

SWEDISH VERSION



ASHOKA EVERYONE A CHANGEMAKER™

LEGAL GUIDE

An Invaluable
Resource Designed
to **Empower Social
Entrepreneurs**

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KROMANN
REUMERT

CONTENTS



I. INTRODUCTION	04
What is Ashoka?	05
What is Vinge?	06
Practical considerations for social entrepreneurs	07
1. CHOOSE A BUSINESS TYPE	09
1.1 Limited company (Sw. aktiefbolag or AB)	09
1.2 Sole trader (Sw. enskild firma)	13
1.3 Foundation (Sw. stiftelse)	15
1.4 Economic association (Sw. ekonomisk förening)	16
1.5 Non-profit association (Sw. idell förening).....	18
1.6 Branch (Sw. filial)	19
1.7 VAT	20
2. FINANCING.....	22
2.1 Forms of financing	22
2.2 Debt financing	22
2.3 Equity financing	23
2.4 Government grants and incentives	23
3. INSURANCES	24
4. AGREEMENTS	25
4.1 The importance of entering into a written agreement	25
4.2 Important provisions in a written agreement	26
5. INTELLECTUAL PROPERTY	29
5.1 Introduction	29
5.2 Licensing	29
5.3 Trademarks	30
5.4 Copyright	32
5.5 Other intellectual property rights	33
5.6 Marketing	35

CONTENTS



6.	WAYS TO CONDUCT AND EXPAND YOUR BUSINESS	36
6.1	Introduction	36
6.2	Types of intermediaries/ marketing arrangements	37
6.3	What to think about when choosing type of intermediary	40
7.	EMPLOYMENT	41
7.1	General	41
7.2	Different forms of employment	41
7.3	Working hours	43
7.4	Holiday entitlement	43
7.5	Parental leave	44
7.6	Termination of employment	44
7.7	Social security contributions	45
7.8	Sick pay	45
7.9	Labour relations	45
7.10	Work environment	46
8.	COMPLIANCE WITH DATA PROTECTION LEGISLATION	47
9.	FINAL WORDS	49



INTRODUCTION

Social entrepreneurs are driven by a unique goal: creating positive, lasting change in society. Yet, the journey to making an impact comes with specific challenges that differ from traditional entrepreneurship. This legal guide is designed to support social entrepreneurs and changemakers in Denmark, Finland, and Sweden as they navigate the complex legal landscape of building impactful ventures.

The guide is divided into three country-specific documents, each addressing the unique legal contexts of Denmark, Finland, and Sweden. While tailored to each jurisdiction, the guide covers the shared challenges across all three countries, including organizational structures, financing, agreements, intellectual property, and employment law.

Drawing on insights from experienced social entrepreneurs and Ashoka Fellows, the guide also provides practical advice on legal considerations that can arise in different situations. This includes options for structuring social ventures, innovative financing strategies, managing agreements, managing intellectual property, and hiring employees in ways that align with the organization's mission.

By combining legal knowledge with hands-on experience, this guide aims to help social entrepreneurs build ventures that are legally sound and impactful.

The Guide is a collaboration between Ashoka Nordic, and our legal partners; Krogerus, Kromann Reumert, and Vinge.

The information contained herein was current as per November 2024 and is of a general nature. The content doesn't purport to be exhaustive and should not be relied upon as a substitute or replacement for individual legal advice on any specific matter. If you have a specific legal question, you are welcome to address it to one of our lawyers.

WHAT IS ASHOKA?



Ashoka was founded in 1980 on the idea that the most powerful force for good is a social entrepreneur whose system-changing innovations solve deep-rooted social problems. Ashoka has pioneered the field of social entrepreneurship by coining the term “social entrepreneur” and finding these leading innovators across the world. We call them Ashoka Fellows. Ashoka has a proven track record of supporting these Social Entrepreneurs; ‘The Ashoka bump’ is a term to illustrate that **revenues of Ashoka Fellows develop 2.5 times higher** than those of peers after they have been elected Ashoka Fellows. Ashoka is regularly ranked as **one of the top seven most innovative and impactful organizations in the world, transforming the lives of more than 650 million people every year.**

The [Ashoka Fellowship](#) comprises **4,000 Fellows spanning 97 countries, with 27 located in the Nordics**, making it the largest network of social entrepreneurs in the world. Notable fellows include *Jimmy Wales*, the creator and builder of Wikipedia, and *Muhammad Yunus*, the founder of the Grameen Bank, and recipient of the 2006 Nobel Peace Prize for his leadership in microcredit.

Our ability to support Ashoka Fellows and Changemakers in their impact is enabled by partners that help Fellows with funding, strategy or, in this case legal advice, making it a privilege to collaborate with these leading Nordic law firms.

WHAT IS VINGE?



We build expert legal teams to deliver the advice, guidance and support you need to succeed. Through a collaborative approach to business law and a culture of diversity, thinking differently and pushing boundaries, we deliver short and long-term results for our clients. Our drive comes from the conviction that we are making a difference to your business while working towards improving society at large. This brochure contains a concise overview of the Swedish legal system and the most common questions which arise in relation to doing business in Sweden.

We are a leading Nordic full-service law firm, with 500 expert employees and offices in Stockholm, Gothenburg, Malmo, Helsingborg and Brussels. We specialise in complex transactions and assignments within all areas of corporate and business law. We are agile, innovative, proficient and committed to resolving your legal challenges. We add expertise to a team when needed to ensure the right competence is on hand. This enables us to meet short deadlines and embrace changes as they occur, no matter how complex the assignment.

In all our practice areas we handle projects on a cross-border basis. By combining our experience of global deals with our expertise in local practice and law, we can advise clients quickly and comprehensively. We have a global network of leading law firms that we coordinate and collaborate with when necessary. Vinge is a member of Lex Mundi, an international association of independent law firms.

PRACTICAL CONSIDERATIONS FOR SOCIAL ENTREPRENEURS

As part of developing this legal guide, we have had the help of an advisory board of Ashoka Fellows. Many insights have arisen as part of the work with the advisory board that is not necessarily legal but more hands-on considerations for Social Entrepreneurs. To keep these separate from the legal questions some of these are captured below. They follow the same order as the legal guide.

The guide starts by addressing a key issue recognized early on; the lack of existing organizational structures that fully align with your objectives. We often have one for-profit part that sells services or products and one non-profit part that might be eligible for grants and donations. In the US, but also in other European countries, new forms start to emerge like B-corps. However, in the Nordics appropriate structures do not yet exist. Instead, we often opt for a limited company owned by a foundation or association. You can find more details about this in Part 1.

Another issue that has emerged is financing, covered in Part 2. Many of our Ashoka Fellows have found that banks are often hesitant to accept them as clients, let alone offer loans, as they frequently struggle to understand the business model. Therefore, it is essential to adopt a more innovative approach when considering financing for the social venture. As this guide is mainly focused on legal issues it does not go into the depth of financing. For more hands-on advice on financing please visit [Ashoka's free course on Changemaker Financing](#) or consult this [finance guide from Coompanion](#).

Similarly, when it comes to insurance, discussed in Part 3, social entrepreneurs may face challenges securing coverage because insurance companies might not fully understand the business risks involved. A potential solution is to obtain insurance through membership in an interest organization.

Agreements are fundamental to running any business, and having a solid understanding of them is crucial for all entrepreneurs. In my previous career as a lawyer, I gained valuable experience in this area. While it is an uncommon background for a social entrepreneur, I have found it to be incredibly useful given the numerous agreements one navigates in this field.

Several aspects of this were discussed during our advisory board meetings. One key point was that, even if you are idealistic, you may encounter people who are not. Therefore, it is crucial to document your agreements in writing before you begin, while both parties are still enthusiastic about working together.

Another aspect is that, as social entrepreneurs, we are almost always the smaller party. This is partly because we lack the infrastructure and conditions to scale that for-profit entrepreneurs have. Additionally, we usually prioritize creating impact beyond our organization rather than focusing solely on growing our own organization at any cost.

Therefore, we usually prefer to keep our agreements shorter than our counterparts who might have legal departments. Additionally, our counterparts might prefer to settle disputes through arbitration rather than in court. Since arbitration can be too expensive for a small organization, it is important to be cautious of this in contracts. This, along with many other aspects of agreements, is discussed in Part 4.



Another key question we identified in the initial stages of the guide was around **intellectual property**, particularly in relation to international expansion. If you are successful in your efforts, it is more likely than not that others will copy your solution without compensating you or even giving you credit. For reference over 90% of Ashoka Fellows have seen their solution replicated by others. This is a true sign of success, as it creates greater impact, and is to be celebrated! Therefore, it is important to consider this when designing your business model to ensure it is not overly dependent on income from licensing. The advisory board agreed it is important to choose your battles. Protecting your trademark is important, but battling imitators is often counterproductive. Instead, consider collaborating with them and turning them into allies, so that you can create a larger system change impact together. Ashoka's course on [Leading Multi-Stakeholder Collaborations](#) can be a great resource in this endeavor.

If you want to maintain control of your concept, it is worth considering licensing your idea to a trusted party in another country. Practical advice on how to do this can be found in [Ashoka's Replication & Transfer course](#). The legal considerations around intellectual property is discussed in Part 5 and ways to expand your business are explored in Part 6.

