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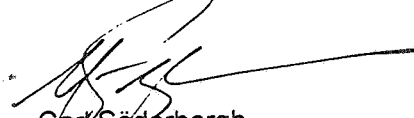
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Dear Partners,

Please find enclosed for your information 'Guidelines for refugees and asylum seekers from the Democratic Republic of Congo'.

Please note that this is not a UNHCR public domain paper but rather a working document of the organization. However, we have received permission to distribute to government counterparts with the hope that it may be of interest to you.

Yours faithfully,



Carl Söderbergh
Refugee Law Training Officer

Distribution:

UNHCR government counterparts in the Nordic countries

GUIDELINES FOR REFUGEES AND ASYLUM SEEKERS FROM THE DEMOCRATIC REPUBLIC OF CONGO.

I. BACKGROUND INFORMATION ON POLITICAL EVENTS

A. Prior to Mobutu's regime (1960-1965)

1. The Democratic Republic of Congo, a former colony of Belgium achieved independence on 30 June 1960 and Joseph Kasa-Vubu was its first President and Patrice Lumumba the Prime Minister. Soon after independence the provinces of Katanga and Kasai sought to secede and disagreements between Lumumba and Kasa-Vubu over government attitude towards the cessation movement led to a political impasse. The army under the leadership of its Chief of Staff, Col. Mobutu Joseph Désiré, then assumed power in September in Kinshasa, while a rival government was established in Kisangani by ministers in the former Lumumba cabinet, under the leadership of Antoine Kizenga. On 17 January 1961, Lumumba was killed in Katanga and one month later, in February, Mobutu relinquished power to Kasa-Vubu and appointed State Commissioners (Ministers) he requested to swear in in Kasa-Vubu's presence. In 1964, Tshombe was appointed Prime Minister with the aim of restoring the national economy, while cessionist pressures continued in the Kwilu, Kivu and Katanga regions until the end of the year, when they were suppressed by the army with the aid of Belgian armed forces.

2. In March and April 1965 elections were conducted by the Tshombe government and Tshombe's party, the Convention Nationale Congolaise (CONACO) won a majority of seats in the legislative assembly. Nevertheless Kasa-Vubu appointed Evariste Kimba of the Front Democratique Congolais (FDC) as the Prime Minister and predictably he was unable to command the support of the assembly. The political crisis that arose resulted in an army coup led again by Col Mobutu Joseph Désiré on 24 November 1965. The Kasa-Vubu government was deposed and Mobutu was appointed Head of State by the "Haut Commandement Militaire". He announced the commencement of the Second Republic and suspended the new Constitution (Luluabourg Constitution, 1964.). As a consequence a ban on politics was imposed, and the legislature by its own consent was suspended. A government backed political party, the Mouvement Populaire de la Revolutionnaire (MPR) was created in 1967 and state authority was gradually consolidated in the party and the office of the Head of State. The provinces in the country were reduced from twenty-one to eight and various provincial organs of government were eliminated.

B. The Mobutu Years 1966-1997.

3. Mobutu strengthened his authority in the following years with a new constitution which became operative in June 1967. Though the constitution permitted the existence of another political party in addition to the MPR, the MPR became a supra-national institution in which the judiciary, the legislature, the police and all the citizens of the country were merged.

All state policy was decided by the political bureau of the MPR. Mobutu was duly nominated as the sole presidential candidate in elections held in 1970 and the legislative elections in the same year were micro-managed as only candidates approved by the MPR were allowed to contest. In 1974 the name of the country was changed to Zaire and christian names prohibited. Mobutu Joseph Desiré then changed his name to Mobutu Sese Seko Kuku Ngbendu wa Zabanga. In March 1977 and May 1978 Katangese exiles in the neighbouring country of Angola invaded the Shaba province, and on both occasions the rebellions were quelled by the Forces Armées Zairoises (FAZ) with assistance of foreign forces. Another election in October 1977 in which Mobutu was unopposed extended the tenure of his presidency for another term of 7 years. In the meantime the Constitution was amended in such a way that the MPR became the single State-Party and its Founding-President (Mobutu) de jure Head of State and President of the Republic.

