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Country Policy and Information Note
Democratic Republic of Congo: Unsuccessful asylum seekers

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Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the basis of claim section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general:**

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

Contents

Assessment **5**
1. Introduction 5
1.1 Basis of claim 5
1.2 Points to note 5
2. Consideration of issues 5
2.1 Credibility 5
2.2 Exclusion 5
2.3 Refugee Convention reason 6
2.4 Risk 6
2.5 Protection 8
2.6 Internal relocation 8
2.7 Certification 8
Country information **9**
3. Sourcing 9
4. Returns statistics 9
4.1 Defintions 9
4.2 Returns of unsuccessful asylum seekers 10
4.3 Returns by other states 10
5. Treatment of returnees 11
5.1 Returns from the UK and Europe 11
6. Monitoring of human rights, including returns 18
7. Detention conditions 20
8. False / fraudulent documents 21
8.1 Corruption 21
8.2 Law on false / fraudulent documents 22
8.3 Identification of forged / fraudulent documents 22
8.4 Prevalence of fraud / forgery 22
Annex A: Belgium EASO response, February 2018 25
Annex B: Slovakia EASO response, February 2018 27
Annex C : CGRS email, March 2018 30
Terms of reference **31**
Bibliography **32**
Sources cited 32
Sources consulted but not cited 34
Version control **36**

Assessment

Updated: 28 January 2019

1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm on return to the Democratic Republic of Congo (DRC) by the state because the person has unsuccessfuly claimed asylum and / or been convicted of a criminal offence in the United Kingdom (UK).

1.2 Points to note

1.2.1 A person who has been found not to need protection and has no right to remain is expected to leave the UK. If they do not leave voluntarily then the Home Office may, on a case-by-case basis, seek to enforce their return when it is safe to do so.

1.2.2 In facilitating a return, including unsuccessful asylum seekers, the Home Office does not inform the DRC authorities of the reasons for the return.

1.2.3 The UK government does not monitor returnees once they have arrived in the DRC (or indeed other countries). This is because:

- returns only take place when it is considered safe to do so
- it is inappropriate for the UK to assume responsibility for foreign nationals in their country of origin who have been found not to need protection
- the act of monitoring might, in itself, draw the authorities' attention to the returnees placing them at unwarranted risk

Back to Contents

2. Consideration of issues

2.1 Credibility

2.1.1 For guidance on assessing credibility, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

Back to Contents

2.2 Exclusion

2.2.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts.

2.2.2 For guidance on the exclusion clauses and restricted leave, see the Asylum Instruction on Exclusion: Article 1F of the Refugee Convention and the Asylum Instruction on Restricted Leave.

Back to Contents

2.3 Refugee Convention reason

2.3.1 Unsuccessfully claiming asylum then returning to the DRC does not, by itself, establish one of the convention grounds of imputed or actual political opinion, race, religion or nationality.

2.3.2 Nor are unsuccessful asylum seekers members of a particular social group. This is because they do not share a common characteristic that cannot be changed and do not have a distinct identity which is perceived as being different by the surrounding society.

2.3.3 For further guidance Convention grounds, see the Asylum Instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.4 Risk

2.4.1 In the country guidance case of BM and Others (returnees – criminal and non-criminal) DRC CG [2015] 293 (IAC), heard in March and April 2015 and promulgated on 2 June 2015, the Upper Tribunal (UT) of the Immigration and Asylum Chamber found that '… there is no substantiated allegation of arbitrary arrest or ill treatment of any DRC national who is a failed asylum seeker or a foreign national offender returning to his or her country of origin.' (paragraph 76). The UT went on to hold:

'(i) DRC nationals who have been convicted of offences in the United Kingdom are not at real risk of being persecuted for a Refugee Convention reason or serious harm or treatment proscribed by Article 3 [European Convention on Human Rights] ECHR in the event of returning to their country of origin.

'(ii) DRC nationals who have unsuccessfully claimed asylum in the United Kingdom are not at real risk of persecution for a Refugee Convention reason or serious harm or treatment proscribed by Article 3 ECHR in the event of returning to their country of origin.' (para 119)

2.4.2 In BM and Others the Home Office acknowleged that, owing to the poor conditions, a period of detention of more than approximately one day would result in a breach of Article 3. The UT accepted this assessment as 'clearly warranted by substantial and compelling evidence' (paragraph 13). Conditions in detention centres and prisons continue to be very poor, with ill-treatment reportedly commonplace. It therefore remains that a person detained for more than a day, even for short period of time, is likely to face conditions that breach Article 3 (see Detention conditions). However, a brief period of detention of a day or so for questioning about a person's immigration history will not, by itself, result in a person facing conditions that amount to a breach of Article 3.

2.4.3 The UT did, though, find those persons who are wanted / suspected by the DRC authorities of criminal activity in the DRC are likely to be at risk of harm:

'The DRC authorities have an interest in certain types of convicted or suspected offenders, namely those who have unexecuted prison sentences in DRC or in respect of whom there are unexecuted arrest warrants or who

supposedly committed an offence, such as document fraud, when departing DRC. Such persons are at risk of imprisonment for lengthy periods and, hence, treatment proscribed by Article 3 ECHR.' (paragraph 119(iv))

2.4.4 The Upper Tribunal went on to clarify its findings made in paragraph 119(iv) in the case of BM (false passport) [2015] UKUT 467 (IAC), heard on 23 July 2015 and promulgated on 12 August 2015), holding:

'The mere fact that an asylum claimant utilised a false passport or kindred document in departing the DRC will not without more engage the risk category specified in [119(iv)] of BM and Others … The application of this guidance will be dependent upon the fact sensitive context of the individual case. The Tribunal will consider, inter alia, the likely state of knowledge of the DRC authorities pertaining to the person in question. A person claiming to belong to any of the risk categories will not be at risk of persecution unless likely to come to the attention of the DRC authorities. Thus in every case there will be an intense focus on matters such as publicity, individual prominence, possession of a passport, the standard emergency travel document arrangements (where these apply) and how these matters impact on the individual claimant.' (Headnote)

2.4.5 Evidence available since BM was heard indicates that the penalities for the use of fraudulent documents may lead to imprisonment. However, sources also report that corruption is commonplace at all levels of the Congolese state and the government's administrative systems, including the issuance of passports, are inadequate. There is also a lack information on how persons using fraudulent docments, including passports, are penalised in practice (see False / fraudulent documents).

2.4.6 In such an environment, bribery and fraud may be widespread and evidence of individual (and state employee) criminal activity undocumented. Decision makers will therefore need to determine whether the person is likely to have committed a criminal act that would make him or her of interest, and whether this is likely to be known by the DRC authorities. Where a person may be arrested and detained for even a short period of time, they are likely to face conditions that breach Article 3. The onus will be on the person to demonstrate that they are of interest to the government, including with relevant documentary or other evidence.

2.4.7 Since the promulgation of BM and Others in June 2015, the UK has returned over 50 Congolese unsuccessful asylum seekers (mostly by forced removal) to the DRC. Other European states, including Belgium, Estonia, France, Norway, and Sweden have also returned Congolese nationals to the DRC, including unsuccessful asylum seekers (see Returns statistics). There is limited information about the situation faced by returnees onm arrival in the DRC, although there continue to be a number of organisations that monitor the general human rights situation in the DRC. Some NGO and media sources have reported that unsuccessful asylum seekers have faced difficulties on return to the DRC, including detention and ill-treatment (see Monitoring of human rights, including returns). However, information about the treatment of returnees is limited, anecdotal, and lacks specific detail (see Treatment of returnees). It continues to be the case that the Home Office is

not aware of independently verified evidence of ill-treatment on return solely because the person is an unsuccessful asylum seeker from the UK.

