

1. Which government authority in your country has primary responsibility for the regulation of aviation and the registration of aircraft?

The Civil Aviation Authority. (DRC CAA)

2. Can foreign-owned aircraft be registered on your national aircraft register, for example when leased to an airline based in your country?

Yes.

3. Are there any limits/restrictions on the age of the aircraft that may be registered or operated in your country?

No - Restrictions/limitations depend on airworthiness control made by the DRC CAA.

4. Who is entitled to have their interests recorded on your national aircraft register?

The Owner and a mortgagee of the aircraft

5. Would a mortgage governed by a foreign law over aircraft and/or engines be recognised in your country?

Yes over foreign registered aircraft, assuming it is valid under its governing foreign law. If the mortgage is to apply to a DRC registered aircraft then we would recommend the mortgage be drafted in accordance with the DRC law (see below)

6. To be recognised under your laws, must a lease or mortgage over an aircraft and/or engines be in a particular form or language, are there any special terms that it must contain and/or must it be registered or filed anywhere?

A mortgage over a DRC registered aircraft (including its engines) must be written in French, signed by the parties to it and authenticated by a DRC public notary. The mortgage interest should also be noted on the aircraft register maintained by the DRC CAA.

A lease would need to be written in French and although not essential to validity, we would recommend it be authenticated by a DRC public notary.

7. If an engine owned by a third party is installed on an aircraft, would your country's law treat that engine as being subject to the same ownership as the aircraft itself? In other words is there a risk that by physical installation, the engine owner loses its title to the engine or that the engine becomes subject to any mortgage which exists over the aircraft on which it is installed? Would a nameplate fixed on the engine, confirming its separate ownership, make any difference?

Ownership of engines is not recorded on the aircraft register. An aircraft engine will be treated as subject to the same ownership as the aircraft itself unless clear evidence of separate ownership of the engine is produced.

8. Has your country ratified and brought into force any of the following aviation related conventions: 1944 Chicago Convention, 1948 Geneva Convention and 2001 Cape Town Convention (with its Aircraft Equipment Protocol)?

The DRC acceded to the 1944 Chicago Convention but has not acceded to the 2001 Cape Town Convention or the 1948 Geneva Conventions.

9. Does the local civil aviation authority provide assurances to lessors and financiers as to prompt deregistration of the aircraft (for example the IDERA under the Cape Town Convention)?

No.

10. Are powers of attorney from a local airline in favour of a lessor or mortgagee likely to be effective to allow the lessor or mortgagee to deregister the aircraft? Can such powers be irrevocable, be governed by a foreign law and/or do they need to be in any particular form for local recognition?

Yes, the POA should be effective to allow deregistration. We recommend that for recognition here the POA be written in French, be governed by DRC law and preferably be notarised.

11. Are there any charges which would have to be paid before an aircraft can be deregistered from your national register (e.g. local air navigation fees)?

Yes, in practice local airport fees / charges would probably need to be paid (before the aircraft would be permitted to leave the country).

12. Would courts in your country generally uphold a choice of law and jurisdiction clause in an aircraft lease or loan document entered into between commercial parties?

Yes.

13. If the lease is terminated for lessee default, would the lessor be entitled to repossess (by taking physical possession) of the relevant aircraft or engine or does it need the prior permission or order of a local court or agency?

Yes if the lessee agrees to the aircraft being returned; if not then a court order for repossession would be required.

14. In clear cases of a lessee default is there an effective summary procedure or interim relief available in your courts allowing lessor prompt repossession of the aircraft? Would security be required to avail of such process?

No.

15. What is the procedure for a lender to enforce a mortgage over the aircraft or engine in your country when the borrower is in default? For example must the aircraft be sold by the court or can the lender itself take possession and arrange a sale?

Mortgage enforcement would require the aircraft to be sold by the court.

16. Do the courts in your country have experience of repossession / foreclosure action involving aircraft? If so, please provide some details and indicate the time such proceedings generally would be expected to take from start to finish.

Not that we are aware of.

17. Where an aircraft is leased to (i.e. not owned by) the airline operating it, can that airline create liens or encumbrances over the aircraft for example if it fails to pay suppliers, airport charges or maintenance providers? If so, would the existence of any such liens (e.g. in respect of unpaid airport charges) prevent an owner or mortgagee from repossessing the aircraft?

No but see answer 11 above.

18. Are there any circumstances under your country's laws where a non-operating lessor, owner or a mortgagee could be held liable for damage caused by the aircraft whilst operated by an airline, even if there is no fault on the part of lessor, owner or mortgagee?

Yes, the aircraft owner (but not a mortgagee as such) may be held jointly and severally liable with the operating airline in the case of an aircraft crash or for environmental damage done by the aircraft.

19. Are there any legal requirements in relation to insurance and/or reinsurance of an Aircraft registered in or operated to/from/within your country? For example is there a minimum liability insurance amount required and must some or all of the cover be taken out with local insurers?

The aircraft policy must be subscribed from the national insurance company which can reinsure the policy with an international insurance company.

20. Are there any other specific issues arising under your country's laws that you feel a lessor or financier of aircraft or engines ought to be aware of when considering whether to lease or finance an aircraft to be based or registered in your country?

No but note withholding tax and customs duties should be investigated case by case.