

Triplet & Associés



French Law Practice

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French Company Formation - (“Constitution d’une Société”).

Whole books have been written on this subject, so what follows is very much an overview, but it is nevertheless hoped that it will constitute a useful starting point.

Do you really need a French Company? There are currently no off-the-shelf companies in France and thus your company will be made to measure, from scratch, in order to carry out the specific activity which you are envisaging in France. You therefore will need to have a clear idea of your business plan for France and to decide how, when and where you will carry out your activity. One of the principal advantages of forming a company is to limit your personal liability and it would therefore be strongly advisable to talk to an Englishspeaking French lawyer about this particular objective; prior to making any commitment in France.

What types of French company are available to me?: You will doubtless have come across various sets of initials SA, SCP, SARL, SCI, SCA, etc as there are many types of company structure provided for by French Law. However, there are essentially only three forms of company which provide for a limitation of the liability of their shareholders. These are the Société par Actions simplifiée (SAS), the Société Anonyme (SA) and the Société à Responsabilité Limitée (SARL).

What is an SCI? What type of Company is that? An SCI (Société Civile Immobilière) is a special form of French company which is mainly used solely to hold real property. It is generally considered to be most unwise to attempt to use an SCI as a trading company and, most importantly, there is no limitation on the liability of its shareholders. The principal advantage, in the case of shareholders who retain UK tax residence, is often perceived to relate to inheritance rules, notably the French heirship rules i.e. relating to the statutory portion of one’s estate which is essentially reserved for one’s children.

Which type of company would be best for me? It will of course depend on your circumstances and your objectives in forming a French company. However, the Société par Actions simplifiée (SAS) and the Société Anonyme (SA) are subject to relatively constraining rules; for example there is a requirement to appoint independent auditors (separate from the company’s accountants) and the running costs and the responsibilities of the Directors are far from negligible. Most small businesses and start-ups would tend to opt for the Société à Responsabilité Limitée (SARL) – however, there are binding rules on keeping books, filing annual reports, accounts etc nevertheless.

How do I start the process? As already indicated, there are no off-the-shelf companies in France and the formation procedure is relatively complicated. You will need to prepare and sign a considerable number of papers which would include:

- the “statuts sociaux” being broadly the equivalent of the Memorandum and Articles of Association. These are not standardised and will need to be drafted carefully to suit each type of activity envisaged.
- a certain number of formal written declarations, for example that the prospective officers of the company have no criminal convictions and are subject to no administrative or other sanction which could prevent them from being an officer of a French company. NB These declarations are binding and criminal sanctions may be applicable if an untrue statement is made.
- a formal power of attorney authorising a named individual to file papers and to give information to the French authorities.

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For certain forms of company, it is also necessary to lodge a minimum fixed amount of share capital in a frozen bank account or with a Notary.

It is equally a requirement to provide some type of formal proof of identity for the officers of the company to be formed, such as a scanned copy of the individual's passport.

How much should I budget in terms of time and money to set up a company? The company formation process usually takes some 4 to 5 weeks. It is possible to form a company in a matter of days using an express procedure, but this costs a great deal more than the standard formation and is rarely necessary in reality. There are a number of fixed registration and other costs and whilst it is difficult to generalise, the all-in formation (to include stamp or registration duty, publication in a journal of legal announcements, Commercial Court registry fees, etc) would probably be somewhere between 2 400 Euros and 3 800 Euros, depending on the type of company and the expressed needs of the shareholders.

Is the liability of the shareholders limited? As mentioned above, the short answer is that the liability of the shareholders in SA, SAS and SARL French companies is usually limited to the amount of their shareholding. However, in certain circumstances (as in the UK, Ireland and elsewhere) creditors may sometimes seek to breach the limitation on liability (e.g. in cases of fraud, trading whilst insolvent etc).

I am not French. Can I be a Shareholder and/or an Officer of the Company? If you are a citizen of one of the EU member states then there are ostensibly no restrictions whatsoever on your becoming a shareholder or an officer of a French company. Moreover, you are not required to be resident in France or to have a French national as an officer or shareholder of the company.

Please Note – Whilst this information sheet is aimed at being informative, it is necessarily brief and is no substitute for legal advice tailored to your individual circumstances and plans. You should always seek specific advice from a duly qualified French Law practitioner relating to your own particular situation.

For further information, please get in touch with us via the contact details above.

*Triplet & Associés is a French Law practice providing advice and assistance solely relating to French Law. The provision of service by members of this practice who are present, from time to time, at our office in London is undertaken within the scope of the European Directive 77/249/EEC of March 1977, and any lawyer/client relationship flowing therefrom is subject solely to French Law. In the unlikely event of a dispute between lawyer and client the Chairman of the Lille Bar is alone competent to hear and adjudicate thereon.