



LITHUANIA

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Founding a company

A company can be founded in a short time (usually within two or three weeks) and is generally not a problem. The required share capital is comparatively small to realise the advantage of limited liability.

The founding of a **joint stock company (UAB in Lithuania)** requires presentation of the following documents to the company registry office:

- › if the founder of the company is a company: an original certificate with apostille authentication of registration for the founding company;
- › articles of association of the founder; notarial certification/authentication and with apostille if the articles of association were drawn up and signed in Germany.
- › resolution of the managing body of the founding company regarding the founding of the company;
- › deed of incorporation of the company;
- › statutes of the company (in triplicate);
- › minutes of the founding meeting of the UAB;
- › certification by a bank registered in the Republic of Lithuania that the share capital or at least an amount corresponding to the minimum capital was transferred to the account of the company to be founded;
- › certification by the owner of the premises regarding the availability of the premises for the headquarters and operations of the company, confirmed (when a legal entity) through signature and stamp of the managing director or a different person authorised for representation; alternatively: copy of the ownership title of the premises;
- › application to register the company with reference to defined registration details legally required by company registration law and disclosure of the list with the submitted documents;
- › proof of payment of the stamp duty for the registration;
- › sample signature of the managing director (signed either in the presence of a notary from Lithuania or notarial authentication through a notary from abroad with apostille);

The founding of company in Lithuania in the legal form of a closed joint stock company (UAB) is subject to the following fees:

- › registration fee 198 LTL (approx. 57 euros);
- › reservation of the company name 56 LTL (approx. 16 euros);
- › notary fees approx. 800 LTL (approx. 232 euros);
- › bank certification of deposited share capital between zero and 100 LTL (approx. zero to 30 euros), depending on the respective bank.

Takeover of a company / joint venture

A takeover of a company is made through the sales of company shares or the acquisition of companies as a property complex. The procedure to acquire companies as a property complex is more complicated and therefore in practice not common. The contract of the company acquisition as a property complex has to be authenticated by a notary.

The sale of company shares is made through a simple contract in writing, whereby a notarial form is not required. With the selling of company shares it is not possible or only with restrictions possible to negotiate rights of pre-emption. In Lithuania joint ventures can be founded on the basis of a consortium agreement. Through the conclusion of the consortium agreement the parties (two or more persons) combine their property, their work and their knowledge in order to achieve a certain objective or carry out a certain activity. The consortium agreement has to be made in writing unless the law foresees a notarial form. If a condition regarding the written form is not fulfilled, the agreement is deemed to be void.

The profit resulting from the combined activities is distributed to the parties in proportion to their contributions. The parties are naturally entitled to make agreements regarding the other profit shares.

Legal forms of business

The greater part of the legal entities in Lithuania consists of joint stock companies.

There are the following types of corporations:

UAB (in Lithuanian: uždaroji akcinė bendrovė)

Share capital: at least LTL 10,000 (approx. 2,899 euros);
Number of shareholders: not more than 250.

AB (in Lithuanian: akcinė bendrovė)

Share capital: at least LTL 150,000 (approx. 43,478 euros); shares can be traded publicly.

MB (in Lithuanian: mažoji bendrija)

Shareholders must be natural persons. Limited liability. Maximum ten shareholders. No share capital, otherwise the share capital comprises shares. The shares of the shareholders correspond to their deposits in the MB.

Business partnerships:

TŪB (in Lithuanian: tikroji ūkinė bendrija)

Shareholders of the TŪB assume unlimited liability. Two to 20 company founders are required.

KŪB (in Lithuanian: komanditinė ūkinė bendrija)

Three to 20 company founders are required, of which at least two have to have unlimited liability. The other shareholders assume limited liability. Lithuania has nothing comparable to the German legal form of GbR. A company with at least a partial legal capacity which without registration only exists through conclusion (with an assumed implied consent) of articles of association does not exist in Lithuania. Along with joint stock companies the law in Lithuania also recognises the sole proprietor/sole trader.

IĮ (in Lithuanian: individuali įmonė)

Unlimited liability for the shareholder. Sole trader. IĮ can be converted into a UAB or AB.

Company management

Managing director

With a closed joint stock company only a single person is appointed managing director. The employment contract must be concluded with the managing director and accordingly it should be formulated to comply with Lithuanian labour law and corporate law. The managing director organises the daily operations of the company, hires employees and concludes legal transactions, etc.

Executive board

The executive board is a collegial administrative body of the company. It must consist of at least three members. The executive board is appointed by the supervisory board for a period of office with a maximum of four years. If the supervisory board is not formed, the executive board is appointed by a general meeting.