4. Between 1965 and 1990 the government was reshuffled forty three times and nine prime ministers were appointed. However, inspite of these incessant cosmetic changes to the personnel and machinery of government which was intended to deflect charges of ineptitude and corruption, and create a semblance of efficiency and good governance, the economy and basic infrastructure deteriorated and standards of living plummeted. In 1982 an opposition party, the Union pour la Démocratie et le Progrès Social (UDPS) emerged. In 1984 Mobutu again was the only candidate for the presidential elections and was elected for another seven year term, but the results of regional and municipal elections held in 1987 were annulled because of electoral malpractices. Sustained agitations by the opposition for a change in the political system forced Mobutu in April 1990, after countrywide consultations, to announce the introduction of multi-party politics, which would come into effect after a transitional period of one year. Consequently in May 1990 a transitional government was formed under the leadership of Lunda Bululu, with accompanying proposals for a presidential election and a new draft constitution. Mobutu declared this to be the beginning of the Third Republic and further resigned his position as Chairman of the MPR and state Commissioner (Minister) for defence.

5. With the lifting of the ban on political activities in 1990, about 300 political parties were created including the Union des Federalistes et Republicains Independants (UFERI) led by Jean Nguza Karl-I-Bond, the Parti Democratique et Social Chretien (PDSC), of Joseph ILEO, the Union pour la Démocratie et le Progrès Social (UDPS) of Etienne Tshisekedi. These principal opposition parties formed a coalition called the Union Sacrée de l'

Opposition Radicale (USOR). In line with proposals for a draft constitution, a National Conference was convened in August 1991 but it made no visible progress. In September 1991 riots, looting and clashes between demonstrators and security forces occurred in Kinshasa and several parts of the country. Mobutu succumbed to pressure and appointed Etienne Tshisekedi, the leader of the UDPS as Prime Minister. However Tshisekedi was dismissed by Mobutu shortly after and Mungul Diaka of the Rassemblement Démocratique pour la République (RDR), a close ally of Mobutu appointed in his place. Nonetheless the political situation continued to worsen.

6. The National Conference did not achieve any expected results. In November 1991, through an agreement with Mobutu, Jean Nguza Karl-I-Bond of the UFERI became First State Commissioner despite USOR strong objections. As a consequence the opposition coalition seemed to disintegrate and Nguza Karl-I-Bond with the consent of Mobutu suspended the National Conference. In April 1992, the latter was reconvened and it declared it had sovereign authority to make binding the legislative and executive decisions while allowing Mobutu to remain as Head of State. The National Conference proceeded to draft a new constitution, made arrangements for a multi-party transitional government, and in August 1992 Tshisekedi was elected the Prime Minister of the new transitional government for 24 months by the National Conference. A draft constitution which vested executive authority in the Prime Minister was adopted by the National Conference in November 1992. Hence Mobutu supporters boycotted the National Conference proceedings. In the same time, the National Conference set up before it desaggregated a legislative body called "Haut Conseil de la République Parlement de Transition (HCR-PT) headed by Lord Bishop Monsengo Laurent Pasinya.

7. As previously agreed between the opposition and Mobutu, upon the conclusion of the deliberations of the National Conference, the High Council of the Republic (HCR) consisting of 435 members with authority to amend and adopt the draft constitution prepared by the National Conference was inaugurated. The HCR proceeded to investigate allegations of corruption against Mobutu who responded by attempting to suspend, and obstruct its proceedings. He further refused to recognise the legitimacy of the HCR and the Tshisekedi government. In July 1993, the HCR declared Mobutu guilty of treason and indicated it will impeach him. Civil disorder continued with the Forces Armées Zairoises (FAZ) rioting and scores of people killed and wounded. To weaken the influence of the Tshisekedi government, Mobutu contrived the appointment of a rival government through a special conclave of pro-Mobutu political groups called the Forces Politiques du Conclave (FPC) but excluding the USOR and HCR. This government was headed by Faustin Birindwa, a former member of the UDPS. The defunct National Assembly was also revived as a rival to the HCR. As a result, Zaire had simultaneously two governments, two constitutions and two parliaments. Negotiations between the conclave and the opposition continued, resulting in an agreement in September 1993 on the proposed constitution for the

country. However, Tshisekedi refused to resign as Prime Minister as required under the agreement.

