

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	637
Land:	Den Demokratiske Republik Congo
Kilde:	US Department of State
Titel:	2020 Trafficking in Persons Report: Democratic Republic of the Congo
Udgivet:	25. juni 2020
Optaget på baggrundsmaterialet:	21. september 2020

Document #2036248

USDOS – US Department of State

2020 Trafficking in Persons Report: Democratic Republic of the Congo

CONGO, DEMOCRATIC REPUBLIC OF THE: Tier 2 Watch List

The Government of the Democratic Republic of the Congo (DRC) does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government made key achievements during the reporting period; therefore the DRC was upgraded to Tier 2 Watch List. These achievements included increasing the number of investigations and prosecutions of trafficking cases, specifically on sex trafficking and forced labor—crimes that had previously been mostly unaddressed in the justice system—while still investigating and prosecuting child soldiering crimes. The government convicted a former colonel in the Congolese National Army (FARDC) and the leader of an armed group for trafficking crimes, among others; sentenced them to adequate penalties, including significant prison terms; and ordered the leader of an armed group and two accomplices to pay restitution to more than 300 victims of sexual enslavement and other crimes. While the government remained without standard operating procedures for victim identification and referral to care and a comprehensive system to report data, for the first time, the government drafted quarterly progress reports on human trafficking and in one such report, stated it identified victims. The government established a formal anti-trafficking inter-ministerial committee that monitored shelters, coordinated with NGOs and international organizations to identify and protect victims, and it drafted and launched the government's first national anti-trafficking action plan. In partnership with international organizations, the government also continued to undertake measures to prevent and end the use of child soldiers, including separating child soldiers from non-state armed groups, conducting age verification screening of recruits, and securing written pledges from 27 non-state armed group commanders to renounce child recruitment. Despite these achievements, the government did not comprehensively report on anti-trafficking law enforcement and protection efforts and did not disaggregate law enforcement efforts directly targeting sex trafficking from other sexual violence crimes. There were credible allegations that a FARDC regiment forcibly recruited women and girls through abduction for sexual slavery in Kasai Province, and reports persisted that the FARDC collaborated with proxy militias that recruited and used child soldiers. The government did not develop standard operating procedures for the identification and referral of victims, adopt comprehensive legislation criminalizing all forms of trafficking, or adequately hold accountable complicit officials. Widespread corruption combined with the lack of an anti-trafficking framework continued to hinder efforts to combat all forms of human trafficking throughout the country.

PRIORITIZED RECOMMENDATIONS:

Increase efforts to address all forms of trafficking, including sex trafficking and labor trafficking of both adults and children. • Improve measures to proactively identify trafficking victims, including providing training for front-line officials to do so among vulnerable groups, including women and children exploited in commercial sex, street children, and men, women, and children in artisanal mining, and to refer victims to appropriate care. • Cease unlawful use of children by the FARDC and collaboration with armed groups that recruit and use child soldiers. • Pass legislation that criminalizes all forms of trafficking and prescribes penalties which are sufficiently stringent, and with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes. • In partnership with civil society, take concrete steps to provide comprehensive protection services to victims of all forms of trafficking, and ensure trafficking victims are not punished for unlawful acts traffickers compelled them to commit. • In partnership with international experts, develop national standard operating procedures for the identification and referral of victims. • Develop and implement procedures for collecting and reporting data on cases of sex trafficking, as distinct from other sexual violence crimes, and forced labor. • Continue to cooperate with civil society to end the unlawful recruitment and use of child soldiers by all governmental and non-governmental armed groups and identify, remove, demobilize, and refer all children associated with armed groups to appropriate care. • Use existing legislation to increase efforts to investigate, prosecute, convict, and adequately sentence traffickers, including complicit officials. • Raise awareness about human trafficking among the public.