One thing to keep in mind when speaking about both organizational structures and intellectual property is how to make your social entrepreneurship venture financially sustainable for you as a social entrepreneur. As social entrepreneurs, we are driven more by the desire to create meaningful change than by the pursuit of profit. However, we must also make a living. Like all entrepreneurs, the first few years are often financially challenging, and it may take some time before we can afford to pay ourselves a salary. For-profit entrepreneurs are financially rewarded for this if they are successful but social entrepreneurs are often not. This becomes especially important if you are a serial social entrepreneur. In our advisory board meeting, we discussed how to approach this. One idea was to own the concept, software, or similar assets as an individual and license them to an association or foundation that handles the operations. This way, part of the value flows back to you as the founder and could help finance future ventures.

The final sections of the guide are around **employment** and **data protection**. From a legal perspective these are the same for social entrepreneurs as traditional entrepreneurs. However, because it is two of the most crucial aspects to get right, we have included sections on it.

One experience shared in the advisory board was that employees of social entrepreneurs, particularly in the early stages when compensation is often low, tend to be highly engaged. However, it can show after some time that they are engaged for different reasons than you, which might cause deeper conflicts than in for-profit organizations where people might not be as engaged. Employment law is discussed in more detail in Part 7 and data protection in part 8.

These insights are just the tip of the iceberg, reflecting the wealth of experience the advisory board has gained over decades as social entrepreneurs. There's much more that could be shared, but as this is a legal guide, we now turn the stage over to the lawyers to share their expertise. Enjoy!

Michael Wernstedt, Ashoka Nordic

Stockholm, December 2024





1. CHOOSE BUSINESS TYPE

When you start a business in Sweden, it's important to know which business type to choose and why. Below, you find an overview of the different business types available in Sweden. These types are regulated differently, with varying requirements on for example registration, starting capital and liability. In most cases, no operating licenses are required to do business in Sweden. However, exceptions exist for certain sectors such as insurance, banking and financial services.

It is not uncommon to combine different types of businesses in Sweden. This can for example be done by setting up a foundation or a non-profit organisation that owns a limited company. This setup can be beneficial to leverage the unique characteristics and benefits of each entity type, providing a robust framework for both operational flexibility and mission alignment, as well as utilising the specific tax benefits of each entity.

1.1 Limited company (Sw. aktiebolag or AB)

1.1.1 Why should I choose to start a limited company?

A limited company has its own rights and responsibilities. This entails that your liability as a shareholder is limited to the capital invested in the company (such as the starting capital or invested shareholder contribution (Sw. aktieägartillskott)). The company's finances and the shareholders' private finances are thus separated. Since a limited company is owned through shares, it offers flexibility as regards to ownership, expansion and potential investments.

However, compared to being a sole trader, managing a limited company involves more administrative tasks. For example, you must file an annual report with the Swedish Companies Registration Office ("SCRO") (Sw. Bolagsverket) each year. Additionally, closing down a limited company requires significant effort and can be very time-consuming, as it must be either sold or liquidated.

1.1.2 What is a limited company?

A limited company is a legal entity owned by its shareholder or shareholders. This is the most common form of legal entity used for business purposes in Sweden. In a limited company, the shareholders are generally not personally liable for the company's obligations. This means that a limited company is a separate legal entity with its own rights and responsibilities, which limits the shareholder's liability for the company's obligations.

Limited companies can be either private or public. Only public companies may issue shares or other securities to the public and have their shares listed on a stock exchange or a similar regulated marketplace. Additionally, there are specific rules that must be followed when conducting business in a public limited company.

In a limited company, the general meeting is the highest decision-making body. Generally, all shareholders have the right to attend and vote at this meeting. One of the primary responsibilities of the general meeting is to elect the company's board of directors, which manages and supervises the activities of the business.

A private limited company must have at least two individuals registered in the company (at least one board member and one deputy board member) and in a public limited company, at least three individuals must be registered as board members. Additionally, a public limited company is required to have a CEO appointed by the board of directors. The CEO is accountable to the board of directors, which in turn is accountable to the general meeting.

Limited companies in Sweden are subject to corporate income tax on their world-wide income at the rate of 20.6%. The tax basis is the annual accounts, adjusted for items that aren't taxable or tax deductible under Swedish tax legislation.

Limited companies are primarily regulated by the Companies Act (Sw. aktiebolagslagen).

1.1.3 To start a limited company

A limited company can be founded and owned by one or more individuals or legal entities, with no residency requirements for the founders. You can establish a limited company on your own and be the sole shareholder. To form a limited company, you must be no younger than 16 years old, not be declared bankrupt, not be prohibited from carrying out business or have a custodian.

When you decide to start a limited company, the first thing you must do is to draw up and issue a document referred to as the memorandum of association (Sw. stiftelseurkund). This document outlines various details pertaining to the limited company, including share pricing, board member information and a preliminary version of the articles of association (Sw. bolagsordning), which outline essential aspects such as the company name and its intended activities.

As a founder, you may buy shares in the company. Those who acquire (subscribe to) shares in the company, are listed as subscribers in the memorandum of association. All the subscribers sign the memorandum and state the number of shares they acquire. However, there is no requirement that all founders subscribe to shares in the company. When the memorandum of association is signed, the limited company is formed.

The starting capital of a private limited company must be at least SEK 25,000 and of a public limited company at least SEK 500,000. You'll need a bank certificate from a Swedish or EEA bank, translated into Swedish, which verifies the payment of the starting capital. This certificate, issued on a specific form, confirms the payment and is submitted to the SCRO.



Lastly, you need to apply for registration and pay the registration fee to the SCRO. The application must be submitted not later than six months after the drawing up of the memorandum of association.

Upon the SCRO's registration approval, the company is assigned a registration number for identification purposes. Following registration, which takes approximately one week, the SCRO will furnish you with a certificate of registration (Sw. *registreringsbevis*) in Swedish, signifying the company's legal entity status and allowing you to start your business activities. Please be aware that, after registration of your new limited company, you must register beneficial ownership information with the SCRO.

Another alternative to start a business by establishing a new limited company is to acquire a pre-existing so-called shelf company (Sw. *lagerbolag*). A shelf company is a pre-registered limited company that remains inactive until purchased, allowing buyers to bypass the process of setting up a new company from scratch.

1.1.4 Why should I choose to run my business as a sole trader?

As a sole trader, you are self-employed, and the administrative and accounting tasks are relatively simple. Establishing this business structure is the simplest option if you possess a Finnish personal identity number.

To run your business as a sole trader, no starting capital is required. Once you've paid income tax to the Finnish Tax Agency, all profits belong to you. However, it's important to note that because you're personally liable for the business, you may need to use your personal assets to settle any business debts if the business encounters difficulties.

1.1.5 What is a sole trader?

A sole trader is an individual who independently runs a business. As a sole trader, you make all the decisions regarding your business, and you alone have the authority to sign on behalf of the business. You also have the option to hire employees to assist in running the business. Acting as a sole trader is a common form of enterprise in Finland and is suitable for smaller businesses.

A sole trader is not a separate legal entity from the person running the business activities. However, your business as a sole trader will have a business identity code.

You bear personal liability for the company's financial matters, including upholding contracts, settling debts, and managing income tax obligations.

A sole trader (individual) is taxed on the taxable net profits of the business income at progressive tax rates, with part of the profits taxed as personal income (Fi: *ansiotulo*) and part as capital gains (Fi: *pääomatulo*). A sole trader pays social security contributions which are paid based on their confirmed annual income.



Sole traders aren't governed by a specific regulation; rather, they are subject to various laws that regulate their activities.

1.1.6 To start running your business as a sole trader

To establish a sole trader, you must register the business with the Finnish Tax Agency (Fi: Verohallinto). This includes registering your company for the Prepayment register, VAT register and, if you wish to hire employees, registering as an employer. There is no requirement to have a starting capital when registering as a sole trader.

Registering as a sole trader also with the Trade Register is typically voluntary, but there are exceptions. For instance, registration with the Trade Register becomes necessary if the trader is required to submit financial statements for registration under the Accounting Act or if the trader has a permanent residence outside the European Economic Area, in which case you need a permit from the Trade Register to operate in Finland. It can be noted that registration with the Trade Register gives protection to the name of the sole trader, why voluntary registration may be considered.

To register as a sole trader, you must be at least 18 years old (or 15 with the permission of your legal guardian) and have a Finnish personal identity number. Additionally, you must not be declared bankrupt, be prohibited from carrying on business or have a custodian.

Before registration, the Trade Register will review various aspects, including the proposed business name of the sole trader. Their processing time typically takes a few weeks. Upon successful registration, the Trade Register will provide you with a certificate of registration.



1.2 Sole trader (Sw. enskild firma)

1.2.1 Why should I choose to run my business as a sole trader?

As a sole trader, you are self-employed, and the administrative and accounting tasks are relatively simple. Establishing this business structure is the simplest option if you possess a Swedish personal identity number or coordination number.

To run your business as a sole trader, no starting capital is required. Once you've paid income tax to the Swedish Tax Agency, all profits belong to you. However, it's important to note that because you're personally liable for the business, you may need to use your personal assets to settle any business debts if the business encounters difficulties.

