



Flygtningenævnets baggrundsmateriale

Bilagsnr.:	78
Land:	Angola
Kilde:	Home Office
Titel:	"Home Office - operational guidance note Angola"
Udgivet:	30. januar 2006
Optaget på baggrundsmaterialet:	20. juni 2006



OPERATIONAL GUIDANCE NOTE

ANGOLA

CONTENTS

1. Introduction	1.1 – 1.4
2. Country assessment	2.1 – 2.7
3. Main categories of claims	3.1 – 3.6
Members of FLEC	3.6
Cabindans	3.7
Members of UNITA	3.8
General country situation	3.9
Prison conditions	3.10
4. Discretionary Leave	4.1 – 4.2
Minors claiming in their own right	4.3
Medical treatment	4.4
5. Returns	5.1 – 5.4
6. List of source documents	

1. Introduction

- 1.1** This document summarises the general, political and human rights situation in Angola and provides information on the nature and handling of claims frequently received from nationals/residents of that country. It must be read in conjunction with any RDS-COI Service Angola Country of Origin Information Bulletins at:

http://www.homeoffice.gov.uk/rds/country_reports.html

- 1.2** This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim
 API on Humanitarian Protection
 API on Discretionary Leave
 API on the European Convention on Human Rights

- 1.3** Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.
- 1.4** A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1.** Angola gained independence from Portugal on 11 November 1975. Planned elections did not happen; instead, one of three nationalist groups, the MPLA, declared themselves the government and imposed a one-party constitution to be guided by Marxist-Leninism. The

other two nationalist movements, the FNLA and UNITA, retreated to their rural bases. The MPLA was backed by military hardware from the Soviet Union and Cuban troops. The FNLA and UNITA secured less help from the USA, apartheid South Africa and Mobutu's Zaire. Although the FNLA soon gave up the armed struggle, UNITA continued to fight a guerilla war which was to last until 2002. Throughout this long civil war, UNITA moved with impunity in the countryside while the MPLA controlled the towns. In 1998 the MPLA decided to pursue a final military offensive against UNITA. After 3 years of fighting government forces succeeded, firstly by killing UNITA's leader in February 2002 and subsequently, through the Luena Memorandum of Understanding of April 2002, to end the war by agreement with UNITA commanders.¹

- 2.2** Parliamentary elections are scheduled for September 2006,² with analysts predicting a two-horse race between UNITA and the MPLA.³ In preparation, a package of electoral laws was approved in April 2005 although a new constitution, already 6 years under debate, has not yet been finalised,⁴ and there is growing concern that the country will not be ready for a 2006 poll.⁵ There is also evidence of an increase in politically-motivated violence between the parties. In August 2005 at least two people were seriously wounded when MPLA-aligned local officials allegedly prevented UNITA from setting up offices in Balombo municipality in the eastern Benguela province. UNITA claimed that such incidents had taken place in Kuando Kubango, Moxico and Benguela provinces and it seemed to be getting worse. Police have taken action in some of these incidents.⁶
- 2.3** A fledgling civil society and an independent press developed for the first time in the early 1990s, but their activities remain concentrated largely in the capital, Luanda. Access to justice is severely limited for most Angolans. Although political parties are allowed to operate, there are continued reports of intimidation and harassment of opposition supporters. Human rights abuses were reported during a major military offensive against rebels in Cabinda in late 2002–2003. The removal of illegal diamond diggers, largely Congolese, in 2004 is reported to have showed little concern for human rights.⁷
- 2.4** The Ministry of Interior, through the Angolan National Police (ANP), is responsible for internal security. The internal intelligence service is directly answerable to the Office of the Presidency. The Armed Forces of Angola (FAA) is responsible for external security but also has domestic responsibilities, for example the FAA conducted counterinsurgency operations against the Front for the Liberation of the Enclave of Cabinda Armed Forces of Cabinda (FLEC FAC). The civilian authorities maintained effective control of the security forces but nonetheless members of the security forces committed human rights abuses including unlawful killings, disappearances, torture, beatings and rape, with impunity continuing to be a problem.⁸
- 2.5** The slow pace of post-war reconstruction and reconciliation continued in 2005. While important electoral legislation was approved by the national assembly, much remains to be done to create an environment in which free and fair elections can take place and to extend civil and political rights to all Angolans. The government continues to violate Angolans rights to freedom of expression, association, and assembly. Persistent delays remain in rebuilding roads, schools, and other infrastructure in the rural provinces. The consistent lack of full transparency in the government's use of ever-increasing oil revenues remains a further impediment to enjoyment of human rights and reconstruction in Angola.⁹

