

## ***Enforcement of foreign judgment in the Democratic Republic of Congo***

The right to equality before the courts and tribunals and to a fair trial serves as a procedural means to safeguard the rule of law. In fact, after proclaiming in its first article that the Democratic Republic of Congo [DRC] is ruled by law, in which equality is a key component, the Constitution<sup>1</sup> has dedicated several articles to this principle that has today become the corner stone for all branches of law.

Moreover, the courts of the DRC are bound by statute to recognize and enforce a foreign judgment if:

- (1) It is not contrary to the public order;*
- (2) It is final and dispositive of the claim under the law of the country in which judgment was rendered;*
- (3) According to the law of the country in which it was rendered, the copy of the original judgment meets all legal conditions for authenticity;*
- (4) Jurisdiction of the court rendering the judgment is not premised solely on the nationality of the defendant.*

The courts are, therefore, receptive to the enforcement of a foreign judgment if it meets these criteria. In other words, the law is quite clear that the courts must enforce foreign money judgments that meet the criteria described above.

- Generally, the enforcement procedure consists of the judgment creditor making an application to the court for enforcement of the judgment.
- The court will then review the judgment according to the criteria described above.
- If the court renders the decision “executor” under the law of the DRC, notice is then served on the judgment debtor.
- The judgment debtor may then appeal the decision of the court.
- The law does not set a time limit in which the court must decide whether to enforce the foreign judgment. Instead, the time frame is left to the discretion of the presiding judge.

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<sup>1</sup> Constitution of the Democratic Republic of Congo, special edition, Official Journal, 47th year, Kinshasa, 18 Feb 2006 special edition.

- The “Tribunal de Grand Instance” is the court that will consider the question of whether to enforce a foreign money judgment or not.

*It is important to note, that once a foreign judgment has been rendered “executor” by a court in the DRC, it may be enforced by writ or order of the court.* Generally, as in most civil law systems, the court will recognize the foreign judgment and issue the enforcement order in the same proceeding.

Once the order has been issued in the proper form, it may be registered with local courts throughout the country where the judgment debtor resides or owns property and then carried out by officers of the court through seizure, repossession or other means.