This country-specific Q&A provides an overview of real estate laws and regulations applicable in Morocco.

For a full list of jurisdictional Q&As visit here
1. **Overview**

The right of ownership is primarily established and protected by the constitution of the Kingdom of Morocco and the Dahir dated 12 August 1913 forming the Obligations and Contracts Code.

The transfers of commercial real estate properties, the registration of securities and easements against them and their lettings are strictly regulated in Morocco.

However, the variety of legal regimes governing lands, co-existence of unregistered and registered property together with land use policy fragmented between local, national and traditional sources of law, with a variety of texts, legislation and customs leads to a complex regime as regards ownership and transfer rights.

2. **How is ownership of real estate proved?**

For individual property of unregistered property, called “moulkiya”, property is governed by the traditional system based on local customs, under which ownership is based on peaceful possession and uninterrupted common knowledge for a period of ten (10) years (for third parties) and forty (40) years (for family members). Such ownership is proved through the issue of a document called “moulkiya” from traditional notaries (adouls).

For registered property, individual ownership is proved by registered title deed which is subject to the registration and publication process and recorded at the Land Registry (where the real estate is located) managed and controlled by the National Agency for Real Estate Conservation, Property Registries, and Cartography (ANCFCC). The information contained in the Land Registry is available to the public and can be obtained for a nominal cost. Thus, ownership of real estate is commonly evidenced by a property ownership certificate issued by the Land Registry. Such certificate contains the specific description of the plot or building, including area, definition of the type of property, and the registration of rights or restrictions on the property, including liens, mortgages, or encumbrances.

As a general rule, the facts subject to registry, such as the purchase and sale of registered property, shall only become effective against third parties after the corresponding registry date.

3. **Are there any restrictions on who can own real estate?**

Natural persons with foreign nationality, foreign legal entities and Moroccan companies with foreign capital are defined as foreign persons. As a general rule, from a Moroccan law perspective, except in some specific business sectors such as agriculture, fishery, media, banking and insurance, there are no restrictions on foreign persons acquiring real estate, either directly or indirectly through the purchase of a company holding real estate assets.
From a real estate perspective, some lands are classified as agricultural lands. According to the provisions of the Dahir relating to the purchase of agricultural land in rural areas dated 23 April 1975, foreign individuals, or entities whose share capital is held at least in part by foreign entities, are not allowed to acquire agricultural lands for agricultural purposes and may only lease such lands for up to 99 years.

However, if the foreign investor plans to carry out a non-agricultural project on an agricultural land, such as an industrial or housing project, a specific temporary and final certificate of non-agricultural purpose shall have to be obtained from the administration that will allow the foreign entity to acquire the land.

The process for the issuance of such certificate which involves different authorities such as the local town planning agency, the Wilaya (regional government office), the Investment Regional Centre and other administrative bodies is often long and complex.

4. **What types of proprietary interests in real estate can be created?**

The Moroccan Real Property Code (*Code des Droits Réels*) draws up a list of rights in rem divided into two categories: (i) the main rights *in rem* as an autonomous right not depending on any other rights and (ii) the ancillary rights *in rem* as a right depending on a personal right.

Falls into the first category: freehold, easements and encumbrances, usufruct right, right of use, surface right, emphyteusis right, right of Habous, right of Zina, right of Houa and customary rights properly constituted before the entry into force of the Real Property Code. On the other hand, are considered as ancillary rights *in rem*: privileged liens, mortgages and antichresis.

The most comprehensive real estate right is freehold. In that case the owner has full possession and exclusive use and disposition of such property. Such type of ownership is unlimited in time.

Freeholds can be owned by one or several owners. The property is then considered an indivisible or a co-owned property under the co-ownership statute (*copropriété*). Co-ownership legal regime is applicable to any asset divided into private and common areas, the private areas being those exclusively owned and used by each co-owner and the common areas, those shared and intended for the common use of the co-owners. The co-owners must comply with the co-ownership by-laws (*règlement de copropriété*) and belong to an association that holds at least a yearly general assembly (*syndicat des copropriétaires*). Co-owners have usually equal rights to use the property and they have to contribute to the necessary expenses in proportion to their respective interests in the property.