8. The political stalemate was resolved by an attempt to form a government of national unity which the UDPS refused to participate in. The new initiative involved an election of new Prime Minister by the High Council of the Republic and the Transition Parliament (HCR-PT) which was subsequently inaugurated. Continuing disagreements over the procedure for the election of the Prime Minister aggravated by Tshisekedi's claim to the office of Prime Minister, bedevilled the proceedings in the HCR-PT. The HCR-PT adopted a further new transitional constitution in April 1994. In June 1994 Kengo Wa Dondo was appointed Prime Minister by Mobutu through the HCR-PT, but the opposition boycotted the HCR-PT until October 1994. The term of the transitional government was sine die extended from the original 15 month period. Multi-party and presidential elections were scheduled on May 1997, and regional elections in June and July of 1997. Mobutu stated his intention to contest the elections but became ill and went to Switzerland for treatment in July 1996 leaving a void which was soon to be occupied.

II. The Kabila Phenomenon.

9. The origins of the rebellion which toppled the Mobutu regime are varied and complex and can be traced to a number of factors namely the treatment of the Tutsi ethnic group by the ex-Zairean government, the Hutu-Tutsi conflict in Rwanda and Burundi, the pro-Hutu policy of the ex-Zairean government, etc... The eastern region of the country has for a number of decades been populated by the Banyarwanda people (Tutsi, Hutu, and Twa) who originated from Rwanda and Burundi. A group of those Banyarwanda comprising of Tutsi ethnic is known to have occupied early in the sixties, areas around the Great Lakes (Kivu and Tanganyika), Bukavu and Uvira in the South Kivu province of ex-Zaire. They called themselves Banyamulenge later on. The tendency for the Banyarwanda to generally see the entire region as a home was accentuated by the fact that Rwanda, Burundi and the present Democratic Republic of Congo were administered as a single territory by Belgium, the Minister of colonies and two local Governors (one for Congo and the other one for Rwanda-Urundi territory). During that time population movement was encouraged from Rwanda - Urundi to Congo to ease demographic pressures and for man power purposes. A law passed in 1972 made all Banyarwanda who had settled in Congo before 1950, Congolese citizens (loi relative aux populations vivant sur le territoire de la Republique avant son accession à la souveraineté internationale), but in 1981 this law was revoked.

10. The immediate effect of the revocation of their citizenship was to dispossess the Banyarwanda peasants of land they were cultivating. In addition was the sporadic inter-ethnic clashes between Banyarwanda specially from Tutsi origin and indigenous Zairean ethnic groups, resulting in 1992-93 in the loss of thousands of lives. However, the issue of Zairean citizenship was exacerbated in 1991 when the Banyamulenge were denied

to participate in HCR-PT sessions. The proximate cause of the rebellion which led to the overthrow of the Mobutu regime began in September 1996 when the deputy provincial governor of South Kivu stated that all Tutsi Banyamulenge must leave the country within a week, otherwise they would be interned and exterminated. Similar statements were made by other provincial officials. Tutsi people in North Kivu had for most of 1996 suffered harassment from the Rwandese Hutu militiamen who controlled the refugee camps. Meanwhile those Banyamulenge in South Kivu were given military training in Rwanda with the intention they assist in dislodging the Hutu militiamen who posed a considerable threat to the Tutsi dominated governments in Rwanda and Burundi. These Hutu militiamen launched raids into those countries from the current Democratic Republic of Congo.

