

Flygtningenævnets baggrundsmateriale

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IRB – Immigration and Refugee Board of Canada

Democratic Republic of the Congo: Treatment by authorities of political opponents, including those who are members of the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social, UDPS) or the Common Front for Change (Front commun pour le Congo, FCC) (2020–March 2022) [COD200964.FE]

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

Sources report that authorities repressed [Amnesty International English version] "freedom of expression" in 2020 (Amnesty International 7 Apr. 2021, 385) or [HRW English version] "dissenting voices" in 2021 (HRW 13 Jan. 2022). Human Rights Watch (HRW) reports that in 2021, critics of government policies, journalists, activists and whistleblowers were [HRW English version] "intimidated and threatened, beaten, arrested, and in some cases prosecuted by the authorities and security forces" (HRW 13 Jan. 2022). Similarly, according to the US Department of State's *Country Reports on Human Rights Practices for 2020*, opposition party members, civil society activists and journalists were subjected to arbitrary arrest and denied due process by state security agents (US 30 Mar. 2021, 8).

The information in the following paragraph was provided by a professor at the University of Mons in Belgium, whose research focuses on power and political resistance, power relations between peasants and local elites, and land grab issues in Africa's Great Lakes region, particularly in the Democratic Republic of the Congo (DRC), in a telephone interview with the Research Directorate:

Although the accession of Félix Tshisekedi [leader of the UDPS political party] to the presidency in 2019 signalled the departure of a president, Joseph Kabila [leader of the People's Party for Reconstruction and Democracy (Parti du peuple pour la reconstruction et la démocratie, PPRD) and the FCC coalition] who had been in power for 18 years, the change was [translation] "not at all definitive." From 2019 until the beginning of 2020, the alliance between the former and current presidents and their respective political camps for governing the country ensured that there was "no change" in the political space. The change in the central regime [in 2019] did not affect how the 26 decentralized provinces functioned or were secured in a way that allowed the judiciary and the police to prevent the continued "killings." The old regime still has a hand in the justice system and corruption; intimidation and human rights abuses continue under the new regime (Professor 28 Feb. 2022). For additional information on the political situation in the DRC, including the existence of ties between the current and former governments and between state institutions and the former government, see Response to Information Request COD200963 of March 2022.

2. Treatment of Political Opponents by The Authorities

The Professor stated that [translation] "hundreds of thousands" of Congolese had to flee the country after they reported cases of corruption or the misappropriation of funds, not only because the alleged perpetrators are powerful, but also because there are "such extensive and sufficient means" to corrupt each stakeholder "all the way to the top government official" to ensure that the person never achieves justice (Professor 28 Feb. 2022). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to Afrikarabia, a news website dedicated to the DRC and run by journalist Christophe Rigaud, protests opposing the Tshisekedi government are [translation] "systematically prohibited by the authorities" in connection with the COVID-19 pandemic, "under the pretext of health," while political meetings led by the UDPS are still allowed (Afrikarabia 15 Sept. 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.1 UDPS Members

Information on the treatment of UDPS supporters during the past two years was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

The information in the following paragraph was provided by the Professor:

Political parties have more activists before they come to power, but once in power, there are a limited number of seats. As a result, members [translation] "legitimate by their roots" and their party activism can be "violently" dismissed. That is why today there are "many" UDPS members who claim to be treated worse under their own political party's regime than during Kabila's time. Rather than relying on the issue of the regime in power to understand how political actors, including those from the party in power, are treated by the authorities, it is necessary to "start with material questions," to know first of all, what is at stake, in terms of the matter being negotiated, as well as the officials involved (Professor 28 Feb. 2022).

