| FLYGTNINGENÆVNET | 736

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**736**
Land:	Den Demokratiske Republik Congo
Kilde:	Immigration and Refugee Board of Canada
Titel:	Democratic Republic of the Congo: Prevalence and availability of fraudulent identity, administrative and legal documents
Udgivet:	23. marts 2022
Optaget på baggrundsmaterialet:	3. august 2022

Democratic Republic of the Congo: Prevalence and availability of fraudulent identity, administrative and legal documents (2020–March 2022) [COD200965.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Prevalence of Fraudulent Documents

In correspondence with the Research Directorate, the Secretary General of the Center for Human Rights and Humanitarian Law (Centre des droits de l'homme et du droit humanitaire, CDH), an NGO whose mission is to promote and protect human rights in the Democratic Republic of the Congo (DRC), indicated that the documents with a [translation] "high incidence" of fraud are birth certificates, marriage certificates, academic diplomas, passports, judgements, and search notices (CDH 18 Feb. 2022).

For information regarding false civil status certificates and fraudulently obtained civil status documents, see Response to Information Request COD200505 of April 2021.

1.1 Identity Documents

In correspondence with the Research Directorate, a Secretary General of the Coalition of Volunteers for Peace and Development (Coalition des volontaires pour la paix et le développement, CVPD), an NGO focused on protecting human rights in the DRC (CVPD n.d.), stated that [translation] "fraudulent identity documents exist in the DRC" (Secretary General 14 Feb. 2022). In correspondence with the Research Directorate, the Executive Secretary of the Congolese League Against Corruption (Ligue congolaise de lutte contre la corruption, LICOCO), an NGO focused on combatting and raising awareness of issues of corruption and impunity in the DRC, indicated that there is a [translation] "high" prevalence of fraudulent driver's licenses, voter's cards, and "report on the loss of identity document" which is a "substitute document for an identity card" (LICOCO 7 Mar. 2022).

According to an article by Top Congo FM, a private media company (BBC 21 Nov. 2017) with a radio station, which cites August 2020 comments on their radio broadcast made by the DRC's Minister of Transport and Communications, the Ministry's production of driver's licenses was [translation] "'suspended'" in 2017 and "'everything'" produced since that time is "'counterfeit'" (Top Congo FM 28 Aug. 2020).

Sources report that voter cards can be used as an identity document (Secretary General 4 Feb. 2022; LICOCO 7 Mar. 2022). The CVPD Secretary General indicated that voter cards, which can "serve as an identity card," are allegedly "pirated by criminals" (Secretary General 14 Feb. 2022). According to a press release by the Independent National Electoral Commission (Commission électorale nationale indépendante, CENI), there are [translation] "networks of producers of false duplicate voter cards" in the DRC (DRC 24 Mar. 2021). The same source adds that a person who has [translation] "lost" their voter card must report the loss to a judicial police officer (officier de police judiciare, OPJ), who will issue a report (*procès-verbal*) on the loss of the voter card; they should then go to a CENI office with this "report attesting the loss of the voter card," to fill out a form to request a duplicate (DRC 24 Mar. 2021).

The LICOCO Executive Secretary stated that passports have a [translation] "very low" prevalence of fraud (LICOCO 7 Mar. 2022). The same source added that there is a [translation] "low" prevalence of fraudulent "service card[s]" for public institutions, but a "high" prevalence for service cards for "private institutions" (LICOCO 7 Mar. 2022).

Sources indicated that fraudulent birth certificates exist (LICOCO 7 Mar. 2022; Secretary General 14 Feb. 2022), but the LICOCO Executive Secretary described their prevalence as [translation] "very low" (LICOCO 7 Mar. 2022).

1.2 Administrative Documents

The CVPD Secretary General indicated that fraudulent administrative documents exist in the DRC, including diplomas, bank statements, university transcripts, and seals (Secretary General 14 Feb. 2022). According to the LICOCO Executive Secretary, there is a [translation] "low" prevalence of fraudulent death and marriage certificates, a "very low" prevalence of fraudulent "certificate[s] of nationality" and "criminal record[s]," a "low" prevalence of fraudulent public institution diplomas, but a "high" prevalence of fraudulent private institution diplomas (LICOCO 7 Mar. 2022). The same source stated that there is a [translation] "high" frequency of "various" other administrative certificates as a result of "easy" "access," but noted that in "certain" places including Kinshasa "many certificates are secure" and there is a "low" frequency of fraudulent administrative documents (LICOCO 7 Mar. 2022). The LICOCO Executive Secretary added that [translation] "[m]any administrative certificates" are "authentic and secure," but are "obtained without many requirements" (LICOCO 7 Mar. 2022).