11. In response to the constant threats from the provincial authorities and Hutu militiamen, armed Banyamulenge attacked Hutu refugee camps in Runingo, Katele and Panzi in October 1996 causing plenty of deaths and casualties and a massive refugee movement to the south of the country. The international dimension of conflict manifested itself when ex-Zairean and Rwandese forces clashed at the end of October 1996 and the rebels said to be assisted by Rwandese and Burundese government forces captured the towns of Uvira, Goma and Bukavu in the same month. To prevent an impending humanitarian disaster, the rebels unilaterally declared a cease-fire in November 1996 which enabled the return of some 700,000 Rwandese refugees but numerous more refugees remained in the country under very arduous and life threatening circumstances. The rebellion in Eastern Zaire led to a wave of anti-Tutsi demonstrations in Kinshasa as property belonging to Tutsi were destroyed causing a number of them to flee to the neighbouring countries of Congo, Central African Republic, etc... The HCR-PT aggravated the situation by imploring Hutu refugees to fight along with Zairean soldiers.

12. Though the rebellion started as a reaction by the Banyamulenge to the discriminatory practices of the ex-Zairean authorities its objective soon became the removal of the Mobutu regime. The political leadership of the rebels, the Alliance des Forces Democratiques pour La Libération du Congo-Kinshasa (AFDL-CK), is made up of a number of distinct political organisations including the Popular Revolutionary Party, headed by Laurent Désiré Kabila, the Alliance Democratique des Peuples (ADP) a Tutsi political party, the Conseil National de Résistance pour la Démocratie (CNRD), the Mouvement Révolutionnaire pour la Libération du Zaire (MRLZ), and the Mai-Mai guerrilla group which fought on both sides during the conflict. As the war progressed the ranks of the AFDL-CK was swollen by deserters from the FAZ. In November 1996 Laurent Désiré Kabila from the Shaba province who initially was the spokesman for the Alliance became its head.

13. In November-December 1996, General Mahele Bokungo was appointed Army Chief of Staff, and Etienne Tshisekedi replaced Kengo Wa Dondo as Prime Minister, but none of these changes were able to prevent the continuing advance of the AFDL forces. They captured the economical and strategical town of Bunia in January 1997 with the nearby gold fields. In

February and March the towns of Kindu and Kisangani also fell into the AFDL control. In this process, the AFDL obtained vital financial wherewithal to prosecute the war. The AFDL were also among others assisted by Shaba secessionists based in Angola. The AFDL forces rapidly advanced and with Mobutu lacking support from any of his foreign allies, on 17 May 1997 the capital Kinshasa was captured by the AFDL. Laurent Désiré Kabila was sworn in as President, and Mobutu fled into exile. The new AFDL government has announced that elections will be held in 1999, and presently all political parties are banned. Meanwhile a constitutional commission presided over by Anicet Kashamura (from Kivu) has been set up to draft a new constitution which will be approved by referendum in December 1998. Recent demonstrations in Kinshasa were forcibly dispersed with a number of deaths reported, though this was denied by the AFDL government. Etienne Tshikedi was arrested by AFDL security forces and released after one day. It is also alleged that the AFDL has been responsible for numerous summary and extra judiciary executions in Kinshasa, including Rwandan refugees, ex-FAR, ex-FAZ, etc...

III. Categories of Persons who may need International Protection

14. With the demise of the Mobutu regime, and the change of government in the country the following categories of refugees and asylum seekers (which is not exhaustive) may require international protection:

A) Members of Security and/or Armed Forces

15. The Mobutu regime had several security agencies or bodies, both military and civilian, at its disposal, operating in different fields and at various levels:

15.1. The Division Spéciale Présidentielle (DSP) consisting of about 15,000 men mainly from Mobutu's tribe (N'GBANDI) or region (EQUATEUR) had most of its cadres formed in Israel. It was set up in 1986 and it acted as a praetorian guard for Mobutu's personal protection. Hence it was the best equipped of all military organisations and put under the leadership of General ZIMBI, a Mobutu brother in law. Although this unit was involved in 1991 and 1993 riots and lootings in Kinshasa which resulted in some deaths and casualties, it is obvious that the AFDL government is today looking for DSP soldiers because of their close relationship with Mobutu himself and his family. If they are arrested they will be without any doubt killed or put in jail without trial as the AFDL did in Kinshasa when it took over from Mobutu in May 1997. For those reasons, life and freedom of DSP soldiers should be considered as being in danger in the Democratic Republic of Congo if they return there. They therefore deserve international protection, unless there is an evidence that they have committed a crime which excluded them from the benefit of the 1951 UN Convention. This might be the case for DSP high ranked staff only.