¹ FCO Country Profile May 2005

² FCO Country Profile May 2005

³ IRIN: UNITA calls on govt to address acts of intimidation in provinces

⁴ FCO Country Profile May 2005

⁵ IRIN: Growing unease over lack of readiness for elections

⁶ IRIN: UNITA calls on govt to address acts of intimidation in provinces

⁷ FCO Country Profile May 2005

⁸ USSD Human Rights Report 2004 Page 1

⁹ Human Rights Watch (HRW) World Report covering 2005

- 2.6** Although peace has been achieved on the mainland, the problem of Cabinda remains to be resolved. Abuses against civilians by the Angolan military and political tension in the province of Cabinda remain causes for concern in 2005.¹⁰ A low level guerilla war has been conducted for over 30 years by rebel groups fighting for the independence of the Province. The Angolan government has used alternately negotiations and military force to no avail.¹¹ Cabindans have been subjected to persistent guerilla warfare as factions of the separatist movement, Frente de Libertação do Enclave de Cabinda (FLEC - Front for the Liberation of the Cabinda Enclave) first fought for independence from Portugal. Since Angolan independence in 1975, FLEC has been fighting against the Angolan government led by the Movimento Popular de Libertação de Angola (MPLA - People's Movement for the Liberation of Angola). In late 2002, the armed conflict escalated following the deployment of some 30,000 government soldiers to Cabinda. By mid-2003 the Angolan Armed Forces had virtually destroyed the rebel group but in the course of these military operations committed serious and widespread violations of international human rights and humanitarian law against the civilian population.¹²
- 2.7** While the government repeatedly stated in 2005 that the armed conflict against FLEC in the oil-rich province of Cabinda had ended, it continued to maintain a massive military presence in the enclave. Fears of military escalation increased in July 2005 as local authorities reported that a new Angolan army offensive against FLEC in Cabinda was underway to crush the armed insurgency. The army has denied that it stepped up the military campaign, but abuses committed by armed forces personnel do not seem to have subsided.¹³
- 2.8** Violations connected to the military continued to be reported in 2005, including the brutal murder in April 2005 of a three-year old girl and allegations that the army kidnapped and tortured members and sympathisers of Mpalabanda, a local human rights NGO, in July 2005. The commander of the armed forces in Cabinda claimed that justice in these cases has been served. Asked to comment on the acts of indiscipline committed by soldiers under his command, General Marques Banza admitted that "there might have been isolated cases of indiscipline here and there, and in those instances we have known how to mete out punishment."¹⁴
- 2.9** Reports that the Angolan government is in discussion with oil companies to grant exploration rights for drilling on-shore, as opposed to off-shore where most of the oil is currently produced, could exacerbate tensions in Cabinda, and lead to a continued military presence to ensure unfettered access to these resources.¹⁵

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Angola. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

¹⁰ HRW 2005

¹¹ FCO Country Profile May 2005

¹² Human Rights Watch: Angola: Between War and Peace in Cabinda (page 1)