PROSECUTION

The government increased law enforcement efforts. Congolese law criminalized all forms of sex trafficking and some forms of labor trafficking. However, the lack of a comprehensive anti-trafficking legal framework continued to contribute to officials' lack of understanding of trafficking and their conflation of it with other crimes, such as illegal international adoption. Article 174(j) of the 2006 Sexual Violence Law criminalized child sex trafficking and prescribed penalties of 10 to 20 years' imprisonment. Section 174(e) criminalized sexual slavery and prescribed penalties ranging from five to 20 years' imprisonment as well as a fine of 200,000 Congolese franc (\$120). These penalties were sufficiently stringent and commensurate with those prescribed for other serious crimes. Article 174 (c), which criminalized the “forced prostitution” of adults, prescribed penalties of three months to five years' imprisonment; these penalties were sufficiently stringent but not commensurate with those prescribed for other serious crimes, such as rape. Articles 182 and 183 of the 2009 Child Protection Law 09/001 also criminalized the “procurement” of children and child sexual slavery and prescribed penalties of five to 20 years' and 10 to 20 years' imprisonment with a fine between 8,000 and one million Congolese franc (\$4.85 to \$610), respectively; these penalties were sufficiently stringent and commensurate, with respect to sex trafficking, with other serious crimes, such as rape. Article 187 criminalized child labor, including forced child labor, and prescribed penalties of one to three years' imprisonment and fine between 100,000 and 200,000 Congolese franc (\$61 to \$120); these penalties were not sufficiently stringent. Article 326 of the 2002 Labor Code criminalized adult forced labor and prescribed penalties of up to six months' imprisonment or a fine of 30,000 Congolese franc (\$18); this penalty was not sufficiently stringent. Congolese law also criminalized the enlistment of persons younger than 18 years old into the armed forces and the police, which carried penalties of 10 to 20 years' imprisonment. The government drafted and in December 2019 passed to the National Assembly an anti-trafficking law, which was scheduled for parliamentary debate and adoption in March 2020.

The judicial system in the DRC remained weak; however, the government increased investigations and prosecutions of cases involving not only recruitment of child soldiers but also sex trafficking and domestic servitude and maintained the number of convictions. The government did not report comprehensive data on trafficking investigations, prosecutions, and convictions. The government reported investigating 32 suspected traffickers, including 15 for sex trafficking, five for child soldier recruitment, four for forced labor, and eight for unknown types of exploitation, an increase compared with investigating 14 suspected traffickers for recruitment of child soldiers during the previous reporting period. The government prosecuted six alleged traffickers, four for the recruitment of child soldiers, one for sex trafficking, and one for domestic servitude, compared with prosecuting 14 traffickers for child soldier recruitment in 2018. The government convicted four traffickers for recruitment of child soldiers and sexual slavery, compared with convicting four traffickers for recruitment of child soldiers in 2018. Of these, the government convicted one former FARDC colonel to life imprisonment for child soldier recruitment, among other crimes. It also convicted a leader of an armed group and two militia members for crimes against humanity, including sexual slavery; the government sentenced the three men to 15 years' to life imprisonment, and the judge found the government liable for failing to take measures to prevent the crimes and ordered the state to pay reparations to more than 300 victims of sexual slavery. The Agency for the Prevention and the Fight Against Trafficking in Persons (APLTP), the newly-established national coordinating body in April 2019, reported that 1,135 women were abducted by armed groups for sexual slavery in Ituri province and that local NGOs brought 142 cases before provincial courts; the government did not report any additional information about the status of these cases. The government did not make sufficient efforts to investigate the sex trafficking of women and children or forced labor of victims in artisanal mining, even though the scale of these crimes was significant. It continued to work towards implementation of a national data collection tool to report comprehensive data; but, it did not deploy the system during the reporting period.