According to sources, on 12 and 13 July 2020, three bodies were found in the Lubumbashi River in Haut-Katanga province [1] (AA 14 July 2020; HRW 12 Aug. 2020) following protests held on 9 July 2020, which included supporters of the UDPS and the PPRD, in response to the National Assembly's approval of a new head of the National Independent Electoral Commission (Commission électorale nationale indépendante, CENI) (HRW 12 Aug. 2020). HRW reports that the three bodies recovered from the river, as well as a fourth body, were identified as those of UDPS protesters who had disappeared after the demonstrations; according to witnesses, the bodies had [HRW English version] "traces of cuts and mutilation, which could be the result of torture" (HRW 12 Aug. 2020). HRW reports that, according to [HRW English version] "several" sources, "at least" 16 people were arrested by military authorities in connection with the demonstrations, and relatives of one of the victims reported to HRW that he had been held in military detention after the demonstrations and that he was wearing the same clothes in the morgue (HRW 12 Aug. 2020). According to sources, the authorities stated that the case had been referred to judicial authorities for investigation (AA 14 July 2020; HRW 12 Aug. 2020). Information on the outcome of these investigations could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.2 Members of the FCC

Information on the treatment of FCC members and supporters of the former head of state Joseph Kabila in recent years was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources report that a popular singer who is a PPRD and Kabila supporter was arrested by the National Intelligence Agency (Agence nationale de renseignements, ANR) in November 2020 following the release of her new single that allegedly targeted Tshisekedi (HRW 28 Jan. 2021; VOA Afrique 16 Nov. 2020; AA 16 Nov. 2020); the song was banned from the airwaves (HRW 28 Jan. 2021; AA 16 Nov. 2020).

Voice of America (VOA) Afrique, an American international broadcaster funded by the US Congress (VOA n.d.), reports that in November 2020, protests by Kabila supporters were dispersed by the police [translation] "with tear gas," while a march by UDPS supporters took place on the same day without police intervention, as it had allegedly been "granted the required authorization" (VOA Afrique 16 Nov. 2020).

Sources report that in May 2020 in Kinshasa, the Vice-President of the PPRD Youth League was arrested for [HRW English version] "contempt" for the president (HRW 28 Jan. 2021; Politico.cd 16 May 2020). According to HRW, he was sentenced to two years in prison for questioning Tshisekedi's 2018 election victory during a media interview (HRW 28 Jan. 2021).

Sources report that during peaceful protests organized by FCC supporters in mid-January 2022 in Haut-Katanga province calling for the release of Daniel Ngoy Mulunda [former CENI president (Ouragan.cd 18 Jan. 2022)], the march was [translation] "repressed" by the Congolese National Police (Police nationale congolaise, PNC) (Ouragan.cd 18 Jan. 2022; Radio Okapi 25 Jan. 2022). According to Ouragan.cd, an online newspaper covering news in the DRC (Ouragan.cd n.d.), citing a former minister of health, police used of [translation] "live ammunition [and] bayonets" against protesters during the authorized march (Ouragan.cd 18 Jan. 2022).

Sources report that Josué Mufula, a member of the National Assembly from North Kivu [and a Kabila loyalist; loyal to the FCC (Actualite.cd 8 Feb. 2022)] was arrested and detained for criticizing the extension of the state of siege declared on 4 February 2022 (Actualite.cd 8 Feb. 2022; International Crisis Group Feb. 2022) and released the next day (International Crisis Group Feb. 2022). For further information on the state of siege, see section 3 of this Response.

According to media sources, and without the government providing further details, François Beya, special security advisor to President Tshisekedi and a member of the former Kabila regime, was detained at ANR offices in Kinshasa from 5 February 2022 following "serious evidence" of a national security threat (*African Business* 17 Feb. 2022; RFI 10 Feb. 2022) and "allegations" of a coup attempt (*African Business* 17 Feb. 2022).

2.3 Leaders and Members of Other Political Parties

In its annual report on the state of freedom in the DRC for 2020, Freedom House states that opposition leaders and their supporters are "often" intimidated and face restrictions on their freedom of movement and rights to campaign or organize public events (Freedom House 3 Mar. 2021, Sec. B1). According to Radio Okapi, a radio station managed by the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) (Radio Okapi n.d.), various protests, some opposing and others supporting the governor of Tanganyika province, Zoé Kabila [brother of former head of state Joseph Kabila], who faced a vote to oust him on 6 May 2021, were held in the city of Kalemie on 10 May 2021 and were repressed by law enforcement using tear gas (Radio Okapi 11 May 2021).

