

1.5.2. Droit de succession

an agreement relating to the property consequences of their partnership, if such an agreement has been concluded between them.

The registrar checks that both partners fulfil the **conditions** laid down by law (that they have the capacity to contract, that they are not bound by marriage or by another partnership, that they are not related or connected to a prohibited degree and, finally, in the case of non-Community nationals, that they are legally resident in Luxembourg). If so, the registrar sends a **certificate** to both parties stating that their partnership has been declared.

At the instance of the registrar, the declaration, including, if appropriate, a reference to the agreement, is sent within three working days to the Public Prosecutor's Office (*parquet général*) for entry in the **civil registration list** in a file referred to in Articles 1126 et seq. of the New Code of Civil Procedure (*Code de procédure civile*). This registration renders the declaration effective against third parties.

1.2. Property consequences

The partners may, as stated above, determine the property consequences of the partnership in a written agreement concluded between them.

The law provides that they shall give each other material support and that the contribution to the expenses of the partnership shall be made in proportion to their respective means.

It lays down the principle of **joint liability for debts**, but also the exceptions, the prohibition against the disposal, by one without the other, of the rights appertaining to the joint residence or of the items with which it is furnished, the freedom of the partners to make deeds of gift or living wills in favour of each other, subject to the relevant provisions of the Civil Code, etc. ...

1.3. The end of the partnership

The partnership comes to an end if one of the partners marries or dies or if they make a **joint declaration** before the registrar.

It also ends, after the other party has been notified, if one of the partners makes a **unilateral declaration** before the registrar who received the declaration of partnership, who carries out the same procedures as for that declaration.

After the termination of the partnership, and provided that the application is lodged within three months of that development, the judge orders the urgent provisional measures justified by that termination and relating to occupation of the joint residence, to the person and goods of the partners, and to the legal and contractual obligations of both partners. He sets the term of validity of those measures which cannot, however, exceed one year.

Luxembourg: Partnership and the Risk Capital Investment Company (SICAR)*

1. Partnership

Law of 9 July 2004 on the legal effects of certain partnerships¹

1.1. Civil law effects

A partnership (*partenariat*) is defined as cohabitation by two persons of **the opposite or same sex** (the partners) who live as a couple and have declared in person and in writing before the **civil registrar** (*officier de l'état civil*) of the commune of the place in which they are domiciled or reside their partnership and also the existence of

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1 Internet: <http://www.legilux.public.lu/leg/a/archives/2004/1430608/2004A20201.html>

1.4. Social Security law consequences

The law amends the Law on Social Insurance (*Code des assurances sociales*) on many points in order that partners may benefit from it, in particular with regard to retirement benefits and survivors' pensions.

1.5. Fiscal law consequences

1.5.1. Registration fees

Gifts of movable and immovable property between partners who have been united for **at least three years** by a duly registered declaration of partnership are subject to the same rate as those for **gifts between spouses**.

1.5.2. Death duties

In this regard too, partners who have been united for **at least three years** by a duly registered declaration of partnership are treated in the same way as spouses.

1.5.3. Direct taxes

A taxpayer may obtain on request a reduction in his taxable income for additional expenses relating to the material support provided for a partner who shares a joint domicile or residence with him, and for each child of the partner living in the taxpayer's household.

2. Risk Capital Investment Company (SICAR)

Law of 15 June 2004 on the Risk Capital Investment Company (SICAR)²

This law governs the operation of this type of company, the object of which is to invest its assets in securities representing risk capital in order to provide its investors with the benefit of the results of the management of its assets in consideration for the risk which they incur, and the securities of which are reserved to well-informed investors

Its subscribed share capital may not be less than **EUR 1 million**, and it is not obliged to create a legal reserve.

The custody of the assets of a SICAR must be entrusted to a depositary whose statutes are determined by law.

The SICAR is subject to the approval and supervision of the **Commission for the Supervision of the Financial Sector** (*Commission de Surveillance du secteur Financier* – CSSF).

It must publish a prospectus and an annual report for each financial year. The accounting information provided in that report is audited by an authorised auditor.

The capital duty payable at the time of incorporation of such a company is fixed at EUR 1.250 (Grand-Ducal Regulation of 10 September 2004).

2 Internet: <http://www.legilux.public.lu/leg/a/archives/2004/0952206/2004A15681.html>