

# Costa Rica

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## Costa Rica – an introduction

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This Central American country lies between Nicaragua to the North, Panama to the east-southeast, the Pacific Ocean to the west and south, and the Caribbean Sea to the east. It is home for approximately 4.2 million people.

Costa Rica is a democratic republic with a strong constitution. It has also been and remains one of the most stable countries in Latin America in both political and economic terms. In 2008, the World Bank Study for Global Governance Indicators ranked Costa Rica in the first place within Latin America for political stability.

Costa Rica is a republic with three powers: executive responsibilities are vested in a President, legislative power is vested on the Legislative Assembly, and judicial power is vested on the Supreme Court. There are two vice presidents as well as a cabinet designated by the president. The president, vice presidents, and 57 Legislative Assembly delegates are elected for four-year terms.

The Costa Rican Government, has had a decidedly policy in favour of foreign investment. It was the first country in the world to constitutionally abolish its army, which remains abolished today. The country remains as a safe place for foreign investors to come and live, since the country has been able to successfully avoid the widespread violence that has plagued most of Central America. Additionally, according to the New Economics Foundation, the country ranks first in the Happy Planet Index and is one of the greenest countries in the world.

On February 7 2010, Laura Chinchilla, of the ruling National Liberation Party (Partido Liberacion Nacional or PLN), won the presidential election in the first round. In May 2010 the new government took office. The new government intends to give priority to strengthening law enforcement, and boosting

the quality of public education. Implementing major structural reforms will require building consensus among political parties, given that the PLN did not obtain a majority in Parliament.

The Costa Rican judiciary and arbitration Costa Rican courts are regarded as providing a forum for fair and adequate dispute resolution, and Costa Rica has been ranked among the most progressive countries in Latin America in this respect. Its court system is well respected and noted for impartiality, although in recent years the system has become slower.

The Costa Rican Judiciary (Poder Judicial) is made up of the Supreme Court, Appellate Courts and the Trial Courts.

The Supreme Court is divided into four Chambers, as follows: Chamber I (Sala Primera) is formed by five justices and has jurisdiction over all civil, commercial and administrative matters. Chamber II (Sala Segunda) is formed over by five justices and has jurisdiction over family law, estates and labour law. Chamber III (Sala Tercera) is formed by five magistrates and has jurisdiction over criminal matters. Finally, Chamber IV (Sala Cuarta) has exclusive jurisdiction over all constitutional matters.

In part as a response to the judicial system becoming slower in the final solution of conflicts, the Costa Rican Congress approved a mediation and arbitration law in 1998. The law has allowed the formation of various arbitration and mediation centres, such as the one affiliated to the Costa Rican – American Chamber of Commerce (CICA) and the one affiliated with the Costa Rican Chamber of Commerce. They are both highly perceived in the business and legal communities and domestic arbitration clauses are widely used in business and commercial contracts every day.

International arbitration is only commonly used in dealing with multinational entities. Recognition and enforcement of foreign judgments is governed by the 1928 Convention on Private International Law or Código de Bustamente and by the Code of Civil Procedures. Under the Convention, recogni-

tion and enforcement of foreign judgments is mandatory among the parties provided the substantive and procedural requirements are met. The Convention and the Code establish the requirements for the recognition and enforcement of a foreign judgment.

## Current business and economic conditions

One of the pillars of the Costa Rica's economic development has been trade liberalisation, which has allowed exports to surpass its 30% ratio of GDP in 1980 to a current 50% rate (includes exports of goods and services). This trade liberalization has been followed by a series of structural changes that have led to a productive transformation, diversification of the economy and a higher level of investment.

These decades of peace and democracy, stability and economic growth have translated into important social achievements. In the last 25 years poverty was reduced from 45% to less than 18%. Costa Rica has one of the highest levels of education and health attainment in Latin America, which it is also one of the best in the world. It has been able to provide broad access to services like health, social security, water and basic services for the entire population.

Costa Rica ranks among the top countries in all major international rankings. Of particular importance are those rankings dealing with quality of life and protection of the environment, as they have been key in attracting foreign investment and tourism.