Unlike the rights referred to above, a lease gives the tenant a personal right to use certain
real estate. The lease is binding only between the landlord and the tenant. Yet, the lease is automatically transferred by operation of law when the landlord sells the real estate.

5. **Is ownership of real estate and the buildings on it separate?**

Unless structured otherwise, the ownership of real estate comprises the usable land above and below, buildings, constructions and other structures attached to it. When transferring real estate, as a general rule, the land and all buildings erected upon it automatically follow the transfer of the ownership to the buyer, without any need for specific contractual regulations in that regard.

Some exceptions to the general rule do of course exist. For instance in case of surface right (*droit de superficie*) that consists of a mere division between the ground and the surface of the ground upon which the buildings are to be erected. In such case, the land and the buildings will have different owners.

6. **What are common ownership structures for ownership of commercial real estate?**

Commercial real estate can be acquired and owned either by individuals or by legal entities. Large size or high value commercial asset are generally owned by commercial companies.

Common ownership structures include:

- **joint stock company (**société anonyme** - “SA”):** is a limited liability company, each shareholder’s liability is in principle limited to the amount of its contributions to the company. It is the most common form of commercial company with limited liability for the operation of large businesses. Most of the organization and management modalities are provided for by specific regulation regarding the SA. The most common management scheme for a SA consists in having (i) a CEO (directeur general – the legal representative of the company), and (ii) a board of directors (*conseil d’administration*). The shares in a SA are freely transferable unless otherwise provided in the company’s articles of association (which may provide for restrictions on the transfer of share, such as a temporary lock-up or prior approval clause).

- **limited liability company (**société à responsabilité limitée** – “SARL”):** is also, in principle, a limited liability company. It can be set up by only one shareholder and can have up to 50 shareholders. The SARL is often used for smaller businesses, especially because of its lighter and simpler management organization and process. Management formalities are generally not as cumbersome as in an SA. The transfer of shares in a SARL is subject to prior approval of the majority of shareholders, provided that such majority effectively represents ¾ of the shares in the company. Such prior approval clause may be extended under the terms of the article of association.

- **real estate civil company (**société civile immobilière** – “SCI”):** is a civil company whose corporate purpose is to hold real estate assets. In principle a SCI shall not have a commercial or trading nature. The shareholders are indefinitely liable for the debts of
the company in proportion to the share they hold in the share capital. It is managed by one or more managers who must be shareholders of the company. Provided that the articles of association do not stipulate otherwise, the shareholders are vested with the powers and authority to manage the Company.

It is worth noting that Morocco has recently introduced regulated investment vehicles similar to real estate investment trusts, known as *Organismes de Placement Collectif Immobilier* (OPCIs) - similar to US REITs.

OPCI main business purpose must consist in direct or indirect investments in real estate assets with a view of carrying out leasing activities. As usual for these types of real estate funds they are fully exempt from corporate tax are and exempted from paying corporate tax provided that they meet certain requirements and particularly if they comply with distribution obligations.

An OPCI may either be (i) a real estate investment company (*société de placement immobilier*) incorporated as a joint stock company, admitted to trading on the stock exchange, or (ii) a real estate investment fund (*fonds de placement imobilier “FPI”*) organized as a joint ownership without legal personality.

7. **What is the usual legal due diligence process that is undertaken when acquiring commercial real estate?**

There is no market standard process or form of reporting for the legal due diligence in respect of the acquisition of commercial real estate. However, the legal due diligence process is usually undertaken in relation to technical, commercial and legal issues by the buyer’s professional advisers (lawyers, notaries, accountants, technical advisers, property surveyors and tax advisers).