2.4.8 When taken as a whole, the evidence does not establish that there are very strong grounds supported by cogent evidence to depart from the caselaw of BM and Others. A person whose asylum claim has been carefully considered on its individual facts but found not to require protection because of their profile and activities is unlikely to be at risk of serious harm on return by virtue of the fact that they are an unsuccessful asylum seeker.

2.4.9 For general guidance on assessing risk, see the instruction on Assessing Credibility and Refugee Status

Back to Contents

2.5 Protection

2.5.1 As the person's fear is of persecution and/or serious harm by the state, they will not be able to avail themselves of the protection of the authorities.

2.5.2 For further guidance on assessing the availability of state protection, see the instruction on Assessing Credibility and Refugee Status

Back to Contents

2.6 Internal relocation

2.6.1 As the person's fear is of persecution and/or serious harm by the state, they will not be able to relocate to escape that risk.

2.6.2 For further guidance on internal relocation see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.7 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.2 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

Back to Contents

Country information

Section 3 updated: December 2018

3. Sourcing

3.1.1 This note includes information published since March 2015 (some of which includes information collated prior to March 2015: where this occurs, this has been identified and discussed in the text below) when the country guidance of BM and Others was heard. There is one exception, an information response by the Immigration and Refugee Board of Canada of 2014 on the subject of forged and fraudulent documents, which does not appear to have been considered by the Upper Tribunal in BM and Others.

3.1.2 In BM and Others the Upper Tribunal of the UK's Immigration and Asylum Chamber (UT IAC) considered a large body of evidence from a wide range of sources up to March 2015 which is listed in the Appendix of the determination. Additionally, the Tribunal summarised what it considered to be the main evidence and that of the expert witness, Dr Erik Kennes, in sections IV and V respectively of the determination[1].

3.1.3 The Home Office's country information and guidance document of September 2015 includes, in its annexes, source material submitted by the Home Office in BM and Others not in the public domain at the time (see Annexes A to W)[2].

Back to Contents

Section 4 updated: December 2018

4. Returns statistics

4.1 Defintions

4.1.1 The Home Office's migration statistics provide a definition of forced returns. These are '… enforced removals from detention, non-detained enforced removals and other returns from detention.…'. The same source noted that '[e]nforced removal is where it has been established that a person has breached UK immigration laws and has no valid leave to remain within the United Kingdom. The Home Office enforces their departure to ensure they leave the UK.'[3]

4.1.2 The Home Office's migration statistics also provided a defintion of voluntary return, which:

'[…] covers the following:

'a) Assisted returns … Refers to a range of programmes that are available to individuals who are in the asylum system or who are irregular migrants and who wish to return home permanently to either their (non-EEA) country of origin or to a third country where they are permanently admissible. The Home Office has been funding [Assisted Voluntary Return] AVR

[1] UT IAC, BM and Others, 2 June 2015, url
[2] Home Office, CIG – treatment on return, September 2015, (no longer available on the gov.uk website, publicly accessible via refworld or ecoi.net), url / url.
[3] Home Office, Immigration statistics (Returns table vol 4; Notes), url.

programmes since 1999. They were delivered by Refugee Action (prior to April 2011, by the International Organization for Migration) until December 2015 [and since January 2016 by the Home Office's Voluntary Returns Service]. Assisted returns also include some cases where the return incurred public expense.

'b) Controlled returns relate to those returns occurring more than 2 days after leaving detention or where there was no period of detention prior to the return AND where it had been established that a person has breached UK immigration laws and / or has no valid leave to remain in the UK and the Home Office has actively facilitated or monitored the return. Removal directions may or may not have been set but the person will have notified the Home Office that they intend to make their own arrangements to leave the country and provide evidence to this effect.

'c) Other verified returns… relate to persons who it has been established have left or have been identified leaving the UK without formally informing the immigration authorities of their departure. These persons can be identified either at embarkation controls or by data-matching…'[4]

Back to Contents

4.2 Returns of unsuccessful asylum seekers

4.2.1 Between July 2015 and September 2018 (the latest date for which data are available at the the time of writing) a total of 52 Congolese unsuccessful asylum seekers are recorded as having returned to the DRC from the UK. Of these, 46 were enforced removals while a further 8 returned voluntarily[5].

4.2.2 These data include a total of 14 persons returned in 2018 to the end of September: 11 enforced and 3 voluntarily[6].

Back to Contents

4.3 Returns by other states

4.3.1 The Belgian Office of the Commissioner General for Refugees and Stateless Persons (CGRS) observed that, as of February 2018, Belgium, France and Switzerland did, or were understood to, remove persons to the DRC[7]. The Norwegian police (NPIS) regularly publish returns statistics, which indicate that Congolese nationals without permission to stay in Norway, including failed asylum seekers, are returned to the DRC[8] [9] [10] [11].

4.3.2 Eurostat collated data on the number of migration returns to the DRC between 2014 and 2017 for 19 EU states, 5 of which returned Congolese nationals (Belgium, Estonia, France, Sweden and the UK). The data does

[4] Home Office, Immigration statistics (Returns table vol 4; Notes), url.
[5] Home Office, Immigration statistics (Returns table vol 4; rt04q), url.
[6] Home Office, Immigration statistics (Returns table vol 4; rt04q), url.
[7] CGRS, Query response, February 2018, Annex A.
[8] NPIS, Forced returns 2015, December 2015, url.
[9] NPIS, Forced returns 2016, December 2016, url.
[10] NPIS, Forced returns 2017, December 2017, url.
[11] NPIS, Forced returns October 2018, October 2018, url.

not specifically state if the returns were unsuccessful asylum seekers or non-protection cases, or which were enforced or voluntary[12]:

	2014	2015	2016	2017
Belgium	85	75	:	:
Estonia	:	:	0	5
France	40	30	25	35
Sweden	:	:	5	5
United Kingdom	10	20	20	35

Back to Contents

Section 5 updated: December 2018

5. Treatment of returnees

5.1 Returns from the UK and Europe

5.1.1 This notes does not consider returns of Congolese migrants, asylum seekers or refugees from neighbouring countries to the DRC[13], the circumstances for whom are different from those returning from Europe.

5.1.2 There is limited publicly available information about the treatment of unsuccessful asylum seekers from the UK (or other western European states) published since March 2015[14] [15].

5.1.3 The US State Department (USSD) observed in its human rights report covering events in 2017 that '[t]he law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government sometimes restricted these rights.'[16] However, the USSD report does not comment specifically on the return of Congolese unsuccessful asylum seekers from the UK or other western countries[17].

5.1.4 The Immigration and Refugee Board of Canada (IRBC) issued a response on returns in July 2017[18] which references a number of sources including Amnesty International (referring to information provided as evidence in BM and Others), the Home Office's country information guidance document of September 2015 (now archived – see Bibliography) and the Observer. As the original information from each of these sources pre-dates March 2015 and was considered by the Upper Tribunal in BM and Others in reaching its determination it has not been reproduced below[19].

