

# SBSM Legal, Regulatory, and Fiscal Framework

# Lithuania

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## 1. Which is the legal framework for social enterprises in your country?

In 2004, Lithuania was among the first new EU member states that adopted The Law on Social Enterprise enterprises as a separate legal form. This Law, as national legal framework for social enterprises, was amended in 2011. The Law on Social Enterprise regulates the requirements to obtain a distinct legal status of WISE and describes available benefits for such organizations.

Referring to the Law, *operating goals* of the social enterprise should be related to the employment of the target group, developing working and social skills as well as the target group's social integration. The social enterprise cannot carry out activities included in the list of non-supported activities of social enterprises.

A legal entity can also carry out *social purposes* without having a status of 'social enterprise', for example, charities and sponsorship funds, public entities, NGOs and associations. Some of them could be characterized as 'de facto social enterprises' if compared to the EU legal definition of social enterprise ('broad definition'). However, they are not qualifying for any state support or other benefits as the companies with status of 'social enterprise' do.

There are two laws in Lithuania that determine *state support* for the disadvantaged people: the *Employment Support Law* and the *Law on Social Enterprises*. These are the main laws to support employers who *hire disabled employees and other members of the target groups* (including the long term unemployed, persons of pre-retirement age, ex-offenders, single parents and drug-addicts) in Lithuania.

*Private and public* sector employers are supported under Article 26 of the Employment Support Law (2006), which offers *wage subsidy schemes* based on the amount of hours of work in relation to the Lithuanian hourly minimum wage.

Under Article 13 of the Law on Social Enterprises eligible companies are entitled to public support (funding schemes), *depending on their status*. All social enterprises may be granted the types of state aid as well as additional types of state aid, particularly focused on the *social enterprises of the disabled*.<sup>1</sup>

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<sup>1</sup> A map of social enterprises and their eco-systems in Europe: Country Report: Lithuania. European Commission, 2014. <http://ec.europa.eu/social/BlobServlet?docId=12994&langId=en>

## 2. How social enterprises are defined according to the country's legal framework?

In Lithuania, the Law on Social Enterprises and the Order of the Minister of Economy implementing the social entrepreneurship (also called the Concept of the Social Entrepreneurship) provide definition of a social enterprise. Ministerial Concept was adopted in April 2015 to further promote the development of social entrepreneurship. According to Article 3 of the Law on Social Enterprises, "*Social enterprise is a legal person in any legal form, which has acquired the status of a social enterprise in accordance with the Law and the legal acts implementing it.*"

The Governmental Concept of the Social Entrepreneurship defines social enterprise as "*a business model according to which profit maximization is related to social goals and priorities using market mechanism, taking into account principles of public-private sector partnership and applying social innovations.*"

The Lithuanian Law on Social Enterprises regulates the distinct legal status and focuses on work integration social enterprises that employ *disabled or marginalized jobseekers*. While it is not evident from the wording of this definition, Lithuania applies the *narrow interpretation* of social entrepreneurship. The legal definition *excludes enterprises otherwise pursuing social mission*, if part of the employees are not disadvantaged or marginalized jobseekers. All businesses aiming for social value and non-profit organizations applying business models *may operate as a social enterprise*. However, to be legally recognized as a social enterprise and eligible for public financing and other state benefits, the SE has to obtain a distinct WISE status.

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## 3. Which are the main types of social enterprises that exist in your country?

All businesses aiming for social value and non-profit organizations applying business models *may operate as a social enterprise*. However, to be *legally recognized as a*

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<sup>2</sup> *Comparative Analysis of the Regulatory Framework for Social Enterprises*. European Center for Not-for-Profit Law, 2015. <http://ecnl.org/wp-content/uploads/2015/10/ECNL-Comparative-analysis-on-regulation-of-SE-Eng-2015.pdf>

social enterprise and eligible for public financing and other state benefits, *the SE has to obtain a distinct WISE status.*<sup>3</sup>

The Law on Social Enterprise established two types of social enterprises that can benefit from 'social enterprise' status:

- "social enterprises" and
- "social enterprises of the disabled";

"Social enterprise" status covers relatively *wide range of groups* including disabled people, the long term unemployed, persons of pre-retirement age, ex-offenders, single parents and persons addicted to drugs.<sup>4</sup>

The *Law on Social Enterprise* regulates the requirements to obtain a distinct legal status of WISE and describes available benefits for such organizations. The main target group employed in social enterprises is disabled people. This is relevant for both types of legally recognized social enterprises. The social enterprise cannot carry out activities included in the list of non-supported activities of social enterprises.

In Lithuania, "social enterprise" status can be obtained by a legal entity of any legal form (except for state and local authorities, trade unions, religious communities and associations) that meets the prescribed conditions. As such, there is no legal form that is specifically tailored for use by social enterprises. Current social enterprises use the following legal forms:

- private limited liability companies/ joint stock companies (in Lithuanian 'Uždaroji akcinė bendrovė' (UAB));
- public limited liability companies/ stock companies (in Lithuanian 'akcinė bendrovė' (AB));
- public entities/ establishments (in Lithuanian 'viešoji įstaiga' (VšĮ)); and
- individual enterprises (in Lithuanian 'individuali įmonė' (IĮ)).

In general. Social Enterprise Status can apply to Integration Enterprises, which are for-profit, or Non-Profit Companies or Co-operatives<sup>5</sup>.