15.2. The National Security Council (CNS = Conseil National de Sécurité) was also devoted solely to the protection of Mobutu's regime. While the DSP was purely an armed body and, as such was a genuine part of the FAZ (Forces Armées Zairoises), although it reported directly to the President's Office, the CNS was managed since it was set up, by a civilian staff. It had an overall competence in security matters. Pursuant to a presidential decree, its personnel was recruited among university teachers and other doctorate holders only. In fact, CNS was called the Zairean FBI as it allegedly has collected specific and elaborate data on each Zairean and its staff were requested to investigate and to advise on actions to be taken in any security matters regarding both the country and Mobutu's regime. CNS officials were for instance requested at the beginning of Kabila's rebellion to examine the matter and to advise the Head of State on various scenarios and actions to be taken as regards AFDL movements. CNS was headed among others by NIMY Mayidika Ngimbi, a former Director of Mobutu's cabinet, who handed over to Honore NGBANDA from the same region and tribe as the President himself. The civilian nature of CNS did not prevent it from being involved in arbitrary arrests and detention, tortures and persecutions of opposition leaders and human rights activists, or any ones labelled as such. Due to what usually happened in CNS offices during interrogations, only few of CNS officials may deserve international protection as most of the CNS staff have fled their country of origin with the view of not rendering an account of their misbehaviour during three decades of Mobutu's regime.

15.3 The Service National d'Intelligence et de Protection (SNIP) was another security organ, divided into two sections: SIE (Service d'Intelligence Extérieure) and S.I.I (Service d'Intelligence Intérieure) with specific tasks for each to perform. S.I.E was especially dedicated to monitoring civilian Zaireans allegedly having subversive activities overseas. SNIP was called C.N.D (Centre National de Documentation) at the beginning, before it became AND (Agence Nationale de Documentation). For years, C.N.D was managed by SETI YALE from Ngbandi tribe who handed over to Mokolo Wa Pombo in 1984, when he became himself one of the most influential and closest Special Advisers to the President. CND was then converted into AND under the supervision of MOKOLO WA Pombo, from Bandundu region, who was considered as Mobutu's power behind the throne. In 1991, AND became SNIP and General LIKULIA (the last Prime Minister of Mobutu) its Managing Director General. He was replaced by NGBANGA HONORE, ATUNDU and GOGA DONDO successively, all from the Ngbandi tribe. As in the case of CNS, SNIP had also its own centers where it used to take into custody returning citizens who have been suspected of carrying out subversive activities overseas. Tortures, disappearances and assassinations were constantly reported, especially against SETI YALE, in the seventies and eighties as he continued managing SIE business after he had handed over, through Ambassadors in the neighbouring countries who all came from security services he had been supervising.

15.4 The Service d'Action et de Renseignements Militaires (SARM) was a Military Intelligence Agency dealing mainly with soldiers (plotters or considered as such) and the surveillance of the territory (territorial integrity). This organisation was involved in all coups d'état which resulted in the executions of hundreds of alleged plotters in the sixties and seventies. Any political rallies, meetings or demonstrations were monitored and, if necessary, quelled by SARM staff which also were trained to take the required action under specific circumstances. It was first headed by General MAHELE Lieko Bokungu who handed over to General BOLOZI before a magistrate colonel took over from him. All three were from Equateur region. General BOLOZI was well known as he acquired, like General BARAMOTO of the Garde Civile, the reputation of being blood thirsty and a torturer.

