



Home Office

Country Information and Guidance

Democratic Republic of Congo: treatment on return

Version 1.1

September 2015

Preface

This document provides guidance to Home Office decision makers on handling claims from – as well as country of origin information (COI) about – nationals of the Democratic Republic of Congo who claim to fear mistreatment on return. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the European Asylum Support Office’s research guidelines, Country of Origin Information report methodology, dated July 2012.

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 make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

IAGCI may be contacted at:

Independent Chief Inspector of Borders and Immigration,
5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: chiefinspectorukba@icinspector.gsi.gov.uk

Website: <http://icinspector.independent.gov.uk/country-information-reviews>

Contents

Guidance	4
1. Introduction.....	4
2. Consideration of Issues	4
Country Information	7
3. Sources.....	7
4. Returns statistics	9
5. Treatment of returns	11
Annex A – IGC FAS survey, 18 November 2014	17
Annex B – IGC survey of FNOs, 18 November 2014	21
Annex C – IGC survey of FAS returns, August 2013	26
Annex D – IGC survey of FNOs, 16 December 2013	32
Annex E – FCO letter of meeting with French official	38
Annex F – FCO letter of meeting with Belgian official	39
Annex G – FCO letter of meeting with Swiss official	42
Annex H – FCO letter of meeting with Kinshasa-based human rights organisation	44
Annex I: FCO letter of meeting with UNHRO	47
Annex J – FCO letter of conversation with returnee, 11 December 2014	49
Annex K – FCO letter of meeting with IOM, 20 November 2014	51
Annex L – FCO letter re return of 13/14 October 2014	53
Annex M – FCO letter re return of 16/17 October 2014	54
Annex N – FCO letter re return of 13/14 November 2014	55
Annex P – FCO letter re two returns on 5/6 December 2014	57
Annex Q – FCO letter of meeting with DGM, 23 January 2014	58
Annex R – FCO letter, Interview with DGM of 24 September 2014	60
Annex S - FCO letter re meeting with the Director N'Djili Airport	63
Annex T – notes of meetings with DGM secondee, 15 October 2014	64
Annex U – IOM assisted voluntary returns data	67
Annex V – Home Office note on facilitated returns scheme	68
Annex W – Home Office FNO returns data	70
Version Control and Contacts	71

Guidance

Date Updated: 2 July 2015

1. Introduction

1.1 Basis of Claim

- 1.1.1 Fear of serious harm by the state on return to the Democratic Republic of Congo (DRC) because the person has unsuccessfully claimed asylum in the UK and/or has been convicted of an offence in the UK.

[Back to contents](#)

1.2 Summary of Issues to Consider

- 1.2.1 Is a failed asylum seeker (FAS) and / or a foreign national offender (FNO) who is to return to the DRC (voluntarily or by force) at risk of mistreatment or harm by virtue of having claimed asylum in the UK and / or having been convicted of an offence in the UK?
- 1.2.2 If refused, is the claim likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002?

[Back to contents](#)

2. Consideration of Issues

- 2.1 Is a FAS and/or FNO who is to return to the DRC (voluntarily or by force) at risk of mistreatment or harm by virtue of having claimed asylum in the UK and / or having been convicted of an offence in the UK ?

- 2.1.1 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, based on the evidence put before it which included statistics indicating that there have been approximately 700 documented returns of asylum and non-asylum cases from European states plus the USA, Canada and New Zealand between 2012 and 2014 (paragraph 80), 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)

- 2.1.2 The Tribunal went on to find that:

'i) Those 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 ECHR.

'ii) Those 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.' (paragraph 88)

- 2.1.3 However, the UT did find those persons who are wanted / suspected by the DRC authorities for **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 88)

- 2.1.4 The Upper Tribunal clarified its findings made in paragraph 119(iv) of *BM and Others* with regard to the risk of using a false passport (or other document) in the case of [BM \(false passport\) \[2015\] UKUT 467 \(IAC\) \(12 August 2015\)](#). The Upper Tribunal found that

'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* (Returnees: Criminal and Non-Criminal) DRC CG [2015] 293 (IAC). 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.

- 2.1.5 Decision makers will therefore need to determine whether a person is of interest to the authorities for criminal activity in the DRC. The onus will be on the person to demonstrate that they are of interest to the authorities, including with relevant documentary evidence.
- 2.1.6 For further guidance and information on prison conditions see [DRC Operational Guidance Note of May 2012](#), Prison conditions and on obtaining evidence, and assessing material facts and credibility, see sections 4 and 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.7 Decision makers should note that the Upper Tribunal in *BM & Others* also provided country guidance on treatment of members of the political group, Alliance de Patriotes pour la Refondation du Congo (Alliance of Patriots for the Re-establishment of the Congo; APARECO), see paragraph 88(iii) of the judgement.
- 2.1.8 For guidance and information on categories of persons who may be at risk of serious harm or persecution, including political activists (other than members of APARECO), see [OGN of May 2012](#).

[Back to contents](#)

- 2.2 [If refused is the claim likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002?](#)

- 2.2.1 Given the absence of substantiated evidence of mistreatment or harm on return, where a claim falls to be refused (and the fear is based on being a FAS and / or FNO) it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.2.2 For further information on certification, see the [Asylum Instruction on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#).

[Back to contents](#)

Country Information

Date Updated: 25 June 2015

3. Sources

3.1 BM and Others: consideration of sources

3.1.1 The Upper Tribunal in *BM and Others* considered a wide range of source material in relation to returns, which it listed in its Appendix to the determination. In section III of the judgement ¹, the Tribunal summarised the main evidence considered in the judgement, which included material from:

- An expert report by Amnesty International submitted in the CG case;
- An expert report by Dr Erik Kennes submitted to in the CG case;
- The former DRC Ambassador's statements made in 2012 and 13, and correspondence with UK parliamentarians;
- The Home Office Report of a Fact Finding Mission to the DRC of June 2012 ⁽²⁾;
- Human Rights Watch's reports on Operation Likofi ⁽³⁾ ⁽⁴⁾;
- An article by The Observer on treatment of returns, February 2014 ⁽⁵⁾ ;
- A Freedom from Torture report on treatment of women, June 2014 ⁽⁶⁾;
- Home Office country of origin information (COI) report of March 2012 ⁽⁷⁾;
- Home Office operational guidance note of May 2012 ⁽⁸⁾;
- Home Office COI bulletin of March 2013 ⁽⁹⁾;

¹ Immigration and Asylum Chamber, Upper Tribunal, *BM and Others* (returnees – criminal and non-criminal) DRC CG [2015] 00293 (IAC), paragraph 80, 2 June 2015, <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.pdf> accessed on 25 June 2015

² Home Office, Report of a Fact Finding Mission to Kinshasa conducted between 18 and 28 June 2012, November 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311407/DMC_factFindingMission_2012.pdf accessed on 25 June 2015

³ Human Rights Watch, Operation Likofi, 17 November 2014, <http://www.hrw.org/reports/2014/11/17/operation-likofi-0> accessed on 25 June 2015

⁴ Human Rights Watch, DR Congo: Deadly crackdown on protests, 24 January 2015, <http://www.hrw.org/news/2015/01/24/dr-congo-deadly-crackdown-protests> accessed on 25 June 2015

⁵ The Observer, Congolese asylum seekers face 'torture with discretion' after removal from UK, 15 February 2014, <http://www.theguardian.com/uk-news/2014/feb/16/congo-torture-asylum-seekers> accessed on 25 June 2015

⁶ Freedom from Torture, Rape as Torture in the DRC..., June 2014, http://www.freedomfromtorture.org/sites/default/files/final_web_-_a4.pdf accessed on 25 June 2015