1.2.1 What is a sole trader?

A sole trader is an individual who independently runs a business. As a sole trader, you make all the decisions regarding your business and you alone have the authority to sign on behalf of the business. You also have the option to hire employees to assist in running the business. Sole traders are the most common form of enterprise in Sweden and is suitable for smaller companies.

A sole trader is not a legal entity. This entails that your business as a sole trader will not have a registration number. Instead, your personal identity number will be used to identify your business as a sole trader.

You bear personal liability for the company's financial matters, including upholding contracts, settling debts and managing income tax obligations.

A sole trader (individual) is taxed on the taxable net profits of the business income at progressive tax rates (Sw. inkomstskatt). A sole trader pays social security contributions on the taxable net business profits.

Sole traders aren't governed by a specific regulation; rather, they are subject to various laws that regulate their activities.

1.2.3 To start running your business as a sole trader

To establish a sole trader, you must register the business with the Swedish Tax Agency (Sw. Skatteverket). This includes applying for F-tax or FA-tax, registering for VAT and, if you wish to hire employees, registering as an employer. There is no requirement to have a starting capital when registering as a sole trader.



Registering as a sole trader also with the SCRO is typically voluntary, but there are exceptions. For instance, registration with the SCRO becomes necessary if your business meets at least two of the following criteria: an average of 50 employees, a reported balance sheet of SEK 40 million, and/or a net turnover of SEK 80 million. It can be noted that registration with the SCRO gives protection to the name of the sole trader, why voluntary registration may be considered.

To register as a sole trader with the SCRO, you must be at least 16 years old and have a Swedish personal identity number or coordination number. Additionally, you must not be declared bankrupt, be prohibited from carrying on business or have a custodian.

Before registration, the SCRO will review various aspects, including the proposed business name of the sole trader. Their processing time typically ranges from one to two weeks. Upon successful registration, the SCRO will provide you with a certificate of registration in Swedish.



1.3 Foundation (Sw. stiftelse)

1.3.1 Why should I choose to start a foundation?

The key characteristic of a foundation is the management of assets without any ownership for a specific and generally unchangeable purpose. This unique set-up, together with favourable tax regulations, makes foundations especially suitable for some specific purposes, such as charitable, educational, scientific, cultural or other socially beneficial activities.

A foundation may, under certain conditions, be classed as socially beneficial. A socially beneficial foundation is subject to specific regulations which limit the scope of tax liability.

Further, since the specific purpose of the foundation is generally unchangeable, a third party can rely on the fact that the purpose of the foundation isn't likely to change. Therefore, the entity is well suited to act as a vehicle for the collection of charity from third parties.

1.3.2 What is a foundation?

A foundation is established to manage and allocate assets for a specific and generally unchangeable purpose. Unlike other business types, foundations don't have owners or shareholders. A foundation has its own rights and responsibilities and the founders of the foundation aren't liable for the obligations of the foundation. A foundation may be administrated in one of two ways. Either through its own board of directors or through so-called affiliated administration (meaning that an affiliated entity, for example a limited company, administrates the foundation). Since a foundation doesn't have any owners, the board of directors or the affiliated administrator is the supreme decision-making body of the entity.

A foundation is often the best suited entity for charitable or socially beneficial purposes.

A foundation is as a starting point taxed in the same way as a limited company in Sweden, at the corporate income tax rate of 20.6%. A foundation may, however, be tax exempt (wholly or partly) on certain conditions, if it carries out certain non-profit/charitable activities as stated in the Swedish tax legislation. Such activities include for example sport, culture, environmental care, care of children or young people, education and scientific research.

Foundations are primarily regulated by the Foundations Act (Sw. stiftelselagen).

1.3.3 To start a foundation

The creation of a foundation requires the existence of an asset (or in some cases, a written deed including a will to collect assets). An asset can be, for example, money, real estate or shares. The asset must be gifted to the foundation through a deed that specifies to which purpose the asset is to be used and how the board of directors of the foundation is to be appointed. Further, the asset must be sufficient to fulfil the purpose of the foundation for a longer period (meaning at least five to eight years). The name of a foundation must always include the word "foundation" (Sw. "stiftelse").



Most foundations must be registered with the County Administrative Board (Sw. *Länsstyrelsen*). The registration process usually takes approximately one month; however, the foundation may act legally as soon as the asset is transferred to the foundation. Following the registration process, the foundation will receive a certificate of registration along with a registration number to be used as an identifier when communicating with authorities and others.

1.4 Economic association (Sw. *ekonomisk förening*)

1.4.1 Why should I choose to start an economic association?

Starting an economic association offers advantages in promoting the economic interest of its members, ensuring that profits and benefits are shared in a democratic manner among them. Each member typically has equal voting rights, fostering a democratic decision-making process. Further, members are able to pool resources and share costs, leading to efficiency and economies of scale. Since the financial risk is distributed among all members, each member's individual financial risk is limited.

An economic association is often used as an alternative to a limited company in cases where the business profits from a community focus. Examples of businesses that often are conducted through an economic association include taxi or delivery services, agricultural management, retail, hair and beauty salons.

1.4.2 What is an economic association?

An economic association is a type of cooperative business entity designed to promote the economic interests of its members. In an economic association, the members are generally not personally liable for the economic association's obligations. This means that an economic association is a separate legal entity with its own rights and responsibilities, which limits the members' liability for the economic association's obligations.

An economic association is typically operated on a democratic basis. In an economic association, the general meeting is the highest decision-making body. Generally, all members have the right to attend and vote at this meeting. One of the primary responsibilities of the general meeting is to elect the economic association's board of directors, which manages and supervises the activities of the economic association. An economic association must have at least three individuals registered as board members. Members contribute to and participate in the association's activities to benefit from shared services, resources or economic advantages.

This structure is common in sectors like agriculture, housing, and retail, where collective effort can enhance economic outcomes for individual members. Some of the most known economic associations in Sweden are Arla, Lantmännen, Coop and Folksam.



An economic association is materially taxed in the same way as a limited company in Sweden.

Economic associations are regulated through the Economic Associations Act (Sw. lag om ekonomiska föreningar) which sets out regulations to protect the democratic base for the association, such as minority protection and minimum majority voting rules.

1.4.3 To start an economic association

There is no requirement to have a starting capital when registering an economic association. To create an economic association, you need to gather at least three founding members and hold an inaugural meeting to approve the statutes and elect the board of directors. The statutes need to define the purpose of the economic association, outline its name, objectives, governance and member obligations.

An economic association needs to be registered with the SCRO. The SCRO's processing time is about one to two weeks. Following registration, the SCRO will issue a certificate of registration along with a registration number to be used as an identifier when communicating with authorities and others. The economic association becomes a legal entity when it's registered with the SCRO.



1.5 Non-profit association (Sw. idell förening)

1.5.1 Why should I choose to start a non-profit association?

Non-profit associations are suited as a vessel for charitable or idea driven causes that is in need of community impact and focus on social, cultural or other charitable purposes (often as an alternative to a foundation).

As opposed to foundations or economic associations, non-profit associations aren't governed by a specific regulation and therefore offer more freedom in their usage and their purpose can be changed from time to time (even though case law indicates that many regulations regarding economic associations can have an analogue application on non-profit associations).

1.5.2 What is a non-profit association?

A non-profit association is an organisation established to pursue a non-profit purpose, often related to social, cultural or recreational activities. Unlike economic associations, non-profit associations don't distribute profits to their members; instead, any surplus is reinvested into the association's activities to further its goals.

In a non-profit association, the members are generally not personally liable for the non-profit association's obligations. This means that a non-profit association is a separate legal entity with its own rights and responsibilities, which limits the members' liability for the non-profit association's obligations.

A non-profit association is tax exempt (wholly or partly) on certain conditions if it carries out non-profit/charitable activities, see above as to a foundation.

Although there are no regulations regarding non-profit associations they are typically operated on a democratic basis with the general meeting of members as the supreme decision-making body, and generally a board of directors is appointed.

1.5.3 To start a non-profit organisation

There is no requirement to have a starting capital when registering a non-profit association. To start a non-profit association, you need to gather at least three founding members and hold an inaugural meeting to approve the statutes and elect the board of directors. The statutes need to define the purpose of the association, outline its name, objectives, governance and member obligations.

It's optional to register the association with the Swedish Tax Authority. However, a registration is needed if the association is to be given a registration number.



1.6 Branch (Sw. filial)

1.6.1 Why should I choose to start a branch?

A branch remains under the control and liability of the foreign-based company, allowing for centralised management and consistent business practices across locations.

Branches can leverage the resources, reputation and support of the foreign-based company, leading to cost savings and operational efficiencies. For instance, branches can capitalise on the foreign-based company's pre-existing systems, procedures and supply chains, mitigating the necessity for substantial new investments. Additionally, establishing a branch can be more economical than founding a new subsidiary or independent entity, as it incurs fewer legal and administrative expenses.

1.6.2 What is a branch?

Business activities conducted by foreign-based companies or individuals in Sweden are usually conducted through a Swedish subsidiary (meaning that a foreign-based company owns shares in a Swedish limited company) or by opening a branch. A branch is a foreign company's local office in Sweden with its own administration. However, a branch is not in itself a legal entity meaning you don't set up a limited company by registering a branch. This sets a branch apart from a subsidiary, which is a legal entity on its own.

Foreign-based companies that do not have subsidiaries may be obliged to form a branch. Various factors such as the purpose, duration and scope of the business activity determine whether such an obligation is at hand.