[12] Eurostat, Third country nationals who have left by destination, last updated 13 November 2018, url.
[13] Over 300,000 Congolese migrants were expelled from Angola in October 2018, most of whom returned to Kasai province in the DRC, Irinew, Briefing, 8 November 2018, url; ACAPS, Displacement from Angola, 18 October 2018, url
[14] Ministry of Interior, Slovak Republic, Query response, February 2018, Annex B.
[15] See also sources consulted in Bibliography
[16] USSD, DRC human rights report 2017 (section 2d), April 2018, url.
[17] USSD, DRC human rights report 2017, April 2018, url.
[18] IRBC, Response, 10 July 2017, url.
[19] UT IAC, BM and Others (Section IV and the Appendix), 2 June 2015, url

5.1.5 The IRBC response includes a further 3 sources not considered by the Upper Tribunal in the BM and Others. The first is a paper by Blondel et al (the research co-ordinator was Dr Jill Alpes) citing the International Refugee Rights Initiative (IRRI) as the source published in May 2015. The IRBC response noted that:

'…[IRRI], an NGO that works to address the causes of conflict-related displacement and ensure respect for the rights of those forced to leave their homes (IRRI 2011) by providing research data on the risks faced by failed refugee claimants in 22 countries, includes the DRC in the list of countries where the practices of the authorities create "return-related risks" (IRRI May 2015, 4).'[20]

5.1.6 However, the IRRI paper was limited to desk-based research carried out between October 2014 and May 2015[21] and, in regard to the DRC, appears to be based on publicly available documents published in 2012 and 2013 (see footnotes 103 to 109 of page 34)[22].

5.1.7 The articles by 2 other sources in the IRBC response - Jeune Afrique and La Presse - appear not to have been considered by the Tribunal in BM (they are not referenced in the Appendix[23]). Citing these sources, the IRBC response noted:

'Jeune Afrique reportes [sic] that three Congolese who claimed refugee protection in the Netherlands and were deported to the DRC were [translation] "taken into custody" by the police upon their arrival in the DRC on 7 July 2014, and taken to the Ndolo military prison even though the Dutch justices "deemed that the DRC had provided adequate guarantees as to their safety" (Jeune Afrique 7 July 2014). The same source states that the three Congolese citizens [translation] "feared for their lives after incriminating the President of the DRC, Joseph Kabila, with their testimony" at the International Criminal Court in 2011 (Jeune Afrique 7 July 2014). According to the same source, the Congolese authorities stated that [translation] "the three men have nothing to fear in their own country" (Jeune Afrique 7 July 2014).

'A […] March 2015 article in La Presse reports that the President of the Congolese Community of Montreal (Communauté congolaise de Montréal) stated that he had not heard from a Congolese man [translation] "deported" to the DRC who was arrested "as soon as he arrived at Kinshasa airport" and then incarcerated (La Presse 26 Mar. 2015).'[24]

5.1.8 The IRBC qualified its response by stating:

'Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

'This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time

[20] IRBC, Response, 10 July 2017, url.
[21] Blondel et al, Post-deportation risks (p2), May 2015, url
[22] Blondel et al, Post-deportation risks (p34), May 2015, url
[23] UT IAC, BM and Others (Appendix), 2 June 2015, url
[24] IRBC, Response, 10 July 2017, url.

constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection.'[25]

5.1.9 In addition to the sources quoted, the IRBC listed sources that it had consulted but from which it was unable to identify relevant information in compiling its response:

'Oral sources: Les amis de Nelson Mandela pour la défense des droits humains; Association africaine de défense des droits de l'homme; International Organization for Migration; researcher specializing in migration to the DRC.

'Internet sites, including: Amnesty International; ecoi.net; Electronic Immigration Network; Forced Migration Review; Freedom House; Human Rights Watch; Internal Displacement Monitoring Centre; International Refugee Rights Initiative; Le Phare; Le Potentiel; Radio Okapi; United Nations – Refworld, High Commissioner for Refugees; United States – Department of State.'[26]

5.1.10 The authors of the IRRI paper of May 2015 (including Dr Jill Alpes) also wrote an article in the February 2017 edition of the Forced Migration Review (FMR) titled 'Post-deportation risks for failed asylum seekers' which commented on, amongst other things, those returned to the DRC. The article observed:

'In the seven years to 2015, France deported 590 Congolese citizens whose application for asylum had failed. Claiming asylum in another country, however, may be treated by the Congolese authorities as an act of treason, and almost every returned asylum seeker monitored in 2011 by the organisation Justice First [see Unsafe Return, November 2011[27]] was imprisoned, tortured, forced to pay a ransom, raped or subjected to sexual harassment.

'A study by the British Home Office [UK Home Office fact finding mission of June 2012[28]] found that people who were repatriated to DRC were systematically summoned to the Congolese Bureau of Migration on their arrival at the airport and sometimes questioned by the National Intelligence Agency in Kinshasa. These people face multiple risks, from extortion involving sums from $6,000 to $25,000 to imprisonment without access to a lawyer and being held in poor conditions of detention. Some people had been forced to sign a document stating that they had left the airport without any difficulty but were then arrested at home a few hours later; when the UN mission MONUSCO tried – unusually so – to intervene, the Congolese authorities denied that there was any possibility of people having been detained.'[29]

5.1.11 However the FMR article's specific points on DRC returns are drawn from a report produced by Justice First in 2011 and a Home Office report of a fact

[25] IRBC, Response, 10 July 2017, url.
[26] IRBC, Response, 10 July 2017, url.
[27] Justice First, Unsafe Reutrn, 24 November 2011, url.
[28] Home Office, Report of a FFM, November 2012, url.
[29] FMR, Post-deportation (pages 76-77), February 2017, url.

finding mission to Kinshasa in 2012. Both documents were considered by the Tribunal in BM and Others in reaching its findings[30] [31].

5.1.12 Dr Jill Alpes, described as 'a migration researcher at the Vrije Universiteit Amsterdam' who co-ordinated the IRRI research and paper of May 2015, and co-authored the article in the FMR of February 2017, opined in a blog on the University of Oxford, Faculty of law, website of November 2016 that:

'Failed asylum seekers, in particular, can be in grave danger upon return [in a number of countries, including the DRC]. In theory, deporting states are not allowed to pass on information about the asylum history of deportees. In practice, leakages can occur. Based on information gathered in the field, through interviews with Congolese police officers, newly developing collaborations between deporting states and foreign police officers and the potential presence of intelligence agents at some countries' Embassies in Europe facilitate such leakages. Failed asylum seekers can be at risk upon return in cases where their application was unduly turned down, if they fabricated fraudulent documents in their quest to overcome the high threshold for evidence in asylum claims or because officials in countries of origin accuse asylum seekers of having tarnished the regime in power during their asylum application.

'During a research visit to Kinshasa, I came across the case of a deportee from Belgium who was sent to Makala because his asylum application contained fraudulent documents. Another man, called Vincent, a Congolese national who had lost his refugee status following a criminal offence in Canada, was detained for 55 days in a military prison under extremely harsh and degrading conditions. I also met a voluntary returnee who was detained for two days in an underground cell of the Congolese intelligence service. In Cameroon and Congo, prison inmates rely on family members to bring them food and other vital commodities. A mattress to sleep on, access to toilets and access to water are all "extra" services that prison inmates need to pay for themselves.