⁷ Home Office, Democratic Republic of Congo: country of origin information report, March 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311409/DMC_COI_report-2012.pdf accessed on 25 June 2015

⁸ Home Office, Democratic Republic of Congo: Operational Guidance Note, May 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311408/DMC_operational_guidance-2012.pdf accessed on 25 June 2015

- Home Office Country Policy Bulletin, 2/2014, of October 2014 ⁽¹⁰⁾; and
- British Embassy obtained evidence of November / December 2014. This included interviews with the International Organisation for Migration; officials from the Belgian, French and Swiss Embassies; the executive director of a Kinshasa-based non government organisation; and the experience of the DRC FNO returned from the UK. ⁽¹¹⁾

3.1.2 While not referred to in detail in section III of its judgement, the UT also considered information provided in four Intergovernmental Consultations on Migration, Asylum and Refugees (IGC) surveys of member states on returns conducted in 2013 and 2014 at the request of the Home Office. ⁽¹²⁾

3.1.3 The UT considered the above evidence in paragraphs 59 to 87 of the judgement:

- That Dr Erik Kennes' evidence '...does not qualify to be accorded substantial weight and lacks the force and cogency of other evidence, which we prefer' (see paras 62-64)
- That the '... evidence relating to the Ambassador's alleged statement at the Parliamentary meeting in July 2012 does not advance the Appellants' cases.' (paras 65-67)
- Al's expert report did not demonstrate a real risk of harm on return. The UT rejected Al's 'thesis' that Operation Likofi demonstrated that the DRC authorities had an interest in returning FNOs and observed that there were some shortcomings in the report (paras 69 – 71)
- That there was 'nothing in... [the HRW's material] lending support to [the appellants'] cases' (para 72)
- The Observer article had 'no measurable weight' as it was eclipsed by more recent evidence and was uncorroborated (para 72)
- The Home Office Report of a Fact Finding Mission to the DRC did 'not establish, persuasively or at all, that those who have the status of failed asylum seeker or foreign national offender are, ipso facto, at risk of persecution or serious harm or treatment proscribed by Article 3 ECHR.' The UT found the evidence of the NGOs interviewed by the FFM 'largely unimpressive and unpersuasive'. However the UT accepted the evidence in the report that those who are 'wanted' or are 'combatants' are likely to attract the interest of state and are 'at risk of persecution and/or other forms of treatment proscribed by international law.' (paras 73-75)

⁹ Home Office, Democratic Republic of Congo: COI bulletin, March 2013, available on request

¹⁰ The DRC Country Policy Bulletin has been withdrawn, replaced by this country information and guidance document. All annexes of that bulletin have been appended below.

¹¹ See Annexes E to P

¹² Intergovernmental Consultations on Migration, Asylum and Refugees (IGC) surveys August 2013 to November 2014, see Annexes A to D below

3.1.4 In regard to information on returns, the UT concluded in paragraphs 76-77:

‘... insofar as the evidence of any NGO [referring primarily to the Home Office FFM report] supports superficially any of the Appellants' cases, we must not overlook that it emanates from organisations who are unlikely to have an entirely neutral or unbiased agenda, having regard to the realities of government and politics in the DRC. To this we add that such evidence is undermined and contradicted by more recent evidence to which we propose to attach substantial weight, particularly that considered in [37]-[43] [i.e. information provided by the British Embassy in Kinshasa] above. Where there are conflicts between the two broad competing bodies of evidence, we have no hesitation in preferring the latter.

‘The evidence which we find most persuasive and upon which we place substantial weight emanates from the IOM, a series of IGC states who co-operated actively in the recent survey and the British Embassy in Kinshasa. Having examined all of this evidence critically we find it cogent, consistent and persuasive and readily prefer it to the body of evidence espoused by the Appellants. We have summarised this superior body of evidence in [37]–[43] above. We are satisfied that it is not tarnished by bias, conjecture or inattention. It builds a picture of reliability and consistency. It is un glossed and unvarnished. It suffers from no objectively demonstrable inaccuracy or other material flaw. We also consider that this assessment applies fully to the British Embassy, one of the contributors, whose contribution we have examined with particular scrutiny, given its links with the Respondent in these proceedings. We are impressed by the survey which the Embassy devised and proceeded to carry out amongst various respondents and interlocutors. There is no evidence warranting a finding that the methodology of information collation suffers from any significant flaw. We consider that this body of evidence as a whole does not suffer from any material imperfections.’⁽¹³⁾

[Back to contents](#)

4. Returns statistics

- 4.1.1 In the country guidance *BM and Others* the Upper Tribunal, based on the evidence put before it, found that approximately 700 persons returned to the DRC between 2012 and 2014⁽¹⁴⁾ from western states, including Belgium, France, Germany, Norway, the Netherlands, the UK, Canada, and the USA. These data covered asylum and non-asylum cases (including foreign

¹³ Immigration and Asylum Chamber, Upper Tribunal, *BM and Others* (returnees – criminal and non-criminal) DRC CG [2015] 00293 (IAC), paragraph 80, 2 June 2015, <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.pdf> accessed on 25 June 2015

¹⁴ Immigration and Asylum Chamber, Upper Tribunal, *BM and Others* (returnees – criminal and non-criminal) DRC CG [2015] 00293 (IAC), paragraph 80, 2 June 2015, <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.pdf>

national offenders), and enforced and voluntary returns. ⁽¹⁵⁾⁽¹⁶⁾⁽¹⁷⁾⁽¹⁸⁾⁽¹⁹⁾⁽²⁰⁾⁽²¹⁾
^{(22) (23)}

4.1.2 Open source data on the number of the returns from Europe is available via Eurostat: <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

4.1.3 The number of DRC nationals, both asylum and non asylum cases, who have returned from the UK to the DRC since 2005, are recorded in the table below:

Year	Total enforced removals	Total voluntary departures	Total non-asylum enforced removals	Total non-asylum voluntary departures	Total asylum enforced removals	Total asylum voluntary departures
05	37	9	2	1	35	8
06	76	45	4	2	72	43
07	87	77	7	10	80	67
08	25	58	7	15	18	43
09	98	19	19	2	79	17
10	46	13	5	6	41	7
11	22	10	3	4	19	6
12	14	4	2	4	12	0
13	4	4	3	2	3	2
14	6	5	1	1	3	4
1 st quarter 2015	2	0	0	0	2	0
Total	432	246	56	47	377	199

⁽²⁴⁾

¹⁵ Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), Removal of DRC Failed Asylum Seekers, Urgent Request by the UK of 18 November 2014, compilation collated December 2014, Annex A

¹⁶ IGC, Removal of DR Congo Foreign National Offenders, Urgent Request by the UK of 18 November 2014, compilation collated December 2014, Annex B

¹⁷ IGC, Request for Information Return of Rejected Asylum Seekers to DR Congo, August 2013, Annex C

¹⁸ IGC, Request for Information Return of foreign nationals with a conviction to the Democratic Republic of Congo, December 2013, Annex D

¹⁹ Foreign and Commonwealth Office (FCO), Conversation with a French Immigration Officer, 11 December 2014, Annex E

²⁰ FCO, Letter of meeting with Belgian Migration Officer, 18 November 2014, Annex F

²¹ FCO, Letter of meeting with Swiss Premier Collaborateur, 20 November 2014, Annex G

²² International Organisation for Migration, Assisted Voluntary Returns Ex-Europe Statistics to DRC (2004-2014), December 2014, Annex T

²³ Home Office, Immigration Statistics January to March 2015, Removals and departures volume 3, May 2015, <https://www.gov.uk/government/statistics/immigration-statistics-january-to-march-2015-data-tables> accessed on 23 June 2015