¹³ HRW 2005

¹⁴ HRW 2005

¹⁵ HRW 2005

- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Members of FLEC

- 3.6.1** Many claimants will apply for asylum based on ill treatment amounting to persecution by the state authorities due to their membership or, involvement with, or perceived involvement with, the armed separatist group Front for the Liberation of the Cabinda Enclave (FLEC).
- 3.6.2 *Treatment.*** FLEC and its offshoots have been fighting a guerrilla war since 1963 with the aim of securing Cabindan independence, originally from the Portuguese and then from the MPLA government following Angolan independence in 1975. For much of the period from independence until late 2002, the armed conflict in Cabinda was a low intensity guerrilla war, as FLEC had neither the manpower nor weaponry of a conventional army. The Angolan armed forces deployed approximately 30,000 soldiers to Cabinda, including an unknown number of special forces called *commandos caçadores*, in an attempt to defeat FLEC militarily.¹⁶
- 3.6.3** Reports compiled by Cabindan human rights activists in 2002 and 2003 alleged that Angolan forces committed widespread violations against captured combatants and civilians including the summary execution of suspected FLEC combatants or supporters; rape and forced marriage of women and girls; arbitrary detention; torture and other mistreatment; forced labor; and excessive restrictions on civilian access to agricultural areas, rivers and hunting grounds. The reports also attributed a small number of abuses, including hostage taking and summary executions of suspected government collaborators, to FLEC forces. Conflict levels reduced from mid-2003 and as a result there has been a decline in the number of human rights violations committed by the Angolan armed forces.¹⁷
- 3.6.4** While the government repeatedly stated in 2005 that the armed conflict against FLEC in the oil-rich province of Cabinda had ended, it continued to maintain a massive military presence in the enclave. Fears of military escalation increased in July 2005 as local authorities reported that a new Angolan army offensive against FLEC in Cabinda was underway to

¹⁶ Human Rights Watch: Angola: Between War and Peace in Cabinda (pages 6-7)

¹⁷ Human Rights Watch: Angola: Between War and Peace in Cabinda (pages 6-7)

crush the armed insurgency. The army has denied that it stepped up the military campaign, but abuses committed by armed forces personnel do not seem to have subsided.¹⁸

3.6.5 Sufficiency of protection. As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.6.6 Internal relocation. As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country would not place them beyond the reach of their would be persecutors.

3.6.7 Caselaw.

FP (Angola) CG [2003] UKIAT 00204, promulgated 16 July 2003. The IAT found that the appellant who originated from Cabinda and had connections to FLEC could not safely return to Luanda and duly allowed the appellant's appeal.

3.6.8 Conclusion. If it is accepted that the claimant is a member of FLEC or has adduced genuine experience of ill-treatment on account of being associated with member of FLEC then there is a real risk that they are likely to encounter ill-treatment amounting to persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate. However caseworkers should note that members of FLEC have been responsible for serious human rights abuses some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for FLEC and the evidence suggests that he has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer all such cases within this category to a Senior Caseworker in the first instance.

3.7 Cabindans

3.7.1 Many claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to them originating from, and/or belonging to an ethnic group that is indigenous to the disputed Cabinda enclave.

3.7.2 Treatment. The Angolan province of Cabinda has a population of around 250,000. It is separated from the country's other seventeen provinces by a narrow strip of the Democratic Republic of Congo. There are two main ethnic groups in Cabinda; the Bakongo and the Mayombe. The Bakongo are in the majority, while the Mayombe has a small minority in the province and usually live in the mountain forests of eastern Cabinda. Cabindan separatists (FLEC – see 3.6 above) claim the enclave has its own distinct and separate identity. However, the extensive mixing and intermarriage in Cabinda over the years has made it increasingly difficult to establish who is a true Cabindan.¹⁹

3.7.3 Following the end of the armed conflict between the MPLA and UNITA in the contiguous part of Angola in 2002, the fighting and attendant violations against the civilian population shifted to Cabinda.²⁰ By August 2004 the human rights situation in Cabinda had improved due to a decrease in military operations, but the Angolan armed forces continued to commit violations against civilians with almost complete impunity, including extrajudicial executions, arbitrary arrests and detention, torture and other mistreatment, sexual violence, and the denial of civilians' freedom of movement. There was little evidence of human rights abuses committed by FLEC factions against civilians over the same period, probably because of FLEC's weakened capacity.²¹

¹⁸ HRW 2005

¹⁹ IRIN Web Special on Cabinda; Minorities at Risk

²⁰ Human Rights Watch: Angola: Between War and Peace in Cabinda (pages 6-7)

²¹ Human Rights Watch: Angola: Between War and Peace in Cabinda (page 1)

3.7.4 The FAA and the Angolan National Police in Cabinda have generally failed to investigate or prosecute abuses against civilians in which the FAA has been implicated, in some cases simply transferring the alleged perpetrators, including officers and the perpetrators' unit, elsewhere in Cabinda or to another province. The civilian authority arrested three soldiers who allegedly killed a civilian in July 2004 but the outcome is not known. The deployment of some 30,000 FAA troops in close proximity to the civilian population in Cabinda and the prevailing sense of impunity have fostered a climate in which human rights violations remain common.²² Although peace has been achieved on the mainland, the problem of Cabinda remains to be resolved. Abuses against civilians by the Angolan military and political tension in the province of Cabinda remain causes for concern in 2005.²³

3.7.6 Sufficiency of protection. As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.7.7 Internal relocation. As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country would not place them beyond the reach of their would be persecutors.

