Overcoming institutional barriers for social entrepreneurship

National Report

Belgium
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## List of abbreviations

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<th>Abbreviation</th>
<th>Explanation</th>
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<tbody>
<tr>
<td>ASBL</td>
<td>‘Association sans but lucratif’ Non-profit organization</td>
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<td>BCE</td>
<td>Bank Carrefour des Entreprises</td>
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<td>CECOP</td>
<td>The European Confederation of Industrial and Service Cooperatives</td>
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<tr>
<td>CSP</td>
<td>Company for social purpose</td>
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<tr>
<td>EU</td>
<td>The European Union</td>
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<tr>
<td>FS</td>
<td>‘A finalité sociale’ ‘for social purpose’</td>
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<tr>
<td>GA</td>
<td>General Assembly</td>
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<tr>
<td>NPO</td>
<td>Non-profit organization</td>
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<tr>
<td>ONSS</td>
<td>‘Office national de sécurité sociale’ National Social Security Office</td>
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<tr>
<td>SA</td>
<td>‘Société anonyme’ Public limited company</td>
</tr>
<tr>
<td>SCRL</td>
<td>‘Société coopérative à responsabilité limitée’ Cooperative company with limited liability</td>
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<td>SERCo</td>
<td>Social Entrepreneurship for Roma</td>
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<tr>
<td>SPF Justice</td>
<td>‘Service Public Fédéral Justice’ Federal Public Service Justice</td>
</tr>
<tr>
<td>SPRL</td>
<td>‘Société privée à responsabilité limitée’ Private limited liability company</td>
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<tr>
<td>VAT</td>
<td>Value-added tax</td>
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<td>WISE</td>
<td>Work integration social enterprise</td>
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Executive Summary

This national report combines key information on different types of social enterprise with guidelines on how to establish them in the Belgian national context. Forming part of the SERCo project’s broader aim to promote social economy as an effective instrument for integrating Roma into the labour market, this set of guidelines for Roma social entrepreneurship represents one of the project’s core deliverables.

This document begins with an overview of the SERCo project itself, detailing its core objectives, deliverables, and consortium members. Part I of the report provides a general definition of social enterprises together with a brief description of their main features and fields of activity. Part 2 offers more detail on different types of social enterprise operating in Belgium and provides in-depth guidelines on how to establish them. Part 3 explains in greater detail the relevance of social enterprises to integrating Roma more effectively into the labour market and provides recommendations to Roma communities and institutional players.
Project Description

The project promotes social economy as an effective instrument for integrated development of the Roma communities by:

1) analyzing the potential of applying social economy practices within Roma communities, from a social, economic and institutional point of view;

2) engaging policy-makers and civil servants and training Roma mediators for developing social enterprises; and

3) assisting Roma social business initiatives and promoting social economy within Roma communities and to the general public.

The SERCo partners recognize that social entrepreneurship can be a solution to the issues of Roma people, since it:

• helps resolving some of the existing needs of the community;
• facilitates the qualification on the job;
• uses local resources and allows the development of more entrepreneurs;
• supports traditional crafts;
• increases the qualification and education level;
• stimulates solidarity and lead to the improvement of the relationships between the members of the community;
• represents a self-help method;
• allows hiring people in vulnerable situations.

The project’s core deliverables are:

• guidelines for Roma social entrepreneurship
• Mediators’ training programme
• One-to-one mentoring for social enterprise development
• SERCO VLE for mutual learning
• Public roundtables & info days
• Network for Roma Social Economy

SERCO Consortium:

• University of Piraeus Research Center, / www.kep.unipi.gr , Greece – SERCo
IDEA ROM ONLUS, www.idealrom.it, Italy
CESIE, www.cesie.org, Italy
The European Roma Information Office-ERIO, www.erionet.eu, Belgium
Center for Interethnic Dialogue and Tolerance “AMALIPE”, www.amalipe.com, Bulgaria
Fundacio Privada Pere Closa, www.fundaciopereclosa.org, Spain
Tolerance and Mutual Aid Foundation (TMAF), Bulgaria
Four Elements, www.4-elements.org, Greece
Association Promoting Social Inclusion PAKIV (ACPSI PAKIV), www.pakiv.ro, Romania
1. Social Enterprises

1.1 Definition

In Belgium, there is no commonly agreed definition of social enterprise. Concepts such as “work integration social enterprise” (WISE) and “social economy” are more widely used instead. In Flanders, often, the terms “social enterprise” and “WISEs” are used interchangeably. In Wallonia, the term of “social economy” is more commonly used.