²⁴ Home Office, Immigration Statistics January to March 2015, Removals and departures volume 3, May 2015, <https://www.gov.uk/government/statistics/immigration-statistics-january-to-march-2015-data-tables> accessed on 23 June 2015

- 4.1.4 The above Home Office data also includes returns of foreign national offenders (FNOs), some of whom may also have claimed asylum. Between 2009 and September 2014 there were 80 DRC FNOs removed from the UK, however the data does not distinguish between removals to a third country i.e. not the DRC, and the DRC.⁽²⁵⁾ During the period 2009 to December 2014, 20 DRC FNOs were returned to the DRC under the Home Office's Facilitated Returns Scheme. Of these, 13 contacted the International Organisation for Migration (IOM) following arrival and 12 of these obtained assistance from the IOM.⁽²⁶⁾

[Back to contents](#)

5. Treatment of returns

5.1 Redocumentation and immigration process on arrival

- 5.1.1 The redocumentation and returns process for returning DRC nationals without a passport as explained by officials in the Direction Generale de Migration (DGM) is set out in three letters from the FCO dated 23 January 2014 and (two dated) 14 October 2014; and a Home Office note of discussions with the DGM secondee in London of 15 October 2014. These include information about questions asked of DRC nationals who are interviewed in London as part of the redocumentation process, the process on arrival at N'Djili airport and if the DRC authorities have an interest in the immigration status in the UK of those returning to the DRC.^{(27)(28)(29) (30)}
- 5.1.2 Full text of the letters/note is available in [Annexes Q to S](#)
- 5.1.3 In the IGC surveys, a number of states reported that returnees may be questioned on arrival as part of the immigration process to determine identity and nationality.³¹ Only Belgium stated that DRC nationals returned on a charter flight might be held up to 24 hours for general questions, which may include those on the returnees immigration status.³² Belgium,³³ Germany³⁴ and the Netherlands³⁵ stated that returnees may be questioned by the Agence Nationale de Renseignements (the National Security Agency).
- 5.1.4 For all the member states' responses on the immigration process on return see IGC surveys in [Annexes A to D](#).

[Back to contents](#)

²⁵ Home Office, Table 1: Democratic Republic of Congo Foreign National Offender (FNO) removals, undated (produced in December 2014), Annex G, accessed on 24 June 2015

²⁶ Home Office, Facilitated Return Scheme, 11 December 2014, Annex H, accessed on 23 June 2015

²⁷ FCO, Letter of meeting with DGM, 23 January 2014, Annex Q

²⁸ FCO, Letter of meeting with DGM, 14 October 2014, Annex R

²⁹ FCO, Letter of meeting with director of N'Djili airport, 14 October 2014, Annex S

³⁰ HO, Notes of meetings with DGM secondee, 15 October 2014, Annex T

³¹ IGC surveys, see Annexes A, B, C and D

³² IGC, Removal of DRC Failed Asylum Seekers, 18 November 2014, Annex A

³³ IGC, Return of foreign nationals with a conviction to the DRC, 16 December 2013, Annex

³⁴ IGC, Rejected Asylum Seekers Returned to Democratic Republic of Congo Request from the United Kingdom, August 2013, Annex C

³⁵ IGC, Removal of DR Congo Foreign National Offenders, 18 November 2014, Annex B

5.2 Allegations of ill-treatment on return

5.2.1 The following sources reported FAS and / or FNO returnees would face difficulties on return:

- DRC Ambassador (regarding FNOs)³⁶
- Kinshasa-based NGOs interviewed in the Home Office fact finding mission of June 2012³⁷
- The Observer³⁸
- Dr Kennes in his expert report³⁹
- Amnesty International expert report⁴⁰

5.2.2 See UT's observations on evidence in Section 3. Sources.

5.3 Intergovernmental Consultations on Migration, Asylum and Refugees - surveys

5.3.1 The IGC conducted four surveys on returns at the request of the Home Office in 2013 and 2014. For full text of the surveys see Annexes A to D.

5.3.2 In June 2013 the IGC conducted a survey on the treatment of returnees of its member states (of these Australia, Belgium, Finland, Germany, Norway, Sweden, and the USA, provided responses) and collated the responses in August 2013. Belgium reported that it was aware of a single allegation of ill-treatment on return which it investigated and found to be unsubstantiated. Similarly Germany stated that allegations made by human rights organisations that returnees were not allowed to enter without challenge had been investigated thoroughly but not confirmed.⁴¹

5.3.3 The same countries were also asked questions by the IGC about the return of FNOs in December 2013. While Belgium, Canada, Finland and Germany reported that they undertook FNO removals, only Belgium indicated that a FNO returnee would be detained and this would be for up to 24 hours (usually less) for questioning. Belgium also responded 'As far as we know,

³⁶ Immigration and Asylum Chamber, Upper Tribunal, BM and Others (returnees – criminal and non-criminal) DRC CG [2015] 00293 (IAC), paragraph 17, 2 June 2015, <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.pdf> accessed on 25 June 2015

³⁷ Home Office, Report of a Fact Finding Mission to Kinshasa conducted between 18 and 28 June 2012, November 2012, Treatment of returnees, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311407/DMC_factFindingMission_2012.pdf accessed on 25 June 2015

³⁸ The Observer, Congolese asylum seekers face 'torture with discretion' after removal from UK, 15 February 2014, <http://www.theguardian.com/uk-news/2014/feb/16/congo-torture-asylum-seekers> accessed on 25 June 2015

³⁹ Immigration and Asylum Chamber, Upper Tribunal, BM and Others (returnees – criminal and non-criminal) DRC CG [2015] 00293 (IAC), paras 44 – 49, 2 June 2015, <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.pdf> accessed on 25 June 2015

⁴⁰ Immigration and Asylum Chamber, Upper Tribunal, BM and Others (returnees – criminal and non-criminal) DRC CG [2015] 00293 (IAC), paras 24 – 28, 2 June 2015, <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.pdf> accessed on 25 June 2015

⁴¹ IGC, Request for Information Return of Rejected Asylum Seekers to DR Congo, August 2013, Annex A

no-one has been detained longer than 24 hours for these questionings unless there was a criminal offence for which the Congolese authorities had still to proceed to criminal investigation or because of outstanding criminal sentences or warrants in DRC'.⁴²

5.3.4 The IGC conducted two further surveys of its member states at the request of the Home Office in November 2014 regarding the return and treatment of FAS and FNOs respectively. The member states who responded regarding FAS were Belgium, Canada, Finland, Germany, Netherlands and the USA. While the same states plus Norway provided responses on FNOs. All the states except Canada undertook FAS returns to the DRC, while Belgium, Finland and Norway confirmed that had undertaken returns of FNOs in 2014. No country was aware of detention and ill-treatment of FAS and / or FNO returnees. Although the Netherlands observed that some FAS returnees might be questioned by the Agence Nationale de Renseignements (ANR; the National Intelligence Agency).⁴³

5.4 Information gathered by the British Embassy, Kinshasa

5.4.1 Officials based at the British Embassy in Kinshasa undertook a series of interviews with representatives of western Embassies, the IOM, the UNHRO and a local human rights organisation as well as a DRC FNO returned from the UK in November and December 2014. FCO officials also observed the return of five DRC nationals to N'djili airport between October and December 2014.