The CVPD Secretary General stated that for reasons including the [translation] "impoverishment of administrative state agents, corruption, influence peddling, administrative dysfunction, [and] non-computerization of the system," there is a higher incidence of fraud in administrative documents compared with identity or legal documents (Secretary General 14 Feb. 2022).

The US Department of State's *International Religious Freedom Report for 2020* provides the following information concerning the issuance of registration permits for religious groups, fraudulent registration practices, and the government's attitude toward unregistered groups:

The Ministry of Justice again did not issue any final registration permits for religious groups, and had not done so since 2014. A ministry internal audit, reportedly in progress for several years and focused on fraudulent registration practices, remained incomplete at year's end. It was cited by some observers as an obstacle to resuming the issuance of registrations. The government … continued its practice of permitting groups to operate that were presumed to have been approved. Unregistered domestic religious groups reported they continued to operate unhindered. The ministry previously estimated that more than 2,000 registration applications for both religious and nonreligious NGOs remained pending and that more than 3,500 associations with no legal authorization continued to operate. Foreign-based religious groups reported they operated without restriction after applying for legal status. Under existing law, which was under review, nonprofit organizations could operate as legal entities by default if a government ministry ruled favorably on their application and the government did not object to their application for status. (US 12 May 2021, 3–4)

1.3 Legal Documents

According to the CVPD Secretary General, fraudulent legal documents, including [translation] "fake" work contracts, "exist" in the DRC (Secretary General 14 Feb. 2022). The LICOCO Executive Secretary indicated that the prevalence of fraudulent legal decisions and [translation] "judges' order[s]" is "low," and noted that there is also a "low" prevalence of "false trials" which produce "false judgements" (LICOCO 7 Mar. 2022). The same source added that there is a [translation] "high" prevalence of fraud in the production of "supplementary" legal decisions, whereby "the document may be authentic but the judgement fees are diverted" through a scheme in which "the same number is assign[ed] to several files," and "certificate[s] of no appeal," whereby "the same number is assigned to several files because the fees paid are diverted" (LICOCO 7 Mar. 2022).

2. Availability of Fraudulent Documents

Sources indicated that [translation] "mafia networks" in the DRC produce fraudulent documents (CDH 18 Feb. 2022; Secretary General 14 Feb. 2022). The CVPD Secretary General added that such networks exist in [translation] "almost every city" in the DRC and are comprised of "criminals who specialize in piracy and counterfeiting" (Secretary General 14 Feb. 2022). The same source added that some neighborhoods in particular cities are known for being locations where one can obtain a fraudulent document, such as the Birere district of Goma in North Kivu (Secretary General 14 Feb. 2022). According to the CDH Secretary General, [translation] "mafia networks" producing "false documents" act either "autonomously," or "in complicity with the official services" who can "provide materials, paper, [and] institutional stamps imitating authorities' signature and applied by a specialist" (CDH 18 Feb. 2022).

The LICOCO Executive Secretary indicated that fraudulent documents can be obtained by [translation] "[c]ontacting unauthorized persons who are in contact with the appropriate departments and documents" (LICOCO 7 Mar. 2022). The same source added that fraudulent documents can also be obtained by [translation] "[c]ontact[ing] authorized persons" who are willing to issue documents that are authentic but for which not all requirements were met for their issuance (LICOCO 7 Mar. 2022).

2.1 Authentic Documents Obtained Fraudulently

The CDH Secretary General indicated that identity, administrative, and legal documents can be obtained through fraudulent means; they can be [translation] "produced in an unofficial capacity by someone seeking a favour," or procured "at a state service agency not officially authorized" to produce such documents, or offered "at an authorized service" by "non-designated personnel" looking to obtain a monetary bribe in return (CDH 18 Feb. 2022). According to the same source, because of delays in document delivery or [translation] "administrative and financial hassles" related to obtaining authentic documents through official channels, people "sometimes avoid" this and instead go through "unofficial" procedures to obtain documents (CDH 18 Feb. 2022).