However, social enterprises can be defined as “organizations whose drive or primary goal is social: it is to address a societal challenge or structurally mitigate a social problem, like tackling the multidimensional social problems of the most vulnerable groups in society. Secondly, social enterprises do so in a business-savvy, market-orientated way, generating own revenues, selling services and/or products.”

1.2 Main features

Social enterprises are placed between the pure non-profits and pure for-profits. They tend to be more financially autonomous and follow business models that allow for sustainable impact. Social enterprises are mainly mission-driven (not only profit-driven), thus they tend to re-invest any profits made towards growing their social impact. Most of the social enterprises in Belgium have a non-profit legal statute. However, they often combine it with another statute.

The average employment size varies according to the different types of social enterprises. In the WISE category, sheltered and social workshops employ around 30-70 people; work experience enterprises and insertion enterprises employ up to 30 people. Social purpose companies employ 8-12 people, Associations around 33 people, Cooperatives approximately 10 employees.

1.3 Main fields of activity

Most social enterprises in Belgium focus on more than one field of activity. Their activity fields are diverse and range from construction, wholesale and retail trade, community and social services, hotels, restaurants, manufacturing, health, social work and education. However, the main activity field is in the business sector which covers recruitment/outplacement services, building maintenance (professional cleaning and gardening), IT management, audit/consultancy, print and mail, communication, marketing and advertisement services.

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1.4 Some examples

In 2001, public authorities implemented a service-voucher mainly aimed at improving the development of regular jobs for low qualified people in the housework field. With this system, someone who needs to get housework services can buy vouchers and in turn, will get tax reductions when buying them. This system contributes to the development of the work integration field.
2. Types of Social Enterprises

Setting up a social enterprise involves a set of procedures and administrative requirements that depend on the type of activity and legal form of the company.

To be self-employed, one needs to fulfil the following legal conditions:

- be 18 years old or older;
- enjoy civil rights: those convicted of a felony can carry on business during the term of their sentence;
- be legally able.

Only people who do not have a nationality of a member state of the European Economic Area must possess a professional card to become self-employed in Belgium.

There are specific formalities for certain categories of independents. These relate to entrepreneurial capacity for the commercial and craft professions (basic management knowledge and professional skills), to the conditions to be filled for the exercise or use of the title of a liberal profession or intellectual service provider as well as to obtain specific licenses and permits.

Further assistance can be found here:  
http://www.infos-entreprises.be/fr/constituer-lentreprise-20  
http://economie.fgov.be/fr/binaries/Comment_s_installer_a_son_compte_tcm326-76463.pdf

There are mainly four types of social enterprises in Belgium. These are:

1) Companies for social purpose (CSP)  
2) Work integration social enterprises (WISE)  
3) Non-profit organisations (NPO)  
4) Foundations serving a public interest

Below, you can find the definitions and features for each type of these social enterprises, as well as explanation of relevant regulations and necessary procedures for their start-up and legal incorporation.

2.1 Companies for social purpose (CSP)

A. Definition

Social purpose companies combine a social purpose with a commercial and economic activity. A social purpose company is not a new form of company but, rather, a legal status. As such, it can be attached to any of the classical legal forms provided for under commercial
law. Since 1996, companies may be called "companies with a social purpose" if they do not aim to enrich their members and if their articles of association respect a series of conditions.

B. Features

The statutes of companies for social purpose must define its social purpose and should also stipulate that the associates do not intend to have any patrimonial advantage or make any benefit. In case the company has profits, they cannot be distributed among the associates, they must be assigned so as to get as close as possible to the social purpose of the company. The statutes must also mention that each worker must be given the opportunity to become a partner in a period of one year after his/her arrival in the company.