15.5 The Forces Armées Zairoises (FAZ) were composed of about 60,000 soldiers whose cadres (high rankend officers) were at least 80% from Mobutu's region (Equateur). Most of them took part in riots and lootings that happened in 1991 and 1993. In 1996-97 as AFDL troops were "liberating" the country and attacking refugee camps, they also took advantage of the civil war situation to loot, harass and molest refugees and indigenous population as well. General Mahele was the last FAZ Chief of Staff who according to rumours was killed on 16 May 1997 by DSP Captain Mobutu Kongolo Ndolo, Mobutu's son. The great majority of FAZ is still in the country waiting for its integration into AFDL Forces. Meanwhile, they are supposed to go to Kitona naval base through a two week brain washing exercise, in small groups. Nevertheless, the first group that went early July never came back at the end of September 1997. They are reportedly being starved and humiliated in such a way that their families in Kinshasa are extremely anxious about their fate as many of them have been reported dead. Under these circumstances, all high ranked officers of FAZ have left the country and would be now seeking asylum in European or African countries for a well founded fear of persecution, as in the Democratic Republic of Congo they would be arrested, tortured and may-be killed without any fair trial.

15.6 The Garde Civile (Civil Guard) was a para military organisation also headed by a close relative of Mobutu, General BARAMOTO who took over from BULA MANDUNGU, a civilian close friend of Mobutu. It was created with the aim of assisting the Police and Gendarmerie in maintaining public order, monitoring problems of natural disasters and keeping security situation under control along the borders as well. However, under the military leadership, it quickly became an organisation which reportedly was daily harassing the population and killing civilians sometimes. Apart from having been involved in 1991 and 1993 riots and lootings, no serious crimes that might be considered as exclusion clauses have been reported against the Civil Guard staff (except General BARAMOTO) whose leaders (cadres) have fled from the country as they fear for having been within Mobutu's close circle.

B. Members of Political Parties and Mobutu's Close Relatives, Ministers and Ambassadors

16.1 Leading and active members of MPR and its allies of the Forces Politiques du Conclave and other pro-Mobutu parties (created at the time of the National Conference on Mobutu's initiative and with his financial assistance) might legitimately seek political asylum or refugee status in Europe or Africa, as the political activities are actually banned in the Democratic Republic of Congo and former MPR leaders who have not fled from the country are being detained and ill-treated. This first category of close relatives does include political allies and Mobutu's family members as well as his close collaborators, especially those from Ngbandi tribe or Equateur region, as most of them are being looked for by AFDL regime, simply because of their political relationship or ties of blood with the former President. They, in principle, deserve international protection.

16.2 May also have reasonable fear of persecution in view of their political past involvement all former ministers and ambassadors, irrespective of their political membership or clan, and opposition leaders and activists, as Kabila's regime is suspecting them of willing to resume political activities which are still prohibited. This category of genuine refugees or asylum seekers should exclude sympathisers or members who were not playing a substantial role within their political parties. However, the case of some former ministers, ambassadors and other government officials who have been involved in mismanagement and unpunished embezzlements and swindlings during Mobutu's regime might require careful consideration and, in case of doubt, should be referred to Headquarters for necessary advice.

16.3 The case of Etienne TSHISEKEDI, the UDPS leader who is still living in Kinshasa should not give the impression that political leaders are free and do not suffer any harassment by the AFDL regime. Etienne TSHISEKEDI WA MULUMBA has been arrested at least once since Kabila declared himself President of the Democratic Republic of Congo. His residence in Kinshasa has been twice attacked by AFDL soldiers. Like other politicians, he is not in principle allowed to have any political activities including rallies and meetings, as per the AFDL Minister of Interior, Kongolo Mwenze's declaration. However, he is still managing to be politically active and to meet from time to time together with his political friends and associates. As Etienne TSHISEKEDI is prominent and well known to the international community, the AFDL regime would not like to harass him constantly in order to avoid any embarrassment or criticism by the international opinion.

16.4 The former Mobutu political opponents are not all welcome in the Democratic Republic of Congo, unless they are personally and individually affiliated to AFDL, as Kabila obviously does not want to compromise with any former political parties, including those who are claiming to belong to the same Lumumbist ideology. Kabila indeed appears to be recruiting his new "clients" based on individual merits and allegiances, instead of making alliance arrangements with former political parties. As regards the human

rights, the social and political situation in the Democratic Republic of Congo is currently so confused that it would be a risk for refugees and asylum seekers who left their country in view of Mobutu's regime persecutions to repatriate at the moment, as anything may happen regarding their security and freedom.