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<sup>3</sup> *Comparative Analysis of the Regulatory Framework for Social Enterprises*. European Center for Not-for-Profit Law, 2015. <http://ecnl.org/wp-content/uploads/2015/10/ECNL-Comparative-analysis-on-regulation-of-SE-Eng-2015.pdf>

<sup>4</sup> A map of social enterprises and their eco-systems in Europe: Country Report: Lithuania. European Commission, 2014. <http://ec.europa.eu/social/BlobServlet?docId=12994&langId=en>

<sup>5</sup> Social Enterprise in Europe Developing Legal Systems which Support Social Enterprise Growth. European Social Enterprise Law Association, 2015. [https://esela.eu/wp-content/uploads/2015/11/legal\\_mapping\\_publication\\_051015\\_web.pdf](https://esela.eu/wp-content/uploads/2015/11/legal_mapping_publication_051015_web.pdf)

#### 4. What is the process of registering a social enterprise in your country?

Article 3 in the *Law on Social Enterprises* states that a social enterprise should be a legal enterprise, which is established in the Republic of Lithuania, has acquired this status in accordance with the procedure laid down by this Law and fulfils all of the following conditions:

1) the number of employees who are attributed to the target groups accounts for *not less than 40%* of the annual average number of the employees on the staff list, and the number of the employees who are attributed to the target groups of persons is *not less than four*. A proportion of the employees who are attributed to the target groups to the average number of employees on the staff list shall be calculated in accordance with the procedure laid down by the Government or an institution authorised by it;

2) founding documents *indicate the operating goals* of this legal enterprise relating to employment of the persons who are attributed to the target groups, development of their working and social skills as well as their social integration;

3) the legal enterprise does not carry out the activities included in the list of non-supported activities of social enterprises as approved by the Government of the Republic of Lithuania or an institution authorized by it, or the income received from such activities over the tax period accounts.

The Article 8 at the same Law indicate that the status of a social enterprise shall be granted by an institution authorised by the Government. The documents shall be submitted only in the case when a legal person pursued economic activity *prior to applying for the grating* of the status of a social enterprise.

The documents should be provided as follows:

- 1) copy of a legal person's registration certificate;
- 2) copies of a legal person's founding documents;
- 3) operating (business) plan;
- 4) plan of measures for the development of social skills and social integration of the persons who are attributed to the target groups;
- 5) documents of financial statements for the two previous years;
- 6) copy of a financial report on funds of the State Social Insurance Fund and the Health Insurance Fund for the last quarter;

7) a certificate issued by the State Tax Inspectorate about settlements with the State budget and municipal budgets;

8) where audit of the last financial year has been performed, copies of reports on audit and auditor's reports regarding continuity of the enterprise's operation;

9) copies of the documents certifying the ownership of assets (building, land, etc.) and relating to the creation or adaptation of workplaces.

An institution authorized by the Government not later than *within 30 days* from the submission of all necessary documents, consider a received application and take a decision on the granting of the status of a social enterprise.

By a reasoned decision of an institution authorised by the Government, the status of a social enterprise may be granted *for a different period* (usually indeterminate), *but not less than for 3 years*. Upon the expiry of this period, the legal enterprise may be granted the status of a social enterprise in accordance with the procedure laid down by this Law.<sup>6</sup>

## 5. How social enterprises are treated under tax law in your country? Are there any tax incentives for social enterprises? If yes, which?

There are *two types of state support* available for social enterprises in Lithuania. Article 13 of the Law on Social Enterprises distinguishes between state support to all types of work integration social enterprises and those that are employing persons with disabilities.

Following state support is available for all *legally recognized WISE*:

- *partial compensation* for wages and state social insurance contributions;
- *grants* for creation of jobs, adaptation of workplaces for the disabled, and acquisition/adaptation of means of work for the disabled;
- *grants* for training of target groups.

Following financial support is available for *WISE employing persons with disabilities*:

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<sup>6</sup> REPUBLIC OF LITHUANIA LAW ON SOCIAL ENTERPRISES, 1 June 2004 No IX-2251. [https://e-seimas.lrs.lt/rs/legalact/TAD/TAIS.312453/format/MSO2003\\_DOC](https://e-seimas.lrs.lt/rs/legalact/TAD/TAIS.312453/format/MSO2003_DOC)

- *grants* for the adaptation of the work environment for disabled employees and production/rest premises;
- *grants* for compensating additional administrative and transport costs;
- *grants* for compensating costs of an assistant (gesture language interpreter).

Social enterprises with distinct legal status may benefit from additional tax benefits compared to other non-profit legal forms. According to the Article 5 of the Lithuanian Law on Corporate Income Tax, social enterprises may benefit from the income tax exemption if following conditions are met cumulatively:

- over the tax period the number of marginalized and disadvantaged employees listed in Article 4 of the Law on Social Enterprises accounts for at least 40% (annual average);
- over the tax period the organization does not perform activities listed by the Government as nonsupported for SEs or the income received from such activities does not exceed 20%;
- on the last day of the tax period, entities have the status of a social enterprise.<sup>7</sup>

## 6. Procurement: Any special provision for social enterprises? Please describe.

According to the Article 91 of the Lithuanian Law on Public Procurement, public authorities must, when conducting simplified procurement procedures, procure at least 5 per cent of the total value of contracts awarded in simplified procurement procedures from social enterprises (including social enterprises of the disabled).<sup>8</sup>

## 7. Links and References

A map of social enterprises and their eco-systems in Europe: Country Report: Lithuania. European Commission, 2014.

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