A branch has no independent capital and its assets and liabilities are part of the foreign-based company's total assets. A branch held by a foreign-based company is taxed in the same way as a limited company for business conducted in Sweden.

Branches are primarily regulated by the Foreign Branch Offices Act (Sw. filiallagen).

1.6.3 To start a branch

If you intend to establish a branch in Sweden, you must register it with the SCRO. Along with your application, you need to submit certain documents, such as a certificate of registration for the foreign-based company. Additionally, the foreign-based company must appoint a CEO empowered to oversee the branch's operations, holding a special power of attorney. The registration form must be signed by the CEO (or deputy CEO) of the branch.

Upon registration with the SCRO, the branch is issued a Swedish registration number and a certificate of registration in Swedish, even though the branch is not in itself a legal entity. You can initiate your business activities once you've applied for branch registration and paid the registration fee to the SCRO. The SCRO's processing time is about one to two weeks.



Please note that registration with the SCRO isn't required for companies registered within the European Economic Area (EEA) if they are temporarily conducting business in Sweden and are delivering services according to the Services Directive¹.

If you choose to operate in Sweden by establishing a branch, there are requirements to be met for both the branch and the foreign-based company connected to it. For instance, the branch is obligated to maintain accounting records separated from those of the foreign-based company. The branch must submit an annual report for the foreign-based company and, in certain instances, for the branch itself.

1.7 VAT

VAT is charged on the supply of goods and services in Sweden in the course of business. The general rate is 25%. Some goods or services are exempt from VAT (such as health services and some educational services) or taxed at a lower rate (such as food and books).

Generally, and applicable for all of the aforementioned business types, you may deduct input VAT for purchases and imports that you carry out as part of your business and which are subject to VAT. Consequently, you may not deduct VAT on private purchases (even if they are made using your company's money), and you do not usually have the right to deduct VAT unless you charge VAT when you sell goods or services (meaning that if you sell goods or services that are exempt from VAT, you cannot deduct VAT when you buy goods or services). If you buy something that is to be used in activities both liable to VAT and exempt from VAT, you may however make a deduction that corresponds to use in the activity liable to VAT.



	Limited company	Sole trader	Foundation	Economic association	Non-profit association	Branch
Swedish Name	Aktiebolag	Enskild firma	Stiftelse	Ekonomisk förening	Ideell förening	Filial
Legal entity	Yes	No	Yes	Yes	Yes	No
Number of owners	One or more individuals or enterprises	Only one person	No owners	Three or more individuals or enterprises can be members. However, no owners	Three or more individuals or enterprises can be members. However, no owners	Foreign enterprise
Owner liability	The company has its own rights and responsibilities, which limits the shareholder's liability for the company's obligations	The owner bears personal liability for the company's financial matters, including upholding contracts, settling debts and managing income tax obligations	The foundation has its own rights and responsibilities. The founders have no liability for the foundation's obligations	The association is liable for its own debts, which limits the members liability	The association is liable for its own debts, which limits the members liability	The branch is part of the foreign enterprise owning the branch, therefore the foreign enterprise is liable towards the branch
Capital requirement	At least SEK 25,000 for a private company and at least SEK 500,000 for a public company	No	Must have enough assets to fulfil the purpose of the foundation for a longer period (at least five years)	Yes, in the form of a cash or work investment	No	No
Registration	With the SCRO and the Swedish Tax Agency	With the Swedish Tax Agency and optionally the SCRO	With the County Administrative Board	With the SCRO and the Swedish Tax Agency	Optional registration with the Swedish Tax Agency	With the SCRO and the Swedish Tax Agency
Taxation	The company is taxed on its income (corporate income tax).	A sole trader is subject to progressive income tax rates on their business's taxable net profits and pays social security contributions on these profits	A foundation is as a starting point taxed in the same way as a limited company in Sweden. A foundation may, however, be tax exempt (wholly or partly) on certain conditions, if it carries out certain non-profit/charitable activities as stated in the Swedish tax legislation	The association is taxed in the same way as a limited company	The association is taxed in the same way as a foundation	A branch is taxed in the same way as a limited company

2. FINANCING



2.1 Forms of financing

Financing is a critical step in the journey of any startup social enterprise. Financing a startup social enterprise can be approached from various angles, each with its own set of advantages and challenges. If you cannot finance the startup with your own money, you will need to turn to a financier. The forms and conditions of financing vary but can generally be divided into either debt financing or equity financing. It's also possible to obtain financing via grants or loans from public authorities. These forms of financing can be used independently or in combination to create a balanced financial strategy.

2.2 Debt financing

2.2.1 Bank loan

Debt financing involves borrowing money that must be repaid over time, typically with interest. It's a popular choice for entrepreneurs who wish to retain full ownership of their enterprise. Bank loans are a traditional source of debt financing. Banks and other credit institutions offer various loan products suitable for different business needs, such as term loans, lines of credit and equipment financing. The primary advantage of bank loans is the retention of equity, meaning that you still are in control of your business. Additionally, interest payments are often tax-deductible.

2.2.2 Convertible debt

Convertible debt is a hybrid between debt and equity financing typically used by investors to fund companies, especially startups and growth companies. Convertible debt is initially issued as a bond or a loan, which accrues interest over time, but it can be converted into equity at a later date under specific conditions. The interest rate on convertible debt is typically lower than that of standard debt because of the added value of the conversion option.

2.3 Equity Financing

2.3.1 Venture capital

Equity financing involves exchanging a portion of ownership in the enterprise for capital. This can be an attractive option for startups that need significant capital and can benefit from the expertise of investors. However, this entails that you give up a portion of the business and potentially some control over the decision making.

There are numerous social impact venture capital firms that seek to generate social benefits as well as financial returns through its investments. Venture capital firms provide funding to startups with high growth potential in exchange for equity. They also bring valuable resources such as management expertise and industry connections. Access to large amounts of capital and strategic support can significantly accelerate growth. There is no obligation to repay the funds if the enterprise fails. It should be kept in mind that venture capital firms typically seek to maximise its return on investment and that it therefore is important to ensure that the venture capital firm's intentions and goals with the investment are aligned with what your business wants to achieve.

2.3.2 Angel investors

Angel investors are affluent individuals or friends and family who provide capital for startups, often in the early stages, in exchange for ownership equity or convertible debt. Angels may be able to offer more favourable terms than venture capitalists. Similarly to venture capital, angel investors usually want to maximise the return on investment. It is therefore important to ensure that the angel investor's intentions are aligned with what your business wants to achieve.

2.3.3 Crowdfunding

Crowdfunding allows startups to raise small amounts of money from a large number of people, typically via online platforms. It's a way to validate the business concept, engage with customers and raise funds without giving up equity or taking on debt.

2.4 Government grants and incentives

There is a wide range of financial incentives available to assist both Swedish and foreign-owned companies to establish or expand their business in Sweden. These incentives include grants, loans and credit guarantees. Since grants don't require repayment, it can be a great way to provide financial support without the business taking on debt or diluting ownership. The Swedish Agency for Economic and Regional Growth (Sw. Tillväxtverket) gives out financial support for a wide range of businesses. There are also several other sector-specific public authorities which can provide grants and incentives.



3. INSURANCES



A business insurance policy is a type of insurance package that consists of various types of coverage and can vary between different industries and insurance companies. Business insurance can include, among other things:

- Property Insurance, which can cover damages to the company's property.
- Liability Insurance, which can cover compensation claims if someone is injured by your products or services.
- Legal Protection Insurance, which can cover legal costs in case of a dispute.
- Interruption Insurance, which can provide compensation for lost income during operational downtime.

Ensure that you meet the conditions set by the business insurance policy. If you do not meet the minimum requirements, you risk having your compensation reduced or the deductible increased in the event of a claim.

For the senior executives of the company, for example the board of directors and the CEO, it is possible to buy a directors' and officers' liability insurance (also known as D&O insurance). A D&O insurance covers the senior executives against claims made against them as individuals (in their role as senior executives). Typically, D&O insurance can cover defence and litigation costs, as well as personal liability established by a court ruling.

You can obtain an insurance directly through an insurance company and sometimes also through interest organisations if you are a member of a business or employer organisation. To ensure that your business, directors and personnel have adequate insurance coverage, you should also consider reaching out to an insurance broker who can assist with finding the correct insurance for your needs.

4. AGREEMENTS



4.1 The importance of entering into a written agreement

4.1.1 Freedom of contract

As an initial remark, it can generally be said that freedom of contract applies in Sweden in a business-to-business (“B2B”) relationship, and thus that two commercial parties are free to agree on the terms and conditions in a contract. It is, however, worth noting that the freedom of contract nevertheless has certain limitations since there are rules under Swedish law that may intervene with the main principle of freedom of contract, whereby a contract term may under certain specific circumstances be modified or set aside if it’s adjudged to be unreasonable.

4.1.2 How to conclude an agreement

Generally, under Swedish law, oral commercial agreements are binding in the same way as written commercial agreements. When interpreting the contents of an agreement governed by Swedish law, it’s the intention of the parties that will prevail. Where agreements are oral, it’s often unclear whether terms have been agreed or not. This implies an unclear contractual relationship between the parties, which may expose a company to, for example, changed terms and lack of contractual recourse in case of disputes. Lacking a written agreement, the parties’ intention will be interpreted based on, for example, the way in which the business has previously been conducted between the parties and correspondence between the parties. Where no specific terms have been agreed, the agreement may be complemented by provisions set forth in contract law (for example relating to consequences for defects and delay in delivery).