C. Human Rights Activists, Journalists and other Intellectuals

17. The human rights activists are not being well tolerated as they are considered as "wet blankets" who are willing to supervise or control AFDL activities in the field of human rights and to denounce any violations to the international community. AFDL looks to be feeling more frightened of human rights activists opinion than that of journalists whose criticism of its regime through abundant newspapers in Kinshasa does not provoke any strong and lively reactions. Indeed human rights activists are accusing AFDL security services of extra-judiciary executions of ex-FAZ soldiers and civilians as well as of tortures and maltreatments, abductions and disappearances, extortions and ransom of Congolese citizens. AFDL regime has also elaborated new rules resulting in the de facto nationalisation of some private owned media (like Tele Kin Malebo TKM), which have been seized because they are prosperous businesses rather than embarrassing information media. In any case and unless they are involved in political or human rights activities, journalists and other intellectuals are not facing for the time being any systematic or latent persecution. Therefore, their application for the refugee status should be considered on the case by case basis, based on individual merits. On the contrary, all leading members of human rights organisations (i.e. FIDH = Fédération Internationale des Droits de l'Homme; AZADHO = Association Zaïroise des Droits de l'Homme, la Voix des Sans Voix etc) may have today a well-founded fear of persecution in the Democratic Republic of Congo, and therefore should be granted refugee status if they apply for it, as they all deserve international protection.

D. Prosperous businessmen

18.1 Private ex-Zairean prosperous businessmen are suspected by AFDL authorities of having connived with Mobutu's regime at economic crimes that have destroyed the national economy. They are also suspected of having been Mobutu's political affiliated supporters who took advantage of that particular relationship in order to grow wealthy at the expense of the nation. Hence, there are some arbitrary arrested and detained, some totally deprived of their properties which AFDL presumes have been acquired in a fraudulent manner. Most of ex-Zairean prosperous businessmen have left the country or are hiding with a view to trying to do so (if they are not in jail yet), simply because AFDL wants to arrest them and seize their goods. but not necessarily because of their possible political connections with Mobutu's MPR. Some of them were not indeed MPR affiliated members. They are being found guilty of being rich and prosperous businessmen and are therefore exposed to political persecutions of AFDL which has set up an office of ill-gotten gains.

18.2 Ex-Zairean General Managing Directors of national companies, who sometimes were also prosperous businessmen should be distinguished from those who were managing their own private businesses. Indeed, ex-Zairean General Managing Directors were appointed by the President himself, through a presidential decree as it was the case for any other ex-Zairean high ranked official. Political support or affiliation, membership of specific ethnic groups were more considered than competence and aptitude when filling those positions. However, AFDL is looking for them especially in view of embezzlements, mismanagements and other serious economic crimes they have committed as most of ex-Zairean General Managing Directors of important national factories and companies should be found guilty at least of illicit enrichment. They have therefore fled from the Democratic Republic of Congo to escape from the justice of their country which at the moment is far from being fair and impartial. Nevertheless, those cases should be considered very carefully with the view of avoiding to grant international protection to people who appear to be more economic criminals than victims of any possible persecution. Hence those cases should be referred to Headquarters for advice in case of doubt.

E. Conclusion

19. The change of leadership though welcomed by the entire Congolese populace has brought a degree of political uncertainty and confusion. The attitude of the AFDL regime to anti-Mobutu forces at the present time is unclear although two former members of the UDPS were part at the beginning of the AFDL cabinet. Other issues may be relevant in determining the political inclination of the Kabila administration especially in the field of human, economic, cultural and social rights. There are today several other unresolved matters which impact on refugee/asylum issues on which the position of the government will be critical. In view of the unsettled state of affairs in the country, asylum/refugee status may be granted to nationals of the country based on individual merits, in conformity with the 1951 UN Convention, meaning that applicants for refugee status and asylum should establish by credible evidence the criteria set out in the 1951 UN Convention and 1969 OAU Convention as well. Congolese nationals who are presently refugees and have already been granted asylum by host countries should not in the interim be returned to their country of origin pending a review of the political situation by UNHCR.

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