

# CTI Entrepreneurship Training

Western Switzerland

A CTI training programme

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**Start-Up and entrepreneurship**  
CTI Entrepreneurship

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Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Swiss Confederation

Commission for Technology and Innovation CTI



## A few questions to start

- What is your current legal structure ?
- Are you personally liable ?
- Does your legal structure limit your growth ?
- Do you control your project ?  
Could you be ousted ?

## Some general warning / advice from us

**If you do not choose a legal structure, someone else will choose it for you.**

Be proactive. Retain the right to choose.

### **Evaluate risks**

Organize your legal relationships with investors, partners and customers.

### **Understand the costs**

Select the most adequate protection.



# Organizational Needs – Evaluation

**A two stepped-decision process:**

1. **When** is the right time to form and incorporate a legal entity?

1. **What?** which type of legal entity?

# Organizational Needs – When ?

## When to organize your legal structure ?

### Usual tell-signs

Multiple founders

External commitments (contracts)

Intellectual property rights

Funding and Stock Options

### Risk

Misunderstanding, litigation about equity split

Unlimited personal exposure and liability

Litigation regarding ownership

Corporate structure is required.

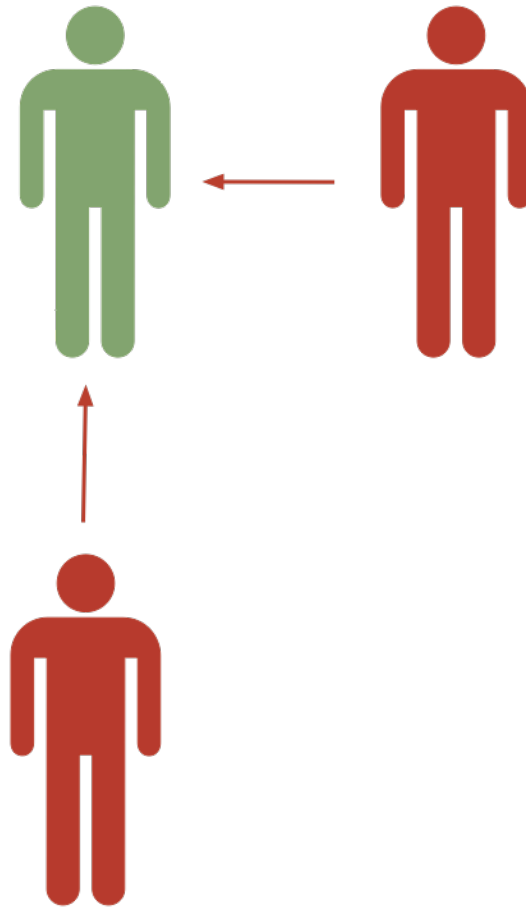
# Legal Structures - Overview

## Main legal structures

1. Sole proprietorship
2. Partnerships
3. Corporations (Sàrl & SA)
4. Non profit alternatives

# Structures

## I/II. Sole proprietorship



# Structures

## II/II. Sole proprietorship

### Pros

- Lowest amount of regulatory burden
- Direct control of decision making
- Minimum (or no) capital requirement to start
- All profits will go to you
- Status of self-employed

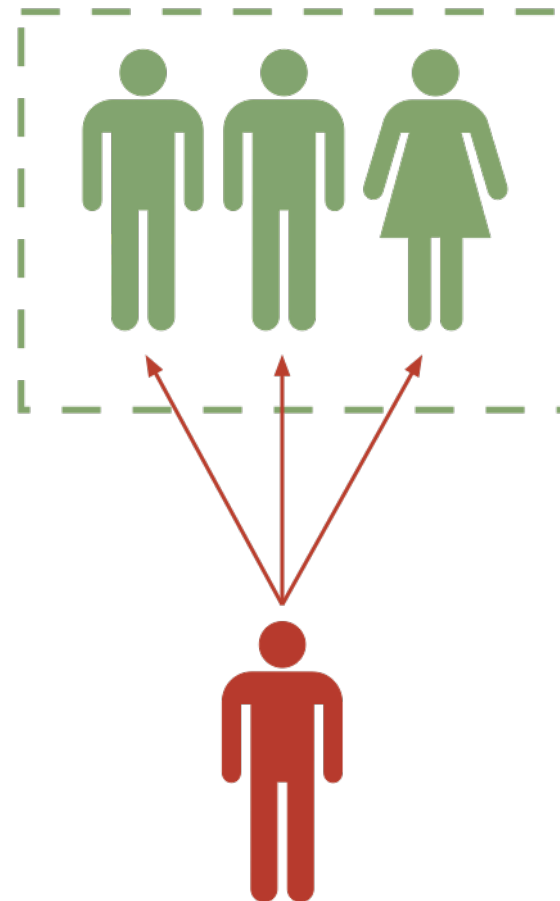
### Cons

- Unlimited liability (full exposure of your personal assets)
- Lack of continuity for your business
- Difficulty raising funding on your own (only debt)