With regards to legal matters, the due diligence will generally include the review of the title and encumbrances (in order to confirm the valid and full ownership of the seller, and that the title is free and clear from any liens or encumbrances whatsoever, such as mortgages, preventive seizure, etc.) and be extended to construction matters (building permits, certificate of conformity, guarantees and related insurance coverage); third party rights and rental situation; corporate matters (comprehensive corporate due diligence should be conducted in case the acquisition of the real estate is made through a share deal); permitting (validity of operating permit); contracts relating to the property and Litigation.

8. **What legal issues (if any) cannot be covered by usual legal due diligence?**

Certain legal issues such as technical issues and defects, environmental issues, issues with access and services, unknown occupants as well as issues of technical compliance with the planning laws or health and safety rules may potentially only be identified through a physical inspection of the property.
Certified surveyors and technical experts can be assigned for this purpose and risks may also be addressed by inserting specific representations and warranties.

9. **What is the usual process for transfer of commercial real estate?**

The usual process for transferring commercial real estate through an asset deal usually starts with a preliminary non-binding agreement (letter of intent or memorandum of understanding) in order to settle the main terms of the transaction (i.e. parties, targeted real estate property, price, condition precedents) and to grant exclusivity for carrying out the due diligence.

Following the due diligence process, the parties often enter into a promise to sell and/or to purchase (unilateral or bilateral promise) subject to conditions precedent.

Once the conditions precedent have been satisfied, the parties will enter into a final deed of sale before a notary public to be registered with the Land Registry. Under Moroccan law, the transfer of ownership shall only become effective against third parties as from the date of registration of the deed of sale with the Land Registry.

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<td><strong>Pre-agreement</strong></td>
<td>Preparation of draft sale and purchase agreement</td>
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<td>No prescribed form of agreement but industry standard terms</td>
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<td>Negotiation of sale and purchase agreement with buyer</td>
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<td>Negotiation of sale and purchase agreement with buyer</td>
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<td><strong>Signing to Closing</strong></td>
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<td>In case of a promissory sale, a deposit of up to 10% of the purchase price is generally paid to the notary’s account on the signing of the deed which will be forfeited if the buyer fails to complete the sale.</td>
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Closing

- Execution of sale and purchase agreement in front of a notary public
- Payment of the remaining part of the purchase price and any costs related to the sale of the real estate (notary’s fees).
- Upon closing, the notary public will immediately proceed with the registration of the transfer at the land registry
- Transfer of ownership shall only be effective as from the date of registry before the Land Registry

Post-closing

- Payment of stamp duty land tax
- Registration of transfer at land registry
- Upon registration of the deed of sale with the Land Registry and execution of post-closing actions, the notary will release the remaining amount of the sale price to the seller

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10. **Is it common for real estate transfers to be effected by way of share transfer as well as asset transfer?**

Both asset transfers and share transfers are common, depending on many circumstances.

The sale and transfer of commercial real estate can be made either in the form of an asset deal or a share deal. Both forms are commonly used in practice. The choice of one form or the other will depend on tax, liability and commercial issues and must therefore be decided on a case by case basis.

Basically, transferring the interests of the legal entity holding the real estate asset rather than the underlying real estate could be advantageous notably for saving tax and notary’s fee, but there can be also risks linked to historical liabilities (tax, corporate and operating activities risk).

11. **On the sale of freehold interests in land does the benefit of any occupational leases and income automatically transfer?**

In Morocco, by virtue of law, occupational leases and future rental income automatically transfer upon the sale of freehold interests in real estate. The lease agreements will therefore continue with the new owner under the same terms and conditions. There are no specific formalities for such transfers, however, it is suggested to immediately communicate the acquisition to the tenants so that the rents are paid directly to the new owner.

12. **What common rights, interests and burdens can be created or attach over real estate and how are these protected?**

Various rights, interests and burdens can be created or attached to real estate by agreement or by operation of law.
Usage rights, mortgages, easements and interdictions to sell/encumber are the main contractual burdens that can be created over real estate. Such rights are generally created by way of public deed executed in front of a notary and must be registered at the land registry. Other legal servitudes may be established as per the applicable legislation.