5.4.2 Full text of the FCO letters is available in [Annexes E to P](#).

5.4.3 The Belgian and French officials were not aware of any interest of the DRC authorities in FAS or FNOs returnees.^{(44) (45)} The Swiss official observed that:

'The DRC authorities have an interest in those who pose a political risk, or who are a high level activist. The Premier Collaborateur said that in his experience, he did not think that the DRC authorities had an interest in those who had simply applied for asylum, and he was unsure whether they would be interested in those who are FNOs as they had never asked him for these details.'⁽⁴⁶⁾

5.4.4 None of the Belgian, French or Swiss officials were aware of substantiated evidence of ill-treatment of DRC nationals on return.⁽⁴⁷⁾⁽⁴⁸⁾⁽⁴⁹⁾

⁴² IGC, Request for Information Return of Rejected Asylum Seekers to DR Congo, August 2013, Annex C

⁴³ IGC, Request for Information Return of Rejected Asylum Seekers to DR Congo, August 2013, Annex A

⁴⁴ FCO, Letter of meeting with Belgian official, 18 November 2014, Annex F

⁴⁵ FCO, Letter of meeting with French official, 11 December 2014, Annex E

⁴⁶ FCO, Letter of meeting with Swiss official, 20 November 2014, Annex G

⁴⁷ FCO, Letter of meeting with Belgian official, 18 November 2014, Annex F

⁴⁸ FCO, Letter of meeting with French official, 11 December 2014, Annex E

⁴⁹ FCO, Letter of meeting with Swiss official, 20 November 2014, Annex G

5.4.5 The FCO also interviewed the executive director of a Kinshasa-based human rights organisation asking questions on the monitoring of returns and information about ill treatment on 10 December 2014. The interlocutor provided the following information:

‘... the organisation does monitor returns although the Executive Director himself does not as he delegates the task. Until 2009, the organisation had an office at the airport from which they could monitor returns. Due to the expense of the rent they could no longer maintain this office after 2009. They now go to the airport to observe returns whenever this is requested by partners in Europe, for example civil society organisations such as Coordination et Initiatives pour Réfugiés et Etrangers (CIRE) in Belgium, or whenever they are informed of forthcoming returns by DGM officials. They rely on DGM immigration officers to allow them access to the immigration desks and baggage hall, although they are not allowed access to the office in which the returnees are interviewed by DGM. They will be provided information on the returnees in advance to help with identification, and then rely on DGM to inform them of the individual or will ask the people going through immigration if they are the person being returned (for example “Are you Mr xxxxx”). They have not monitored any returns this year, and attended the airport approximately 2-3 times in 2013 to observe groups of arrivals, for example a Belgian charter return. Lack of resources make it difficult to observe all the returns that they are asked to.

... the Executive Director did not think that they [the DRC authorities] had a specific interest in failed asylum seekers or those who had committed crimes overseas. He said that DGM may ask an individual why they are being returned and whether they have committed a crime, but that if the person replies that they have not they have no way to check this information; and that he did not think they would be interested even if the person replied that they had committed a crime, unless they had an outstanding arrest warrant in DRC or elsewhere. He said that names would be checked against Interpol to determine this information.

‘He said that they were interested in those who were on a “blacklist” held by DGM, and that these were the people who would be taken for further questioning by the ANR. He had been informed about this blacklist by his contacts in DGM. He said that the following groups of people would be on the blacklist: those who were wanted by the police in Congo (not those who had committed crimes overseas, only people with outstanding arrest warrants in DRC); and opposition political activists for example those who had plotted a coup against the government, or who were believed to have been involved in attacks against Congolese authorities whilst visiting overseas.

'The Executive Director was not aware of any cases of returnees facing problems on arrival. He did mention three cases of individuals who were not returnees who had faced problems following arrival...'⁵⁰

5.4.6 FCO officials interviewed representatives of the UN Human Rights Office in Kinshasa on 1 December 2014. The UN officials were not aware that the DRC authorities had an interest in returning FAS or FNOs, though they thought the authorities might have an interest in some returnees. The officials were unable to provide specific groups who may of interest to the authorities but thought that it could be those linked to radical political groups. The UNHRO also did not have substantiated reports of returnees being ill-treated on return, but do not monitor the airport.⁵¹

5.4.7 The FCO also interviewed the chef de mission of the IOM in Kinshasa on, amongst other things, IOM monitoring of returnees, the authorities interest in returnees, and evidence of ill-treatment on return:

'... IOM have a scheme for monitoring voluntary returnees in place with a number of countries, mainly ex-Europe, as per the attached statistics. The return of those individuals voluntarily returning from these countries is observed by an IOM representative at the airport in Kinshasa, whenever IOM are informed that there will be a return. IOM are not informed of the reason for return and therefore do not know whether the returnees are FAS or FNOs... The DRC authorities are not interested in whether a returnee is a FAS. They may be more interested in whether a returnee has committed a crime overseas, but they do not request this information from IOM. IOM knows from discussions with the Congolese authorities that sometimes when a person has committed a crime, the authorities want to know its nature and the returnees are questioned by ANR (Agence Nationale de Renseignement). That process may take one to several hours, but they are released after being questioned. As far as IOM knows and from all information it has received from informal sources at the airport, returnees are not put in a detention facility.

'[Is there substantiated evidence of ill-treatment and/or detention on return] No, no evidence of this. Those whom IOM have followed up with post-return have not reported ill-treatment. It is not possible for IOM to comment on those who were returned to DRC without their reintegration assistance.'⁵²

5.4.8 The FCO interviewed on 11 December 2014 a DRC FNO who had returned from the UK in October 2014 under the Facilitated Returns Scheme operated by the Home Office. The returnee experienced no problems on return and stated that the DRC authorities were aware of why he was being returned to the DRC.⁵³

⁵⁰ FCO letter, Interview with Executive Director of a Kinshasa-based human rights organisation, 10 December 2014, Annex H

⁵¹ FCO letter, Conversation with the United Nations Joint Human Rights Office, 1 December 2014, Annex I

⁵² FCO letter, Conversation with the Chef de Mission for the International Organisation for Migration, 20 November 2014, Annex K

⁵³ FCO, Letter of Conversation with a returnee from the UK, 11 December 2014, Annex J

5.4.9 The FCO in Kinshasa also observed the return of five DRC nationals from the UK to N'djili airport, Kinshasa, between October and December 2014. The FCO officials did not observe detention or ill-treatment of the returnees.
⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷

[Back to contents](#)

⁵⁴ FCO letter, Home Office Return 13/14 October 2014, 14 October 2014, Annex L
⁵⁵ FCO letter, Home Office Return 16/17 October 2014, 17 October 2014, Annex M
⁵⁶ FCO letter, Home Office Return 13/14 November 2014, 14 October 2014, Annex N
⁵⁷ FCO letter, Home Office Return 5/6 December 2014, December 2014, Annex P

Annex A – IGC FAS survey, 18 November 2014

Intergovernmental Consultation on migration, asylum and refugees (IGC) responses to urgent request by the United Kingdom (UK): Removal of DR Congo Failed Asylum Seekers, 18 November 2014

Belgium

1. Do you deport/remove FAS to the DRC? **Yes.**

2. If you do not, why not? /

3. If you do remove/deport FAS, how many have been returned to the DRC since January 2012: (numbers 2014 until 31.10.2014)

a. by force?

2012: 43 (of whom 1 was also a FNO); 2013: 62 (of whom 3 were also FNO); 2014: 47 (of whom 3 were also FNO)

b. voluntarily?

N/A on short notice – general AVRR returns were: 2012: 12; 2013: 24; 2014: 12

4. Do you reveal the immigration status/history of returnees to the DRC authorities before or on return?

YES (of course without talking about asylum requests)

5. How do the DRC authorities process FAS arriving at N'djili airport in Kinshasa?

No different than any other deportee (they don't know it as a FAS)

6. Are FAS questioned on arrival, if so what are they asked?

Same questions as any other deportee

7. Specifically, are FAS asked about their immigration status in your country / reasons for return, i.e. if they are FAS?

