



Set up an enterprise in Belgium

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INTRODUCTION

- Develop activities in Belgium - 3 possibilities:
 - Act from a foreign place of business (e.g.: commercial agent);
 - **Set up a branch office or a subsidiary in Belgium;**
 - Form a structured collaboration with a Belgian partner (JV or economic interest grouping/ European company).



- Warning! The Belgian VAT regime applies to every permanent establishment :
 - The foreign enterprise has a place of management, warehouse, factory, workshop, branch, shop, office, laboratory, or any other fixed place of business (excluding however building sites) in Belgium;
 - The establishment is run by a person which is entitled to bind the principal (e.g. when he deals with suppliers);
 - The establishment makes transactions subject to VAT on a regular basis (delivery of goods or services)



PRESENTATION OUTLINE

- BRANCH OFFICE v. SUBSIDIARY
- CHECKLIST FOR THE SETTING UP OF A BRANCH OFFICE
- CHECKLIST FOR THE SETTING UP OF A SUBSIDIARY
- FAQ
- INSOLVENCY



I. WHAT IS A BRANCH-SUBSIDIARY?

a. Branch office:

- Permanent structure without a separate legal personality;
- The representative is entitled to bind the foreign company vis-à-vis third parties



- The applicable law remains mostly the law of the seat of the foreign company. There are however exceptions, e.g. :
 - Accounting;
 - VAT regime (cf. above);
 - Employment;
 - Liability of the representative (cf. below);
 - Insolvency



b. Subsidiary:

- A company with a separate legal personality / separate assets and liabilities;
- It must adopt one of the forms provided by the Belgian Companies Act (*Code des sociétés*)



c. Comparison:

- Liability;
- Setting up formalities;
- Taxation of benefits transfer



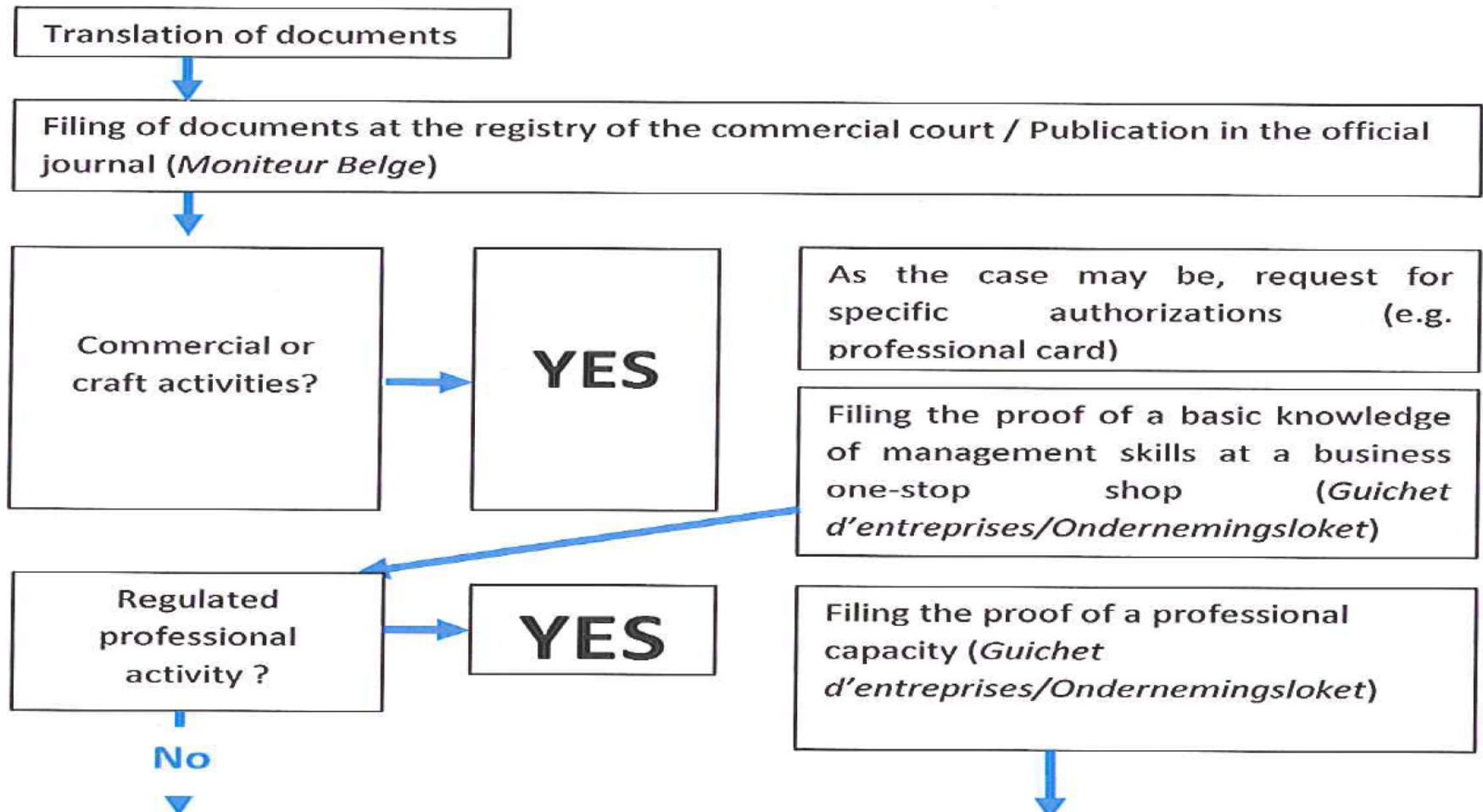
II. CHECKLIST FOR THE SETTING UP OF A BRANCH