'To avoid problems upon return, a large number of those deported to DRC with whom I spoke had arranged for safe passage by asking family members to make informal arrangements with police officers at the airport. These arrangements cost between 20$ to 200$. Me[n] and women who fail to make these arrangements can see themselves confronted with the arbitrary behavior of police officers, such as the confiscation of their luggage –often the only belongings they managed to save at the time of deportation after years of living abroad.'[32]

5.1.13 Dr Alpes does not state specifically when the research visit to Kinshasa took place but refers earlier in the blog post to having undertaken 'first hand empirical research with deportees' in the DRC in 2016[33]. However, according to Dr Alpes' curriculam vitae she undertook and wrote up the research as a consultant for Amnesty (Netherlands) on Cameroon, DRC and Turkey

[30] FMR, Post-deportation, February 2017, url.
[31] UT IAC, BM and Others (section IV and the Appendix), 2 June 2015, url
[32] Dr Jill Alpes, Blog on deportation, 9 November 2016, url.
[33] Dr Jill Alpes, Blog on deportation, 9 November 2016, url.

between June 2015 and August 2016[34] [35]. No report of the research is, however, available in English (see sources consulted in Bibliography).

5.1.14 In a response to an European Asylum Support Office (EASO) request for information raised by the UK Home Office in February 2018, the Belgian Office of the Commissioner General for Refugees and Stateless Persons (CGRS) observed:

'A readmission agreement between the DRC and Belgium exists since 2006. Freedom of leaving and re-entering the country lies in the Congolese Constitution.

'Upon arrival at Ndjili airport [Kinshasa], returnees are controlled [i.e. checked] by the [Direction Générale de Migration – General Office for Migration] DGM and often by the [Agence Nationale de Renseignements - National Intelligence Agency] ANR although not systematically. Eleven repatriation flights have been carried out departing from Belgium since January 2015. According to the monitoring by the Belgian Immigration Office, there were no incidents.'[36]

5.1.15 The same CGRS response further noted:

'The press has on occasion reported allegations of ill treatment during repatriation.

'Two academic studies from 2015 and 2016 report risks of physical violence, without presenting factual cases.

'The [Post Deportation Monitoring Network] PDMN and Still Human Still Here networks, as well as the [Le Mouvement francophone de lutte contre le racisme, l'antisémitisme et la xénophobie] MRAX have not answered [research unit of the CGRS] Cedoca's requests for information. The website of the NGO's [Collectif contre les Rafles, les Expulsions et pour la Régularisation] CRER and Getting the Voice Out do not provide information relevant to this research. In February 2018, the La [La Fondation Bill Clinton pour la paix] FBCP wasn't aware of recent cases. The [Les Amis de Nelson Mandela pour la défense des droits humains] ANMDH didn't have any evidence in February 2016. One NGO that wished to remain anonymous reported torture in March 2016, without providing further details, despite Cedoca's request. The Justice First reports are dated 2011 and 2013. Catherine Ramos who appears to be the author, did not react to Cedoca's request for further details in September 2017.

'The UK continues to return Congolese to Kinshasa, considering there is no substantial evidence of ill treatment. [Office français de protection des réfugiés et apatrides – the French Office for the Protection of Refugees and Stateless Persons] OFPRA doesn't have information related to the subject other than that collected during its mission in 2013 [Report of a mission to

[34] Academia, Dr Jill Alpes – CV, circa 2017, url.
[35] Dr Alpes's CV also stated that she is a 'senior policy officer' for Amnesty (Netherlands). The CV appears to be current as of the of 2017, however her Twitter feed updated as of November 2018 at the time or writing states that she is 'former Amnesty'.
[36] CGRS, Query response, 28 February 2018, not published - see Annex A.

the Democratic Republic of Congo, 30 June to 7 July 2013[37]; extracts of which were considered by the Upper Tribunal in BM and Others[38]]. The October 2017 Ambtsbericht [office message] refers to UNHCR which deems that a case by case assessment needs to be done according to the place of return and its specific security conditions. The [Swiss State Secretariat for Migration] SEM also continues to return Congolese, but has not updated its research on risk on return since 2015.

'In February 2018, the [UN Joint Human Rights Office in the DRC] UNJHRO didn't rule out that cases occur without being documented. In 2017, [Amnesty International] AI published a research on human rights in the context of forced return, reporting extortion, detention, and ill treatment in Kinshasa. However, neither AI, nor [Human Rights Watch] HRW, nor the [US Department of State] USDOS tackle this subject in their annual reports of 2017, 2016 and 2015. The European Court of Human Rights seemed to confirm in June 2017 its 2014 position, i.e. that the burden of proof of the risk of ill treatment lies with the applicant. The UNHCR-Belgium officer responsible for contacts with the media regrets that there is no organization in the field which systematically monitors the fate of these persons.'[39]

5.1.16 Another response to an EASO query asked by the Home Office of February 2018 provided by the Ministry of Interior of Slovakia noted that:

'According to the Dutch Ministry of Foreign Affairs report on the DRC, published on 19 May [2017], and having used a confidential source for reported information, "Returnees risk being questioned upon return by the Agence Nationale de Renseignements (ANR) […]."

'The press release of the Bill Clinton Foundation for Peace (FBCP) posted on the foundation´s Facebook page, on 21 October 2016, informed about a case of a deportee who was expelled from Great Britain and was detained in sub-human conditions in cell of the ANR in Kinshasa. The reason for his expulsion from Great Britain is not known but once he had arrived in his country he was considered to be a "combattant"[…]'[40]

5.1.17 In an email of 13 March 2018, a researcher at the CGRS informed the Home Office that:

'According to an email sent on March 12th, 2018 by [an immigration officer] … at the Immigration Office, the Belgian Immigration Office continues to return Congolese citizens (including [failed asylum seekers] FAS). There is obviously a control [assessment] with respect to art.3 ECHR, but most of the elements are already controlled during the asylum procedure. It belongs to the Immigration Office to check the risk of degrading treatment [i.e. a breach of Article 3].

'From [the immigration officer's]… experience, and this has often been confirmed by… [a] Belgian Immigration officer in Kinshasa, persons returned to the DRC are not ill treated. Of course, individual exceptions cannot be ruled out, but the Office is not aware of such cases. Forcibly returned

[37] OFPRA, Fact finding report, April 2014, url.
[38] UT IAC, BM and Others (Appendix), 2 June 2015, url
[39] CGRS, Query response, 28 February 2018, not published - see Annex A
[40] Ministry of Interior of Slovakia, Query response, February 2018, not published – see Annex B.

Congolese are usually interrogated [questioned] by the DGM upon arrival before they can dispose [depart from the airport]. In the case of special flights [charterd flights with a number of returnees], there's generally a second interrogation by the security services. So far, no problems were reported.

'[… The] Belgian Immigration officer based in Kinshasa, added also per email on the same day [12 March 2018], that in case of special flights, the [Agence Nationale de Renseignements] ANR sometimes comes in for identification purposes and that there are no problems on arrival. [The Belgian immigration officer] … follows all cases, even individual escorts.'[41]

5.1.18 CPIT contacted the British Embassy in Kinshasa in March 2018, however the Embassy was not able to provide specific information with regard to returnees.