The CDH Secretary General indicated that [translation] "public officials" "sometimes" produce authentic documents unofficially "to earn money" for themselves (CDH 18 Feb. 2022). According to the US Department of State's *Country Reports on Human Rights Practices for 2020*, the issuance of passports was "irregular" owing to "inadequate administrative systems," and "[o]fficials accepted bribes to expediate passport issuance" and the price for "fully biometric passports varied widely" (US 30 Mar. 2021, 20). According to a 2018 survey [1] of 1,282 randomly selected DRC residents commissioned for the *Global Corruption Barometer Africa 2019* (Transparency International 11 July 2019, 23–24), a report authored by Transparency International, 70 percent of respondents reported having paid "a bribe" over the preceding 12 months in order to obtain an identity document such as "a birth certificate, driver's license, passport or voter card, or a permit" from the government (Transparency International 11 July 2019, 32, 62). When respondents who reported having "had contact" with the "government" over the preceding 12 months to obtain a "birth certificate, driver's license, passport or voter card, or a permit" were asked "how often" they "paid a bribe" (Transparency International 11 July 2019, 62), the survey data indicates that 27 percent paid a bribe "once or twice," 21 percent "a few times," 21 percent "often," 25 percent "never", and 6 percent "d[id not] know" (Transparency International 2019).

The CDH Secretary General noted that in cases where an official produces a document through [translation] "formal" procedures, the applicant will not receive an accompanying "proof of payment" or may receive proof of a different amount from what was actually paid when their document is issued to them (CDH 18 Feb. 2022). The same source indicated that documents obtained through these fraudulent means by public officials are authentic documents and contain [translation] "all of the official insignia, signatures, seal of the institution, etc." but are "often" "not reported in the archives of the institution that issued them" (CDH 18 Feb. 2022).

3. Examples of Fraudulent Documents

According to an article by Groupe Emergence, a DRC-based newspaper, in September 2020 the Congolese national police [translation] "apprehended a group of suspected counterfeiters producing counterfeit driver's licences" in Goma (Groupe Emergence 4 Sept. 2020).

An article by the French newspaper *Le Parisien* states that a DRC national was [translation] "sentenced ... to one year in prison" in France for the "illegal practice of medicine" after he used "fraudulent administrative documents" including a "Congolese medical diploma" he had falsified himself (*Le Parisien* 29 July 2020).

According to an article by Bulawayo24, a Zimbabwean "online news service" (Bulawayo24 n.d.), a DRC man was "fined" for "forging a passport" after he was "arrested at the border" while travelling from South Africa to the DRC (Bulawayo24 28 May 2021). The same source adds that the man's passport number was deemed to have been "'altered'" and "forged," but the man claimed he was "not aware" that the passport had been "tampered with" (Bulawayo24 28 May 2021). The article also states that the man "pleaded guilty to unlawfully possessing and making use of any permit or travel document issued to another" (Bulawayo24 28 May 2021).

The *Africa Organized Crime Index 2021*, a report produced by the EU Pan-African Programme's project Enhancing Africa's Capacity to Respond More Effectively to Transnational Organised Crime (ENACT) (ISS, et al. n.d.), notes that "[f]oreign criminal gangs" "operate alongside state-embedded actors" to conduct "fraudulent activities in the banking sector" (ISS, et al. 2021, 4).

The ENACT report indicates that according to the UN Security Council, "fraudulent documents" were used to "export gold" from the DRC to the United Arab Emirates (UAE) (ISS, et al. 2021, 3).

3.1 Fraudulent Use of Authentic Documents

According to an investigation and article by the New Humanitarian, "an independent non-profit news organization" focused on humanitarian crises (The New Humanitarian n.d.), the DRC team of the NGO Mercy Corps [2] "lost" US$639,000 "in a multi-layered fraud scheme" involving the fraudulent use of authentic voter ID cards to report "exaggerated" or "entirely fabricated" numbers of displaced persons eligible for "cash aid" (The New Humanitarian 11 June 2020). The same source adds that local "business owners" would "offer members of local communities" US$10 to "rent" their voter cards, after which collaborating "aid workers" would add the names of the voter card holders to "a database of people in need of assistance" (The New Humanitarian 11 June 2020). From there, the article continues, the "false beneficiaries" or "someone representing them" would "arrive with their voter cards" to receive "cash aid or vouchers" worth "on average" US$120, which they would later give to the "business owners" (The New Humanitarian 11 June 2020). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. State Efforts to Combat Fraudulent Documents

Section IV of the DRC's Penal Code, concerning forged written documents, provides the following:

[translation]

Article 124: The falsification of written documents with fraudulent intent or with the intention of causing harm will be punished by penal servitude of six months to five years and a fine of twenty-five to two thousand zaires [former currency], or by one of these penalties only.

Article 125: If the forgery was committed by a civil servant or an agent of the state in the exercise of their duties, penal servitude may be increased to ten years and the fine increased to five thousand zaires.

Article 126: Any person who, with fraudulent intent or with the intention of causing harm, makes use of the false certificate or false document will be punished as if they were the author of the forgery.

