



# OVERVIEW OF DRC'S LEGAL REFORMS RELATED TO REAL ESTATE AND LAND ACQUISITION

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**On May 8, 2023, the Ministries of Land Affairs and Finance have simultaneously established two Interministerial Orders related to the banking and real estate transactions in Democratic Republic of Congo. Here are answers to the main questions raised:**

## **1. Which properties are affected by the reform?**

Only land or real estate whose value is equal to or greater than the equivalent in Congolese francs of USD 10,000 are concerned (Ten thousand US dollars).

Thus, the payment of the price of any real estate transaction at an amount equal to or greater than the equivalent in Congolese francs of USD 10,000 must be made to one of the banks authorized in the Democratic Republic of Congo.

However, real estate transactions equal to or greater than USD 10,000 for which a banking institution has not been used expose the purchaser to the payment of penalties calculated on the basis of the market or declared value of the property traded.

In addition, for real estate banking transactions that have taken place abroad for the purchase or sale of a property located in Democratic Republic of Congo, the buyer is required to present the extract of his certified and notarized statement of account to the Commune (Township) of the place where the banking institution with which the operation was carried out is located.

## **2. What are the rules for setting the price of the transaction?**

The established principle is the freedom of parties to a real estate or land agreement to fix the price of the property that is the subject of the contract.

However, the transfer of real estate property can only be made on the basis of the certificate of expertise accompanied by the related report of an approved real estate expert for the purpose of determining the market value of the property subject of the transaction.

In the event that the market value determined by the approved expert is higher than the declared value, the proportional registration fee will be calculated on the basis of the market value. However, where the market value is lower than the declared value, the proportional registration fee will be calculated on the basis of the declared value.

### 3. What are the conditions of the transfer of the real estate property (TREP)?

As a reminder, the TREP is the operation of transferring a property from one patrimony to another or the substitution of one person to another at the head of a patrimony (*Glossary of legal terms, Ed Dalloz, Paris, 2020, page 697*).

The transfer will henceforth be obtained from the real estate titles services only on presentation of the deeds executed in authentic form.

The conditions of TREP vary according to the following 3 cases planned:

- **Transfer under a sale or assignment agreement**

The mandatory documents to be presented are:

- o The notarized deed of sale or assignment;
- o The certificate of payment of the price issued by the bank;
- o The collection note cleared by the public accountant in view of the payment certificate issued by the bank;
- o The certificate of real estate expertise accompanied by the related report issued by a certified Real Estate Expert.

- **Transfer pursuant to a court order**

The mandatory documents to be presented are:

- o Judicial decision cast in force of res judicata of the jurisdiction of the situation of the concerned building;
- o The certificate of no appeal;
- o The collection note cleared by the Public Accountant in view of the payment certificate issued by the Bank;
- o The certificate of real estate expertise accompanied by the related report issued by a Chartered Real Estate Expert

- **Transfer due to death**

The mandatory acts to be presented are:

- o The deed of succession;
- o The investiture order of the High Court of the jurisdiction of the concerned building within the legal period;
- o Proof of publication of this investiture order in the Official Journal;
- o The collection note cleared by the public accountant in view of the payment certificate issued by the bank;

o The certificate of real estate expertise accompanied by the related report issued by a Chartered Real Estate Expert

**Source:**

The Interministerial Orders No. 0076CAB/MIN/AFF/FONC/ASM/TMM/2023 and 010/CAB/MIN/FINANCES/2023 of 08 May 2023 amending and supplementing the Interministerial Orders No. 0116/CAB/MIN. AFF/FONC/ASM/JMI/2021 and N°089/CAB/MIN/FINANCES/2021 of 03 June 2021 on the banking of land and real estate transactions in Democratic Republic of Congo.