The executive board checks and authorises the strategy of the company, the annual report of the company, the administration structure, the proper organisation of branch offices and representations of the company, and gives approval for the conclusion of important legal transactions of the company etc.

Foreign exchange law (foreign exchange restrictions)

In Lithuania there are no special restrictions regarding the transfer of foreign exchange. However, foreign exchange may only be used through agreement of the parties for cashless payments. In Lithuania euros can also be used for cash payments. All companies, institutions, organisations and banks are obliged to keep to the rate of the official rate of exchange of the Bank of Lithuania for foreign exchange.

Financing possibilities (required track-record)

Companies in Lithuania can be financed by borrowing funds from banks, through state financing, financing from EU funds or through private capital. The source of the financing may be chosen voluntarily.

There are no special track-record conditions to obtain the financing. Financing institutions, however, are obliged to lend responsibly and accordingly the financing institutions require a business plan which lists details of the revenues and payments of the company, the cash flow statement, etc.

Real estate and the acquisition of land

Real estate acquisition contracts require a notarial form. Due to the limited clarification duties of the notary it is necessary to have real estate acquisition contracts drawn up by qualified lawyers. Provisional agreements are also recommended. The claim of ownership of real estate can only be asserted against a third party after entry in the property registry (similar to the German land register). Until May 1, 2014 foreign natural or legal entities were not allowed to purchase agricultural land and forest areas. However, acquisition is also possible by a subsidiary founded in Lithuania or special purpose entity without any problem. The acquisition of property in the form of buildings and other real estate is possible without restrictions.

Labour law

The employment contract must be concluded in writing and is deemed to be concluded as soon as the parties have agreed on the conditions of the employment contracts. The content of the employment contract is formed by the contractual conditions agreed by the contract partners which serve to define the rights and obligations of the parties.

The hourly pay or the monthly salary of an employee must not be below fixed minimum rates. From January 1, 2013 employees working in companies, facilities and organisations have a

right to a monthly minimum wage of LTL 1,000 (289.62 euros) and a minimum hourly rate of LTL 6.06 (1.76 euros). The working time must not exceed 40 hours in the week. The maximum daily working time must not exceed 8 working hours. The weekly working time is limited to 48 hours, including overtime.

Dismissal protection

Workers cannot be dismissed:

- › during a temporary period of incapacity to work or while on holiday,
- › during a period of military service or during fulfilment of other civic duties of the Republic of Lithuania, and
- › in other cases defined by law.

If the employee, after the period of time with special dismissal protection has ended, does not appear at the workplace, the employment contract with him can be cancelled according to other reasons provided in the employment contract.

Lithuanian labour law defines the principles of dismissal protection for pregnant women and employees bringing up children, and for the sick and injured at the workplace. It is not allowed to cancel the employment contract of pregnant women from the day they present a valid doctor's certificate of the pregnancy to their employer and a further month after the maternal leave has ended.

The employment contract of employees bringing up a child or children younger than three years old may only be terminated if the employee is at fault. In the event of an incapacity for work due to injury at the workplace or an occupational disease the claim of the employee to special dismissal protection is limited until the time he is available for work again or the type of disability has been determined. After the disability of the employee has been determined, the employment contract may be cancelled under observation of the special conditions of the labour code.

Trademark law / industrial property rights

Industrial property rights are protected in Lithuania in the same way as in Germany. In Lithuania industrial property rights correspond to European and international standards. Legal areas such as trademark law, patent law and domain law are strongly influenced by EU guidelines and regulations and provide investors with legal certainty with regard to the protection of intellectual property. Industrial property rights such as trademarks, patents and utility models, product design, geographical indications of source and topographies of semiconductor

products differ from copyright law and the associated rights such that these rights do not come into being with the creation of the product, but after a corresponding patent application is filed according to patent law. The main office for the registration of brands, patents and utility models is the state patent office in Vilnius. The trademark protection is granted for ten years after registration, whereby the time period can be lengthened without restriction. Copyright is collectively managed in Lithuania by the associations LATGA and AGATA.

Financial accounting requirements

The annual financial statement is confirmed by the general meeting. It must be disclosed to the commercial register within 4 months and 30 days after the end of the respective financial year. A shortened annual financial statement can be drawn up if 2 of the following 3 variables are not exceeded on the balance sheet date:

- › Sales revenue for the financial year: 3,478,000 million euros,
- › Balance sheet total: 1,739,000 million euros,
- › Average number of employees: 15.

Companies with limited liability can use either the national business accounting standards of the Lithuanian institute for accountancy or the international accounting standards (IAS). Listed companies must only use the international accounting standards (IAS).