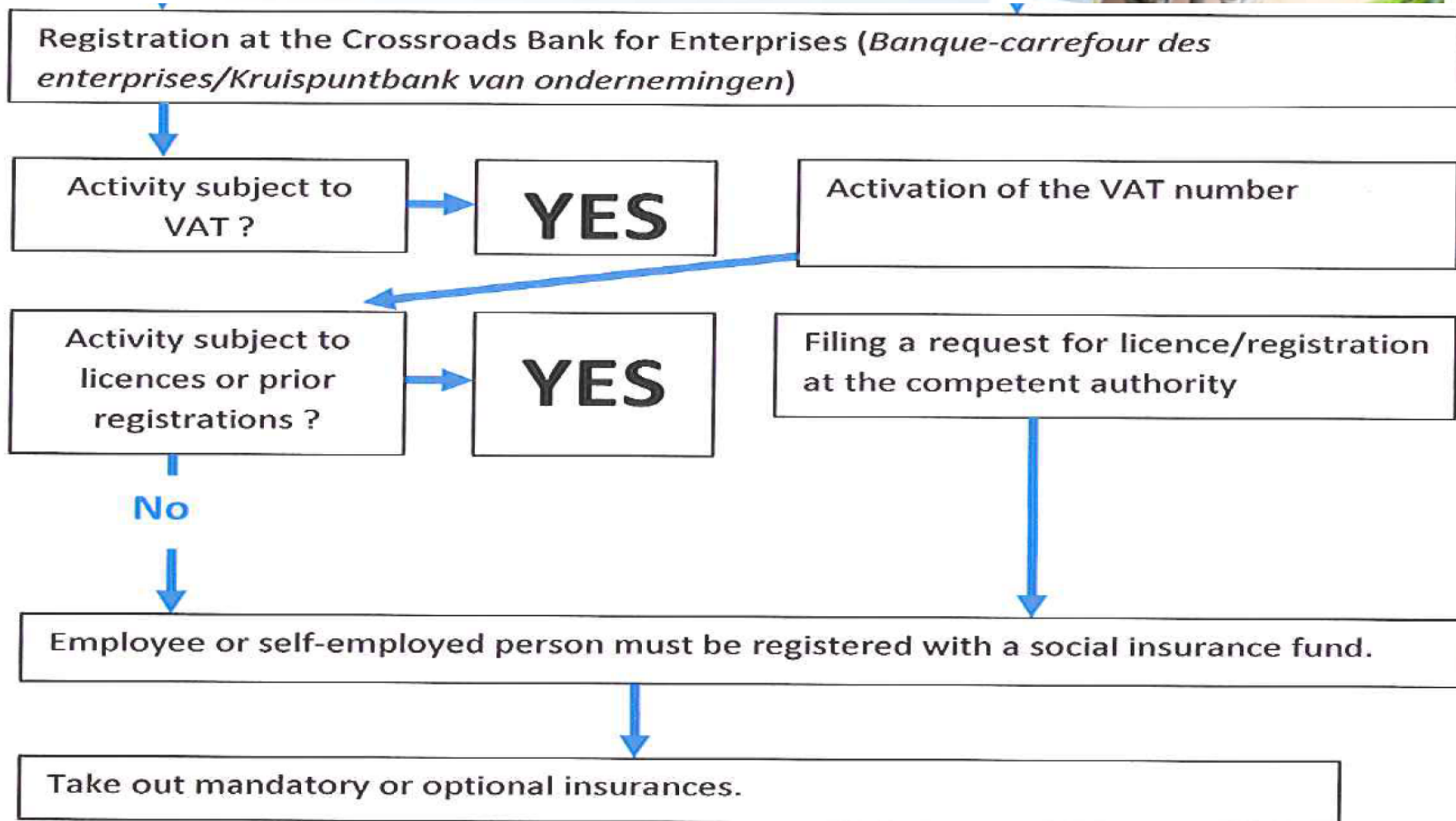
a. Formalities to be accomplished in the home State :