Therefore, written agreements are indispensable in commercial relationships to ensure predictability, transparency and providing evidence of the parties’ commitments.

As a social entrepreneur, you are likely to find that you are the smaller contractual party in the negotiations of a contract. In many cases, you will therefore probably experience that the other party will be the one that provides you with its standard contract, and also encounter resistance from such party to negotiate the terms thereof. Nevertheless, it is important that you take the time to read through the contractual terms carefully and understand what you are agreeing to prior to entering into the contract, since the contractual terms will be binding amongst the parties.

4.1.3 Predictability and transparency

Predictability is a cornerstone of commercial activity, providing businesses the ability to forecast and plan for the future with a reasonable degree of certainty. Written agreements contribute significantly to this predictability by explicitly stating the terms of an agreement, including the scope of work, delivery timelines, payment schedules and other critical details. This allows businesses to allocate resources, manage cash flows and coordinate operations, knowing that the other party is obligated to adhere to the agreed-upon terms.

Written agreements also offer the opportunity to clarify complex terms and conditions that might be open to interpretation if not properly documented. The process of drafting a contract encourages parties to consider and articulate various scenarios and how they should be handled. This level of detail and transparency helps to prevent disputes by addressing potential issues before they arise.

In the event of changes or adjustments to the agreement, written amendments can be made, which maintain the transparency and continuity of the original contract.

4.1.4 Evidence

Lastly, written agreements serve as tangible evidence of what the parties have agreed upon. In the event of a dispute, the written contract can be presented in the dispute resolution process as proof of the terms of the agreement. A well-drafted contract can help to avoid misunderstandings by providing a reference point for the parties' intentions and expectations at the time of the agreement, and thereby facilitating the dispute resolution.

4.2 Important provisions in a written agreement

Which provisions to be included in an agreement naturally differs depending on the type of contract and the agreement object. Depending on whether the agreement relates to a B2B or a business-to-consumer relationship, there are different requirements in Swedish law which must be taken into consideration. In relation to consumers, there are several mandatory legislations which must be regarded and reflected in the agreement, and there are higher requirements on an agreement being clear and easy to understand. Therefore, it's important to analyse the parties' relationship prior to drafting the agreement.

For the purpose of this legal guide, we have limited the information to B2B agreements, and summarised below examples of important parameters which should be considered when drafting a written agreement.

4.2.1 Contractual parties

It's crucial to clearly identify the legal entities involved. This includes the full legal names of the companies, their corporate addresses and any other identifying information such as a company registration number. It's also important to specify the authorised representatives who are signing the agreement on behalf of these entities.

4.2.2 Agreement object

The agreement should contain a detailed description of the products or services being provided, distributed, licensed, sold or otherwise. This includes specifications, quantities, quality standards and any other relevant details that define what is being exchanged. For services, the scope of work should be outlined, along with any deliverables, timelines and milestones.



4.2.3 Use of the agreement object

The agreement should contain a description on how the agreement object may be used. For example, if you conclude a reseller agreement, it should contain provisions on how the reseller may use your trademark and how the goods may be marketed. If you provide a platform, the agreement should contain provisions on how the platform may be used. If you want to distribute your concept, the agreement should contain provisions on how your trademark and concept may be used.

4.2.4 Price and payment

The agreement should detail the pricing structure, including the total price, payment schedule and terms. It should also specify acceptable payment methods, any interest on late payments and conditions for price changes, such as adjustments for inflation or changes in the scope of work.

4.2.5 Division of responsibilities and risks

The agreement should outline the responsibilities of each party, including who is responsible for what aspects of the delivery, implementation or execution of the services or products. It should also address risk allocation, such as who bears the risk of loss or damage at various stages.

4.2.6 Consequences of breach/liability

The agreement should outline the consequences of a breach of contract, including any remedies or penalties. It should also define the liability of each party, including limitations on liability and any indemnification provisions.

4.2.7 Agreement term and termination

The term of the agreement specifies its duration, including any conditions for renewal/prolongation. The termination clause should outline how either party can terminate the agreement, under what circumstances, and what obligations remain upon termination (such as confidentiality or payment terms).

4.2.8 Dispute resolution

Disputes may arise in the contractual relationship, for example if one party doesn't pay in accordance with the agreement or doesn't deliver in accordance with the agreement. The agreement should specify the process for resolving disputes, including which country's law should govern the agreement, whether arbitration or litigation will be used as dispute resolution mechanism, and the location or jurisdiction where disputes will be settled.



Litigation (meaning settlement of a dispute in Swedish court) is usually more cost effective than an arbitration proceeding (meaning that the parties agree to settle the dispute by using a neutral arbitrator who makes a binding decision). However, court proceedings are often long and it can take several years before the main hearing takes place, whereas arbitration proceeding generally entails a faster and smoother process.

In terms of confidentiality, in an arbitration proceeding, the parties can agree to keep the proceeding confidential, whereas the proceedings in court aren't subject to confidentiality unless there are specific exceptions. In fact, judgements from civil courts are generally published.





5. INTELLECTUAL PROPERTY

5.1 Introduction

Intellectual property rights are intangible assets that can be very valuable to your business, even as a social entrepreneur. You can spread your intellectual property rights through for example licensing agreements, franchise agreements, cooperation agreements etc. (see section 6 below). It's important to have an IP strategy in place before expanding your business – even if you are a social entrepreneur – as you want to make sure that you can use the intellectual property rights used in your business, that you don't infringe third-party intellectual property rights and in order to be in control over how others use your intellectual property rights.

You should evaluate what intellectual property rights you consider material to your business and what you should do to ensure that these rights are protected.

There are four classic types of intellectual property rights: trademarks, copyright, patents and design rights. All of these rights can be sold or licensed to third parties.

5.2 Licensing

Granting someone a license means that you give someone permission to use your intellectual property rights, for example a trademark license, a software license or a patent license. If you grant someone a license, it means that you still own your intellectual property rights (for example your trademark), but the other party is entitled to use it in the way the license agreement entails. This means that you are still in control of your intellectual property rights, but you can decide who you want to grant a license to and in what way the person granted the license (the licensee) can use your intellectual property rights.

There are several different types of licenses. A license can be exclusive, meaning that only the licensee is allowed to use the license object, or non-exclusive, meaning that you may license your intellectual property rights to different licensees. You can choose to share your intellectual property rights for free, without payment, or you can require that the licensee pays a certain amount to be able to use your intellectual property rights.

It is important to have a license agreement in place where you clarify on what terms the licensee can use your intellectual property rights.

In the license agreement, you can include provisions on, for example, where the intellectual property rights can be used by the licensee (territory), how much royalty the licensee should pay (if any), if you require that the licensee gives credit to you, for how long the licensee should be able to use your intellectual property rights and if you allow the licensee to freely share, use and build upon your intellectual property rights.

5.3 Trademarks

5.3.1 What is a trademark?

A trademark is a mark that distinguishes a company's products from other companies' products. A trademark can consist of, for example, words, personal names, figures, letters, numbers, slogans, holograms or sounds. This is how your customers/partners/society will recognise your business. Especially for social entrepreneurs, it is important to have a strong brand that is associated with goodwill. Registering the trademarks used in your business means that you have an exclusive right, meaning that you can prevent others from using identical or similar trademarks for the same types of products or services that you are offering. Normally, the most important trademarks to register in your business are the brand/word you use to offer your products or services (which can also be your company name) and the logotypes used in your business.

If you notice that someone is using your trademark without your permission we recommend that you seek legal advice on how to stop the illegitimate use.

5.3.2 How to get trademark protection

In order to register a trademark, the trademark needs to have a so-called distinctive character (Sw. *särskiljningsförmåga*). This means that the trademark must be able to distinguish the goods or services you are selling from the goods or services from other companies. In short, a trademark cannot be registered if it's descriptive for the goods or services for which it's used. If the trademark only consists of a description, for example of the quality or geographic origin of the product, it will not be sufficiently distinctive to be registered. For example, the trademark "COMPUTER" cannot be registered if you are selling computers, since all actors selling computers must be able to use the word "COMPUTER" to describe the type of goods they are offering.

In addition, a trademark cannot be registered if it's too similar to another trademark. Normally, the first one to file a trademark application is the one who holds the right to hinder someone else from using that trademark. It is therefore recommended to conduct a search in trademark databases before investing too much in your trademark.

When applying for trademark protection, you choose to register your trademark under specific classes of goods and/or services. These classes indicate what goods or services the trademark will have protection for on the market. Generally, you will only be able to use your registered trademark to prevent others from using an identical or similar mark for the goods and services within the classes that your trademark is registered for.



If you register your trademark in Sweden (with the Swedish Intellectual Property Office, “SIPO”), you will only have protection in Sweden. If you register your trademark in the EU (with the European Union Intellectual Property Office, “EUIPO”), you will have protection throughout the EU. It’s also possible to register your trademark via the international route under the Madrid Protocol, where you can designate the countries that you want your trademark to be protected in. Ideally, your trademark should be protected in all countries where you conduct your business. Preferably, you should seek trademark protection before expanding your business to other countries.