Tax returns / tax consulting

Corporate tax returns must be submitted by the first day of the 6th month of the next tax period. This means if the tax period is identical to the calendar year, the corporation tax return for the calendar year must be submitted by June 1 of the next calendar year. The period for the payment of income tax is identical to the time limit for submission of the income tax return.

Sales tax returns for a tax period (usually a calendar month) must be submitted by day 25 of the following month. The annual sales tax return must be submitted by October 1 of the next calendar year. The period for payment of the sales tax is identical with the time limit for submission of the sales tax return.

A monthly declaration of the income tax withheld by the employer must be made by day 15 of the following month. The withheld income tax must be paid by day 15 of the current month (if taxes for the time period from day 1 to day 15 of the corresponding month were withheld) or by the last day of the current month (if taxes for the period day 16 to the last day of the corresponding month were withheld).

The monthly declaration of the compulsory social security contributions must be submitted by the 15th workday of the calendar month. The period for the payment of the social security contributions is identical to the time limit for submission of the corresponding declaration.

The annual real estate tax return must be submitted by February 1 of the next calendar year and the calculated real estate tax must also be paid within this time limit.

The property tax return is filled out by the Lithuanian tax office. The tax return is submitted to the taxpayer by November 1 of the current calendar year. The calculated property tax must be paid by November 15 of the calendar year.

Tax payers can submit changed tax returns with new calculations for taxes already declared for the current calendar year and for the last five calendar years. There are no restrictions regarding the submission of corrected tax returns and there are no additional fees for this. However, if due to the corrections the amount of tax to be paid increases, the corresponding interest on arrears is calculated.

Special points regarding the company tax audit

The company tax audit is carried out by the tax authorities to inspect a certain tax or to inspect the complete company. Usually company tax audits are carried out unrelated to events according to a plan confirmed in advance. In special cases the tax authorities can carry out a company tax audit if there are reasons to believe that the taxes were not correctly calculated. The tax authorities do not have the right to carry out a repeat tax audit if certain taxes have already been audited.

Exception: the tax authorities receive knowledge of new circumstances.

The other form of inspection of taxpayers is the tax investigation. This can be launched at any time to inspect all taxes and can also be repeated. The result of the tax investigation is a written request by the tax authorities to remove any errors or discrepancies determined during the investigation. If the taxpayer is not able to remove the errors or discrepancies, a complete company tax audit can be carried out.

The tax authorities can launch a company tax audit or investigation for the current calendar year and for the previous five calendar years.

Audit of the annual financial statement and appointment of the auditor of the annual financial statement

The annual financial statement confirmed by the shareholders' meeting must be submitted within 30 days after the confirmation together with the report of an independent auditor (if an audit is a statutory obligation) to the commercial register. Here the documents are available to the public.

If the company distributes interim dividends, the interim statement for the corresponding time period must be prepared.

An audit of annual financial statements is required for:

- › all public institutions;
- › companies with limited liability (UAB) which fulfil at least 2 of the following 3 criteria:
 - » turnover exceeds LTL 12 million (approx. 3.5 million euros) in the financial year;
 - » the value of the assets listed in the balance sheet exceeds LTL 6 million (approx. 1.7 million euros);
 - » the average number of the employees is more than 50 in the financial year.

The audit can only be carried out by a certified accountant. The auditor is not allowed to audit the same company for more than 7 consecutive years. In the case of companies in the public interest this is reduced to 5 consecutive years. After the maximum number of consecutive years a break of 2 years must be made before the company can again be audited by the respective auditor.

There are no restrictions for the remuneration of the auditor, which is subject to the agreement of both parties. Auditors inspect the annual financial statement of the company according to the international standards on auditing (ISA).

Liquidation / winding up the company

The life cycle of a legal entity ends either through liquidation or conversion. Conversion or liquidation is decided by a shareholders' resolution. The conversion must be made known to all the creditors, whereby the special rights for creditors apply. The liquidation is administered by a liquidator confirmed by a shareholders' resolution. In the liquidation the business operations of the company are ended, notice given to employees and documents are placed in storage which are to be retained. The greater majority of the companies, in particular with a foreign connection and high turnovers are audited by the tax office before the end of the liquidation and if necessary required to pay extra taxes before deregistration from the commercial register can take place.

Other special administrative or bureaucratic points

The founding of a Lithuanian UAB (similar to a GmbH) usually lasts up to two weeks. Before the company is founded, we recommend reserving the name of the future company in the commercial register in order to avoid misuse of the name. Due to the bureaucratic procedure of the public authorities in the planning phase, companies should expect possible delays which cannot always be avoided. In particular construction companies should observe that the execution of construction activities in Lithuania requires the so-called recognition of the construction law which is an administration process which can last for several months.