Article 127: Any civil servant or public officer who, in the exercise of their duties, issues a false certificate, falsifies a certificate, or makes use of a false or falsified certificate, will be punished by penal servitude of three months to five years and a fine of one hundred to one thousand zaires, or by one of these penalties only. (DRC 1940)

According to the CVPD Secretary General, authorities, [translation] "especially" the country's intelligence services, make efforts to combat fraudulent documents (Secretary General 14 Feb. 2022). The CDH Secretary General stated that the DRC authorities [translation] "are making great efforts to fight against" "fraudulent identity, administrative, and judicial documents" (CDH 18 Feb. 2022). The same source added, however, that [translation] "so far" authorities have achieved only "weak" results, and noted the following factors to explain such results:

the absence of tools used to verify document authenticity, the continued presence of manual public administration systems across several sectors, turnover among official personnel, the absence of a single standard model for documents, the lack of security concerning the paper and ink used, a large number of newly recruited agents with no expertise and no motivation, the poor conservation of archives, theft, [and] voluntary or involuntary destruction of archives. (CDH 18 Feb. 2022)

The LICOCO Executive Secretary stated that the [translation] "effects" of state authorities' efforts to combat fraudulent documents are "not commensurate with the challenges," noting that they observed "some" operations "but for a short period of time" (LICOCO 7 Mar. 2022). The same source added that authorities [translation] "do not sensitize the population to avoid documents that are not authentic" and do not "impose" "[e]xemplary sanctions" on the "few counterfeiters" who are "apprehended" (LICOCO 7 Mar. 2022).

The CVPD Secretary General indicated that [translation] "[s]everal people" from "[mafia] networks" [specializing in counterfeiting documents] have been "arrested" (Secretary General 14 Feb. 2022). The source noted, however, that following such arrests, [translation] "because of corruption and influence peddling," the suspects "can be released a few days later" (Secretary General 14 Feb. 2022).

According to the Groupe Emergence article, to [translation] "reduce the circulation" of fraudulent driver's licenses, the Provincial Minister of Finance in North Kivu has "promised that the traffic police" will "carry out" a "check" to "get a hold" of the fraudulent driver's licenses in circulation (Groupe Emergence 4 Sept. 2020). Information on the implementation of this measure could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Challenges to Verifying Fraudulent Documents

The CVPD Secretary General stated that [translation] "many" fake documents are identifiable as fraudulent upon comparison with an authentic version, and "few" are "difficult" to identify as such (Secretary General 14 Feb. 2022). According to sources, it can [translation] ["sometimes" (CDH18 Feb. 2022)] be "difficult" to distinguish a fraudulent document from an authentic one (CDH 18 Feb. 2022; LICOCO 7 Mar. 2022), and the LICOCO Executive Secretary noted a "lack of appropriate verification materials" and of the absence of publicly available sample documents, stamps, and signatures (LICOCO 7 Mar. 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] The survey was conducted in February to March 2018 by Omega Research (Transparency International 11 July 2019, 23–24), a DRC-based company specializing in quantitative and qualitative research and strategic consultancy (Omega Research n.d.).

[2] Mercy Corps is a global humanitarian organization operating in over 40 countries worldwide and focused on supporting "people living through poverty, disaster, violent conflict" and the "impacts of climate change" (Mercy Corps n.d.).

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Internet sites, including: African Development Bank; African Union; Agence congolaise de presse; Al Jazeera; AllAfrica; Amnesty International; Belgium – Commissariat général aux réfugiés et aux apatrides; Bertelsmann Stiftung; *Le Devoir*; ecoi.net; EU – EU Agency for Asylum; Factiva; Fédération internationale pour les droits humains; *Financial Times*; *Foreign Policy*; France – Office français de protection des réfugiés et apatrides; France 24; Freedom House; Human Rights Watch; *Jeune Afrique*; JournaldeKinshasa.com; Mediacongo.net; Mo Ibrahim Foundation; News24; Oxfam International; *Le Phare*; *Le Potentiel*; *La Presse*; Radio France internationale; Radio Okapi; Radio television nationale congolaise; Reuters; *Le Soft international*; Switzerland – State Secretariat for Migration; UN – WHO; US – US Agency for International Development; Voice of America Afrique.

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ecoi.net summary:
Query response on Democratic Republic of the Congo: Prevalence and availability of fraudulent identity, administrative and legal documents (2020 - March 2022)

Country:
Congo, Democratic Republic

Source:
IRB – Immigration and Refugee Board of Canada

Original link:
https://irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=458568&pls=1

Document type:
Response

Language:
English

Published:
23 March 2022

Document ID:
2071922

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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.