According to the World Development Indicators 2008, Costa Rica is the fourth highest high-tech exporter in the world and one of the most competitive destinations in Latin America for service operations. The business climate for foreign investment is very favourable and some of the reasons are that there are no restrictions imposed on re-investment or on repatriation of earnings, royalties or capital, there are no requirements to register investments with any of the government authorities, and the country has achieved international standards for IPR protection. Major international companies and a number

of franchising and service companies have invested in facilities in Costa Rica, and others have followed in the past years.

In May 2010, President Chinchilla announced that one of the priorities of this new administration will be to continue to provide and enable the right business climate in Costa Rica. In this regard, a Competitiveness and Innovation Council has been structured to address the issues of human capital and innovation; foreign trade and foreign direct investment; financing and capital markets; infrastructure development, specifically in the areas of telecommunications, electricity, transportation, ports and airports, and regulatory simplification.

## Financial and corporate

Recommended firms	
<b>Tier 1</b>	
Arias & Muñoz	
BLP Abogados	
Consortium Laclé & Gutiérrez	
Pacheco Coto	
<b>Tier 2</b>	
Batalla Abogados	
Facio & Cañas	
Lara López Matamoros Rodríguez & Tinoco	
Zürcher Odio & Raven	
<b>Tier 3</b>	
Aguilar Castillo Love	
Feinzaig Scharf & van der Putten	
Nassar Abogados	
<b>Tier 4</b>	
Lexincorp	
Quirós Abogados Central Law	
Oller Abogados	
Pacheco Odio & Alfaro	

The election of Laura Chinchilla last February made the social conservative the nation's first female president and only the third woman elected to power in Central America's history. Costa Rica's financial lawyers expect little change between the new president's platform and her predecessor's market-friendly economic policies.

In the new reality that has been spun by from the global economic downturn Costa Rica's economy has shifted from real-estate and resort development to free-trade-zone activity. And while last year's market activity centred on the Cafta-DR treaty, the decline in investment from the US and European markets has prompted a similar shift in the

nation's search for more vigorous economic partners.

In 2009 the government reached an agreement of cooperation with Panama, its increasingly influential southern neighbour. Panama's most immediate interest lies in the recently unlocked insurance industry, where Grupo Mundial, in a venture with Spain's Mapfre, is the first private player to enter the new market.

Costa Rica is the only Central American country to shun Taiwan in favour of diplomatic and economic ties to mainland China, which recently became a key holder of Costa Rican debt. Such holdings financed the construction of the new national stadium, due for completion in February 2011. The governments also hammered out a joint venture to upgrade the region's sole oil refinery at a reported cost of \$1 billion.

China's involvement in Costa Rica extends to the recently opened telecom industry, where Chinese telecoms company Huawei won a competitive bid to develop the nation's burgeoning 3G network. But there has been resistance among certain segments of the government regarding the validity of the administration's agreements with Chinese entities, and several commentators see the possibility of reversals in Costa Rican courts.

While the privatised telecom sector gradually adds competitors, Costa Rica's state-owned entity has been consolidating its operations to form a unified competitor in the open market. Last year Instituto Costarricense de Electricidad (Ice) made preliminary motions toward Internet and phone service subsidiary Racsa to ultimately absorb management of its client base.

Additionally, the country is boosting capacity at its largest shipping ports on both coasts. Last May the government signed a \$137 million compensation package with 1,400 dockworkers, settling a labour dispute that has blocked the privatisation of the Jimón and Moin port facilities on Costa Rica's Atlantic coast. Plans are also underway to develop and expand the facility at the Pacific port of Liberia.

### Arias & Muñoz

Costa Rica's lawyers cannot speak about Arias & Muñoz without mentioning the firm's successful regional operation. "So far no one's been able to replicate the unified structure that Arias first conceived, in terms of quality across the offices," one peer notes. Founding partner José Antonio Muñoz is regarded as a senior statesman among peers, but partners Vicente Lines and Mauricio Diaz are recognised as driving the firm's transactional work.

Recent trade agreements with China are already paying off for the firm with client Huawei Technologies. The telecom developer entered the market in 2009 via a joint venture with CABEI, and is already the number one service provider for Costa Rica's state telecom entity. Over the course of the year Arias helped Huawei - representing financial backers Bank of China and Sinasure - win the important contract to develop the nation's 3G network with a winning bid totalling \$235 million.