3.7.8 Caselaw.

FP (Angola) CG [2003] UKIAT 00204, promulgated 16 July 2003. The IAT found that the appellant who originated from Cabinda and had connections to FLEC could not safely return to Luanda and duly allowed the appellant's appeal.

3.7.9 Conclusion. Though the situation in Cabinda has reportedly started to improve, the civilian population remains subject to numerous serious human right abuses due mainly to the repressive presence of 30,000 FAA personnel. If it is accepted that the claimant belongs to an ethnic group that is indigenous to the Cabinda enclave then it is likely they will be able to demonstrate that they are at real risk of ill-treatment amounting to persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate.

3.8 Members of UNITA

3.8.1 Some claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with, the main political opposition group National Union for the Total Independence of Angola (UNITA).

3.8.2 Treatment. Between the declaration of independence in November 1975 and April 2002, UNITA and the MPLA continued a bitter conflict for control of the country. During the conflict, UNITA comprised at least two major groups; in addition to which there were also known sympathisers. The main distinction was between the military wing, led by Jonas Savimbi, and those who formed the parliamentary wing UNITA-Renovada (UNITA-R). During the reconciliation process in 2002-3, which saw UNITA's transition to an unarmed political opposition group, UNITA-R ceased to exist.²⁴ The demobilisation of UNITA ex-combatants was successfully completed on 30 July 2002. Following the cessation of the civil war, there were no reports that UNITA committed human rights abuses. In October 2004, the disarmament and re-integration of more than 97,000 former UNITA rebel fighters was fully completed with most ex-combatants receiving five months' salary, demobilisation kits and discretionary payments.²⁵

3.8.3 In May 2004, UNITA and the other opposition parties, suspended their participation in the Constitutional Affairs Commission of the National Assembly until such time as President dos

²² Human Rights Watch: Angola: Between War and Peace in Cabinda (page 1)

²³ HRW 2005

²⁴ Europa 2005 Angola (p.42-7) & USSD 2004 (Section 2)

²⁵ Angola Embassy to the UK October 2004

Santos agreed to consult the country's political forces with a view to approving an electoral timetable.²⁶ In January 2005, UNITA, dropped its demand that general elections take place September 2006 and also its preference for a presidential election to take place in 2005.²⁷

3.8.4 The return of demobilised UNITA soldiers to their home provinces has in some cases resulted in violence directed against them. Such violence reportedly prompted around 2,000 former UNITA soldiers to leave a municipality in Moxico province in mid-July 2004 when local residents protested against the return of a former UNITA general who had been involved in war atrocities. UNITA raised concerns in 2004 over increased incidents of intimidation of its members by individuals allegedly belonging to MPLA militia groups. During 2003-4, UNITA complained repeatedly about persecutions, intimidations and violence perpetrated against its officials in various provinces and municipalities in the interior of the country. During a meeting on 15 July 2004, MPLA and UNITA agreed to coordinate efforts to curb such acts. A common mission from both parties would visit affected areas in order to investigate alleged incidents.²⁸

3.8.5 *Sufficiency of protection.* As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.8.6 *Internal relocation.* As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.8.7 *Caselaw.*

M (Angola) [2003] UKIAT 00010, promulgated 5 June 2003. The IAT found that the risk to family members of UNITA supporters is "now below the Article 3 ECHR and Refugee Convention standard" (para 9).

3.8.8 *Conclusion.* In light of the ending of the civil war between the MPLA and UNITA in April 2002, UNITA's peaceful transition from armed opposition group to a major political party and the successful completion in 2004 of the disarmament and reintegration programme for ex-combatants, there is no evidence that members of, or ex-combatants from UNITA are at real risk of ill-treatment amounting to persecution by the state authorities. Though there have been delays in 2003-4 to the agreement of an electoral timetable and occasional reports of localised disputes about the re-integration of ex-combatants in a few provinces, there is no evidence that the treatment suffered by former UNITA members amounts to persecution within the terms of the 1951 Convention. A grant of asylum will not therefore generally be appropriate for claims that cite persecution on account of membership of, or association with, UNITA.