It is worth noting that under Moroccan Law, any claimant to an interest in a registered building may request from the Land Registrar to have a specific registration (called prénotation) registered in the title deed so as to protect its right. Such registration is limited in time and must be supported by a document evidencing such right or a court proceedings.

13. **Are split legal and beneficial ownership of real estate (i.e. trust structures) recognised**

Unlike in other law systems in Europe, trust structures are not admissible in Morocco.

14. **What are the main taxes associated with commercial real estate ownership and transfer of commercial real estate?**

For an asset deal, the following fees shall be paid:

- Notary public fees: such fees vary depending on the value of the transaction and are generally borne by the buyer, unless agreed otherwise:
  - If the sale price is under or equal to MAD 300,000 the notary public fees are fixed at MAD 4,000;
  - If the sale price ranges from MAD 300,001 to MAD 1,000,000 the notary fees shall amount to 1.5% of the sale price;
  - If the sale price ranges from MAD 1,000,001 to MAD 5,000,000, the notary public fees shall amount to 1.25% of the sale price;
  - If the sale price ranges from MAD 5,000,001 to MAD 10,000,000, the notary public fees shall amount to 0.75% of the sale price; and
  - if the sale price is more than MAD 10,000,000 the notary public fees shall amount to 0.5% of the sale price.
- Registration Duties with the Tax administration: a rate of 4%, calculated on the purchase price. These registration duties are borne by the buyer.
- Registration Fees with the Land Registry: amounting to 1.5% of the purchase price (required to register the deed of sale and update the Land Registry). These registration fees are borne by the buyer.

For a share deal, the following fees shall be paid:

- Registration Duties with the Tax administration: such tax vary depending on whether the purchasing entity is considered as real estate company (meaning, any company whose gross fixed assets are composed of real estate assets for at least for 75% of the
company’s gross fixed assets):
- if the purchasing entity does not qualify as a real estate company, a share purchase agreement has to be registered with the tax office, but is exempted from registration duties.
- if the purchasing entity does qualify as a real estate company, the sale of shares triggers the payment of registration duties, at the rate of 6% of the purchase price. Such registration duties are payable by the buyer.
- Registration Fees with the Land Registry: the purchase of shares does not trigger the payment of property registry fees nor public notary fees, as the sale and purchase agreement does not need to be notarised.

Two main municipal taxes are paid on the occupation of business premises:
- Business tax: the taxable basis for business tax is based on the gross annual rental value of all the assets at the company’s disposal (including assets purchased and on rent). The applicable rate depends on the nature of the activity and ranges from 10 to 30% applicable on the annual rental value of assets used for the activity.
- Tax on Municipal Services: the basis of the municipal tax services is the same as for business tax and varies according to the geographical location of the activity as follows:
  - 10.5% for properties located within the perimeter of urban municipalities, delimited centres, and summer, winter and spa resorts; and
  - 6.5% for properties located in peripheral areas of urban municipalities.

Foreign investors are subject to income tax withholding as follows (subject to amendments of the finance bill for 2020):
- For natural persons: real estate income of natural persons is subject to the following rates,
  - less than MAD 30,000: exemption
  - between MAD 30,001 and MAD120,000: 10%
  - more than MAD 120,000: 15%

Capital gains on real estate properties are subject to individual income tax at the rate of 20%, however, in the case of capital loss, the minimum tax payable amounts to 3% of the sale price.
- For foreign companies: the following rates apply,
  - net tax income lower than MAD 300,000: 10%;
  - net tax income between MAD 300,000 and MAD1,000,000: 17.5%; and
  - net taxable income higher than MAD 1,000,000,000: 31%.