According to *US Country Reports 2020*, Martin Fayulu, a former candidate in the most recent presidential election and political opposition leader, was banned from holding meetings in six cities on 7 January 2020, and protests held by his political group in Kinshasa and Kindu were "violently dispersed" (US 30 Mar. 2021, 21, 26). Media sources report that on 15 September 2021 in Kinshasa, security forces "[translation]" "rapidly" (TV5MONDE and AFP 15 Sept. 2021) or "[translation]" "violently" (Afrikarabia 15 Sept. 2021) "repressed" a protest organized by Fayulu (Afrikarabia 15 Sept. 2021) or his political group, Lamuka (TV5MONDE and AFP 15 Sept. 2021). The protest called for the depoliticization of the CENI and had been [translation] "prohibited" by the authorities (TV5MONDE and AFP 15 Sept. 2021). According to Afrikarabia, Fayulu stated that he was [translation] "manhandled" by the police at that protest (Afrikarabia 15 Sept. 2021). In another case reported by Reuters, in Kinshasa on 16 October 2021, "around" 10,000 Fayulu supporters protested against perceived political interference in the appointment of Denis Kadima [[translation] "someone close" to Tshisekedi (*Jeune Afrique* with AFP 23 Oct. 2021)] to the presidency of the CENI, and Tshisekedi supporters hurled petrol bombs at protesters; police used tear gas to break up clashes (Reuters 17 Oct. 2021).

According to sources, in [July (Politico.cd 22 Aug. 2021)] 2021, the youth leader for the political party Together for the Republic (Ensemble pour la République) was arrested and sentenced to 22 months in prison for [HRW English version] "civil disobedience" (HRW 13 Jan. 2022) or 24 months in prison for [translation] "incitement to civil disobedience" (Politico.cd 22 Aug. 2021) after publicly opposing the "Congolité" Bill [2] (HRW 13 Jan. 2022; Politico.cd 22 Aug. 2021). In another case reported by HRW, the head of the Rally of Congolese Leaders (Rassemblement des leaders congolais) party was arrested on 28 November 2020 by ANR forces after criticizing Tshisekedi on a television program; he was tried and sentenced on the same day to three years in prison for [HRW English version] "'insulting the head of state and threats of attack'" and, according to HRW, "his due process rights were violated" (HRW 28 Jan. 2021).

2.4 Catholic and Protestant Churches

Sources report that Kadima's nomination as head of the CENI was approved on 16 October 2021 by the National Assembly, despite a lack of consensus among [[translation] "recognized" (*Jeune Afrique* with AFP 23 Oct. 2021)] religious groups (Actu7.cd 16 Oct. 2021; *Jeune Afrique* with AFP 23 Oct. 2021). The same sources report that these religious denominations are responsible for nominating the CENI president [[translation] "by consensus" (*Jeune Afrique* with AFP 23 Oct. 2021)] and that Kadima's nomination occurred despite opposition from the Church of Christ in the Congo (Église du Christ au Congo, ECC) and the Catholic Church (*Jeune Afrique* with AFP 23 Oct. 2021) or the National Episcopal Conference of Congo (Conférence épiscopale nationale du Congo, CENCO) (Actu7.cd 16 Oct. 2021). HRW reports that UDPS supporters attacked Catholic churches and priests for the Church's role in pushing for a more independent CENI president (HRW 13 Jan. 2022). *IWEB RDC*, an online magazine, similarly reports that the house of the Archbishop of Kinshasa was attacked by a group [translation] "claiming to be" of the UDPS after the Archbishop expressed his disappointment with the approval of Kadima's nomination and called on "the Congolese people to remain in fighting form" (*IWEB RDC* 1 Dec. 2021).