3.8.9 Also caseworkers should note that members of UNITA have been responsible for serious human rights abuses some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for UNITA and the evidence suggests that he has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer all such cases within this category to a Senior Caseworker in the first instance.

3.9 General country situation

3.9.1 Some claimants will apply for asylum based on ill treatment amounting to persecution due to the general political, human rights and/or humanitarian situation in Angola. (excluding Cabinda which is covered in 3.6 and 3.7 above).

²⁶ UK FCO letter 26 August 2004

²⁷ ACTSA 26 January 2005

²⁸ Global IDP Project 1 October 2004 (p. 3) & FCO letter 26 August 2004

- 3.9.2 *Treatment.*** Angola's human rights situation has improved since the end of the civil war. HRW in 2005 and UN reports in 2004 said the government's announcement that national elections will be held in late 2006 is a positive step towards Angola's reconstruction after twenty-seven years of civil war. Serious human rights abuses, however, continue to be reported. Violations against war-affected populations, including harassment, looting, extortion, intimidation, physical abuse, rape and arbitrary detention have continued, particularly in areas where State administration is weak or has been extended only recently and where mechanisms for redress remain inadequate. Many of those violations have affected internally displaced persons and have included forced resettlement and return as well as exclusion from social services and humanitarian assistance. Deepening poverty combined with the government's lack of transparency and commitment to human rights could undermine Angola's hard-won peace enjoyed in all provinces, except Cabinda.²⁹
- 3.9.3** According to a UN report of September 2004, in view of the stabilisation of the humanitarian emergency, the progress made in return and resettlement and new planning mechanisms for the transition period, the Government of Angola and the UN Agencies decided last summer [2003] not to launch an appeal for 2005. However, some residual humanitarian needs persist.³⁰ After almost three decades of war followed by two years of peace and stability, security in Angola has noticeably improved, cereal production is growing and the number of people needing food aid is falling.³¹ Though the slow pace of post-war reconstruction and reconciliation continued in 2005 and much remains to be done to create an environment in which free and fair elections can take place and to extend civil and political rights to all Angolans, important electoral legislation was approved by the national assembly in 2005.³²
- 3.9.4** UNHCR advised in January 2004 that in view of the changed situation in Angola following the end of the civil war it is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. The UNHCR reinforced its position with regard to the return of Cabindans in January 2005. With regard to the remainder of Angola, UNHCR did however ask governments to carefully assess the risk to individuals upon return. UNHCR judged that there may well be persons who, while not having a demonstrated need for international protection, would be particularly vulnerable upon return. This would include, for example, separated children, unaccompanied elderly people, and people with physical disabilities or in need of specialised or ongoing medical care.³³
- 3.9.5 *Sufficiency of protection.*** In light of the nature of this category of claims, the availability of sufficient protection from the state authorities is not relevant.
- 3.9.6 *Internal relocation.*** In light of the nature of this category of claims, the availability of an internal relocation option is not relevant.
- 3.9.7 *Caselaw.***

M (Angola) [2003] UKIAT 00049, promulgated 3 July 2003. No breach of Articles 3 or 8 to return young single female with no connections to Luanda. The IAT found that while accepting the appellant's situation will be grim as there is a real likelihood she would become internally displaced given she has no connections with Luanda, UNHCR has not said categorically that returns of those who do not have connections should not take place; its position is that returns should be avoided and based on the evidence, the conditions the appellant would face would not be of such severity as to reach the threshold of a breach of Article 3 (para 6.6)

²⁹ Human Rights Watch World Report Angola 2005 & UN Security Council Report February 2003

³⁰ OCHA Monthly Analysis November 2004

³¹ UN News Service 9 August 2004

³² HRW 2005

³³ UNHCR Position papers on the return of failed asylum seekers to Angola January 2004 & January 2005

AA (Angola) [2002] CG UKIAT 01518. The appellant was a single woman with a young child. She was from Luanda and some of her family were still resident there. IAT find that there would be no breach of her human rights to be returned to Luanda.