# Structures

## I/II. Partnerships



# Structures

## III/II. Partnerships

### Pros

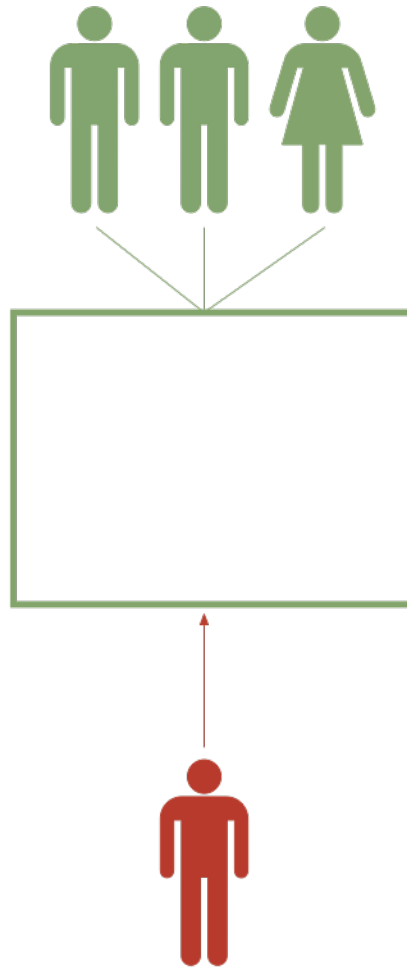
- Easy to start-up (contract)
- Possibility to agree on the allocation of starting costs
- Possibility to agree on the share of profits/assets and debts
- Status of self-employed

### Cons

- Unlimited liability (full exposure of your personal assets)
- Possible conflict in your relationship with your partner
- By law, shared ownership on business assets

# Structures

## I/III. Corporations (SA – Sàrl)



# Structures

## II/III. Corporations (SA – Sàrl)

### Pros

- Limited liability
- Easy and global transfer of ownership
- Continuous existence
- Separate legal entity
- Facilitated capital raising (debt or equity)

### Cons

- Constraining regulations (i.e. articles of association)
- Incorporation and costs (incl. public notary)
- Corporate records required (minutes of meetings)

# Structures

## III/III. Corporations : Sàrl vs. SA

	<b>Sàrl</b>	<b>SA</b>
Share capital	CHF 20'000 min Fully paid up	CHF 100'000 min CHF 50'000 paid up
Par value of shares	CHF 100 min	CHF 0.01 min
Public disclosure	Director and shareholder name, adress, amount of shares	Only directors name, adress, unless listed company
Ancillary obligations	Some, if provided under articles of association	No
Supplementary contributions	Yes, if provided under articles of association	No

# Structures

## Alternatives (non-profit)

### Pros

- Low incorporation costs
- Democratic control
- Open structure
- Limited liability

### Cons

- Limited purpose (i.e. no main commercial activity)
- Difficult (impossible?) to get financed

# Incorporating an Sàrl

## Main Steps

- Verify availability and decide company name (must contain Sàrl / GmbH)
- Gather identity documents for all founders & managers
- Decide on :
  - Purpose of company
  - Address of company
  - Signatory powers
- Have the money ready (CHF 20,000)
- Let the lawyers work

# From Sàrl to SA

Transformation involves a change in company's legal form without any alteration in terms of its assets or the shareholder body. Company **continues to exist and only alters its legal form.**

**Certain conditions have to be complied with** when new legal form is assumed (e.g. amount of share capital, rules for paid-up capital, content of Articles of Association, etc.).





# From Sàrl to SA

## Overview of selected documents

- **Capitalization Table**
- **Shareholders' Agreement**
  - Preemptive right, right of first refusal
  - Drag-along, tag-along / co-sale
  - Clawback

# Debriefing - Questions

