joint ventures or strategic alliances with foreign parties?

There are no specific rules. The general rules applicable to joint ventures and strategic alliances among Bulgarian partners apply in the same scope and manner when there are one or more foreign partners/members.

What permits, consents or registrations are required by foreign members/partners of a joint venture or strategic alliance?

No specific rules apply.

Are there any economic incentives for foreign direct investments in a joint venture or strategic alliance?

No specific rules apply. The Bulgarian Investments Promotion Act applies equally to local and to foreign investment. If an international treaty to which Bulgaria is party provides for a more beneficial treatment of certain investments, the more beneficial provisions of such treaty shall apply and prevail over the Investments Promotion Act.

Are there any restrictions regarding distributions to, or repatriation of profits by, foreign partners/members?

There are no restrictions. According to the Bulgarian Currency Act, certain transactions and payments have to be reported to the Bulgarian National Bank for statistical reasons (e.g., the debt of local legal entities towards foreign persons). Such reporting does not restrict the parties in their undertakings. In certain scenarios, if a Bulgarian bank is ordered by a local legal entity to make payment to a foreign person, the bank may inquire as to the grounds for such payment and, if it is subject to reporting to the Bulgarian National Bank, require evidence that such reporting requirements have been complied with.

Alexandra Doytchinova, Managing Partner, Schoenherr

Alexandra Doytchinova is founding and managing partner of Schoenherr's Sofia office since its establishment in 2004. She was involved in various benchmark M&A transactions in Bulgaria, deals with corporate restructurings and structuring of share and assets deals in Bulgaria and the SEE region. Alexandra has an outstanding record in energy and TMT projects. Her experience includes advising EVN on the privatization of its Bulgarian electricity distribution network, RWE Power in relation to a major HPP project in Macedonia, Telenor on the acquisition of Globul and VTB Capital on the privatization of Bulgartabac and its BTC (Vivacom) related transactions.

Alexandra graduated from the Karl-Franzens University of Graz (Mag.iur.) and obtained the recognition of a Master's degree in Law at the Sofia University. She is member of the Vienna Bar and admitted to practice in Bulgaria. Before joining Schoenherr, she worked as teaching assistant at the Institute for Civil Law, Foreign and International Private Law at the University of Graz, Austria.

In 2016 Chambers Europe ranked Alexandra Doytchinova in Band 1 for Corporate/Commercial, as sources consider her as an "exceptional perfectionist" who is "tactful and clever" and can "overcome challenges by being easy to speak to and very persuasive."

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