Partner Carolina Flores earns marks as an adept tax professional and M&A attorney. When Walmex made a bid to purchase parent Wal-Mart's Central American operations, Arias represented the buyer regionally and Flores handled the Costa Rican segment of the deal. The acquisition was valued at \$593 million in cash and new shares closed in December 2009.

The firm is also active with multilateral lenders IFC and IIC, and advised several mid-sized loans to local financial institutions, including the latter's \$25 million loan to Banco Bac to fund entrepreneurship in Costa Rica.

### Leading lawyers

Mauricio Díaz  
Carolina Flores  
Vicente Lines  
José Antonio Muñoz

### BLP Abogados

Noting the collapse of the development bubble in Costa Rica, one rival states: "BLP is moving away from concentrating on real-estate to be more active in government procurement and project finance," adding, "I think that's a very good move on their part." In 2009 the firm captured partner Alonso Aroyo from KPMG to develop an in-house tax practice, considered a "big move" by competitors.

Founding partners Luis M Castro and David Gutiérrez lead the firm's corporate and financial practice, but one client gives high marks to partner Mauricio Salas, saying, "His knowledge of international trade work makes him a reliable contact for foreign operators."

A significant portion of the firm's recent work falls in the financing area. In October 2009 the firm advised Standard Bank in granting a \$250 million syndicated loan to Millicom that refinanced its funding for the 2008 acquisition of local broadband service provider Amnet.

BLP has carved its share of the institutional lending work pouring into Costa Rica. In 2009 partner Viviana Liberman represented Opic granting a \$45 million facility to Banco

Lafise, to finance residential mortgages for low and middle income households. Liberman also advised Austria's development bank when it extended a \$20 million credit line to CIFI, a promoter of small and mid-scale infrastructure projects throughout Central America and the Caribbean.

#### Leading lawyers

Luis M Castro  
David Gutiérrez  
Vivian Liberman  
Mauricio Salas

### **Consortium - Laclé & Gutiérrez**

There is a sense among competitors that the Consortium's local partners retain their separate identity they established prior to joining the regional network. Still, one competitor commends financial department leader David Arturo Campos for handling the heavy regional workload. "He continues to masterly manage a very impressive list of clients who feel well served by Consortium," the lawyer says. Regarding corporate team head Rolando Laclé Zuñiga, another peer notes: "He is definitely a leader in moving his law firm from banking and finance into other areas."

Costa Rica's insurance business is beginning to heat up following the government's easing of its monopoly, and in December 2009 Campos and Laclé helped regional player Grupo Bolívar enter the new local market. The firm is also advising Bolívar locally, helping to define the nation's private insurance industry in the process.

The firm recently participated in the nation's newly opened telecom market on the financing side. Advising Finland's Nordea Bank, partner Mario Quesada Bianchini helped craft a \$37 million loan to Costa Rica's national telecom unit Ice. The proceeds will be used to finance the equipment needed to improve and expand the nation's communications network.

#### Leading lawyers

David Arturo Campos  
Rolando Laclé Zuñiga  
Mario Quesada Bianchini

### **Pacheco Coto**

Law firms inevitably face the issue of generations, and rivals say Pacheco has made a successful transition to a new line of young, talented attorneys among the top in the country. "Having senior partners that have the vision to turn down leadership is something you have to admire," one competitor says. Still, another peer notes, "[Senior partner]

Humberto Pacheco still has a very strong presence at the firm."

Managing partner Alejandro Antillón earns credit from commentators for building the firm's current image, but partner Hernán Pacheco is considered the day-to-day representative in the corporate division. In addition to the firm's traditional contacts in the eastern European business community, one lawyer says, "I see them very active representing South American family offices and funds investing in the country."

The firm has seen recent involvement in large transactions on behalf of some of the most important international food companies in the region, and lists Dole, Green Giant and General Mills on its representative client roster.

#### Leading lawyers

Alejandro Antillón  
Hernán Pacheco  
Humberto Pacheco

### **Batalla Abogados**

Batalla advances to the second tier as after market recognition that the firm is an active player in the corporate market. "I think it's a very important firm," one rival says, adding, "They have one of the best practices in private equity." Regarding the firm's main funds partner, one rival says, simply, "I am very impressed by the work of Rodrigo Zelaya."