3.9.8 Conclusion. The civil war in Angola has now ended and former adversaries have successfully disarmed and reintegrated into a peaceful society (see also 3.8 above). With the exception of the Cabinda enclave, the country has stabilised considerably since 2002 with some progress towards national elections. There is no indication whatsoever that a return to a prolonged armed conflict or the humanitarian crisis it perpetuated will re-emerge. Individual claimants who cite the general political, human rights and/or humanitarian situation in Angola will not be able to demonstrate conditions amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not appropriate.

3.9.9 Though Governments are advised to carefully assess the risk to individuals upon return, the UNHCR is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. It is not likely that a claimant citing the general country situation would generally be able to demonstrate that their return would be in breach of ECHR. General lawlessness, poverty and lack of resources are not sufficient to amount to a breach of ECHR. The grant of Humanitarian Protection in such cases is therefore not appropriate.

3.10 Prison conditions

3.10.1 Claimants may claim that they cannot return to Angola due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Angola are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 Consideration. Prison conditions are harsh and life-threatening. During 2004, human rights activists reported that prison officials routinely beat and tortured detainees. The national prison system continues to hold approximately five times the number of prisoners for which it was designed. Overcrowding in Luanda prisons diminished after the completion in November 2004 of the rehabilitation and expansion of the Viana prison; however, local human rights organisations reported that conditions were considerably worse outside the Luanda prison system. In Bengo, Malange, and Lunda Norte Provinces, warehouses were used as prison facilities in 2004. In Huila Province, the provincial penitentiary held 350 prisoners in a facility designed for 150.³⁴

3.10.3 On 6 December 2004, local media reported that between 8 to 16 prisoners died due to asphyxiation in an overcrowded police station cell in Mussendi, Lunda-Norte. The detainees, some of whom were from the DRC, were being held as part of Operacao Brilhante. In protests following these deaths, police reportedly killed two individuals. The National Police Commander publicly admitted wrongdoing, ordered the arrest of the local commander and several officers, and stated that an investigation was underway.³⁵

3.10.4 Many prisons, lacking adequate financial support from the Government, are unable to supply prisoners with basic sanitary facilities, adequate food, and health care. Prisoners depend on families, friends, or international relief organisations for basic support. There were reports in 2004 that prisoners died of malnutrition and disease. For example, in the Condeueji prison in Luanda Norte, independent media reported that six inmates died in early June 2004 due to inadequate food and water, harsh conditions, and lack of medical treatment.³⁶

³⁴ USSD 2004 (Section 1)

³⁵ USSD 2004 (Section 1)

³⁶ USSD 2004 (Section 1)

- 3.10.5** Female prisoners are held separately from male prisoners; however, there were reports in 2004 that prison guards sexually abused female prisoners. Juveniles, often incarcerated for petty theft, are housed with adults and suffered abuse by guards and inmates. Pretrial detainees frequently are housed directly with sentenced inmates, and prisoners serving short term sentences often are held with inmates serving long term or life sentences for violent crimes.³⁷
- 3.10.6** The Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during 2004; however, NGO officials were denied access or given limited access to prisons in the provinces. Government authorities refused access to protesters detained following the April 2004 demonstration in Canfunfo. The Government did not consistently report the arrest of foreign nationals to the appropriate consular authorities.³⁸
- 3.10.7** Conditions of detention in Cabinda varied, but the FAA frequently detains persons without regard to minimal international standards for the treatment of prisoners. Some detainees were held in basic shelters, where they received minimal food and water. The most egregious conditions of detention were pits dug in the ground. An FAA commander did not deny the existence of such pits, but maintained they were used only to detain FAA soldiers as an internal disciplinary measure. Detention in these pits, in which detainees often had to defecate and urinate where they were held, constitutes cruel, inhuman or degrading treatment in violation of international law. During the rainy season, detainees remained in the pits which partially filled up with water. The water took a day or two to drain away. The FAA also subjected several male detainees to other forms of torture including: tying a detainees' elbows together behind their backs and by their hands, causing loss of circulation and short-term damage; tying two pieces of steel against their heads and then squeezing the two pieces tightly; tying a rope around a detainee's chest followed by five soldiers pulling the rope at each end. Detainees were also subjected to humiliating and degrading treatment, including threatening to rape and cut off one detainee's genitalia.³⁹
- 3.10.8 Conclusion.** Prison conditions in Angola are poor with severe overcrowding unsanitary conditions, and a lack of health and medical care being particular problems. However, these conditions will not normally be sufficiently severe to meet the high Article 3 threshold. In addition to these adverse conditions there are reports that officials act with impunity and regularly mistreat inmates. The information available does not suggest that particular groups of inmates are more at risk of such mistreatment than others. There is no evidence that the mistreatment is of such a systematic nature as to make removal a breach of Article 3 on these grounds. Even where claimants can demonstrate a real risk of imprisonment on return to Angola a grant of Humanitarian Protection will therefore not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health.
- 3.10.9** Prison conditions in Cabinda are severe and taking into account the extremely primitive accommodation and the level of inhuman and degrading treatment that prisoners are likely to encounter, conditions in prisons and detention facilities in Cabinda are likely to reach the Article 3 threshold. Where the real risk of imprisonment is related to one of the five Refugee Convention grounds the asylum threshold is likely to be met. In cases where imprisonment is connected to political opinion, for example persons fearing imprisonment due to their association with FLEC, the grant of asylum is likely to be appropriate. Where the claimant cites a non-Convention reason for fearing imprisonment in Cabinda, a grant of Humanitarian Protection will be appropriate where individual claimants are able to demonstrate a real risk of imprisonment in Cabinda.