No specific questions about that matter – but of course it is possible that at any deportee questions about immigration status may be asked (case by case)

8. Are FAS detained on arrival, if so why?

NO (only after being returned with charter flight, it may happen that everyone is questioned on their immigration status in Belgium – these are general questions and normally the deportees can go home within 24 hours after arrival)

9. Are you aware of substantiated evidence of detention and/or ill-treatment of FAS on return to the DRC (specifically at N'Djili airport, Kinshasa)?

No.

10. Do you have representatives at N'djili airport who oversee FAS returnees through the immigration process (from arrival to departure from the airport)?

NO – only ILO (part time) in embassy who will be present in airport on our request and at arrival of charter flights

11. Do you monitor FAS returnees once in the DRC?

Only at request and in case of charter flight or in cases that general inspection of federal police sends monitoring unit with the deportee

12. Can we publicly disclose all or part of the above information (if only part, please identify which)?

Yes.

Canada

General Background

Canada's Immigration and Refugee Protection Act provides the Minister of Public Safety with the specific legal authority to temporarily suspend or reinstate removals according to changes in country conditions.

A Temporary Suspension of Removals (TSR) prevents removals to a country or place when conditions such as war or environmental disaster threaten the lives or security of the entire population. As a result of armed conflict or environmental disaster, the Minister of Public Safety has the authority to impose or lift a Temporary Suspension of Removals (TSR). With a TSR in place, individuals who are unsuccessful in their refugee claims or inadmissible for most other reasons, and who, under normal circumstances, would be subject to removal, are allowed to stay in Canada temporarily except individuals inadmissible due to criminality, security, organized criminality or on grounds of violating human or international rights.

An Administrative Deferral of Removal (ADR) is generally imposed by the CBSA when immediate action is needed to temporarily defer removals in situations of humanitarian crisis. It is imposed when removals are not possible (e.g., airport closures) or when the impact of the catastrophic event is so pervasive and widespread that it would be inconceivable to return anyone to that country, until some degree of safety is restored.

Foreign nationals who are inadmissible and subject to removal on grounds of criminality, international or human rights violations, organized crime, or national security, do not benefit from the stay of removal imposed by a TSR or ADR should the CBSA wish to proceed with their removal. As well, an individual from a country that is under a TSR or ADR may voluntarily leave Canada at any time.

Currently, the Democratic Republic of the Congo (DRC) has been identified as a country under TSR in which nationals may benefit from a temporary suspension of removals.

Finland

1. Do you deport/remove FAS to the DRC? **Yes.**
2. If you do not, why not? –
3. If you do remove/deport FAS, how many have been returned to the DRC since January 2012:
 - a. by force? **12**

b. voluntarily? 0

4. Do you reveal the immigration status/history of returnees to the DRC authorities before or on return?

No, all information related to asylum claims is confidential.

5. How do the DRC authorities process FAS arriving at N'djili airport in Kinshasa? They receive the person, check his documents and confirm his nationality.

6. Are FAS questioned on arrival, if so what are they asked?

They check his nationality and place of residence. Other interviews do not take place in the presence of Finnish authorities.

7. Specifically, are FAS asked about their immigration status in your country / reasons for return, i.e. if they are FAS? See above.

8. Are FAS detained on arrival, if so why? We do not know.

9. Are you aware of substantiated evidence of detention and/or ill-treatment of FAS on return to the DRC (specifically at N'Djili airport, Kinshasa)?

We are not aware of such incidents.

10. Do you have representatives at N'djili airport who oversee FAS returnees through the immigration process (from arrival to departure from the airport)? **No.**

11. Do you monitor FAS returnees once in the DRC? No.

12. Can we publicly disclose all or part of the above information (if only part, please identify which)? Yes, all of it.

Germany

In Germany, there are 334 persons whose deportation has been temporarily suspended. The Democratic Republic of the Congo (COD) is not among the main countries of origin in the federal states responsible for enforcing returns. In principle, there are no restrictions with regard to possible deportations in the federal states.

Five persons were deported to COD in 2013, and two persons have been deported to COD in 2014.

While there were eight voluntary returns funded by the REAG programme in 2013, there have been five of them in 2014.

Netherlands

Since January 1st 2014 no foreign national offenders (FNO's) departed voluntarily or forced from the NL.

Where it concerns other categories of third country nationals (asylum seekers and non-asylum seekers) since January 1st 2012, approximately 15 were deported and approximately 10 departed voluntarily.

Failed asylum seekers are, in some cases, questioned by the Agence Nationale de Renseignements (ANR). On the base of the Dutch COI there are no situations known where returned asylum seekers faced problems after that. The NL don't notify the DRC authorities of any convictions that a returnee might have. We do not monitor returnees.

New Zealand

1. Do you deport/remove FAS to the DRC? **Yes**
2. If you do not, why not? **N/A**
3. If you do remove/deport FAS, how many have been returned to the DRC since January 2012:
 - a. by force? **Nil**
 - b. voluntarily? **One**
4. Do you reveal the immigration status/history of returnees to the DRC authorities before or on return? **No**
5. How do the DRC authorities process FAS arriving at N'djili airport in Kinshasa? **No information on this topic available**
6. Are FAS questioned on arrival, if so what are they asked?

Refer question 5

7. Specifically, are FAS asked about their immigration status in your country / reasons for return, i.e. if they are FAS? **Refer question 5**
8. Are FAS detained on arrival, if so why? **Refer question 5**
9. Are you aware of substantiated evidence of detention and/or ill-treatment of FAS on return to the DRC (specifically at N'Djili airport, Kinshasa)?

Refer question 5

10. Do you have representatives at N'djili airport who oversee FAS returnees through the immigration process (from arrival to departure from the airport)? **No**
11. Do you monitor FAS returnees once in the DRC? **No**
12. Can we publicly disclose all or part of the above information (if only part, please identify which)? **Yes for disclosure**

Annex B – IGC survey of FNOs, 18 November 2014

Intergovernmental Consultation on migration, asylum and refugees (IGC) responses to urgent request by the United Kingdom (UK): Removal of DR Congo Foreign National Offenders, 18 November 2014

Belgium

1. Do you deport/remove (by force or voluntarily) FNOs to the DRC? **Yes**
2. If you do not, why not? /
3. If you do remove/deport FNOs, how many have been returned to the DRC since January 2014:
 - a. by force?

6 (of whom 3 offenders who were as well rejected asylum seekers)

- b. voluntarily?

N/A – only general statistics on voluntary return

4. Do you notify the DRC authorities of any or specific convictions that a returnee may have in your country before they are returned?

On a case by case basis

5. Do the DRC authorities have an interest in FNOs returned from your country?

No.

6. How do the DRC authorities process FNOs arriving at N'djili airport in Kinshasa?

As all other deportees

7. Are FNOs questioned, if so what are they asked?

No specific questions for NFO's

8. Specifically, are FNOs asked by authorities about their immigration status in your country / reasons for return on arrival in Kinshasa, i.e. if they are FNOs?

No specific questions for NFO's

9. Are FNOs detained on arrival, if so why?

NO (only after being returned with charter flight, it may happen that everyone is questioned on their immigration status in Belgium – these are general questions and normally the deportees can go home within 24 hours after arrival)

10. If FNOs are detained, where and for how long? /

11. Are you aware of any substantiated evidence that FNO returnees have faced any problems (detention, ill-treatment, etc.) on return? If so what, when and why?

No.

12. Do you have representatives at N'djili airport who oversee FNOs through immigration process (from arrival to departure from N'djili airport)?

NO – only ILO (part time) in embassy who will be present in airport on our request and at arrival of charter flights

13. Do you monitor returnees once in the DRC?

Only at request and in case of charter flight or in cases that general inspection of federal police sends monitoring unit with the deportee

14. Can we publicly disclose all or part of the above information (if only part, please identify which)?

Yes.