Rental of equipped premises:
Rental of equipped premises are generally subject to VAT at the rate of 20% (including rental in mall centres).
OPCI’s Tax aspects:
Regarding the OPCI, the applicable tax regime for such real estate investment vehicle is quite specific and may be summarized as follow (subject to amendments of the finance bill for 2020):

- Regarding the OPCIs upfront capital investment:
  - exemption from the tax on capital gains on the in-kind contributions (*apport en nature*) for all OPCI created before the end of 2020;
  - taxes on capital gains are paid on the sale of all or part of the shares with a 50% deduction, for all OPCI created before the end of 2020.
  - exemption from Registration Duties with the Tax Administration;
  - 1.5% for Registration Fees with the Land Registry.

- Regarding the taxation of the OPCI:
  - Exemption from Corporate Income Tax;
  - Exemption from taxes on dividend and interests.

- Regarding the taxation of shareholders:
  - Corporate Income Tax at a standard rate of 60%;
  - Taxes on dividends received by individuals at a 15% rate;
  - Taxes on dividends received by non-residents at a 15% rate;
  - Capital gain tax for individuals at a rate of 20%;
  - Capital gain tax for companies at a standard rate of 60%;
  - Exemption from Registration Duties with the Tax Administration.

In order to benefit from a total exemption from Corporate Income Tax (rental income, capital gain, dividend), the OPCI must meet the following conditions:

- Assessment made by a shares auditor;
- Holding the assets for a minimum period of ten years from the date of contribution; and
- Distribution of:
  - minimum 85% of the result of the fiscal year relating to the leasing of buildings built for professional use;
  - 100% of the dividends and shares received;
  - 100% of the fixed investment revenues received;
  - Minimum 60% of the capital gain on the sale of securities.

15. **What are common terms of commercial leases and are there regulatory controls on the terms of leases?**

Commercial lease is regulated under Morocco by the Law No 49-16, which sets out a complete list of situations in which it applies. Therefore, the landlord must grant a commercial lease for:

- premises or buildings in which a business (*fonds de commerce*) is operated;
- premises or buildings considered as an accessory to the main premises in which the business is operated;
- premises that consist of undeveloped land that will be developed and used to operate a
business;
- premises or buildings used for commercial, industrial and handicraft purposes and as part of a private State domain; and
- premises and buildings used as private schools, clinics, or pharmaceutical laboratories.

However, the applicable law for commercial leases expressly excludes specific cases for which it shall not apply:

- premises or buildings that are part of the public state domain;
- premises or buildings that form part of the private state domain but are used for public interest;
- premises of buildings located in a shopping mall; and
- premises or buildings located in a dedicated zone gathering companies operating information, technology, industrial or offshoring activities.

One of the main characteristics of a commercial lease is the right for the tenant to renew the lease. This right implies that in case of non-renewal the tenant is entitled to compensation (indemnité d’éviction) based on the value of its business, among other things. The eligibility for such right of renewal is subject to the following conditions:

- effective occupation of the premises by the tenant for two consecutive years; or
- payment by the tenant of ‘key money’ (pas-de-porte).

**Duration:**
The term of the lease is not regulated under Moroccan law, therefore the landlord and the tenant may enter into a lease for the duration they wish. However it is recommended not enter into a lease exceeding 10 years, to avoid the risk of being qualified by the tax administration as a long-term lease and to trigger a registration duties amounting to 6% of the annual rent multiplied by 20.

**Works and repairs:**
The parties are free to allocate the different type of works and repairs. However usually:

- the tenant is in charge of ordinary repairs and maintenance, and
- the landlord bears the costs of structural and major repairs and repairs resulting from wear and tear, force majeure events and construction defect.

**Rent revision:**
According to the applicable regulation, the tenant and the landlord may freely agree on setting the rent amount, the conditions for its revision and the rate of its increase or decrease.

However the law regulates the rent revision mechanism by prohibiting the increase of the rent amount for a period shorter than three years from the date of concluding the lease contract, or from the date of the last judicial or contractual review, and/or to agree on an increase in excess of the rates set out by the applicable law (i.e., 8% for residential leases and 10% for others, including commercial leases).
In addition, the tenant may request a rent reduction when the premises are partially destroyed or damaged in such a way that they are not fit for the purpose for which they were leased, or when the features of the premises required by the destination of the premises are lacking.

