

Transferring quarry and mining rights in the Democratic Republic of Congo [DRC]

The mining code of the Democratic Republic of Congo [DRC] provides for a possibility of **leasing** and **assigning mining and quarry rights**. Since mining and quarry rights, as expressed in mining and quarry permits, are real and exclusive property rights, it is possible to lease and assign these rights, although under the restrictions set out in the Mining Code.

1. The lease of mining rights in the Democratic Republic of Congo

Leasing means to rent for a fixed or indefinite period, without the right to sublet, all or part of the rights relating to a mining or quarry right in return for a payment agreed to by the lessor and the lessee.

Only exploitation rights [exploration is excluded] can be leased and any lease must be registered with the Mining Registry

2. Assignment of rights in the Democratic Republic of Congo

The Mining Code establishes a different regime for conveyance deeds on the one hand, and transfers deeds on the other hand. Whereas conveyance refers to a situation where the mining or quarry right is being sold, transfer relates to situations of succession after decease and merger or fusion of companies.

2.1. Conveyance

Both mining exploitation rights, as well as quarry exploitation rights may be conveyed in whole or in part. [Quarry exploration rights are excluded from the possibility of conveyance].

A conveyance deed is final and irrevocable, and its validity will be reviewed by the registrar of the Mining Register who will issue a new mining or quarry right in case of a partial conveyance. It should be noted that a conveyance does not relieve the initial holder from his obligations towards the State.

Registration fees: whenever an exploitation right is being conveyed, a registration fee must be paid to the Mining Registry which amounts to:

- Mining exploitation permit: USD 1203,00
- Permanent quarry exploitation authorization: USD 601,00

2.2. Transfer

Both mining as well as quarry exploitation rights may be transferred in whole or in part pursuant to a contract of merger and by reason of death. [Quarry exploration rights are excluded from the possibility of transfer].

The same review by the registrar applies as with the conveyance deeds, and also in this case registration is needed to render the transfer opposable against third parties. However, the transferee remains liable for all the obligations of the initial holder of the right.

Registration fee: whenever an exploitation right is being transferred, a registration fee must be paid to the Mining Registry, which amounts to:

- Mining exploitation permit: USD 1203,00
- Permanent quarry exploitation authorization: USD 601,00

2.3. Option

There is another possibility of an option contract on exploration permits and authorizations that allows possible investors to obtain a participation in the exercise of the mining or permanent quarry exploitation right when the holder of the permit or authorization decides to obtain an exploitation right. The rules governing transfers will be applicable whenever an option is called. A registration fee must be paid to the Mining Registry, which amounts to USD 240,64