Canada

General Background

Canada's Immigration and Refugee Protection Act provides the Minister of Public Safety with the specific legal authority to temporarily suspend or reinstate removals according to changes in country conditions.

A Temporary Suspension of Removals (TSR) prevents removals to a country or place when conditions such as war or environmental disaster threaten the lives or security of the entire population. As a result of armed conflict or environmental disaster, the Minister of Public Safety has the authority to impose or lift a Temporary Suspension of Removals (TSR). With a TSR in place, individuals who are unsuccessful in their refugee claims or inadmissible for most other reasons, and who, under normal circumstances, would be subject to removal, are allowed to stay in Canada temporarily except individuals inadmissible due to criminality, security, organized criminality or on grounds of violating human or international rights.

An Administrative Deferral of Removal (ADR) is generally imposed by the CBSA when immediate action is needed to temporarily defer removals in situations of humanitarian crisis. It is imposed when removals are not possible (e.g., airport closures) or when the impact of the catastrophic event is so pervasive and widespread that it would be inconceivable to return anyone to that country, until some degree of safety is restored.

Foreign nationals who are inadmissible and subject to removal on grounds of criminality, international or human rights violations, organized crime, or national security, do not benefit from the stay of removal imposed by a TSR or ADR should the CBSA wish to proceed with their removal. As well, an individual from a country that is under a TSR or ADR may voluntarily leave Canada at any time.

Currently, the Democratic Republic of the Congo (DRC) has been identified as a country under TSR in which nationals may benefit from a temporary suspension of removals.

Finland

1. Do you deport/remove (by force or voluntarily) FNOs to the DRC?

Yes to both.

2. If you do not, why not? -

3. If you do remove/deport FNOs, how many have been returned to the DRC since January 2014:

a. by force? **8**

b. voluntarily?

0

4. Do you notify the DRC authorities of any or specific convictions that a returnee may have in your country before they are returned? **No.**

5. Do the DRC authorities have an interest in FNOs returned from your country?
No.

6. How do the DRC authorities process FNOs arriving at N'djili airport in Kinshasa?

They receive the person and check his documents to confirm that he is a Congolese citizen.

7. Are FNOs questioned, if so what are they asked?

They are asked about their citizenship and place of residence. Other inquiries do not take place in the presence of Finnish authorities.

8. Specifically, are FNOs asked by authorities about their immigration status in your country / reasons for return on arrival in Kinshasa, i.e. if they are FNOs?

See above.

9. Are FNOs detained on arrival, if so why?

We do not know.

10. If FNOs are detained, where and for how long? -

11. Are you aware of any substantiated evidence that FNO returnees have faced any problems (detention, ill-treatment, etc) on return? If so what, when and why?

We are not aware of such incidents.

12. Do you have representatives at N'djili airport who oversee FNOs through immigration process (from arrival to departure from N'djili airport)? **No.**

13. Do you monitor returnees once in the DRC? **No.**

14. Can we publicly disclose all or part of the above information (if only part, please identify which)? **Yes, all of it.**

Germany

In Germany, there are 334 persons whose deportation has been temporarily suspended. The Democratic Republic of the Congo (COD) is not among the main countries of origin in the federal states responsible for enforcing returns. In principle, there are no restrictions with regard to possible deportations in the federal states.

Five persons were deported to COD in 2013, and two persons have been deported to COD in 2014.

While there were eight voluntary returns funded by the REAG programme in 2013, there have been five of them in 2014.

Netherlands

Since January 1st 2014 no foreign national offenders (FNO's) departed voluntarily or forced from the NL.

Where it concerns other categories of third country nationals (asylum seekers and non-asylum seekers) since January 1st 2012, approximately 15 were deported and approximately 10 departed voluntarily.

Failed asylum seekers are, in some cases, questioned by the Agence Nationale de Renseignements (ANR). On the base of the Dutch COI there are no situations known where returned asylum seekers faced problems after that. The NL don't notify the DRC authorities of any convictions that a returnee might have. We do not monitor returnees

Norway

1. Do you deport/remove (by force or voluntarily) FNOs to the DRC?

In general yes, but very few of the Congolese citizens returning from Norway are FNOs.

2. If you do not, why not? ---

3. If you do remove/deport FNOs, how many have been returned to the DRC since January 2014:

a. by force?

Among FNOs: none in 2014

b. voluntarily?

Among FNOs: None

4. Do you notify the DRC authorities of any or specific convictions that a returnee may have in your country before they are returned?

As a rule, we notify on each criminal returnee through the Interpol system, at least when the returnee has committed criminal acts of a certain seriousness. We do not notify Congolese authorities other than through the Interpol notification system. In the message, we specify the criminal acts that have been violated, as well as the details of the penalty or sentence.

5. Do the DRC authorities have an interest in FNOs returned from your country?

In our experience, Congolese authorities do not show any particular interest in FNOs returning from Norway. The Congolese consulate representing Norway has no routine in asking FNO-related questions when we present assumed Congolese citizens for verification and issuing of travel document.

6. How do the DRC authorities process FNOs arriving at N'djili airport in Kinshasa?

According to our experience, the DRC authorities at the airport have not acted differently towards FNO returnees, compared with other returnees.

7. Are FNOs questioned, if so what are they asked?

No

8. Specifically, are FNOs asked by authorities about their immigration status in your country / reasons for return on arrival in Kinshasa, i.e. if they are FNOs?

Not in our experience

9. Are FNOs detained on arrival, if so why?

We have not experienced detentions on arrival.

10. If FNOs are detained, where and for how long? -

11. Are you aware of any substantiated evidence that FNO returnees have faced any problems (detention, ill-treatment, etc) on return? If so what, when and why?

The responsibility of the Norwegian immigration police ends after the handover of the returnee to the immigration authorities on arrival. What happens afterwards is beyond the scope of our responsibility. However; in each individual case, questions related to future prosecution and human rights violations have always been considered by immigration case handlers prior to deportation.

12. Do you have representatives at N'djili airport who oversee FNOs through immigration process (from arrival to departure from N'djili airport)? **No**

13. Do you monitor returnees once in the DRC?

No. The immigration police has no information, nor responsibility, of what happens after the returnee enters his/her home country.

14. Can we publicly disclose all or part of the above information (if only part, please identify which)?

Yes, none of this information is classified.

New Zealand

1. Do you deport/remove (by force or voluntarily) FNOs to the DRC? **Yes**

2. If you do not, why not?

3. If you do remove/deport FNOs, how many have been returned to the DRC since January 2014:

a. by force? **Nil**

b. voluntarily? **Nil**

4. Do you notify the DRC authorities of any or specific convictions that a returnee may have in your country before they are returned? **No**

5. Do the DRC authorities have an interest in FNOs returned from your country?

NZ does not currently have a case load for DRC criminals awaiting return

6. How do the DRC authorities process FNOs arriving at N'djili airport in Kinshasa?

No information on this topic

7. Are FNOs questioned, if so what are they asked? **N/A**

8. Specifically, are FNOs asked by authorities about their immigration status in your country / reasons for return on arrival in Kinshasa, i.e. if they are FNOs? **N/A**

9. Are FNOs detained on arrival, if so why? **N/A**

10. If FNOs are detained, where and for how long? **N/A**

11. Are you aware of any substantiated evidence that FNO returnees have faced any problems (detention, ill-treatment, etc) on return? If so what, when and why?