³⁷ USSD 2004 (Section 1)

³⁸ USSD 2004 (Section 1)

³⁹ USSD 2004 (Section 1)

4. Discretionary Leave

- 4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)
- 4.2** With particular reference to Angola the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.
- 4.3 Minors claiming in their own right**
- 4.3.1** Minors claiming in their own right minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.
- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years/twelve months or until their 18th birthday, whichever is the shorter period.
- 4.4 Medical treatment**
- 4.4.1** Claimants may claim they cannot return to Angola due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** Although much of the medical care is provided free of charge, its availability is limited by the lack of resources. Under-investment in health, coupled with three decades of conflict, has caused an almost complete break down in health services.⁴⁰ In the country, there are 1,032 health units working, divided into 8 national hospitals, 64 provincial hospitals, 201 health centres, 759 medical posts and 70 family planning rooms.⁴¹ Nevertheless, many diseases including tuberculosis, acute diarrhoea and acute respiratory diseases are endemic in many parts of the country and preventative services and trained personnel are very limited.⁴²
- 4.4.3** Since the end of the civil war, WHO, UNICEF, NGOs and the other partners have been supporting the country by providing a minimum health care package including vaccinations, HIV, malaria, TB, leprosy, trypanosomiasis and other disease control activities. Other health partners include the European Union, USAID, Italy, the Centers for Disease Control and Prevention and Japan among others which have provided primary health care services for hundreds of thousands of Angolans as they returned home.⁴³ Antiretroviral therapy for HIV/AIDS sufferers is available from the government without charge, though availability in the Cabindan enclave is limited.⁴⁴
- 4.4.4** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate.

⁴⁰ Reuters Alertnet 26 February 2004

⁴¹ UN CEDAW 8 June 2004

⁴² MSF regional report 27 February 2004

⁴³ WHO Report 29 August 2003

⁴⁴ UN IRIN 26 October & 3 December 2004

Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Returns are to the capital Luanda.
- 5.2** In its position paper of January 2004, the UNHCR no longer advises States against involuntary returns of rejected asylum seekers to Angola, except Cabinda. The UNHCR reinforced its advice for Cabinda in a supplementary position paper of January 2005.⁴⁵ The UNHCR's papers provide broad assessments of the current situation and we do not dispute that they present accurate overviews of the general humanitarian situation and the social and security problems in Angola. However, asylum and human rights claims are not decided on the basis of the general situation - they are based on the circumstances of the particular individual and the risk to that individual. We do not therefore accept UNHCR's conclusion, based on their overview of the general situation in Cabinda, that all persons presenting themselves as asylum seekers from Cabinda are, irrespective of their individual circumstances, automatically in need of some form of international protection.
- 5.3** Claimants from Cabinda who are found to be in need of international protection are of course not liable to be returned to Angola. However, where an Angolan national from any part of Angola, including Cabinda, is found not to be in need of international protection then it is safe for them to return to Angola. Removals of unsuccessful Angolan asylum seekers are considered on an individual case basis.
- 5.4** Angolan nationals may return voluntarily to any region of Angola at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Angola. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Angolan nationals wishing to avail themselves of this opportunity for assisted return to Angola should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org