5.1.19 In November 2018, Freedom from Torture (FfromT) published a report of its analysis of medico-legal reports produced between January 2013 and July 2018 of 74 Congoelse asylum seekers in the UK. The report 'was written in collaboration with the Survivors Speak OUT network and Congolese survivors through a series of workshops to provide survivor commentary and recommendations.' The report explained that

'All [the Congolese asylum seekers] were detained and tortured because of their own or others' political or human rights activity. This includes being a member or rank-and-file supporter of opposition parties, campaigning organisations and pressure groups, and other types of civil society organisation. It encompasses a wide range of forms of public expression on issues such as democracy and human rights, including women's rights.'[42]

5.1.20 As part of the report FfromT '… conducted focus groups and individual discussions with 30 Congolese torture survivors to discuss accountability for torture in the Democratic Republic of Congo (DRC)… The 30 survivors, 17 men and 13 women, are either current or former therapy clients at Freedom from Torture.'[43] The survivors believed that 'the [Congolese] Government views people in the diaspora as having "betrayed" the country by talking about what is happening in the DRC. They said that the government views anyone returning, either voluntarily or not, as a "high-level opponent". They feared people would be treated "without mercy" on return and probably imprisoned'.[44]

5.1.21 The FfromT report observed that 7 of those cases surveyed were detained on return to the DRC, one of whom was reported to have been an unsuccessful asylum seeker from the UK. However further detail about the backgrounds of the individuals, such as whether they had been involved in activities in the DRC prior to leaving and when the returns took place are not provided. The report stated that:

[41] CGRS, Email, 13 March 2018, Annex C.
[42] FfromT, 'A tool to silence…' (p3), November 2018, url.
[43] FfromT, 'A tool to silence…' (p8), November 2018, url.
[44] FfromT, 'A tool to silence…' (p11), November 2018, url.

‘Seven people had travelled outside the DRC for work or leisure or to seek asylum. Five of them were detained on their return at the airport or from home, for reasons directly related to their visit or residence abroad.

‘Four of the seven had travelled to the UK prior to their most recent detention in the DRC. One had made an unsuccessful claim of asylum and was forcibly removed to the DRC by the UK authorities. The National Intelligence Agency (ANR, Agence Nationale de Renseignements) questioned him on arrival at the airport and released him on the basis that he report to them a month later. When he reported they detained him, having first shown him a photograph depicting him attending a protest against the government of President Kabila while in the UK. He was taken to prison, tortured and interrogated about dissidents and contacts in the UK. When eventually released without charge, he became involved with a political opposition party. He was then detained and tortured for a third time, prompting flight to the UK and this time a successful asylum claim. Another person was detained at the airport in Kinshasa when it was wrongly alleged that she had met with government officials in the UK to publicise the human rights work of the non-governmental organisation she worked for.

‘Three of the seven people had travelled to or lived in countries in Africa and Europe prior to their most recent detention, two of whom were detained at the airport on return to the DRC and one of who was seized at home. One had been deported from a neighbouring country having made an unsuccessful asylum claim there some years earlier, following repeated detention in the DRC for political opposition activities. He described being detained as part of a “round-up of dissenters” and deported directly into the hands of the Congolese authorities, who then detained him. Two had travelled to or were living in Europe and were detained on return to the DRC, one at the airport and one from home, on the basis of allegations that they had met or had assisted dissident members of the Congolese diaspora opposed to the government of President Kabila.’[45]

5.1.22 As of December 2018, CPIT was unable to find any additional relevant information in the sources / websites consulted in this note – see Bibliography.

Back to Contents

Section 6 updated: December 2018

6. Monitoring of human rights, including returns

6.1.1 The Home Office does not undertake post-return monitoring as a matter of principle:

- returns only take place when it is safe to do so on a case-by-case basis
- the individuals returned are foreign nationals who have been found not to need protection so it would be appropriate for the UK to assume ongoing responsibility for them

[45] FfromT, ‘A tool to silence…’ (p36), November 2018, url.

- the act of monitoring itself may bring the returnee to the attention to the authorties of the country of orgin and, by doing so, may put the returnee at risk[46] [47]

6.1.2 Where specific allegations are made to the UK government that a returnee has experienced ill-treatment on or after return, these will be investigated by the Home Office and Foreign Office[48].

6.1.3 The CGRS EASO response of February 2018 cites a UNHCR-Belgian official who observed that there is no organisation that systematically monitors returns to the DRC[49].

6.1.4 However, while freedom of press and speech is limited[50] [51] a number of local and international organisations monitor the general human rights situation in the DRC. Freedom House noted in its report covering 2017 that: 'Nongovernmental organizations (NGOs) and professional organizations are generally able to operate, though domestic human rights advocates are subject to harassment, arbitrary arrest, and detention. There are approximately 5,000 registered NGOs in the DRC, though many have narrow scopes devoted to ethnic and local concerns.'[52]

6.1.5 The International Center for Not-for-Profit Law (ICNL) noted:

'Congolese civil society is comprised of a range of actors on the local, regional, and national levels. Most civil society organizations (CSOs) seek to advance the social and economic development of their communities, often through the provision of goods and services for the public interest. The individuals who participate in CSOs come from a variety of ethnic, religious, political and national movements and include workers, students, women, and entrepreneurs…

'Civil society today continues to operate in a complex social, economic, cultural, and political environment and struggles to ward off manipulation by various political forces, including the governing majority on the one side and the opposing minority on the other. The government has increasingly cracked down on criticism, including through the forced "disappearance" of journalists, and blocked opposition protests. The public authorities justify these crackdowns as necessary to preserve "public order". One consequence of these government actions has been that Congolese civil society has become increasingly divided into two political camps: some CSOs are aligned with opposition political parties that want political change through new elections, while other CSOs support existing political parties.'[53]

6.1.6 The USSD report for 2017 cautioned, however, that:

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[46] For example, see the Home Office's position on returns generally set out a response to a Parliamentary Question on Sudan and South Sudan of July 2018, url.
[47] Home Office, Response to a written question, 8 February 2018, url.
[48] Home Office, Response to a written question, 8 February 2018, url.
[49] CGRS, Query response, 28 February 2018, not published - see Annex A
[50] FH, Freedom in the World 2018 - DRC, March 2018, url.
[51] USSD, DRC human righrs report 2017 (section 2a), April 2018, url.
[52] FH, Freedom in the World 2018 - DRC, March 2018, url.
[53] ICNL, DRC, December 2018, url.

'Elements of the [State Security Forces] SSF continued unlawfully/extrajudicially to kill, harass, beat, intimidate, and arbitrarily arrest and detain domestic human rights advocates and domestic NGO workers, particularly when the NGOs reported on or supported victims of abuses by the SSF or reported on the illegal exploitation of natural resources in the east. During 2016 the government declined to renew the work permit of a Human Rights Watch researcher and revoked the visa of Congo Research Group director Jason Stearns, officially for reasons of "undesirability." During the year the government declined to issue or renew visas for some international journalists and researchers. Representatives from the Ministry of Justice and the ANR met with domestic NGOs and sometimes responded to their inquiries.

'… The government cooperated at times with investigations by the United Nations and other international bodies but was not consistent in doing so. For instance, the government refused to grant the United Nations access to certain detention centers, particularly at military installations such as military intelligence headquarters, where political prisoners were often detained… The government also blocked UNJHRO access to morgues, hospitals, and detention facilities during protests on December 31 [2017] in Kinshasa.