Despite the government's efforts to convict the former FARDC colonel, government corruption and complicity in trafficking crimes remained a significant concern. The government issued an arrest warrant for the leader of the armed group Nduma Defense of Congo-Renove (NDC-R) for recruitment of child soldiers, mass rape and other crimes. However, the NDC-R leader was not arrested during the reporting period, and observers reported the FARDC provided support to the NDC-R, including through FARDC commanders who allegedly protected the NDC-R leader who continued to operate freely in North Kivu. During the reporting period, there were credible allegations that a FARDC regiment forcibly recruited women and girls through abduction for sexual slavery in Kasai Province. Military prosecutors investigated the regiment and detained 10 soldiers under suspicion of rape and abduction but released the soldiers when the victims presented electoral identification cards showing them to be older than age 18. Experts reported the identification cards were fraudulent, and the government subsequently conducted age verification and found several girls were among those recruited. Military prosecutors announced their intent to bring formal charges against two of the soldiers, and the investigation was ongoing at the close of the reporting period. This is in comparison to two previous cases of children used—but not recruited—in support roles by the FARDC during the previous reporting period. In coordination with an international donor, the government trained 25 mine inspectors and controllers in north and

south Kivu on inspections, child labor, and sex trafficking. In addition, the Ministry of Social Affairs signed an agreement with its counterpart ministry in the Republic of the Congo that improved data sharing and law enforcement cooperation on child trafficking cases. As a result, the Republic of the Congo extradited a Congolese man who killed a 16-year-old female trafficking victim from Kinshasa. In Kinshasa, the man was tried and convicted of murder, which carried a higher sentence than trafficking, and the judge sentenced him to life imprisonment.

PROTECTION

The government maintained efforts to protect trafficking victims. The government did not have standard operating procedures to systematically identify and refer trafficking victims to appropriate care; however, some NGOs reported that the Ministry of Social Affairs and the General Directorate of Migration identified and referred an unknown number of potential trafficking victims to NGOs for care on an ad hoc basis and the government continued to identify and refer trafficking victims to international organizations. The government did not comprehensively report its effort to identify victims but for the first time, the government drafted quarterly progress reports on human trafficking. In one such report, the Ministry of Interior stated it identified five sex trafficking victims and one victim of domestic servitude. Two NGOs in Kinshasa reported separately identifying 25 trafficking victims, six of whom traffickers exploited in forced labor. The APLTP referred victims to and monitored conditions in three shelters—two in Kinshasa and the other in the major eastern city of Bunia in Ituri province—where NGOs provided an estimated 650 trafficking victims with protective services in 2019. In partnership with the UN Peacekeeping and Stabilization Mission in the DRC (MONUSCO), the Ministry of Defense identified 3,107 former child soldiers and referred all victims to care in coordination with the Ministries of Health, Education, and Social Affairs. The government collaborated with international organizations and NGOs to provide protective services to another 400 victims of child soldering. The provincial government in Ituri province identified 100 women in Djugu who traffickers used as sex slaves; the government was negotiating their release at the close of the reporting period. An NGO operating in Ituri province reported providing services to 1,305 victims of sexual violence, of which at least half were sex trafficking victims. As part of its national disarmament, demobilization, and reintegration plan, the government continued to cooperate with an international organization and NGOs to identify and remove child soldiers from armed groups operating in eastern DRC. Procedures were in place for referring child soldiers to an international organization for specialized care, which most but not all of the children received. The government did not proactively identify victims among vulnerable groups, such as street children, women, and children exploited in commercial sex, and men, women, and children in artisanal mining, even though the scale of these problems was significant.

The government did not provide specialized services and care to trafficking victims as distinct from other vulnerable groups. The government provided victims housing for up to three months, family reunification for children separated from armed groups, and support for socio-economic integration of sexual violence victims; the government did not report the total number of children it provided with these services. The UN reported it provided some form of medical help to 1,169 children affected by conflict-related sexual violence, including sex trafficking victims. The government collaborated with NGOs to provide the vast majority of services to trafficking victims, which reported providing assistance to approximately 677 trafficking victims during the reporting period, including medical and psychological services, legal assistance, and reintegration services such as literacy and vocational training. The government also reportedly cooperated with the Government of the Republic of the Congo to address cross-border trafficking by preventing all unaccompanied minors from entering into the country.