2.5 Other

According to *US Country Reports 2020*, in 2020, media representatives were "pressured" by provincial government officials not to cover events or news relating to opposition party leaders (US 30 Mar. 2021, 19). HRW reports that [HRW English version] "[m]any" victims of arbitrary arrest and harassment in 2020 were journalists; "at least" 109 cases of arbitrary arrests and harassment were recorded by the organization, including "at least" 16 that involved ANR agents (HRW 28 Jan. 2021). Journaliste en danger (JED), [translation] "an independent, non-partisan organization promoting and advocating freedom of the press" based in the DRC (JED n.d.), reports that 116 cases of press

freedom violations were recorded in 2020, including 48 committed by "political and administrative authorities," 35 by security forces (police, army and intelligence services) and 19 by political party activists (JED 2 Nov. 2020, 27). In 2021, there were 110, 27 of which were perpetrated by political and administrative [translation] "[a]utocrats," 44 by the security services, and 6 by political party activists (JED 2 Nov. 2021, 36). Sources report the following examples:

- On 26 May 2020, four radio stations broadcasting in Mongala province were shut down by the provincial governor, particularly [translation] "for broadcasting 'outrageous and degrading remarks against the President of the National Assembly and the provincial governor'" (JED 2 Nov. 2020, 57).
- In July 2020, in Kongo Central Province, seven lawyers, activists and journalists fled to Kinshasa from their homes in the city of Matadi, where they faced threats, beatings and abduction attempts after taking part in protests and calling for the provincial governor's resignation in response to a [HRW English version] "sex scandal" involving his vice-governor (HRW 28 Jan. 2021). Arrest warrants were issued against [HRW English version] "some of them" for "contempt toward officials and contempt of [the] President" (HRW 28 Jan. 2021).
- HRW reports that on 28 July 2020 in Tshopo province, police arrested human rights defenders protesting against the provincial government in the city of Kisangani and held them for two days at the prosecutor's office (HRW 28 Jan. 2021).
- According to Reporters Without Borders (Reporters sans frontières, RSF), a journalist who was covering a protest in the town of Isangi in Tshopo against the city's administrator on 20 January 2022 was arrested, beaten, detained at the police station and had her equipment confiscated by local police before being released a few hours later (RSF 24 Jan. 2022).

3. Treatment of Political Opponents in Provinces Under a State of Siege

Sources report that in May 2021, in North Kivu and Ituri provinces, the Tshisekedi government imposed a state of siege (HRW 13 Jan. 2022; UN 21 June 2021, para. 67) [or "martial law" (MRG 16 Dec. 2021, 6)] to address [HRW English version] "insecurity" in these areas (HRW 13 Jan. 2022). According to sources, measures include military courts taking over responsibility for criminal prosecution from civilian courts (HRW 13 Jan. 2022; UN 21 June 2021, para. 7). According to the International Crisis Group, the President extended the state of siege as of 4 February 2022 (International Crisis Group Feb. 2022). For additional information on the state of siege, see Response to Information Request COD200963 of March 2022.

Minority Rights Group International (MRG) reports that government "critics" have found that

martial law has been used to drastically narrow basic freedoms of expression and association, adding to the broader repressive measures President Félix Tshisekedi has taken to consolidate power over his rivals since 2020. (MRG 16 Dec. 2021, 6)

According to *US Country Reports 2020*, the government has "sometimes" declined requests to authorize public meetings or protests, including those submitted by political parties and civil society groups opposed to the government, especially in Haut-Uélé, North Kivu and Tanganyika provinces (US 30 Mar. 2021, 20). Similarly, HRW reports that, in 2021, protests were banned by the authorities, and security agents used [HRW English version] "excessive force" against protesters (HRW 13 Jan. 2022). According to the same source, during peaceful protests in Goma, Butembo, and Beni, North Kivu, in April 2021, police killed five protesters and wounded eight (HRW 13 Jan. 2022). In another case reported by HRW, three members of the citizens' movement Jicho ya Raiya were arrested in February 2021 in North Kivu after criticizing the management of the local health system and remained in pretrial detention in Goma's central prison as of January 2022 (HRW 13 Jan. 2022).