'… During the year the [National Human rights Comission] CNDH made some progress, publishing reports on violence in Beni territory, December [2016] protests, and the Kamuina Nsapu phenomenon in the Kasais. It also visited detention centers, followed up on complaints of human rights abuses from civilians, and held a meeting on the right to demonstration. It continued to lack sufficient funding for overhead costs or to have representation in all 26 provinces.'[54]

6.1.7 The UN Mission to the DRC (MONUSCO) operates a Human Rights Office (UNJHRO) which is 'comprised of the MONUSCO Human Rights Division (HRD) and the former Office of the UN High Commissioner for Human Rights in the DRC'. The UNJHRO is mandated to, amongst other things, promote and protect human rights, and investigate human rights violations. It is headquatered in Kinshasa, with 13 field offices and 6 sub-offices[55].

Back to Contents

Section 7 updated: December 2018

7. Detention conditions

7.1.1 A number of sources report that conditions in detention centres, including at unofficial sites[56], are poor[57] [58] [59]. The USSD report for 2017 observed:

[54] USSD, DRC human rights report 2017 (section 5), April 2018, url.
[55] MONUSCO, human rights, undated, url.
[56] Freedom from Torture (FfromT) released a paper based on medico-legal reports on 74 Congolese asylum seekers in UK undertaken between Janaury 2013 and July 2018. FfromT, A tool to silence… (p44), November 2018, url.
[57] USSD, DRC human rights report 2017 (section 5), April 2018, url.
[58] UN HRC, Human rights situation report (para 71), 13 August 2018, url.
[59] Freedom House, Freedom in the World 2018 – DRC, March 2018, url.

'Conditions in most prisons throughout the country remained harsh and life threatening due to food shortages, gross overcrowding, and inadequate sanitary conditions and medical care. Even harsher conditions prevailed in small detention centers run by the National Intelligence Agency (ANR), Republican Guard (RG), or other security forces, which often detained prisoners for lengthy pretrial periods without access to family or legal counsel. Some civil society activists arrested in Kinshasa were reportedly held in an underground cell operated by the RG at a military camp.'[60]

7.1.2 Sources identified a number of inadequacies in dention facilities that were a threat to life and health including

- Prevalence of violence and ill-treatment
- Inadquate potable water, sanitation, ventilation, lightning and access to healthcare[61] [62]
- Overcrowding and malnutrition
- Understaffing and poor training, undersupplying and poor maintainence[63] [64]

7.1.3 The UN documented over 5,000 prisoner escapes in 2017[65], noting mass escapes continued into 2018[66].

7.1.4 While the government did allow the Red Cross, the UN and NGOs access to some prisons it 'consistently denied' access to national intelligence and Republican Guard facilities[67].

Back to Contents

Section 8 updated: December 2018

8. False / fraudulent documents

8.1 Corruption

8.1.1 Corruption and a lack of transparency at all levels of government is a significant problem[68] [69]: Transparency International ranked the DRC 161st out 180 countries in its corruption perception index for 2017 (i.e. it had a high prevalence of corruption compared to other countries)[70].

8.1.2 Freedom House (FH) observed: 'Massive corruption in the government, security forces, and mineral extraction industries continues to paralyze the functioning of the government and development efforts intended to raise living standards. Recruitment for government posts is often determined by

[60] USSD, DRC human rights report 2017 (section 1c), April 2018, url
[61] USSD, DRC human rights report 2017 (section 1c), April 2018, url.
[62] FfromT, 'A tool to silence… ' (ps45; 48-49), November 2018, url.
[63] UN HRC, Human rights situation report (para 71), 13 August 2018, url
[64] USSD, DRC human rights report 2017 (section 1c), April 2018, url.
[65] USSD, DRC human rights report 2017 (section 1c), April 2018, url.
[66] UN HRC, Human rights situation report (para 71), 13 August 2018, url.
[67] USSD, DRC human rights report 2017 (section 1c), April 2018, url.
[68] USSD, DRC human rights report 2017 (section 2d), April 2018, url.
[69] FH, Freedom in the World 2018 - DRC, March 2018, url.
[70] TI, CPI 2017, 28 February 2018, url.

nepotism. Accountability mechanisms are weak, and impunity remains a problem.'[71]

Back to Contents

8.2 Law on false / fraudulent documents

8.2.1 An EASO response of November 2016, based on information provided by 5 EU states as well as EASO noted:

'The law pertaining to the use of false documents in the Democratic Republic of Congo (DRC) is the Code Code Pénal Congolais (Congolese Penal Code), Section IV: des Faux Commis en Ecritures, art. 124-127: A person using a fraudulent document with intent will be tried as the person who produced the false document (article 126). Prison term varies from six months to five years and or a fine (art. 124)[…].'[72]

Back to Contents

8.3 Identification of forged / fraudulent documents

8.3.1 The EASO response of November 2016 also observed that:

'The Direction Générale de Migration (DGM) is a body under DRC's Ministry of Interior, mandated to manage migratory flows, namely through "border control, checking travel documents and implementing police measures over migrants" […].

'The steps DGM undertakes to verify documents used to cross borders are described in DGM's official website, under Control Procedure (Procédure de Contrôle) (3), as are the steps taken on discovering a fraudulent document (Mesures de Police aux Frontières) […].'[73]

8.3.2 The EASO response further observed, however, that none of the responding EU states were able to provide information on whether the Congolese authorities would be aware of anyone leaving the DRC on a false document or what happens in practice to person who left the DRC on a false document(s) and returns to the country[74].

8.3.3 CPIT was not able to find additional specific information on the identification and punishment for use of fraudulent documents in the sources consulted – see Bibliography.

Back to Contents

8.4 Prevalence of fraud / forgery

8.4.1 A IRBC response of April 2014, citing various sources, noted:

'In correspondence with the Research Directorate, the President of the Association for Peace, Human Rights and Justice (Ligue pour la paix, les droits de l'homme et la justice, LIPADHOJ), a Congolese NGO that promotes human rights and works for the protection of victims' rights (VRWG n.d.), stated that there were [translation] "a lot" of fraudulent identity, administrative

[71] FH, Freedom in the World 2018 - DRC, March 2018, url.
[72] EASO, Query response, 17 November 2016, url.
[73] EASO, Query response, 17 November 2016, url
[74] EASO, Query response, 17 November 2016, url

and legal documents in the Democratic Republic of the Congo (DRC) (LIPADHOJ 14 Mar. 2014).

'The President of the Congolese Association for Access to Justice (Association congolaise pour l'accès à la justice, ACAJ), a Congolese human rights NGO that is made up primarily of lawyers and that promotes security and justice reform (ACAJ Jan. 2013), stated in correspondence with the Research Directorate that [translation] "criminal networks exist and secretly issue the falsified documents" (ibid. 20 Mar. 2014). In correspondence with the Research Directorate, a representative of the Embassy of Canada in Kinshasa also stated that it is [translation] "easy" to obtain falsified documents (Canada 26 Mar. 2014).