A Swedish registered trademark is valid for ten years. You can however renew the registration indefinitely, as long as the trademark is used on the market, provided that a fee is paid to the SIPO. Your corporate entity (for example your limited company) should preferably be the applicant of the trademark applications used within your business.



5.4 Copyright

5.4.1 What can be protected by copyright?

Copyright protects literary and artistic works, such as novels, poems, scripts, texts on webpages, film, music, performing arts, photography, sculptures, theatre, paintings, maps, cartoons, works of applied art (furniture, crafts, jewellery etc.), architecture and source code.

In order for a subject-matter to be copyright protected as a work, it must be considered original. Originality means that the work is considered to be the author's/creator's own intellectual creation, and that the author has been able to make free and creative choices when creating the work. Copyright protects the expression of a work. This means that it's only the form of the work itself that is protected. Thus, it's therefore not possible to protect ideas or concepts as such. If you as a social entrepreneur have a certain idea, it is therefore not possible to hinder someone else from having the same idea.

5.4.2 How to get copyright protection

It isn't possible to register copyright protection in Sweden. Instead, the protection arises automatically when the work is created. If you own the copyright to a work, you can prevent others from producing copies of the work or making it available to the public in different forms, such as publishing it on websites, distributing and selling copies of the work etc.

Because copyright arises at the time of creation, with no formal requirements or process for registration of the work, it isn't possible to know with certainty whether a work is protected by copyright matter. However, in the event of an infringement, it's for the courts to decide whether a work is protected by copyright. Usually, copyright can be assumed if the work is the result of a creative process without copying someone else's work.

Copyright protection lasts for the life of the author or creator and for a period of 70 years after the author's death date. Copyright passes to the author's heirs by inheritance or will.

5.4.3 Transfer of copyright protected works

The author, or creator, can transfer economic rights to a work, such as the right to make copies and the right to make the work available to the public, through agreements. This entails that, if you have developed for example a platform, you can exploit your platform by selling it or licensing it to third parties. If you write an agreement regarding the transfer of a copyright protected work (for example source code), it's important to clearly set out what exactly is assigned and also include the right for the receiving party to freely transfer, license and modify such work.



5.5 Other intellectual property rights

5.5.1 Patents

What is a patent?

If you come up with an invention that solves a technical problem, you can apply for a patent. To obtain a patent for your invention, it must fulfil certain requirements: i) the invention must be new, ii) the invention must have an inventive step (meaning it must be significantly different from everything previously known) and iii) the invention must be capable of being industrially applicable. A patent protects technical functions and cannot protect the appearance of a product (see below regarding the protection of the appearance of a product).

As the novelty requirement is strict, you must keep your invention secret at least until the day you file your patent application. If you wish to disclose your invention to for example potential investors, you should use confidentiality undertakings to guarantee that the invention isn't considered disclosed to the public.

If you have been granted patent protection, you have the exclusive right to exploit your invention for up to 20 years. No one else can make, sell or import the invention without your permission.

How to get patent protection

By filing a patent application with the SIPO, you can obtain protection for your invention in Sweden. With a European patent application to the European Patent Office, you can apply for patents in the member states of the European Patent Convention (almost 40 countries, including all EU states). If your application is granted, you can then choose to validate your patent in different countries or apply for unitary protection. You can also file an international PCT application, entailing that, with one single application, you will have novelty searches and preliminary patentability assessments carried out by one single intellectual property office for around 150 countries. Thereafter you must complete your application in the countries where you want protection.

5.5.2 Design rights

What is a design right?

A design registration protects the appearance or form of your product but not its function.



How to get design protection

A design can be registered if it's new and substantially differs from other previously known designs. If you have disclosed your design before applying for a design registration, you have 12 months to file an application for registered protection. If you wish to not proceed with an application, you will have what is known as unregistered protection, which lasts for three years from the date of public disclosure of the design. Similarly, to registering a trademark, you register your design in specific classes.

You can apply for design protection either in Sweden, through the SIPO, or in the EU, through the EUIPO. It's also possible to register your design through the World Intellectual Property Office where you can designate the countries in which you wish to protect your design.

A design registration is valid for five years from the date of filing. It's possible to renew the registration every five years for a maximum of 25 years.

5.5.3 Domain names

A domain name is an internet address, for example www.ashoka.org. If you want to register a domain name ending with ending ".se", you must contact the foundation for internet infrastructure (Sw. Internetstiftelsen). The registration of a domain name doesn't in itself give you an exclusive right to the words used in the domain name, but prevents others from using the same address.

5.5.4 Trade secrets

Trade secrets are information concerning the commercial or operating circumstances in an entrepreneur's business which isn't generally known or accessible, which is kept secret by the entrepreneur and the disclosure of which is likely to cause competitive harm to the holder of the trade secret. The information may be either documented (for example drawings or other documents) or undocumented, known to only a few people.

Anyone who obtains, exploits or discloses a trade secret without permission may be prohibited from disclosing or using the information subject to a penalty, or alternatively through being ordered to pay a fine or being sentenced to imprisonment.

It's important to consider what information can constitute trade secrets within your business and take measures to protect such information. It's important to establish internal routines for identifying and protecting trade secrets, to have policies for onboarding and offboarding employees and to use confidentiality agreements with the those (usually employees) who have knowledge of the company's trade secrets.



5.6 Marketing

The concept of marketing is broad in Swedish law and covers most commercial activities. Advertising and other marketing activities are regulated by several acts and there are specific regulations regarding products such as tobacco, pharmaceuticals and alcohol. There is a general prohibition against unfair marketing and against certain specific marketing practices, such as aggressive marketing and misleading marketing.

It's particularly important to take precautions when marketing your products using arguments relating to the environment or health (for instance, claiming that your product is environmentally friendly or that your product has a positive effect on the consumer's health).





6. WAYS TO CONDUCT AND EXPAND YOUR BUSINESS

6.1 Introduction

There are several different possible ways to conduct and expand your business by increasing your sale of products (including for example platforms and software) or services, as applicable for your business. As part of this process, you may choose to cooperate with third parties as to allow you to scale up your business. For example, you may partner up with a third party for the sale of your products or services, or even only marketing thereof if you prefer to retain sole right to sell the products/services to your customers.

Should you want to expand the sale of a product that contains intellectual property rights by using a third party, you may need to provide such third party a license to use your intellectual property rights, as necessary for such party to perform its obligations under the agreement (see section 5 above on how to protect your intellectual property rights). Such a license may be included in any type of licensing or partnership agreement or in a more complex franchise agreement, should you want to admit a third party to use your intellectual property rights to expand your entire business concept. For further information on what to think about when including a license provision in an agreement, see section 5.2 above.

In addition thereto, there are several other forms of distribution channels which may be used to expand your sale of products (and to some extent also services) to end customers. Which type of intermediary to choose depends on what type of cooperation you would like to have with the intermediary, and how much control of your business and products you wish to retain. Below, we have summarised the most common forms of intermediary/marketing arrangements used in Sweden.

6.2 Types of intermediaries/ marketing arrangements

Granting someone a license means that you give someone permission to use your intellectual property rights, for example a trademark license, a software license or a patent license. If you grant someone a license, it means that you still own your intellectual property rights (for example your trademark), but the other party is entitled to use it in the way the license agreement entails. This means that you are still in control of your intellectual property rights, but you can decide who you want to grant a license to and in what way the person granted the license (the licensee) can use your intellectual property rights.

There are several different types of licenses. A license can be exclusive, meaning that only the licensee is allowed to use the license object, or non-exclusive, meaning that you may license your intellectual property rights to different licensees. You can choose to share your intellectual property rights for free, without payment, or you can require that the licensee pays a certain amount to be able to use your intellectual property rights.

It is important to have a license agreement in place where you clarify on what terms the licensee can use your intellectual property rights.

In the license agreement, you can include provisions on, for example, where the intellectual property rights can be used by the licensee (territory), how much royalty the licensee should pay (if any), if you require that the licensee gives credit to you, for how long the licensee should be able to use your intellectual property rights and if you allow the licensee to freely share, use and build upon your intellectual property rights.

6.2.1 Franchising

The term franchising agreement has been defined in Swedish law,² providing that it's an agreement whereby a trader (franchisor) agrees with another (franchisee) that, in return for payment to the franchisor, the franchisee will use the franchisor's particular business concept for the marketing and sale of goods or services. Further, the franchisee shall agree to use the franchisor's trademark or other intellectual property rights and to co-operate in periodic monitoring of compliance with the agreement.

According to Swedish law, a franchisor must give certain minimum information to a franchisee within a reasonable time before entering into a franchise agreement. Failure to furnish such information may result in an order to fulfil such information requirements subject to a conditional fine. The Swedish Franchise Association (Sw. Svensk Franchise) plays an active part in a self-regulating process by requiring its members to comply with stipulated ethical rules. In terms of competition law, "vertical" agreements (including for example franchising agreements) can be prohibited under the Swedish Competition Act (Sw. konkurrenslagen) if they have as their object or effect the prevention, restriction or distortion, to an appreciable extent, of competition in the market. There is a general block exemption for vertical agreements which corresponds to that which exists in EU law, which is also applicable to franchising.

² The Swedish Franchisors (Information Requirements) Act (Sw. lag om franschisegivares informationskyldighet).