4. State Protection

4.1 Legislative Framework, Judicial System and Security Forces

According to Amnesty International, despite new appointments made to the state judiciary in 2020, there was [Amnesty International English version] "no significant change" in the conduct of the institution, which remains "a major impediment to the protection of human rights" (Amnesty International 7 Apr. 2021, 386). The same source adds that [Amnesty International English version] "[a] lack of funding and judicial independence" continues to undermine accountability for human rights abuses perpetrated by the state and armed groups (Amnesty International 7 Apr. 2021, 388). According to *US Country Reports 2020*, the judiciary is "corrupt and subject to influence and intimidation" (US 30 Mar. 2021, 9). Freedom House indicates that "[t]he judiciary often shows bias" against political opposition and civil society, whereas government allies "typically enjoy impunity" (Freedom House 3 Mar. 2021, Sec. F1).

US Country Reports 2020 reports that authorities "often" did not investigate, prosecute, or punish those who were responsible for human rights abuses, "particularly" at higher levels (US 30 Mar. 2021, 2). HRW also reports that [HRW English version] "[f]ew" security and intelligence officials implicated in human rights abuses under Kabila's regime were held to account, and "many" continue

to hold "positions of authority" (HRW 28 Jan. 2021). The Professor noted that in the DRC there are security and corruption problems and that the judicial and police systems cannot ensure the protection of whistleblowers (Professor 28 Feb. 2022). US *Country Reports 2020* notes that military courts are responsible for the investigation and prosecution of all crimes committed by members of the security forces but are "particularly ineffective" for addressing misconduct by mid- and high-ranking officials due to a requirement that the judge must outrank the defendant (US 30 Mar. 2021, 10).

US *Country Reports 2020* states that Congolese law recognizes opposition parties and provides them with "sacred" rights and obligations; however, in 2020, government authorities and security forces prevented opposition parties from holding public meetings, assemblies, and peaceful protests, using force to do so, and limited opposition leaders' freedom of movement (US 30 Mar. 2021, 26). The Professor noted that at this time, as a result of alternating regimes in power, it has not been possible to establish a real rule of law in the country under which people can report crimes to the police and before a judge, irrespective of the parties responsible and the specific issues at stake and expect judicial remedies (Professor 28 Feb. 2022).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Human Rights Watch (HRW) reports that Haut-Katanga, in the south of the DRC, is known as the [HRW English version] "historic stronghold" of the People's Party for Reconstruction and Democracy (Parti du peuple pour la reconstruction et la démocratie, PPRD), Joseph Kabila's political party, and that its provincial governor is a member of the same party (HRW 12 Aug. 2020).

[2] According to Politico.cd, a DRC-based news website (Politico.cd n.d.), the Congolité Bill (*Loi sur la congolité*), also known as the Tshiani Bill, is a bill that would ban any Congolese person with a parent of foreign origin from the office of president and [translation] "higher office" in government (Politico.cd 22 Aug. 2021).

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Additional Sources Consulted

Oral sources : Action des chrétiens pour l'abolition de la torture (ACAT) République démocratique du Congo; assistant professor at an American university whose research focuses on local and international responses to fragile and post-conflict states in Central Africa, particularly in the DRC; assistant professor at an American university whose research focuses on the transition from war to peace, development and international governance who has conducted field studies in the DRC; assistant professor at an American university whose studies focus on political parties, democratization, the rule of law and political stability and has worked in the DRC; associate professor at a Canadian university whose research focuses on state-society relations and governance in the context of political crises and conflicts in Africa's Great Lakes region, including the DRC; Association africaine de défense des Droits de l'Homme; Center for Strategic and International Studies; postdoctoral researcher at a Belgian university specializing in political economics issues in the DRC civil service; professor at an American university who has published several books on conflict and peace building in the DRC; professor at a UK university whose research particularly focuses on governance and post-conflict power sharing, including in the DRC.

Internet sites, including: Action des chrétiens pour l'abolition de la torture (ACAT) République démocratique du Congo; Agence congolaise de presse; Al Jazeera; Associated Press; ecoi.net; EU – EU Agency for Asylum; France 24; France – Office français pour la protection des réfugiés et des apatrides; Germany – Federal Office for Migration and Refugees; Groupe d'étude sur le Congo; Leganet.cd; *Le Monde*; The New Humanitarian; *Political Handbook of the World 2018-2019*; Radio-Canada; UK – Home Office; UN – Refworld.

ecoi.net summary:



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