'According to the President of ACAJ, the prevalence of fraudulent documents [translation] "is mainly due to the dysfunction of the public administration, and to corruption, influence-pedalling and the prevailing culture of impunity" (ACAJ 20 Mar. 2014). In correspondence with the Research Directorate, the Director of the Centre for Human Rights and Humanitarian Law (Centre des droits de l'homme et du droit humanitaire, CDH), an NGO located in Lubumbashi, in the province of Katanga, stated that fraudulent documents are being produced by government employees who [translation] "often erase any traces of their crimes, with a few exceptions" (CDH 30 Mar. 2014). The representative of the Embassy of Canada in Kinshasa also stated that there is [translation] "a thorny problem of impunity at all levels, with an unwieldy and ineffective bureaucracy" (Canada 26 Mar. 2014).'[75]

8.4.2 The IRBC response, citing an official from the Canadian Embassy in the DRC, commented on the type of fraudulent documents seen by the Embassy:

- 'Passports: Rare cases that we deal with once or twice a year and, very often, photos are substituted ...
- 'Acts/certificates/attestations of birth: Twenty percent of cases are falsifications: The documents are not recorded in the civil status register .... [Because of the weaknesses of the civil status system,] it is easy for an individual to obtain false documents.
- 'Death certificates and marriage certificates: One out of every two death certificates received last year for verification was falsified, [that is,] not recorded in the appropriate register, and two out of every three marriage certificates received last year were falsified, given that there was no information in the register for the year indicated.
- 'Notices to appear and search/arrest warrants from Kinshasa: These cases are rare. Last year, we received only one false document of this kind. There was no information in the appropriate register, the stamp and the signature were both false, and the name of the signing authority was incorrect. ... the Inspector General of police stated that he would open an investigation to identify the culprit and take legal action against them.

[75] IRBC, Query response, 10 April 2014, url.

- ‘Police certificates: We received four last year and two were falsified: no information in the identification register and the name of the signatory was incorrect.
- ‘Bank statements: A number are falsified. In five out of ten cases received, either the account number was correct but the amounts were incorrect, or neither the number nor the client's name existed. (ibid.)

‘After consulting the American and British embassies in Kinshasa, the representative of the Embassy of Canada also stated that 70 percent of marriage documents received by the Embassy of the United States and approximately 50 percent of civil status certificates obtained by the Embassy of the United Kingdom are falsified (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.’[76]

8.4.3 The USSD human rights report for 2017 observed:

‘Because of inadequate administrative systems, passport issuance was irregular. On September 15 [2017], the Ministry of Foreign Affairs announced that only full-biometric DRC passports would be valid after October 16 [2017] and that citizens holding nonbiometric or semibiometric passports would need to apply for new passports. The Foreign Ministry stated the government would confiscate passports from citizens returning from abroad after November 15 [2017] with nonbiometric or semibiometric passports. The Foreign Ministry subsequently delayed this deadline to January 2018 and stated that passports with valid visas would not be confiscated. In April the media reported that, for every [US]$185 biometric passport, [US]$60 went directly to a company owned by an alleged relative of the president, Marie Makoyo Wangoi. Officials accepted bribes to expedite passport issuance, and there were reports the price of new fully biometric passports varied widely. There were also credible reports that the government refused to issue new passports to civil society activists and opposition members critical of the government.’[77]

Back to Contents

[76] IRBC, Query response, 10 April 2014, url.
[77] USSD, DRC human righrs report 2017 (section 2d), April 2018, url.

Annex A: Belgium EASO response, February 2018

An information response from the Office of the Commissioner General for Refugees and Stateless Persons, Belgium, to an information request asked by the Home Office of EU member states via the European Asylum Support Office (EASO) query system.

Only Belgium and Slovakia provided substantive responses to the query.

EASO COI QUERY SYSTEM

Democratic Republic of Congo (DRC)

Date of the query **19 February 2018**
Completion date **27 February 2018**

Urgent ☐ Standard ☒

QUERY

Requesting Country **United Kingdom**

Organisation	UK Home Office, Country Policy and Information Team
Phone/Fax	[Redacted]
Contact	[Redacted]
E-mail address	[Redacted]

Question/ Subject

1. COI available on the treatment of returned asylum seekers to the DRC (from western states).

Context /Background of query (If needed)

The UK is updating our existing DRC country information and guidance document covering treatment of rejected asylum seekers on return to the DRC, published in September 2015.

Our initial search of English language material has not resulted in much reliable information

Preliminary search (Websites and sources checked by the requesting EU+ country)
Refworld; ecoi.net; Google searches

……
……

ANSWER

Responding country **Belgium**

Organisation	CGRS
Name of author/expert	[Redacted]

Phone/Fax	[Redacted]
E-mail address	[Redacted]

Answer:

A readmission agreement between the DRC and Belgium exists since 2006. Freedom of leaving and re-entering the country lies in the Congolese Constitution.

Upon arrival at Ndjili airport, returnees are controlled by the DGM and often by the ANR although not systematically. Eleven repatriation flights have been carried out departing from Belgium since January 2015. According to the monitoring by the Belgian Immigration Office, there were no incidents.

The press has on occasion reported allegations of ill treatment during repatriation.

Two academic studies from 2015 and 2016 report risks of physical violence, without presenting factual cases.

The PDMN and Still Human Still Here networks, as well as the MRAX have not answered Cedoca's requests for information. The website of the NGO's CRER and Getting the Voice Out do not provide information relevant to this research. In February 2018, the FBCP wasn't aware of recent cases. The ANMDH didn't have any evidence in February 2016. One NGO that wished to remain anonymous reported torture in March 2016, without providing further details, despite Cedoca's request. The Justice First reports are dated 2011 and 2013. Catherine Ramos who appears to be the author, did not react to Cedoca's request for further details in September 2017.

The UK continues to return Congolese to Kinshasa, considering there is no substantial evidence of ill treatment. OFPRA doesn't have information related to the subject other than that collected during its mission in 2013. The October 2017 Ambtsbericht refers to UNHCR which deems that a case by case assessment needs to be done according to the place of return and its specific security conditions. The SEM also continues to return Congolese, but has not updated its research on risk on return since 2015.

In February 2018, the UNJHRO didn't rule out that cases occur without being documented. In 2017, AI published a research on human rights in the context of forced return, reporting extortion, detention, and ill treatment in Kinshasa. However, neither AI, nor HRW, nor the USDOS tackle this subject in their annual reports of 2017, 2016 and 2015. The European Court of Human Rights seemed to confirm in June 2017 its 2014 position, i.e. that the burden of proof of the risk of ill treatment lies with the applicant. The UNHCR-Belgium officer responsible for contacts with the media regrets that there is no organization in the field which systematically monitors the fate of these persons.

Back to Contents

Annex B: Slovakia EASO response, February 2018

An information response from the Ministry of Interior of the Republic of Slovakia, to an information request asked by the Home Office of EU member states via the European Asylum Support Office (EASO) query system.

Only Belgium and Slovakia provided substantive responses to the query.

EASO COI QUERY SYSTEM

Democratic Republic of Congo (DRC)

Date of the query **19 February 2018**
Completion date

Urgent ☐ Standard ☒

QUERY

Requesting Country **United Kingdom**

Organisation	UK Home Office, Country Policy and Information Team
Phone/Fax	[Redacted]
Contact	[Redacted]
E-mail address	[Redacted]

Question/ Subject

1. COI available on the treatment of returned asylum seekers to the DRC (from western states).

Context /Background of query (If needed)

The UK is updating our existing DRC country information and guidance document covering treatment of rejected asylum seekers on return to the DRC, published in September 2015.