6.2.2 Commercial agency and commission

Commercial agents and commissioners are contracted by a principal to, on a permanent basis, act on behalf of the principal for the sale or purchase of the principal's goods. In respect of commercial agents, this is generally done by mediating orders from end customers to the principal, negotiating on behalf of the principal, or through concluding contracts in the name of the principal. Consequently, it's the principal who sets the price and concludes the contract with the end customer and the commercial agent's main task is to try to get customers to conclude contracts with the principal. A commissioner, however, acts on behalf of the principal by doing so in its own name. Thus, neither the commercial agent or the commissioner becomes the owner of the products they sell or mediate to end customers. As remuneration for their work, commercial agents and commissioners are granted commission, often based on a percentage on the generated sales to end customers.

Both commercial agents and commissioners are protected in Sweden by mandatory Swedish law.³ The legislation contains similar provisions, providing different types of protection for the commercial agents and commissioners towards the principal. Thus, any provisions agreed between the principal and the commercial agent or commissioner, as applicable, in an agreement which would be less beneficial for the commercial agent or commissioner than what is provided for in the legislation would be deemed void. For example, the mandatory provisions provide a right to receive commission on generated sales and protection in relation to termination of an agency or commission agreement. In relation to termination notice periods, it's regulated that - unless an agency or commission agreement is entered into for a fixed term - the notice period shall be at least one month during the first contract year and thereafter the notice period shall be prolonged with one additional month for each contract year up to a maximum of six months' notice. When an agency or commission agreement has either expired or been terminated, the commercial agent or commissioner may, under certain circumstances, be entitled to commission in respect of contracts concluded after the termination of the agreement.

In addition, in the event of a principal's termination of an agreement, the commercial agent or commissioner, as applicable, may be entitled to severance compensation of an amount not exceeding remuneration for one year.

³ The Commercial Agents Act (Sw. lag om handelsagentur) (implementing the EC Commercial Agents Directive), and the Commission Act (Sw. kommissionslagen).

6.2.3 Distribution / reselling

The term distributor or reseller (hereinafter the term distributor is used) haven't been defined in any Swedish legislation. However, it's usually understood to be a person who buys and resells goods within a certain geographical area. A distributor acts in its own name and on its own behalf and thus bears the economic risk of the goods and the reselling thereof. The main difference between a commercial agent or commissioner and a distributor is thus that the distributor becomes the owner of the goods it places on the market. The distributor itself determines the price of the goods and invoices its customers.

There is no specific legislation governing distributorships in Sweden. Case law suggests that a distributor is entitled to a reasonable period of notice of termination of the distribution agreement.

The provisions of the Swedish Commercial Agents Act may be applied by way of analogy, for example, in cases where the distributor forms part of the supplier's sales organisation and the distributor has extensive obligations towards the supplier. However, there is no clear authority on this. The parties' freedom to negotiate terms is to some extent restricted by competition law rules. In terms of competition law, "vertical" agreements (including for example distribution agreements) can be prohibited under the Swedish Competition Act if they have as their object or effect the prevention, restriction or distortion, to an appreciable extent, of competition in the market. There is a general block exemption for vertical agreements which corresponds to that which exists in EU law.



6.3 What to think about when choosing type of intermediary

Each of the aforementioned arrangements has its own set of advantages and disadvantages, and the best choice depends on the specific circumstances and goals of the business in question. The complexity of these arrangements often requires careful consideration and, in some cases, the development of detailed contracts to protect the interests of all parties involved. Below, we have comprised some of the main elements to consider when choosing the type of intermediary/marketing arrangement for your business.

- **Control / quality:** When using commercial agents or commissioners, principals retain significant control over the terms of sale and the marketing of their products, as commercial agents and commissioners act on their behalf. When using distributors, manufacturers generally have less control over how their products are marketed and sold. By choosing franchising as a marketing arrangement, a franchisor can ensure that the customer experience and quality is consistent across different locations, however, it can be challenging and generally requires monitoring from the franchisor.
- **Commitment / motivation:** Compared to a franchising arrangement, distributors, commercial agents and commissioners may represent multiple principals or sell products purchased from multiple companies (as applicable) and may not prioritise one principal's or seller's (as applicable) products over another's. Further, both franchisees and distributors are more likely to be highly motivated to succeed than commercial agents and commissioners since they have a direct stake in the business and/or acts on their own behalf.
- **Complexity:** Setting up a franchising system can be complex and requires careful legal and financial planning. Generally, it requires a more detailed agreement to regulate a franchise arrangement than what is required for the other arrangements.
- **Termination of the relationship:** It's generally easier to terminate an agency or commission agreement than to unwind a distribution or franchising arrangement. However, as mentioned above, commercial agents and commissioners are protected by specific regulations in Sweden, which can limit the principal's ability to terminate agreements without significant notice or compensation.



7. EMPLOYMENT



7.1 General

Swedish employment law governs most aspects of the employer and employee relationship. However, the Swedish labour market is to a large extent self-regulated by its parties through collective bargaining agreements entered into between trade unions and employers' associations.

As a basis, Swedish employment legislation applies to all employers in Sweden regardless of the corporate form in which the employer conducts business. The legislation may be divided into two main groups:

(i) Legislation regarding individual employment rights such as the Swedish Employment Protection Act (Sw. lag om anställningsskydd) (the "EPA") as well as legislation governing, for example, working hours, annual leave and discrimination.

(ii) Rules on labour relations between employers and trade unions, for example, the Swedish Co-determination in the Workplace Act (Sw. lag om medbestämmande i arbetslivet).

The EPA applies to all employees in the private and public sectors. Most provisions of the EPA constitute mandatory rules in the employee's favour and provide a strong level of protection against unjustified termination, summary dismissal or other arbitrary measures by the employer. Pursuant to the EPA, any contract which excludes or limits the employee's rights stipulated by the EPA is invalid and unenforceable.

7.2 Different forms of employment

Under Swedish law, an employer can employ an individual for an indefinite term or a fixed term.

It's possible to start an indefinite employment with a probationary employment for a maximum period of six months. After the initial six months, unless terminated before the end of the probationary period, the probationary employment will be converted into an indefinite-term employment.

The employer can, depending on its needs, employ employees under the following three types of fixed term contracts:

The employer can, depending on its needs, employ employees under the following three types of fixed term contracts:

- (i) Special fixed term employment,
- (ii) Temporary substitute employment, or
- (iii) Seasonal employment.

Further, it may be noted that if the fixed term employment isn't terminated after a certain period, the fixed term employment will be converted to an indefinite employment and/or the employee may be entitled to priority right for re-employment at the employer.



7.3 Working hours

The Swedish Working Hours Act (Sw. arbetstidslagen), states that regular working hours may not exceed 40 hours per week. If the working conditions or nature of the job so require, an average of 40 hours per week over a maximum four-week reference period may be allowed.

Employees are entitled to a weekly rest period of 36 consecutive hours per seven-day period. The weekly rest period cannot coincide with on-call duty (Sw. jour) or stand-by duty (Sw. beredskapstid).

According to the Swedish Working Hours Act, employees are entitled to at least 11 consecutive hours rest per 24-hour period (Sw. dygnsvila). Temporary deviations from this principle may be possible provided that special circumstances exist that could not have been foreseen by the employer and provided that the employee is given corresponding compensatory leave.

Generally, the period between midnight and 5 am must be included in the 11 consecutive hours rest period. Deviations from this rule is only permitted in case of specific circumstances, such as the night work being regulated in a collective bargaining agreement or obtaining an exemption from the Swedish Work Environment Authority (Sw. Arbetsmiljöverket).

7.4 Holiday entitlement

Under Swedish law, employees are entitled to a minimum of 25 holidays per full year of employment. It's common, especially for white-collar employers, to offer 30 holidays per year. This entitlement applies regardless of whether the employee works full time or part time.

Further, an employee is entitled to at least four consecutive weeks leave during the period of June to August. Where special reasons exist, the parties may disregard this requirement. During the employee's first year of employment, the employee will be entitled to unpaid leave (unless otherwise agreed with the employer).



7.5 Parental leave

Parents are entitled to 480 paid leave days per child to be divided between them. These days must be used before the child turns the age of 12 or until the child has completed its fifth year of school, whichever occurs first. During the period an employee receives parental allowance from the state, the employee is entitled to leave of absence. Out of the 480 days, 390 days can be used by one parent. If a parent doesn't use its allocated 90 days, the days will be forfeit. In case of one parent having single custody over the child, the parent is entitled to all 480 days of leave.

Under Swedish law, employees giving birth have a right to full leave in connection with the childbirth for a continuous period of at least seven weeks prior to the expected date of delivery and for seven weeks after delivery. Further, the parent not giving birth is entitled to ten continuous days leave in connection with the child's birth (additional to the 480 days). Irrespective of the right to parental allowance, the employee is entitled to choose to be on (unpaid) leave for childcare until the child is 18 months old.

The maximum payment level paid by the state equals to approximately 80% of the salary for the parent on leave. In 2024 it's capped at a maximum of approximately 80% of an annual salary of SEK 573,000 (being approximately 80% of SEK 47,750 per month). It isn't uncommon that the employer pays certain additional compensation to cover the part of the gap between the ordinary salary and the compensation from the National Social Insurance Office (Sw. Försäkringskassan).