Zelaya represented a several funds including Aureos Latin American Fund in the financing of hydrocarbon services firm PetroTiger, based in Colombia. The \$44 million equity transfer will fund operations throughout Latin America, the Caribbean and Indonesia. Zelaya also managed a small transaction on behalf of ALAF whereby a \$10 million investment was made to ITS, an information technology services company headquartered in Costa Rica.

In July 2009 long-time client Banco Lafise brought partner Alejandro Batalla work in a \$7 million syndicated loan to Molinos del Guancaste, a rice producer. The transaction, though small, represented the recovery of the lending market locally.

#### Leading lawyers

Alejandro Batalla  
Rodrigo Zelaya

### **Zürcher Odio & Raven**

Costa Rica's lawyers characterise Zürcher as a corporate, IP and litigation firm with a strong presence in the real-estate and tourism markets. In 2009 the firm's litigation head, Sergio Artavia, left to start a boutique practice, and

competitors hold the loss is significant. "I see that affecting their practice considerably," remarks one rival. "They had a collection of good litigators that were a plus for the firm."

Peers hold Alberto Raven-Odio is the most visible member of the firm in the transactional market, and one commentator remarks, "He has to be very overextended." In October 2009 Raven locally advised client Millicom in the refinancing of the loan it used to enter the Costa Rican telecom market.

As Costa Rica's real-estate market regains momentum, competitors see Zürcher riding with the tide of investment. Recently, the firm represented investment fund Caribbean Properties Group in the acquisition of the 85-acre Global Park free trade zone in Heredia.

#### Leading lawyers

Francisco Chacón  
Alberto Raven-Odio  
Germán Serrano García

### **Other ranked firms**

There is a general perception among peers that **Aguilar Castillo Love** remains active representing corporate finance deals. Competitors single out GE and Hewlett-Packard as the firm's most important clients in Costa Rica and the region at large.

Among the firm's corporate clients is Construtora, a Brazilian construction firm growing its presence in Central America and the Caribbean. The firm has also represented regional pharmaceutical manufacturer Leterago in the structuring of a new joint venture distribution agreement, as well as a litigation process with its former distributors.

Competitors note **Lexincorp** is in its development stage as a regional firm. "They are trying to grow up a little bit more," one remarks. Last March, partner Arnoldo André-Tinoco was elected president of the Costa Rican Chamber of Commerce, a position considered well suited by peers of the noted statesman.

Recently the firm saw work in the information technology sector. Partner Sergio Pérez helped contact centre manager Convergys establish operations in the Metro Free Zone of Barreal de Heredia.

*Leading lawyers:* Arnoldo André-Tinoco and Sergio Pérez

The Central American law firm of **Nassar Abogados** has carved an important niche regionally in aviation and transportation law, and as one rival notes, "In those two areas I see them active as ever." Partner Alina Nassar is mentioned by peers as the reference in these practice areas, while Partner Tomás Nassar is commended for his work with the retail automotive industry.

The firm provided local due diligence for Avianca in its merger with Taca late 2009, and advised Spanish airline Iberia regarding the regional labor aspects of its acquisition by British Airways last April. In the automotive industry partner Henry Rodriguez counselled Japanese trading house Itochu in restructuring \$32 million debt held by its Central American vehicle dealership enterprise.

*Leading lawyers:* Alina Nassar and Tomás Nassar

**Quirós Abogados Central Law** is considered highly successful by peers in regulatory matters, with the added benefit of its membership in a regional network. Competitors note the return of Randall Quirós Bustamante from his role as minister of public works and transportation brings important experience to the firm's government contracts services.

Since 2009 the firm has advised project planners in developing the \$8 million Sardinal hydroelectric plant on the Cuarto de Grecia River. Quirós lawyers are also advising several companies tendering bids to participate in the recently opened telecom industry and submarkets, including Cetelnet, a communications infrastructure and renewable energy developer.

*Leading lawyers:* Rafael Arturo Quirós Bustamante and Ignacio Beirute Gamboa

### **Other notable firms**

**KPMG Abogados** suffered the recent loss of partner Alonso Aroyo to head the tax department of BLP Abogados, and competitors say the move spells a significant shake-up at the firm. "His move was the news in the Costa Rican legal community," one peer notes. The firm is active in the free trade zones owing to their expertise tax structures and contracts.

*Leading lawyers:* Daniel Muñoz