6. List of source documents

- Action for Southern Africa (ACTSA) Angola Peace Monitor Issue No. 4, Vol. XI, 26 January 2005 <http://www.actsa.org/Angola/apm/apm1028.htm>
- Amnesty International Annual Report 2005: Angola. At <http://web.amnesty.org/report2005/ago-summary-eng>
- British Broadcasting Corporation (BBC) Country profile: Angola. Last updated 3 November 2005 at http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1063073.stm
- BBC Timeline: Angola. Last updated 8 December 2005 at: http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1839740.stm
- Embassy of the Republic of Angola, UK Newsletter No. 99, Press Office, October 2004 <http://www.angola.org.uk/newsletter99.htm>

⁴⁵ UNHCR Position paper on the return of failed asylum seekers to Angola January 2004 & January 2005

- Europa Publications Ltd. Regional Surveys of the World: Africa: South of the Sahara 2005 (34th Edition), Angola, p. 41 – 70
- Global IDP Project, Norwegian Refugee Council Angola: new government plans could compromise voluntary nature of IDP return process, 1 October 2004
<http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wSummaryPDFs/59A7B267C0309757C1256E6A004C4699>
- Human Rights Watch: Angola: Between War and Peace in Cabinda 2004
hrw.org/backgrounder/africa/angola/2004/1204/cabinda122104.pdf
- Human Rights Watch World Report 2005: Angola. At
<http://hrw.org/english/docs/2005/01/13/angola9892.htm>
- Médecins Sans Frontières (MSF) Angola: An Emergency in Cuemba, Anke Stockdreher, 27 February 2004 <http://www.msf.org.au/tw-project/034twp.html>
- Reuters Foundation 'Angola health system in tatters after the war' 26 February 2004
<http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/cbe4743d8599c93649256e470005be9f?OpenDocument>
- UN News Service 'Security in Angola improves, food production grows but challenges remain – UN' 9 August 2004
<http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/a8fcbeffff21255585256eeb005721e2?OpenDocument>
- UN Office for the Co-ordination of Humanitarian Affairs (OCHA) Humanitarian situation in Angola – monthly Analysis November 2004
<http://www.reliefweb.int/rw/RWB.NSF/db900SID/JMAN-67UDZQ?OpenDocument&rc=1&cc=ago>
- UK Foreign and Commonwealth Office (FCO) Country profile: Angola. Last updated 4 May 2005 at
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1019501109024>
- UK FCO letter dated 26 August 2004 regarding IND's Angola Country Report
- UN Combined fourth and fifth periodic reports of States parties – Angola, Convention of the Elimination of All Forms of Discrimination against Women (CEDAW), 8 June 2004
<http://www.un.org/womenwatch/daw/cedaw/reports.htm>
- UNHCR Position on the return of failed asylum seekers to Angola January 2004 & January 2005.


 Angola(Position
2004).pdf


 Angola(Return%20of
f%20Failed%20Asylu
- UN IRIN 'UNITA calls on govt to address acts of intimidation in provinces' 7 September 2005 at:
www.irinnews.org/report.asp?ReportID=48949&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- UN IRIN 'Growing unease over lack of readiness for elections' 2 November 2005 at:
www.irinnews.org/report.asp?ReportID=49901&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- UN IRIN HIV infection rate for pregnant women at 2.8 percent, 3 December 2004
<http://www.irinnews.info/print.asp?ReportID=44505>

- UN IRIN Cabinda slowly waking up to HIV/AIDS, 26 October 2004
<http://www.plusnews.org/pnprint.asp?ReportID=4070>
- UN Security Council Situation Report Angola February 2003 at:
<http://www.un.org/Docs/sc/sgrep03.html>
- US Department of State: Bureau of Democracy, Human Rights and Labor Country Report on Human Rights Practices 2004: Angola. Released 28 February 2005 at
<http://www.state.gov/g/drl/rls/hrrpt/2004/41587.htm>
- World Health Organisation (WHO) WHO Director-General says access to health service should be possible right across the country, (Via ReliefWeb), 29 August 2003
<http://www.reliefweb.int/w/rwb.nsf/s/FABF9CE7CBCE1DBCC1256D9100321C49>

Asylum and Appeals Policy Directorate
30 January 2006