N/A

12. Do you have representatives at N'djili airport who oversee FNOs through immigration process (from arrival to departure from N'djili airport)? **No**

13. Do you monitor returnees once in the DRC? **No**

14. Can we publicly disclose all or part of the above information (if only part, please identify which)?

Yes for disclosure

Annex C – IGC survey of FAS returns, August 2013

Intergovernmental Consultation on migration, asylum and refugees (IGC) responses to request by the United Kingdom (UK): Rejected Asylum Seekers Returned to Democratic Republic of Congo Request from the United Kingdom, August 2013

Answers to Question 1

Do you return (by force or voluntarily) rejected (failed) asylum seekers (FAS) to the DRC?

Australia

People who have exhausted all outstanding avenues to remain in Australia and have no lawful basis to remain are expected to depart. Australia is under a general legal obligation to remove all unlawful non-citizens as soon as reasonably practicable.

Belgium

Yes.

Finland

A rejected asylum seeker is normally granted a time period during which he/she can return voluntarily. After that period the return is carried out by force by the Police. All asylum applications are assessed individually.

Germany

Yes, on principle there are both voluntary returns and forced returns to COD. There is a total of 355 persons whose deportation is suspended (as of 31st December 2012).

Netherlands

Yes. Some regions of the DRC however are defined as “15c” (Haut and Bas Uélé and the Kivu provinces). In principle asylum seekers originating from a 15c region can be returned to Kinshasa to settle there (under certain preconditions). However, in cases of Tutsi’s originating from the 15c regions, the NL do not take decisions and do not send applicants back to DRC (Kinshasa), awaiting information from the ministry of Foreign Affairs about the situation of Tutsi’s.

Norway

Yes, by 30 of June, there have been 14 forced returns to DRC from Norway. There have been 4 voluntarily returns (IOM) up to 30th of June 2013.

Sweden

Yes.

United States

U.S. Immigration and Customs Enforcement (ICE) executes removal orders to many countries, including the DRC. Foreign nationals who receive removal orders unsuccessfully pursued a protection claim in the United States prior to their removal.

Answers to Question 2

If you do not, why not? Not applicable (all countries except The Netherlands: see question 1)

Answers to Question 3

If you do, how many FAS have been returned to the DRC since March 2012: by force? And voluntarily?

Australia

a. by force?

Since March 2012, no clients have been involuntarily removed from Australia to the Democratic Republic of Congo (DRC).

b. voluntarily?

Since March 2012, no clients have been voluntarily removed to the DRC.

Belgium

a. by force?

55 in 2012; up to 28/06/2013: 36 (mixed number, since we do not count separately the failed asylum seekers from the others, but in general, most DRC nationals have previously applied for asylum)

b. voluntarily?

12 in 2012; 8 in 2013 (until 31/05) □ for specifications who was a failed asylum seeker see [deleted]

Finland

a. by force?

One (1).

b. voluntarily?

One (1).

Germany

The return of (rejected) asylum-seekers is not recorded in separate statistics in Germany. There are records on returns according to nationality irrespective of whether the foreigner has gone through an asylum procedure. From March 2012 to May 2013 a total of 53 nationals of the Democratic Republic of the Congo were returned or deported from Germany, of these 8 (by air) to the Democratic Republic of Congo.

Data on voluntary returns are available only to a limited extent, namely referring to assisted returns (REAG: Reintegration and Emigration Programme for Asylum-Seekers in Germany): In the period from 2010 to 2013 a total of 10 nationals of the Democratic Republic of the Congo who returned on a voluntary basis, have received assistance under the REAG programme financed by the Federal Government and the Länder.

Netherlands

a. by force?

Approximately 5 Congolese nationals have been returned to the DRC by force between 1 March 2012 and 30 June 2013. The Dutch Repatriation and Departure Service (R&DS) does not register if a returnee is a failed asylum seeker.

b. voluntarily?

The R&DS has registered no voluntary returns to the DRC between 12 March 2012 and 30 June 2013. According to information from IOM in the Netherlands 1 person voluntarily returned to the DRC with the assistance of IOM.

Norway

a. by force?

In total for January 2012 – June 2013, there were 27 forced returns from Norway to DRC.

b. voluntarily?

In the period January 2012 – June 2013 there were 7 voluntarily returns from Norway to DRC with IOM.

Sweden

a. by force? 2

b. voluntarily? 2

United States

Not applicable because ICE does not track FAS information for removed aliens.

Answers to Question 4

Have you received any allegations of returnees being subject to problems on return?

Australia

Australia is not aware of any reports of ill-treatment of failed asylum seekers who have been removed from Australia to the DRC.

Belgium **Yes.**

Finland **No.**

The Finnish Immigration service does not monitor the situation of individual asylum seekers after return. However up to date COI is used to assess how failed asylum seekers are treated upon return.

Germany

See answer 6.

Netherlands **No.**

Norway

As far as we know, we do not have any information available regarding this.

Sweden

No, not to our knowledge.

United States

Unknown at this time.

Answers to Question 5

If so, what problems (in particular incidents of harassment, ill-treatment, arrest and detention)?

Australia

Not applicable.

Belgium

All of the above.

Finland

Not applicable.

Germany

See answer 6.

Netherlands

Not applicable.

Norway

See answer to question 4.

Sweden

Not applicable.

United States

Unknown at this time.

Answers to Question 6

Have any of these allegations been substantiated?

Australia

Not applicable.

Belgium

None --> all have been controlled by our immigration liaison officer in Kinshasa: This means the Immigration liaison officer in Kinshasa has investigated the allegations and found there is no truth in them.

Finland

Not applicable.

Germany

Answer to questions 4 to 6:

No. However, it cannot be ruled-out that returnees have been subject to harassment governmental agencies upon entry; however, all persons entering the country risk to be treated in this way.

Netherlands

Not applicable.

Norway

See answer to question 4.

Sweden

Not applicable.

United States

Unknown at this time.

Answers to Question 7

Do you have representatives who oversee returnees through N'Djili airport in Kinshasa (from arrival to departure from the airport)?

Australia

If the client is escorted either by an immigration official or a contracted security officer, they may accompany the client on arrival at the destination airport. However, the immigration officials or a contracted security officers accompanying the client must abide by any directions given on arrival by officers at the destination airport. If the client was an unescorted removal, no Australian officials would oversee their arrival at the destination airport.

Belgium

Yes, but only for special flights or on request in individual cases.

Finland

No.

Germany

See answer 8.

Netherlands

No. The involvement of the R&DS and/or the Royal Netherlands Military Constabulary ends when the forced returnee is handed over to the receiving authorities. The IOM often oversees returnees through the airport of destination in case of voluntary return, depending on the wishes of the returnee.

Norway

Norway does not have any representatives present in Kinshasa that oversee returnees. IOM might be and are expect to be present at the airport.

Sweden

No.

United States

No, ICE does not have a representative who oversees returnees upon arrival at the N'djili airport in Kinshasa.

Answers to Question 8

Do you monitor returnees once they return to DRC?

Australia

Australia is bound by the customary international law principle of non-interference in the internal affairs of other sovereign states. Australia's consular obligations and entitlements under international law do not extend to monitoring the welfare of non-nationals offshore.

Belgium

Yes, if requested; automatically if there is a re-integration package

Finland

No.

