
CHAMBERS EUROPE 2023

The Leading Lawyers and Law Firms in Europe

Monaco



How lawyers are ranked

Every year we carry out thousands of in-depth interviews with clients in order to assess the reputations and expertise of business lawyers worldwide. The qualities we look for (and which determine rankings) include technical legal ability, professional conduct, client service, commercial awareness/astuteness, diligence, commitment, and other qualities most valued by the client.

Contents:

General Business Law p.1136

MONACO: An Introduction to General Business Law: Law Firms – Avocats-Défenseurs

Contributed by 99 Avocats associés

General Overview

The Principality of Monaco – a sovereign microstate with about 38,000 inhabitants (of whom 9,500 are Monegasque nationals) – is a strategic location for business at the heart of Europe and the Mediterranean basin and the gateway to the French and Italian Riviera.

Monaco has a hereditary and constitutional monarchy, headed by His Serene Highness Prince Albert II (part of the 700-year-old Grimaldi dynasty), that enshrines the separation of executive, legislative and judicial powers, and asserts the rule of law over all institutions. Given its privileged relations with France, Monaco belongs to the European customs territory and the eurozone and is included in the Schengen area – although it is a third state to the EU. Monaco is a member state of the United Nations and the Council of Europe.

The principality is an attractive place for investors, thanks to its political stability, safety for people and their property, a multicultural community of 39 different nationalities (in which French is the official language but English is commonly spoken), administrative proximity, an original economic and social model without budgetary deficit, an adapted tax system, and dynamic employment and consumption pools.

The leading sectors in Monaco are real estate and construction, wealth management, luxury, yachting, sport and business tourism. The digital sector is booming, with 49 new entities in 2021 (an increase of 5.7% compared to 2020). Monaco's GDP for 2021 was EUR7.27 billion, which represents an average annual growth rate of 4.4% in the past decade. Its GDP per capita was EUR81,710 (an increase of 17.5% compared to 2020) and GDP per employee was EUR125,121 (an increase of 17%).

Authorisation Prior to Business

Non-Monegasque nationals wishing to carry out any economic activity must first be authorised by the Minister of State. Specific rules – related to experience, corporate structure, amount of capital, etc – apply to regulated activities such as banking, financial, insurance, real estate and construction activities.

Business Forms and Opening a Bank Account

Persons wishing to set up a business in Monaco may apply individually or create a company in the form of a Monegasque Limited Company (SAM), Limited Liability Company (SARL), Limited Partnership (SCS) or Private Company (SNC). Sole shareholder

companies are not allowed in Monaco. Since 2020, companies have been obliged to open an account with a credit institution in Monaco. Flexibility and contractual freedom characterise Monaco corporate law.

Taxation and International Tax Compliance

Businesses carrying out a commercial or industrial activity and generating more than 25% of their turnover outside Monaco – along with any income received from patents and copyright by a company – are subject to Corporate Income Tax (at the rate of 25% for financial years commencing on or after 1 January 2022). There is no tax on capital gain.

As the French and Monegasque territories form a customs union, French customs regulations apply directly in Monaco. VAT is levied on the same basis and at the same rate as in France (the usual rate is 20%). Sales of building land and buildings occurring within five years of their completion are subject to VAT on property transactions (at the rate of 20%). Other transactions on real estate are subject to registration duties at a rate of 4.5% when the acquisition is made by an individual or a transparent vehicle and at a rate of 7.5% when the acquisition vehicle is not transparent.

From an international perspective, Monaco complies with OECD standards. It is a party to the Convention on Mutual Administrative Assistance in Tax Matters, the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information, and the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

Private Sector Employment

At the end of 2021, Monaco had 53,070 employees in the private sector (increase of 4.1% compared to 2020) – 39.3% of whom were female. 86% of employees are in the service sector and 13.5% in the manufacturing sector. More than 130 nationalities are represented, of which 1.8% are Monegasque, 62.4% are French, 15.3% are Italians, 7.3% are Portuguese, and 1.5% are British. Nearly 90% of employees live outside Monaco, mostly in the French neighbouring cities.

Labour law in Monaco is very specific. Work permit requirements and the hiring priority system are important characteristics that feature in Monegasque employment contracts; however, flexibility is also key. Monaco has legislation on teleworking.

Real Estate and Construction Activities

With a mean price per square metre of nearly EUR51,000 in 2022 (an increase of more than 60% in the past ten years), Monaco has one of the most expensive real estate markets in the world. It is a reliable source of rental income and capital gains on resale.

New constructions and evolving infrastructures are integrated into the government's policy of sustainable and ecological development. One example is the eco-district, which is an offshore extension that will house 60,000 square metres of highly luxurious accommodation.

The property trading profession is in the process of being reformed to be more regulated.

Banking and Financial Activities

As of mid-2022, Monaco had 29 banking institutions and 61 asset management companies – with a total of 3,123 employees. These entities' combined resources amounted to EUR153.1 billion, comprising EUR99.4 billion in securities and EUR53.7 billion in deposits (an increase of 15% over the past year).

Asset management companies are authorised by the *Commission de Contrôle des Activités Financières* (CCAF), which has been an ordinary member of the International Organization of Securities Commissions (IOSCO) since 2022. Their discretionary management and advisory services for foreign funds and portfolios have seen a strong increase in activity. Banking institutions are authorised by the *French Autorité de Contrôle Prudentiel et de Résolution* (ACPR) and the Monaco CCAF as regards their financial activities. Their asset management activities are increasing.

The regulatory and prudential organisation of banks is governed by the French Monetary and Financial Code in accordance with treaties that were entered into with France and a monetary treaty that was entered into with the EU. By contrast, relations between the banks and their clients are governed by Monegasque law.

E-Commerce and Digital Activities

Monegasque legislation relating to e-commerce, online service platforms (eg, search engines, price comparators, marketplaces, classified ad sites and social networks), providers of online advice

from consumers and technical service providers (eg, trust services such as e-signature, hosting, cryptology) has been reshaped in the light of EU standards to ensure interconnectivity.

Blockchain is legally recognised, and Monaco has adopted a legal framework that regulates the activities of digital asset and crypto-asset service providers, fundraising using this technology (Initial Coin Offerings (ICOs), and Security Token Offerings (STOs)) in order to attract innovative and ethical companies. It aims to become the world leader of environmental STOs.

Monaco is fully 5G- and fibre-covered, and focuses on IoT, the technologies of the future, and the (legally recognised) metaverse with leading sectors (eg, real estate, wealth management, luxury, yachting, sport and business tourism) via the creation of financing structures or the setting up of dedicated start-ups through "Monaco Tech", Monaco's business incubator. The "Extended Monaco" programme is dedicated to the digital transformation of Monaco via e-government, smart cities, etc.

AML/CFT and Anti-corruption Laws

AML/CFT legal provisions in Monaco follow FATF recommendations and are equivalent to those of the EU, which is one of the strictest regimes in the world. Monaco has implemented the EU's 5th and 6th AML/CFT Directives in accordance with its obligations under the monetary treaty with the EU.

According to the standards of the Council of Europe, Monaco penalises corruption (bribery or trading in influence) by civil servants, members of government and Parliament, international and foreign public officials, employees in the private sector, magistrates, arbitrators and jurors.

Personal Data Protection Law

Monaco complies with the standards of the Council of Europe and is in the process of reforming its legislation to reach the EU standards of protection (ie, the General Data Protection Regulation, or GDPR). Processing of personal data in Monaco and data transfer abroad are subject to notification or prior authorisation by the *Commission de Contrôle des Informations Nominatives* (CCIN).