- Decision to set up the branch office and appointment of the representative (N.B. : liability// manager of a Belgian company – Article 59 of the Belgian Companies Act);
N.B.: Tax and social security liability
- Legalisation/authentication of documents



b. Formalities to be accomplished in Belgium





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III. CHECKLIST FOR THE SETTING UP OF A SUBSIDIARY

a. Choosing the company type

- One of the forms provided by the Belgian Companies Act (Art. 2);
- SA / SPRL (SPRLU- SPRL-S)

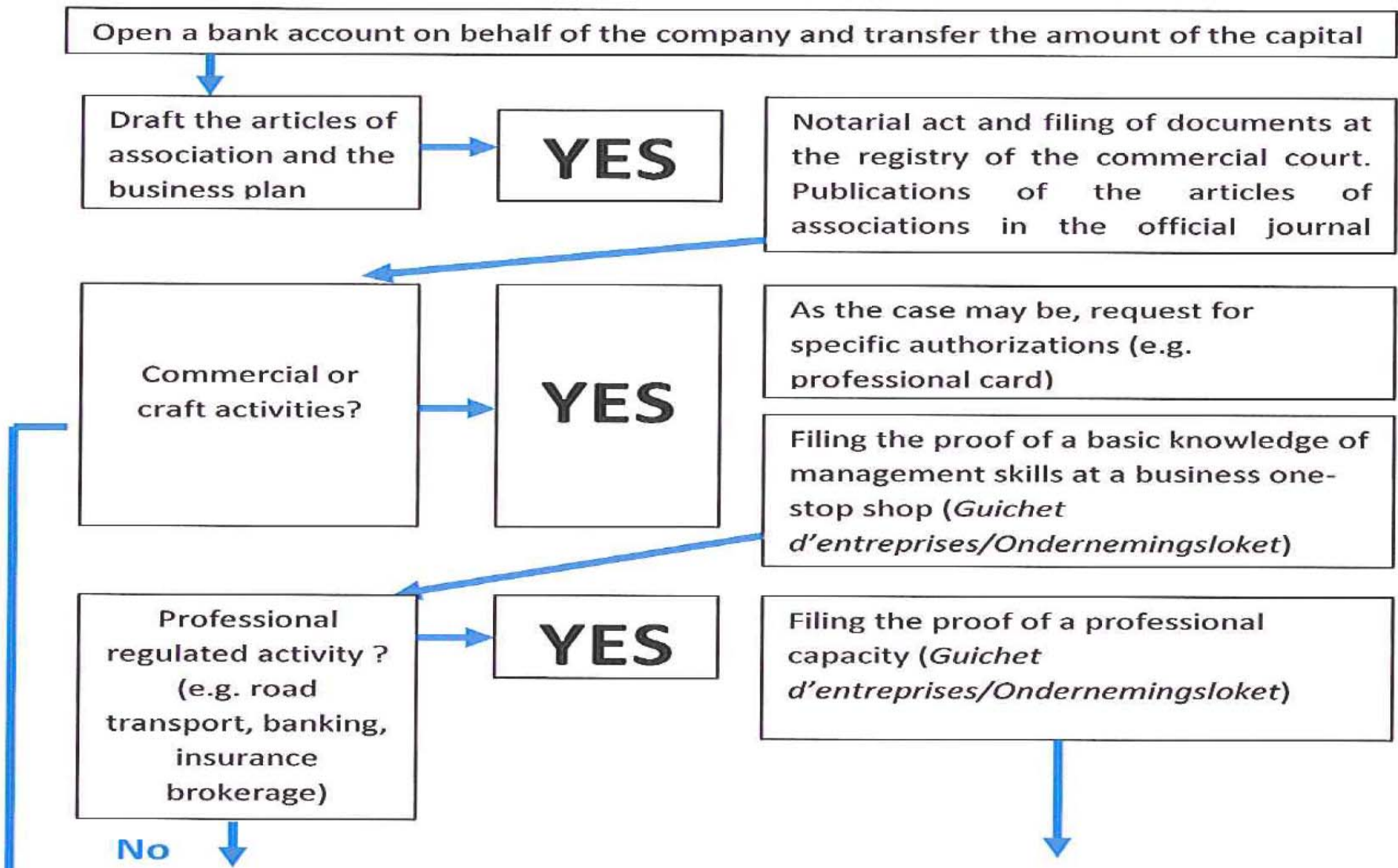


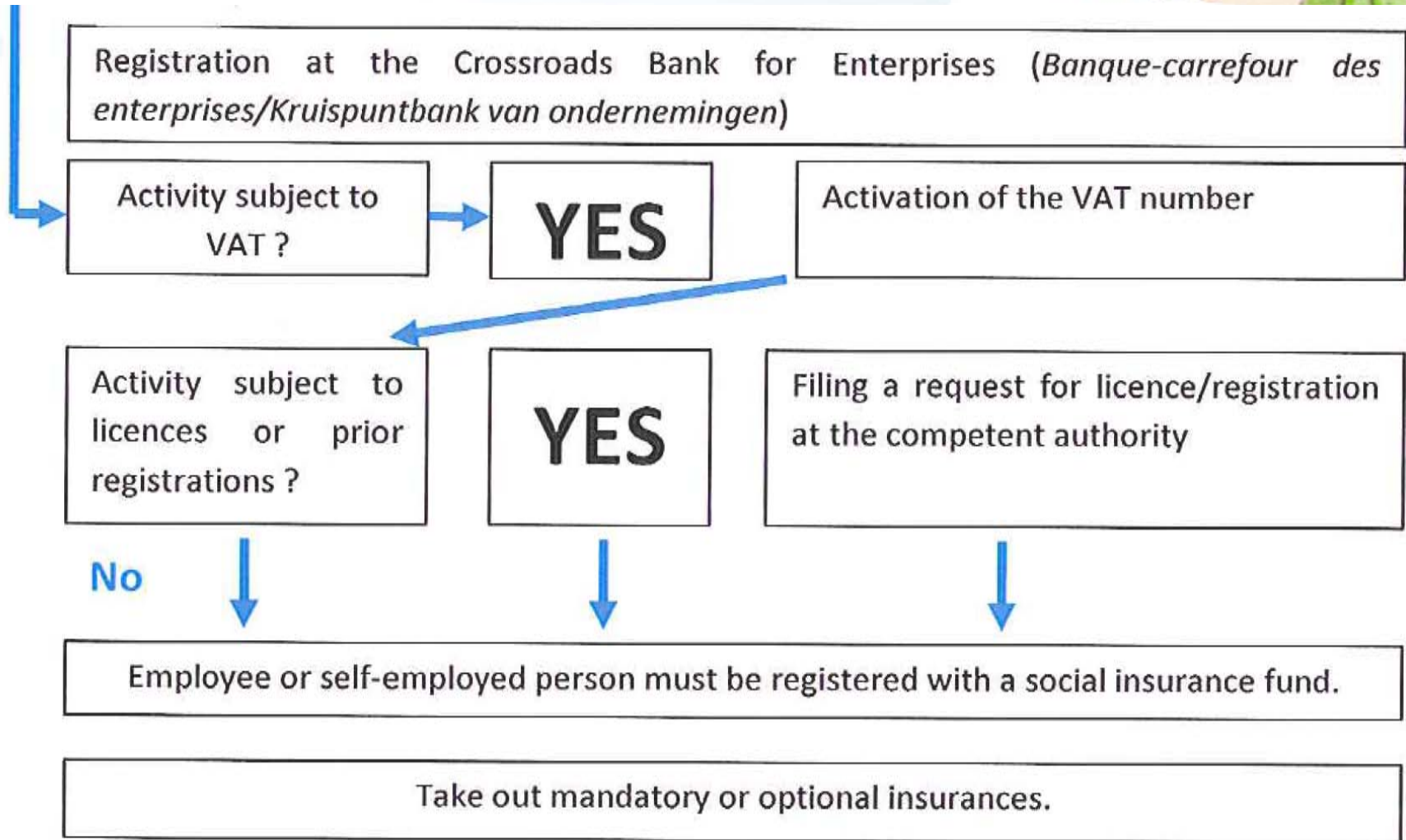
b. Capital

- Minimum capital requirement, business plan, and liability of the founders (SA: Art. 456 of the Belgian Companies Act / SPRL: Art. 229)
- Contributions



c. Formalities





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IV. FAQ

What are the costs arising from the setting up of a branch office or a subsidiary in Belgium ?

How long does it take to set up a branch office or a subsidiary in Belgium?



Can the name of the company be chosen freely?

Are there any controls from the State prior to the launch of a commercial activity ?

In what language must the company documents be drafted ?



V. INSOLVENCY

Council regulation (EC) No 1346/2000 of
29 May 2000 on insolvency proceedings