**Subletting:**
Unless otherwise agreed by the parties, sub-letting is prohibited.

**Assignment:**
Exclusion of the right to assign a lease is not permitted under the applicable law. However, the lease may provide that the right of the tenant to assign the lease, and/or its going concern, is subject to prior approval of the landlord.

**Use of the premises:**
The permitted use of the premises is generally narrowly defined and any changes require the landlord’s consent. The law provides that the tenant may only use the premises for an activity other than the one agreed under the lease provided that such request was subject to written consent from the landlord.

If such prior consent is not granted and the tenant unilaterally changes the use of his premises, the landlord is entitled to refuse the renewal of the lease and the payment of the eviction allowance.

**Securities to protect against failure of the tenant:**
The parties can agree on the following forms of security:

- cash security deposit for an agreed amount but limited to two months rent for professional and residential leases;
- bank guarantees substituting a cash security deposit;
- prepaid rent.

For significant lease agreements, the landlord may also request that the chosen guarantee shall also cover the payment of service charges.

**Right to terminate the lease:**
The tenant may request the termination of the lease, unless otherwise provided for, at any time subject to prior notice.

In theory, the landlord is not entitled to terminate the lease without paying and eviction allowance to the tenant. However, if the tenant has failed to pay his rent for a period of more than three months, tenant despite a 15 days’ formal prior notice from the landlord, the latter may request a judicial termination of the lease if the lease provides for a termination clause (*clause résolutoire*).

In addition, the landlord may also terminate the lease without paying an eviction allowance if:

- the tenant proceeds to unauthorised alterations of the premises that could jeopardise the safety of the building;
- the tenant uses the premises for an activity other than the originally agreed use;
- the premises as facing collapse;
- the tenant is subletting the premises contrary to the terms of the lease; and
- if the tenant loses its clientele after the premises are closed for a minimum of two years.
16. How are use, planning and zoning restrictions on real estate regulated?

Strategic plans and zoning schemes are established through the issue of Urban Development Master Plans (Schémas Directeurs d’Aménagement Urbain) and zoning plans (plans de zonage). Each municipality drafts development plans (plans d’aménagement), which divide the area into zones of different uses, and attribute building density ratios to each zone.

In practice planning and zoning restrictions are applicable throughout the administrative authorization that may or may not be granted to build a new building or refurbish an existing building.

The authorities in charge of regulating the development and designated use of individual parcels of real estate are mostly the local authorities, including the urban agencies and the municipal presidents responsible for issuing building permits.

The main authorisations and permits required for the construction of a real estate project may be summarised as follows:

- environmental acceptability decision (decision acceptabilité environementale): such approval must be sought by companies that carry out projects relating to a certain type of activity, before the ministry of environment, on the basis of the results of an environmental impact study. In principle, the authorities request such authorization / decision prior to issuing the building permits and the certificate of compliance

- Hazardous facilities (installations classées): prior to starting the construction of insalubrious, inconvenient or dangerous facilities, an approval must be obtained from relevant authorities or a declaration has to be filed, depending on the nature/class of the facilities.

- Building permit: any construction work shall be subject to a building permit, delivered by the president of the city council for the location of the contemplated construction. The building permit is deemed delivered unless objections are raised by the administration within two months of the land owner or developer filing the request. The building permit is delivered when the contemplated constructions are deemed to satisfy the legal and regulatory provisions in force (zoning and planning plans).

- Subdivision permit (permis de lotir) and authorisation to split up (authorisation de morcellement): the splitting up of a plot into several parcels needs to be granted authorisation to subdivide and authorisation to split up in order to be able, in particular, to split the primary land title into several land titles, allowing each lot to have a separate land title.