Trafficking victims could file cases against their traffickers in civil courts, though few victims pursued this avenue because compensation for victims was rarely, if ever, paid. In November, one judge ordered the leader of an armed group and two accomplices to pay restitution to more than 300 victims of sexual enslavement and other crimes. Recognizing that the convicted men would not be able to pay the required amount, the judge ordered the government to pay the reparations; however, in the past the government also has not been able to pay restitution, and at the end of the reporting period this sum had not yet been dispersed. The government coordinated with MONUSCO to repatriate at least 18 children from foreign countries, including nine to Rwanda, four to Burundi, three to Uganda, and two to Zambia. The government reported it detained 111 children during the reporting period following separation from armed groups. The government alerted MONUSCO of children in their custody, and they were released, on average, within one week; however, in previous years, some victims were held as long as two years. Furthermore, the government typically holds these children in local detention cells, which suffered from overcrowding, lack of food and health services, and poor sanitation. Due to a lack of training on victim identification, the absence of measures to screen for trafficking among vulnerable populations, and the frequency of arbitrary arrest in the country, victims likely remained unidentified in the law enforcement system.

PREVENTION

The government increased efforts to prevent trafficking. In April 2019, the government stood up the APLTP, a national coordinating body embedded in the Office of the Presidency, composed of government officials, local NGOs, and international organizations that formulated, monitored, and evaluated government anti-trafficking policy. During the reporting period, the APLTP drafted and launched the government's first national anti-trafficking action plan, which will guide anti-trafficking efforts through 2024. The government did not allocate the resources necessary to implement all aspects of the action plan, and the APLTP was located on the outskirts of the capital, Kinshasa, which inhibited its ability to coordinate easily with key stakeholders. In May, the Minister of Labor temporarily closed 116 labor recruitment and placement agencies due to concerns of potential trafficking. In order to prevent predatory recruitment practices, the government fixed new conditions required to establish a labor recruitment and placement agency, including having a National Business Identification Certificate, a business license, and a tax ID number, as well as gaining official recognition by the Ministry of Labor. However, Congolese law does not criminalize fraudulent labor recruitment, thereby limiting the government's ability to penalize agencies for such actions.

The government continued efforts to prevent the recruitment and use of children into the FARDC. MONUSCO reported there were 601 confirmed cases of new child recruitment by armed groups, a continued decrease compared with 631 verified cases in 2018 and 1,049 verified cases in 2017. In collaboration with an international organization, the government's Joint Technical Working Group (JTWG) for implementing the UN National Action Plan to end child recruitment—which was comprised of government ministries, NGOs, and international organizations—continued to implement a national action plan to end the recruitment and use of child soldiers and remove them from armed groups. The UN documented 3,107 cases of children separated or escaped from armed groups in 2019, an increase from 2,253 children in 2018. The national-level JTWG, with locations in nearly every region, met monthly and, with collaboration from an international organization, held 19 workshops on age verification and the child soldier action plan. In partnership with NGOs, the government screened new FARDC recruits to verify their ages; through the screening process, the government prevented more than 141 children from joining the FARDC in 2019. The FARDC continued to collaborate with the NDC-R, a proxy militia that recruited and used child soldiers, by tolerating the free movement of the group and their use of FARDC uniforms in North Kivu Province; observers reported that one colonel delivered weapons and ammunition to NDC-R. During the reporting period, however, the government facilitated the logistics to allow an international organization to successfully negotiate with 27 armed group commanders, which resulted in the voluntary release of 920 children by these commanders in 2019. All 27 commanders signed pledges renouncing future recruitment of children and requiring the release of children currently among their recruits. There are currently no measures to address the termination of these proxy relationships within the national action plan to end the recruitment and use of child soldiers.