Our initial search of English language material has not resulted in much reliable information

Preliminary search (Websites and sources checked by the requesting EU+ country): Refworld, ecoi.net; Google searches

ANSWER

Responding country **SLOVAKIA**

Organisation	Migration Office, Ministry of Interior of the Slovak Republic
Name of author/expert	[Redacted]
Phone/Fax	[Redacted]
E-mail address	[Redacted]

Answer

Current information about the treatment of returned asylum seekers to the DRC (from western states) was scarce among the consulted and publicly available sources. In addition, the research targeted primarily sources posterior to the year 2015.

According to the Dutch Ministry of Foreign Affairs report on the DRC, published on 19 May, and having used a confidential source for reported information, ´ Returnees risk being questioned upon return by the ´Agence Nationale de Renseignements (ANR) ´([78]).

The press release of the Bill Clinton Foundation for Peace (FBCP) posted on the foundation´s Facebook page, on 21 October 2016, informed about a case of a deportee who was expelled from Great Britain and was detained in sub-human conditions in cell of the ANR in Kinshasa. The reason for his expulsion from Great Britain is not known but once he had arrived in his country he was considered to be a ´combattant´ ([79]).

A blog post from 9 November 2016 of Jill Alpes, migration researcher at the Vrije Universiteit Amsterdam, published at Border Criminologies blog of the University of Oxford, Faculty of Law, evokes post-deportation risks for returnees to the DRC:

> ´Failed asylum seekers, in particular, can be in grave danger upon return. In theory, deporting states are not allowed to pass on information about the asylum history of deportees. In practice, leakages can occur. Based on information gathered in the field, through interviews with Congolese police officers, newly developing collaborations between deporting states and foreign police officers and the potential presence of intelligence agents at some countries' Embassies in Europe facilitate such leakages. Failed asylum seekers can be at risk upon return in cases where their application was unduly turned down, if they fabricated fraudulent documents in their quest to overcome the high threshold for evidence in asylum claims or because officials in countries of origin accuse asylum seekers of having tarnished the regime in power during their asylum application.´ ([80]).

In the same source, the author reports:

> ´During a research visit to Kinshasa, I came across the case of a deportee from Belgium who was sent to Makala because his asylum application contained fraudulent documents. Another man, called Vincent, a Congolese

[78] Ministerie van Buitenlandse Zaken, Algemeen Ambtsbericht Democratische Republiek Congo, Den Haag, p. 91, 19 May 2016, (https://www.rijksoverheid.nl/documenten/ambtsberichten/2016/05/19/algemeen-ambtsbericht-democratisch-republiek-congo-2016-05-19), accessed 23 February 2018, working translation from Dutch.

[79] The Bill Clinton Foundation for Peace, Press Release No. 184/FBCP/CEI/2016, 21 October 2016, available at: (https://www.facebook.com/search/str/+184%2FFBCP%2FCEI%2F2016/keywords_search?filters_rp_author=%7B%22name%22%3A%22author%22%2C%22args%22%3A%221823655755183497%22%7D), accessed 23 February 2018, summarized and translated from French.

[80] Border Criminologies [weblog], What Happens After Deportation? Human Stories Behind the Closed Doors of Europe, the University of Oxford, Faculty of Law, 9 Nov 2016, (https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/11/what-happens), accessed 23 February 2018.

national who had lost his refugee status following a criminal offence in Canada, was detained for 55 days in a military prison under extremely harsh and degrading conditions. I also met a voluntary returnee who was detained for two days in an underground cell of the Congolese intelligence service. In Cameroon and Congo, prison inmates rely on family members to bring them food and other vital commodities. A mattress to sleep on, access to toilets and access to water are all 'extra' services that prison inmates need to pay for themselves.

To avoid problems upon return, a large number of those deported to DRC with whom I spoke had arranged for safe passage by asking family members to make informal arrangements with police officers at the airport.
These arrangements cost between 20$ to 200$. Me and women who fail to make these arrangements can see themselves confronted with the arbitrary behavior of police officers, such as the confiscation of their luggage –often the only belongings they managed to save at the time of deportation after years of living abroad´ ([81]).

More information on treatment of returned asylum seekers to the DRC:

The topic has been recently dealt in fully in the Immigration and Refugee Board of Canada (IRB) query response on the situation of returnees, including of failed asylum seekers from the DRC (2015 - July 2017):

- IRB (Immigration and Refugee Board of Canada), *Democratic Republic of Congo: Situation of people returning to the country after they either spent time abroad, claimed refugee status, or were seeking asylum (2015-July 2017) [COD105818.FE],* 10 July 2017 (http://www.irb.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=457147&pls=1), accessed on 23 February 2018.

The question was also addressed in an older weblog magazine of the Belgian human rights movement ´Collectif contre les rafles et les expulsions et pour la régularisation´, published on June 2014:

- CRER (COLLECTIF CONTRE LES RAFLES, LES EXPULSIONS ET POUR LA RÉGULARISATION), [weblog], Les carnets noirs: Expulsions vers la RDC, état des lieux et responsabilités, June 2014, (http://theowl.hotglue.me/Refugees_CarnetsNoirs), accessed 23 February 2018.

Back to Contents

[81] Border Criminologies [weblog], What Happens After Deportation? Human Stories Behind the Closed Doors of Europe, the University of Oxford, Faculty of Law, 9 Nov 2016, (https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/11/what-happens), accessed 23 February 2018.

Annex C : CGRS email, March 2018

Email from a researcher at the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), 13 March 2018

Dear [redacted],

Thanks once again for your patience. You still had one question « on hold » : I am interested to know if, taking into account your evidence, the Belgiam immigration authorities continue to return failed asylum seekers to the DRC? (This may not be a question you can answer – if not, is there someone else?)'

Please find below the Immigration Office's response to this. [Redacted] … agrees with translation and quotation. However, I don't know how to translate […] position within the Immigration Office (in yellow), so you might as well call […] an « Immigration Officer » ?.

'According to an email sent on March 12th, 2018 by [redacted…] at the Immigration Office, the Belgian Immigration Office continues to return Congolese citizens (including FAS). There is obviously a control with respect to art.3 ECHR, but most of the elements are already controlled during the asylum procedure. It belongs to the Immigration Office to check the risk of degrading treatment.

'From it's experience, and this has often been confirmed by [redacted… the] Belgian Immigration officer in Kinshasa, persons returned to the DRC are not ill treated. Of course, individual exceptions cannot be ruled out, but the Office is not aware of such cases. Forcibly returned Congolese are usually interrogated by the DGM upon arrival before they can dispose. In the case of special flights, there's generally a second interrogation by the security services. So far, no problems were reported.

'[Redacted…] Belgian Immigration officer based in Kinshasa, added also per email on the same day, that in case of special flights, the ANR sometimes comes in for identification purposes and that there are no problems on arrival. [The Beglian immigration office in Kinshaa]… follows all cases, even individual escorts.'

Kindest regards,

[Redacted]

Back to Contents

Terms of reference

A ‘Terms of Reference’ (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office’s Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Sourcing
- Returns statistics
    - Definitons
    - Returns from the UK
    - Returns from other EU states
- Treatment of returns
    - From Europe
    - From DRC’s neighbouring countries
- Forged and fraudulent documents
    - Corruption generally
    - Law
    - Prevalence
    - Penalties in practice

Back to Contents

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Back to Contents

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Back to Contents

Version control

Clearance

Below is information on when this note was cleared:

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- valid from **28 January 2019**

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Back to Contents