C. Regulations

Companies for social purpose need to add in their statutes the words "social purpose". Companies for social purpose are not subject to a special tax regime. Therefore, they are in principle subject to the usual rules on definition of the applicability of corporate tax or legal persons. There is an exception when the company agrees not to pay dividends and is recognised as a federal insertion company. There are possible commercial forms for this type of company and each need to have specific initial budget for its set-up: SA FS (61.500€), SPRL FS and SCRL FS (18.550€ each).

D. Procedure for its legal incorporation and its start-up procedure

Below you can find steps to follow to set-up a company for social purpose. The costs for its establishment are also provided.

1. Demonstrate basic management skills

The person who will manage the company (e.g. manager, managing director) needs to prove his/her knowledge of management.

2. Open a bank account

The creator of the activity needs to open a bank account on behalf of the company, separate from his private account. This also applies to single-member companies. This bank account should be mentioned on all business correspondence, invoices, and all official documents of the company.

3. Statutes

Draft the statutes with the characteristics of the future entity - e.g. the type of entity, the name, and the office location. The statutes can be prepared by the notary.
4. **Financial plan**

The founders have to establish a financial plan, sign and deliver it to the notary on the day of the act. At the time of creation, the company must have sufficient capital to enable the normal implementation of its activities for a period of two years. For example, the minimum capital for the SA FS is 61.500€ and for both SPRL FS and SCRL FS is 18.550€ each.

5. **Bank certificate**

The founders need to give to the notary a bank certificate that demonstrates that a special account (separate from the business account that will serve the ongoing activities of the company) was opened in the name of the new company. This special bank account should include partners’ deposit for the company which will be blocked until the notary provides a certificate to the bank, informing that the company has been established and registered in the Commercial Court.

6. **Evaluation report**

A special evaluation report must be prepared by an auditor, and another one by the founders themselves where the capital of the company is assessed.

7. **The Constitution Act – the statutes**

Once all these steps completed, the founders sign the constitution of their society with the notary and approve its statutes.

8. **Registration at the Registry of the Commercial Court**

Once the Constitution Act is signed, the notary is in charge of the registration of the company which is done at the Registry of the Commercial Court. The notary is responsible for the publication on the Belgian Official Gazette of the extract of constitution act of the company. The constitution act can be filed electronically with the e-Registry (e-Greffe); this procedure is faster and cheaper and allows immediate allocation of the company number.

9. **Registration at the Bank Carrefour des Entreprises**

Registration at the Bank Carrefour des Entreprises (BCE) should be done when the constitution act is done at the Registry of the Commercial Court. The notary can do this as well.

10. **Business Number**

The business number is issued by the Registry of the Commercial Court. It is activated via the registration at the Bank Carrefour des Entreprises. This number will also become the VAT number and membership number to the ONSS (social security) of the company.
The setting-up is estimated to include the following costs:

Notary: 750€-1000€  
Writing rights: up to 95€  
Registration fees: 25€  
Filling of constitution act: 183.80€ (paper version) 132.74€ (electronic version)  
Registration and VAT numbers: 82.50€  
Draft of financial plan by an accountant (optional): around 500€  
Minimum capital: SA FS (61.500€), SPRL FS (18.550€) and SCRL FS (18.550€)

2.2 Work integration social enterprises (WISE)

A. Definition

Work integration social enterprises (WISEs) are “autonomous economic entities whose main objective is the professional integration [...] of people experiencing serious difficulties in the labour market.” Work integration is achieved through productive activity and personalized follow-up, or through training of potential workers.

B. Features

The most original feature of WISEs is that this economic organisation is serving an explicitly social goal serving groups who are disadvantaged in the labour market. WISEs are active in various sectors: manual labour (building, carpentry etc.), environmental and recycling waste and packaging products. There are several types of WISEs in Flanders: work integration enterprises (invoegbedrijven of IBs), social workshops (sociale werkplaatsen or SWPs), social workshops (sociale werkplaatsen or SWPs) and work care centres (arbeidzorgcentra or AZCs). In Wallonia there are work experience enterprises (entreprises de formation par le travail - EFTs), work integration enterprises (entreprises d’insertion - EIs) and adapted work enterprises (entreprises de travail adapté).