- Certificate of compliance (certificat de conformité) or occupancy permit (permis d’habiter): such permit/certificate must be obtained upon completion of any construction in order to
confirm that the buildings erected are in accordance with the provisions of the building permit. This permit/certificate is a prerequisite to the use of the erected building. In case of non-compliance with the applicable regulations related to construction and planning law, a fine ranging from MAD 1,000 to MAD 100,000 may be ordered against the violating party and the following measures could be taken:

- closing of the construction site until proper building permit is obtained;
- obligation to modify the constructions so as to conform with the regulations in force; or
- obligation to demolish the construction works.

Anyone that continues to operate a project in spite of a decision to close the construction site may be punished by imprisonment of fifteen (15) days to three (3) months.

17. **Who can be liable for environmental contamination on real estate?**

Moroccan environmental law is based on the “polluter pays” principle, which means that, in practice, the person responsible for the pollution will be liable towards the public authorities to investigate possible pollution/contamination originating from the its activities and to take appropriate actions to remediate such pollution.

Therefore, if an owner discovers pollution on the property he owns, the latter must prove that such pollution was generated by the previous owner or by a tenant prior to the transfer of ownership of the property in order to avoid being liable for such pollution.

It is worth noting that natural or legal person storing, transporting or using hydrocarbons or toxic and dangerous substances - or any operator of a classified installation that has caused bodily injury or material damage directly or indirectly related to the exercise of the abovementioned activities will be deemed liable without the need of evidencing a fault.

18. **Is expropriation of real estate possible?**

The Moroccan legal framework provides for the possibility for the Moroccan State to expropriate land for reasons of public interest, or for temporary use. In such case, the state must compensate the expropriated entity.

The expropriation process is basically divided into an administrative phase, including a declaration of public utility (déclaration d’utilité publique), a public enquiry (enquête publique) and a transfer order (arrêté de cessibilité), followed, as the case may be, by a judicial phase if the owner concerned contests the public utility or the amount of the indemnity proposed.

The compensation is based on the current and the effective damage caused directly by the expropriation (value of the property on the day of the decision pronouncing the
expropriation), and cannot include uncertain and indirect damage.

19. **Is it possible to create mortgages over real estate and how are these protected and enforced?**

Mortgage is a legal possibility under Moroccan law. The Moroccan Real Property Code has 49 articles dealing with the general provisions, constitution and effects of mortgages.

The mortgagee may, by virtue of a special certificate of registration issued by the registrar, sell the encumbered property at public auction. As the special certificate is an enforceable title, it must send a summons to the debtor or third party holder through the enforcement agent. Once served with a formal notice, the interested parties have 15 days from the date of receipt of the summons to pay the debt or abandon the building. This summons is considered a seizure of real estate and has the same effect.

The mortgagee also has a preferential right and will be paid on the price of the auction of the property in priority to other creditors. The preferential right is exercised on the price of the mortgaged property as well as on the property included in the mortgage base (real estate accessories, fruits due and received since the seizure).

20. **Are there material registration costs associated with the creation of mortgages over real estate?**

The registration of a mortgage generates substantial registration duties and land registry fees charged as follows (progressive rate):

- Registration duties: the amount of the mortgage is subject to registration duties at the rate of 1.5%
- Land registry fees: such fees vary depending on the value of the mortgage as follows:
  - lower than MAD 250,000: 0.5%;
  - between MAD 250,000 and 5,000,000: 1.5%
  - above MAD 5,000,000: 0.5%.

A fixed duty (per property) of MAD 100 also applies.

21. **Is it possible to create a trust structure for mortgage security over real estate?**

Unlike in other law systems in Europe, parallel debt structures are not recognized in Morocco.

22. **What is the main legislation relating to commercial real estate ownership?**

The main legislation governing real estate ownership are the Dahir dated 12 August 1913 forming the Obligations and Contracts Code regulating the general rules of contract law (as
amended from time to time), the Law No 14-07 amending and supplementing the Dahir of 12 August 1913 on land titling, the Law No 39-08 forming the Real Property Code (Code des Droits Réels) and the Law No 18-00 regulating the co-ownership rules applicable to erected buildings.