Please note that on returning to work, parents are generally entitled to resume their employment on the same terms and conditions as before leaving on parental leave.

7.6 Termination of employment

A termination of the employment must under Swedish law be based on objective reasons (Sw. sakliga skäl). Objective reasons include economical, technical, or organisational reasons meaning, redundancy, or personal reasons, for example serious misconduct or disloyalty.

It may be noted that summary dismissal is only possible in case the employee has grossly neglected their duties towards the employer. If a summary dismissal is at hand, it may be noted that the employer must observe certain time-limits, possible consultations and notification obligations towards the employee and relevant trade union.

If the employer is bound by a collective bargaining agreement or if any employee is affiliated with a trade union, the employer is obliged to initiate and complete consultations with the relevant trade unions before any action is taken in a redundancy situation.

Note that an employee who has been terminated still is entitled to its salary and other employment benefits during the whole notice period. All outstanding salary and compensation for any accrued but unused vacation days shall be included in the final pay.



7.7 Social security contributions

The employer must pay a national social security contribution, which for 2024 amounts to approximately 31% of the employee's gross salary as a main rule. It is also common for employers to pay contributions to employee pension schemes. The social security contribution on such payments is approximately 24% of the amount contributed.

7.8 Sick pay

Employers must pay sick pay during the first two weeks of each period of sick leave, except for a withdrawal equivalent to approximately one day's pay (Sw. *karensavdrag*). The sick pay during the subsequent days of the two-week period shall amount to approximately 80% of the employment benefits. The Swedish National Social Insurance Office (Sw. *Försäkringskassan*) is responsible for payment of sickness benefit after the first two weeks of sick leave. The state funded sickness benefit is capped. For 2024, the maximum annual amount on which sickness benefit is based is approximately 80% of SEK 573,000, corresponding to SEK 458,400. For salaried employees, the cap can be lower than 80% of the actual salary. Thus, it is common that the employer provides certain additional compensation, normally up to the 90th day of sick leave. It is also common for collective bargaining agreements to provide for such additional compensation

7.9 Labour relations

On the Swedish labour market, collective bargaining agreements are the most common instrument for regulating the terms of employment. Such agreements can be entered into between a trade union on the one hand, and an employer, or an employer's association, on the other.

In particular when bound by a collective bargaining agreement, but also in certain other situations, the employer is obliged to consult with the relevant trade unions before making certain decisions with respect to the business of the company in accordance with the Swedish Co-determination in the Workplace Act. Such consultations must be conducted and concluded before the decision is made by the employer. However, the consultations do not have to lead to an agreement, meaning that the employer is free to take any kind of decision (subject to mandatory law) after having fulfilled its obligation to consult.

When a collective bargaining agreement has been entered into, a so-called peace obligation for the parties immediately takes effect. The peace obligation prohibits any use of industrial action, such as strikes or lockouts. Any breach of the peace obligation will entail liability in damages for the breaching party.



7.10 Work environment

As a starting point, employers are responsible for the work environment at the workplace. The employer must in collaboration with the employees, systematically conduct work environment management, which for example includes risk assessments, action plans and follow-ups to prevent ill health and accidents at work.

Additionally, there are many regulations issued by the Swedish Work Environment Authority and the applicability of such will depend on the company's business and the exact work that the employees will conduct. The following outline some of the provisions and responsibilities that all employers must observe:

- **Physical Work Environment:** The workplace must be designed to prevent risks of accidents and occupational diseases with, for example, proper lighting, noise control, and ergonomics.
- **Psychosocial Work Environment:** Employers are responsible for preventing risks related to stress, harassment and other psychosocial risks.
- **Use of Technical Equipment:** Machinery and other technical equipment must be safe to use and properly maintained.
- **Personal Protective Equipment (PPE):** Employers must provide necessary PPE to employees at no cost.
- **Information and Training:** Employers must ensure that workers receive adequate training and information about potential hazards in the workplace.
- **Reporting Obligations:** Employers must report serious accidents and incidents to the Swedish Work Environment Authority.



8. COMPLIANCE WITH DATA PROTECTION LEGISLATION



If your organisation processes personal data, you must comply with applicable data protection legislations (such as the General Data Protection Regulation, hereinafter the “**GDPR**”), regardless of what business type you have chosen to operate your business.

‘Personal data’ means any information relating to an identified or identifiable individual, including for example names, phone numbers, identification numbers, email addresses, location data, photos, videos and similar of individuals. The personal data may relate to any type of individuals such as, for instance, customers, suppliers and employees. The term ‘processing’ includes any type of activity performed whether or not by automated means on or with individuals’ personal data. It includes, amongst other activities, collecting, recording, organising, using, modifying, storing and disclosing individuals’ personal data.

When processing individuals’ personal data, your organisation must comply with the fundamental principles of the GDPR:

- Any processing of personal data must be lawful, fair and transparent;
- You may only process personal data for specified, explicit and legitimate purposes;
- The processing must be necessary and proportionate in light of the purpose envisaged;
- The personal data of individuals must be accurate and kept up to date, or else, be rectified or erased;
- Your storage of personal data must be limited in time, in light of the purpose for which this data was collected and processed; and
- The processing must be secure, why you for example must adopt appropriate cybersecurity measures to ensure that individuals’ data is adequately protected.

Some types of personal data, usually called sensitive data (such as for example information about an individual's health, racial origin, political opinions or religious beliefs) belong to special categories which deserve more protection, and is generally prohibited, except under specific circumstances that justify its processing.

Depending on your role in a processing activity, you may have different responsibilities. If you are acting as a data controller, you determine the purposes and means of processing personal data, whilst if you are processing data as a data processor, you act under the instructions of the data controller, by processing personal data on behalf of the controller. A controller - processor relation may occur for example in a customer - supplier relationship. If a controller - processor relationship is at hand, the parties must enter into a data processing agreement to regulate the processor's data processing activities.

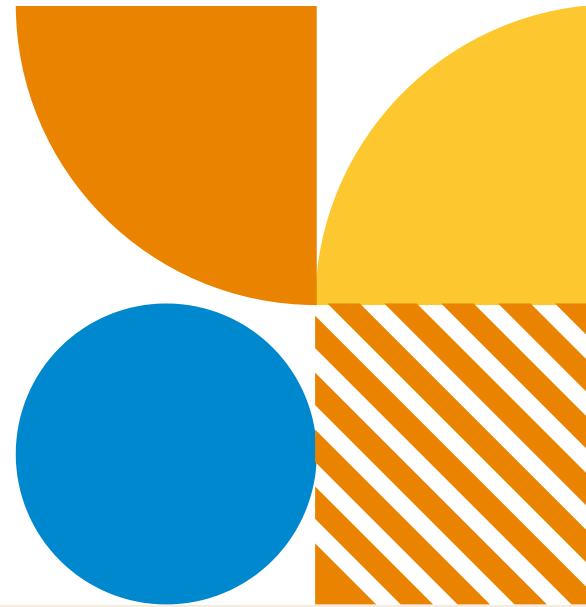
Your organisation must also be able to demonstrate its compliance with the GDPR. To demonstrate compliance, you, for example, need to implement data protection by design, keeping a record of processing activities, and in certain circumstances, conducting a data protection impact assessment. You also need to notify personal data breaches (for example if personal data has leaked to unauthorised third parties) to the relevant data protection authority.

In addition, the data subject, meaning the individual whose personal data is being processed, has a number of rights under the GDPR. As a data controller, you have a responsibility to have procedures in place to handle requests from data subjects wanting to exercise their rights. For example, data subjects have the right to be informed when their personal data is being processed. To ease your organisation's fulfillment of the information requirement, it is preferred to adopt a privacy policy, describing for example the types of personal data you process, what processing activities you are conducting, and how the data subjects may get in contact with you to exercise its rights under the GDPR.

Lastly, it is worth noting that non-compliance with the GDPR can impose your organisation with administrative fines up to €20 million, or four per cent of the global annual turnover of the company (or corporate group, if applicable), whichever is higher.



9. FINAL WORDS



Thank you

It has been a privilege to develop this guide alongside so many outstanding experts in various legal fields. A heartfelt thank you to the many lawyers at Krogerus, Kromann Reumert, and Vinge who have put your time, energy and dedication into sharing your invaluable legal expertise with social entrepreneurs. As social entrepreneurs, we often lack the resources to collaborate with exceptional lawyers like you. Your willingness to share your expertise with the field of social entrepreneurship is a truly valuable contribution, empowering countless social entrepreneurs to grow and develop.

I also want to extend a thank you to the Ashoka Fellows Durukan Dudu, Markos Raivio and Thorkil Sonne who have generously shared your experiences and helped tailor the legal advice towards social entrepreneurs. Finally, I want to thank the team at Ashoka who coordinated this work and made this guide possible. Together we have contributed a guide that really helps social entrepreneurs create the legal foundation to create a greater impact.

Michael Wernstedt, Ashoka Nordic

Stockholm, December 2024

Start of a deeper discussion

As social entrepreneurs, we are accustomed to finding creative solutions to the challenges we encounter. This extends to navigating a legal system that is not tailored to our needs, and we hope that this guide can help you do just that.

At the same time, we also hope this serves as a starting point for a broader societal conversation about how we can build a legal system that better supports social entrepreneurs.

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