2.3 Non-profit organisations (NPO)

A. Definition

A non-profit organisation (Association sans but lucrative, ASBL) is a structure that does not engage in industrial or commercial operations and does not seek to provide its members with material gain. A non-profit organisation is a group of natural or legal persons that have an activity without self-purpose.

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4 Page 3 - http://emes.net/content/uploads/publications/PERSE_04_04_Trans-ENG.pdf
B. Features

A non-profit organisation needs to be composed of at least three people. Members of an NPO cannot receive any material benefit from it. NPOs need to have defined statutes, with articles representing the basic principles of the organisation. NPOs do not need capital to be established. However, they must fulfil a number of accounting obligations. NPOs need to have a board of directors and members of a general assembly.

C. Regulations

Non-profit organisations (ASBLs/VZW) must register with the Crossroads Bank for Enterprises (Banque-Carrefour des Entreprises/Kruispuntbank van Ondernemingen). The registered office must be in Belgium. They are given a registration number which must be included on all official documents. If the activities of the non-profit organisation are non-profit making, the ASBL/VZW is only subject to the income tax on legal entities. However, ASBLs/VZWs are subject to corporate tax if they pursue a commercial activity primarily. ASBLs/VZWs are also subject to VAT, although they are usually exempted.

D. Procedure for its legal incorporation and its start-up

Below you can find steps to follow to set-up a non-profit organisation. The costs for its establishment are also provided. Establish a NPO does not require a notarial Act.

1. Founders/General Assembly

You need to have at least 3 founding members that will be part of the General Assembly (GA). GA members are responsible for taking all decisions concerning the present and the future of the NPO. Since the GA is open, the founding members should define its membership criteria. Anyone who meets these criteria will be able to be part of the GA.

2. Board of Directors

The GA must select members for the Board of the NPO. Since membership of Board of Directors is open, the GA should define its membership criteria and include them in the statutes.

3. Statutes

Draft the statutes with the characteristics of the future NPO. The statutes can be prepared by the founders and do not require a notary. The statutes should include: the full name of the organisation; the address of its registered office and the city in which it is situated; the purpose of the organisation; a distinction (where appropriate) between active members (at least three) and non-active members; the names, addresses and nationalities of the founders; the maximum membership fee; the conditions governing the appointment of directors; the procedure for amending the articles of association; the persons responsible for managing the accounts and budgets; what will happen to the capital in the event of the
organisation being wound up; the powers of the general meeting. The articles of association must be recorded in writing and can be written in Dutch or French.

4. **Registration at the Registry of the Commercial Court**

Once the Constitution Act is signed, the notary is in charge of the registration of the NPO which is done at the Registry of the Commercial Court. The notary is responsible for the publication on the Belgian Official Gazette of the extract of constitution act of the NPO along with the list of the Board of Directors. The constitution act can be filed electronically with the e-Registry (e-Greffe); this procedure is faster and cheaper and allows immediate allocation of the NPO number. The list of members must be filed within one month of publication of the statutes at the Registry of the Commercial Court.

5. **Open a bank account**

One of the founders of the NPO needs to open a bank account on behalf of the organisation, separate from his/her private account. This bank account should be mentioned on all business correspondence, invoices, and all official documents of the NPO.

6. **Registration at the Bank Carrefour des Entreprises**

Registration at the Bank Carrefour des Entreprises (BCE) should be done when the constitution act is done at the Registry of the Court of Commerce. The notary can do this as well.

7. **Business Number**

The business number is issued by the Registry of the Commercial Court. It is activated via the registration at the Bank Carrefour des Entreprises. This number will also become the VAT number and membership number to the ONSS (social security) of the NPO. NPOs are generally exempted to VAT.