In November, in collaboration with an international organization, the Ministry of Mines conducted a workshop to operationalize and implement the 2017 National Strategy to Combat Child Labor in the mining sector. The Ministry of Mines also signed two decrees, one related to artisanal mining of strategic minerals and the other to establish an authority to regulate and monitor these artisanal minerals. These decrees required the regulatory authority to ensure there is no presence of children and other vulnerable populations in the mine sites or in the strategic mineral supply chains. During the reporting period, the government continued its efforts, in cooperation with an international organization, to validate and certify artisanal mining sites in eastern DRC as conflict-free and child labor-free, bringing the total to at least 465 tantalum mines and 106 gold mines. The government did not provide anti-trafficking training to its diplomatic personnel. The government did not provide anti-trafficking training for FARDC troops prior to their deployment abroad as part of international peacekeeping missions. The government did not make efforts to reduce the demand for commercial sex acts.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in DRC, and traffickers exploit victims from DRC abroad. Some traffickers were individuals or family members who promised victims or victims' families educational or employment opportunities but instead exploited trafficking victims by forcing them to work as domestic servants, street vendors, gang members, or in commercial sex. Most trafficking is internal and involves forced labor in artisanal mining sites, agriculture, domestic servitude, or child recruitment by armed groups, or sex trafficking. In 2019, several armed groups continued to abduct and forcibly recruit Congolese men, women, and children as combatants and in support roles, such as guards, porters, cleaners, cooks, messengers, spies, and tax collectors at mining sites; women and girls were forced to marry or serve as sex slaves for members of some armed groups. Traffickers forced children across the border into the Republic of the Congo where they were forced to commit theft. Child soldiers separated from armed groups and reintegrated into society remain vulnerable to re-recruitment, as adequate rehabilitation services did not exist for children suffering severe psychological trauma, and stigmatization may interfere with community reintegration. There were no confirmed cases of child soldier recruitment by the FARDC for the fifth consecutive year. The FARDC, however, continued to

collaborate with proxy militias that recruited and used children in armed conflict. An international organization reported ongoing collaboration between the FARDC and NDC-R, which recruited at least 11 children until September of 2019. Collaboration included the provision of ammunition and uniforms by FARDC officials, NDC-R's free movement throughout their territory, and coordinating strategies and battlefield tactics against other armed groups.

Traffickers, including mining bosses, other miners, family members, government officials, and armed groups, exploit some men, women, and children working in artisanal mines in eastern DRC in forced labor, including through debt-based coercion. Traffickers subject some children to forced labor in the illegal mining of diamonds, copper, gold, cobalt, tungsten ore, tantalum ore, and tin, as well as the smuggling of minerals. In January 2016, an international organization reported widespread abuse, including forced labor, of some children in artisanal cobalt mines in southern DRC; some children reported extremely long working hours and physical abuse by security guards employed by the state mining company. Children are also vulnerable to forced labor in small-scale agriculture, domestic work, street begging, vending, and portering. Children from the Republic of the Congo may transit through the DRC en route to Angola or South Africa, where traffickers may exploit them in domestic servitude. Some traffickers force Congolese women and girls into forced marriages where they are highly vulnerable to domestic servitude or sex trafficking. Congolese women and children migrate to other countries in Africa, the Middle East, and Europe, where traffickers exploit them in sex trafficking or forced labor in agriculture, diamond mines, or domestic service. Some traffickers may fraudulently recruit women and force them into domestic work abroad through false promises of education or employment opportunities.

ecoi.net summary:



Annual report on
trafficking in persons (covering
April 2019 to March 2020)

Country:

Congo, Democratic Republic

Source:

[USDOS – US Department of
State](#)

Original link:

[https://www.state.gov/reports/2020-
trafficking-in-persons-
report/democratic-republic-of-
the-congo/](https://www.state.gov/reports/2020-trafficking-in-persons-report/democratic-republic-of-the-congo/)

Document type:

Periodical Report

Language:

English

Published:

25 June 2020

Document ID:

2036248

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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

