

Law No. 21-18 on Security Interests in Movable Property

Reference: Dahir No. 1-19-76 of 11 Chaabane 1440 (17 April 2019) promulgating Law No. 21-18 on security interests in movable property, amending the Dahir on Obligations and Contracts and the Commercial Code

Practice areas: Business law, Commercial law and debt recovery, Civil law

Law 21-18 modernises pledges: it allows non-possessory pledges over most present or future movable assets, creates a national electronic register of security interests in movable property for publicity and creditor ranking, introduces the security agent and makes it easier to enforce security, including through a forfeiture agreement (pacte comissoire).

Creation of security interests

- A pledge may cover tangible or intangible movable assets, present or future, specific or identifiable, including inventory, receivables, accounts and equipment.
- The security agreement must be in writing; dispossession is no longer a condition of validity.
- The parties may appoint a security agent responsible for creating, managing and enforcing the security on behalf of the creditors.

Publicity and enforcement

- Registration in the national electronic register of security interests in movable property makes the security enforceable against third parties and determines the ranking between creditors.
- In the event of default, the creditor may resort to a sale by auction, an authorised private sale or the appropriation of the asset (forfeiture agreement) under the statutory conditions.
- Specific rules protect the debtor as regards the valuation of the asset and the allocation of the proceeds.

Key articles

ART. 1

The purpose of the law is to amend and supplement the provisions of the Dahir on Obligations and Contracts and of the Commercial Code relating to pledges, and to create the national electronic register of security interests in movable property.

Points to watch

- A security interest not entered in the national register cannot be relied on against third parties: check the register before financing or acquiring a business asset.

- A forfeiture agreement must be expressly stipulated and comply with the valuation rules, failing which it may be challenged.
- Existing security interests must have been regularised within the transitional periods provided for by the law.

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