The setting-up is estimated to include the following costs:

- Registration fees: 25€
- Filling of constitution act: 183.80€ (paper version) 132.74€ (electronic version)
- Registration and VAT numbers: 82.50€
- Minimum capital: does not require a minimum capital

2.4 **Foundations serving a public interest**

A. **Definition**

A foundation is established by a legal act of one or more persons (natural or legal) where assets are allocated for the realisation of a certain non-profit purpose. The non-profit purpose of a public interest foundation should be of a philanthropic, philosophic, religious,
scientific, artistic, pedagogic or cultural nature. The legal obligation to allocate assets for the realisation of a certain non-profit purpose does not prohibit the development of commercial or economic activities (if certain conditions are met). The legal framework of the Foundations in Belgium is on Law 51/2002.

B. Features

Foundations serving a public interest must be constituted by deed and some information is required. They must also obtain a royal decree of recognition. Foundations must have one of the following goals: philanthropic, philosophical, religious, scientific, artistic, educational or cultural. Foundations are allowed to develop economic and commercial activities without limitation in the law on the quantitative level. However, these activities should only be developed in order to achieve the altruistic purpose. Foundations do not have members, they are administered by a board consisting of 3 people at least, and that can perform all tasks necessary to achieve the goals of the foundation. The initial capital of a foundation should be sufficient to ensure its viability. The foundation must comply with a number of accounting obligations.

C. Regulations

Foundations serving a public interest are private entities, created by one or two private individuals. They may not provide a material gain for the founders or directors, or any other person.

D. Procedure for its legal incorporation and its start-up procedure

Below you can find steps to follow to set-up a foundation serving a public interest. The costs for its establishment are also provided. Foundations serving a public interest must be made by deed. Therefore, you should address a notary.

1. Demonstrate basic management skills

The person who will manage the company (e.g. manager, managing director) needs to prove his/her knowledge of management.

2. Board of Directors

A foundation does not include members. It is administered by a board of directors consisting of 3 people at least, and that can perform all acts necessary for achieving the goals of the foundation.

3. Statutes

Draft the statutes with the characteristics of the future foundation. These should include: a) the full name, address, date and place of birth of each founder or, if it is a corporation, the
name, legal form and address of the registered office; b) the name of the foundation; c) the precise description of the purposes for which it is created and the activities it proposes to implement to achieve these goals; d) the address of the headquarters of the foundation, which must be located in Belgium; e) the method of appointment, dismissal and termination of office of directors, the extent of their powers and how to exercise them; f) if appropriate, the mode of appointment, dismissal and termination of service of persons authorised to represent the foundation, the extent of their powers and how to exercise them; g) if appropriate, the mode of appointment, dismissal and termination of office of the delegates to the daily management of the foundation, the extent of their powers and how to exercise them; h) the conditions under which articles may be amended; and i) the mode of settlement of conflicts of interest.

4. **Royal decree of recognition**

The foundation must also obtain a royal decree of recognition. The SPF Justice is responsible for the recognition of the foundation, which acquires legal status when signing the Royal decree of recognition. To ensure this, the following documents should be sent to the SPF Justice: a) a certified copy of the establishment deed of the foundation where the capital provided by the founder(s) is mentioned in the preamble; b) a motion requesting the granting of legal personality to the Minister of Justice but annexed to the other documents; c) the list of members of the Board: name, date and place of birth and address; for legal persons: name, legal form and headquarters address (if this has not been included in the deed).

5. **Publication of Royal decree of recognition in Belgian Official Gazette**

Only when the foundation received the royal decree, it should publish that decision on the Belgian Official Gazette in the Belgian Monitor.

6. **Registration at the Registry of the Commercial Court**

Once the royal decree is signed, the administration sends four copies to the notary, the board or the foundation. One of the four copies must be communicated to the Registry of the Commercial Court of the district where the foundation has its headquarters, together with the other documents. The royal decree can be filed electronically with the e-Registry (e-Greffe); this procedure is faster and cheaper.

7. **Open a bank account**

One of the founders of the association needs to open a bank account on behalf of the association, separate from his/her private account. This bank account should be mentioned on all business correspondence, invoices, and all official documents of the association.

The setting-up is estimated to include the following costs:

- **Notary**: 750€-1000€
- **Writing rights**: up to 95€
Registration fees: 25€
Filling of constitution act: 183.80€ (paper version) 132.74€ (electronic version)
Registration and VAT numbers: 82.50€
3. Recommendations

The overall lack of integration of Roma communities in the countries they reside in impedes them to access labour market and thus to enter legal economy circuits. This lack of integration is both related to the discrimination and exclusion they face and, to some extent, to the way some communities are organised. Hence, the level of education and qualification being very low within the Roma, they are partly invisible to organisations promoting social economy. This situation precludes any effective collaboration between the social economy sector and the different Roma communities, and as a direct consequence many opportunities of leaving poverty and marginalisation are wasted. Roma empowerment through social entrepreneurship and the access to a better living, both socially and economically, should be considered as a “win-win” situation in the sense that both Roma and non-Roma have many things to gain. For the societies where Roma reside, it could be a great way to energize and invigorate the local economy and to create economic activity even for the non-Roma, and for the Roma it could mean better access to public services and eventually gaining the confidence of institutions and corporations. Everything starts with improving collaboration, information, training and knowledge. More concretely, the following action should be done:

3.1 For Roma communities

- Awareness and information should be raised on social economy networks, so that Roma become acquainted with the social economy sector;

- Roma have to be more encouraged, and awareness-raising campaigns among these communities should be implemented to convince people to send their children to school.

3.2 For institutional players

- Reduce the administrative complexity and barriers to entrepreneurship, including the administrative burden of subsidy search;

- Make better use of the available funds, including EU funds, to promote Roma social enterprises;

- A stronger political will is needed in order to improve the integration of Roma in the field of social economy, and in society in general;

- Cooperation sector, with organizations such as Ashoka or the CECOP, should be convinced to implement a program designed specifically for Roma, and to support target groups within the Roma.
4. Conclusions

The situation of social entrepreneurship in Belgium is a complex and diverse one. Social enterprises in Belgium rely mainly on own-generated revenues, followed by grant finance. They are mainly active in the employment field for disadvantaged workers. Other fields include health, community support, housing, recycling and sustainable development, and energy. The number of social enterprises is growing and the competences are shifting to the different regions. With most Roma in Belgium being of a migrant background, the national legislation should be amended, in order to offer more protection to self-employed migrants and fight against exploitation, undeclared work and discrimination in the workplace.
5. Bibliography


Useful links:

- [http://economie.fgov.be/fr/entreprises/vie_entreprise/Creer/#_p0DyTiVEY](http://economie.fgov.be/fr/entreprises/vie_entreprise/Creer/#_p0DyTiVEY)

Forms to fill:


Costs:


Statutes:

- [https://www.notaire.be/societes/constitution-de-la-societe/acte-de-constitution-les-statuts](https://www.notaire.be/societes/constitution-de-la-societe/acte-de-constitution-les-statuts)

Financial plan:


Bank certificate:

- [https://www.notaire.be/societes/constitution-de-la-societe/attestation-bancaire](https://www.notaire.be/societes/constitution-de-la-societe/attestation-bancaire)

Evaluation report:

- [https://www.notaire.be/societes/constitution-de-la-societe/rapport-des-fondateurs](https://www.notaire.be/societes/constitution-de-la-societe/rapport-des-fondateurs)

Registration at the Registry of the Commercial Court:

- [https://www.notaire.be/societes/constitution-de-la-societe/publication-au-moniteur-belge](https://www.notaire.be/societes/constitution-de-la-societe/publication-au-moniteur-belge)

Registration at the Bank Carrefour des Entreprises:

- [https://www.notaire.be/societes/constitution-de-la-societe/immatriculation-a-la-bce](https://www.notaire.be/societes/constitution-de-la-societe/immatriculation-a-la-bce)

Business Number:

- [https://www.notaire.be/societes/constitution-de-la-societe/immatriculation-a-la-tva](https://www.notaire.be/societes/constitution-de-la-societe/immatriculation-a-la-tva)