Germany

Answer to questions 7 and 8:

Rejected asylum-seekers and asylum-seekers returned to the Democratic Republic of the Congo as well as Congolese with German and other foreign passports are interviewed by officers of the immigration authority "Direction Générale de Migration" (DGM) upon arrival at the International Airport N'Djili/Kinshasa. Moreover, all incoming passengers who travel with a substitute passport or have been announced as returned persons are accompanied to the DGM offices next to the departure hall of the airport building where their personal data are recorded and an entry protocol is drafted. The focus of the check is on nationality. In addition, there is a cross-search of wanted lists. If there is reason to doubt the Congolese nationality or the authenticity of the foreign passport, entry is refused. According to experience the persons concerned remain without challenge and, upon check by the DGM, the customs authority and the health authorities and, in specific cases by the ANR ("Agence Nationale de Renseignement", civil intelligence service) they may travel on to their families. Reports to the contrary by some human rights organizations and alleged reference cases were examined thoroughly, but none of them was confirmed. Staff members of human rights organizations in specific cases go and see returned persons at their residences on behalf to the German embassy. So far, cases of repression by the authority against these persons were not reported. However, this situation may change rapidly and dramatically in cases where returnees try to engage in political activities in the Democratic Republic of Congo. Especially if they are members or sympathizers of opposition movements, they may swiftly become the objects of security services' surveillance.

In the framework of the REAG programme funded by the Federal Government and the Länder voluntary returnees may obtain travel costs (reimbursement of

costs of travel by plane, rail or bus, fuel costs amounting to 250,- Euros per car) and travel assistance of up to 200,- Euros per adult/youth, 100,- Euros for children under twelve. There are no specific or other reintegration projects.

Netherlands

No. The responsibility of the Dutch Government ends when the forced returnee is handed over to the receiving authorities or when the alien has voluntarily left the Netherlands.

Norway

We do not monitor returnees after they return to DRC. Returnees returning from Norway to DRC, will receive reintegration support, in one instalment in cash, upon arrival. IOM are handling this operation.

Sweden

No.

United States

No, ICE does not monitor removed aliens following their arrival into the DRC.

Answers to Question 9

Can we publicly disclose all or part of the above information? **Yes (all countries)**

Annex D – IGC survey of FNOs, 16 December 2013

Intergovernmental Consultation on migration, asylum and refugees (IGC) responses to request by the United Kingdom (UK): Return of foreign nationals with a conviction to the Democratic Republic of Congo, 16 December 2013

Answers to Question 1

Do you deport (by force or voluntarily) FNOs to the DRC?

Australia

People who have exhausted all available avenues to remain in Australia and have no lawful basis to remain are expected to depart. Australia is under a legal obligation to remove all unlawful non-citizens as soon as reasonably practicable.

Belgium

Yes – we do not make differentiation between removal and deportation in our return statistics. Every-one is “removed”. A voluntary deportation is for me also a “contradiction in terms” – we talk about voluntary returns.

It is important to know that we deport everybody regardless their background, there is no distinction between a rejected asylum seeker or an FNO.

Canada

In principle, the CBSA removes all persons who are found inadmissible to Canada. However, as noted above, under section 230(1) of the Immigration and Refugee Protection Regulations (IRPR), the Public Safety Minister may impose a temporary suspension of removals (TSR) when the general conditions of a country could seriously endanger the lives or safety of the entire civilian population of a particular country. The Minister has imposed a TSR to the Democratic Republic of Congo (DRC) in 1997, therefore, Canada does not remove to the DRC, except for individuals who are inadmissible on grounds of criminality, war crimes, crimes against humanity or who constitute a risk to the security of Canada. In addition to these individuals, despite a TSR, individuals may wish to return to their country voluntarily

TSR - Temporary Stay of Removal Under section 230(1) of the Immigration and Refugee Protection Regulations, the Minister of Public Safety (PS) may impose or lift a TSR when the entire civilian population of a country faces a generalized risk as a result of a catastrophic event, such as a natural disaster, armed conflict or other extraordinary disruption.

Finland

Finland deports only DRC nationals to DRC (no other nationals). DRC nationals are deported to DRC both voluntarily and by force.

Germany

Germany’s policy includes both enabling voluntary returns and carrying out forced returns. On 30 November 2013 a total of 367 FNOs lived in Germany whose deportation had been temporarily suspended.

New Zealand

Persons who have been sentenced to 12 months imprisonment or more are subject to a statutory ban from the grant of a further visa or entry to New

Zealand. New Zealand would deport DRC nationals who have failed to comply with voluntary departure requirements, including those who may have been sentenced to 12 months imprisonment or more. Note that no DRC nationals have been deported in 2012/13. A voluntary or custodial departure may be effected depending on the circumstances. Each case is determined on a case-by-case basis.

Norway

Yes, we do but no FNOs from the DRC have been returned since 2012

Sweden

Specific data regarding FNOs cannot be provided but generally persons from DRC can be returned.

Answers to Question 2

If you do not, why not? **N/A**

Answers to Question 3

If you do, how many FNOs have been returned to the DRC since 2012:

- a. by force?
- b. voluntarily?

Australia

- a. by force?

Since 1 January 2012, no detainees have been involuntarily removed to the Democratic Republic of Congo (DRC) from Australia.

- b. voluntarily?

Since 1 January 2012, no detainees have been voluntarily removed to the DRC from Australia.

Belgium

- a. by force?

general number of forced removals:

2012: 55 – 2013 (30.11): 50

number of forced removals of FNOs (we cannot determine if the offence for which they have been condemned was punishable for more or less than 1 year):

2012: 1 – 2013 (30.11): 3

number of forced removals by special flight / JRO (indistinctively irregular migrants and FNO's):

2012: 33 – 2013 (included SF of 04.12): 54

- b. voluntarily?

We do not have these specific data for FNOs, since voluntary return is organized by another State Agency and IOM (who do not have the possibility to consult databases, to control whether a person is a FNO or not). The policy of the Immigration Office is not to give AVRR to FNOs, but it is possible that some obtain it after having been released from prison (since they do not have the obligation to say to IOM whether they have committed an offence. □

general number of AVRR for DRC is :

2012: 17 – 2013 (30.11): 17

Canada

- a. by force?

Currently as noted above all removals are due to serious inadmissibility under the Immigration Act – normally criminality).

b. voluntarily?

Despite the TSR being in place, an individual may choose to leave voluntarily. Our system does not capture who may choose to leave voluntarily.

2008 – 3

2009 – 3

2010 – 0

2011 – 6

2012 – 16

2013 – 7

(NOTE – These stats reflect DRC Nationals removed directly to the DRC)

Finland

a. by force? **3 DRC nationals**

b. voluntarily? **1 DRC national**

Germany

In 2012, a total of 38 FNOs was returned or removed, in 2013, the total was 31 (as at 30 September 2013). Statistics on voluntary returns are limited and refer solely to returnees who received assistance under the Reintegration and Emigration Programme for Asylum-Seekers (REAG). Between 2010 and 2013 (as at 30 June 2013) a total of 10 FNOs returned voluntarily to the DRC with assistance from the REAG programme. [Source: Federal Police]

New Zealand

N/A

Norway

a. by force? **So far, none**

b. voluntarily? -

Sweden

a. by force? -

b. voluntarily? -

Answers to Question 4

How do the DRC authorities process FNOs arriving at N'djili airport in Kinshasa?

Australia

Australia does not have information regarding the processing of FNOs arriving at FNOs at N'djili Airport in Kinshasa.

Belgium

There is no specific procedure for FNO's – Belgium does not announce that the returned person is a FNO. This said, the authorities may know that the person is a FNO, since this information can be communicated during the identification process at the Embassy. The procedure for all arrivals at the airport of DEPU's and DEPA's is identical. Removed persons may be questioned by the DGM (Direction Générale de Migration), which is not always the case (mainly the case for DEPA's – on regular flights or on charters). If a charter is organized, it is also possible that the DEPA's are questioned by the ANR (Agence Nationale de Renseignements – State Security).

Canada

Clients are presented to DRC Immigration Authorities upon arrival – to have their citizenship verified. Once advised that the client is a national, and will be admitted, the escorts depart the country.

Finland

Concerning DRC nationals process seems to work out very well.

Germany

No information.

New Zealand

Not known

Norway

The procedure is the same whether the deportee is an offender, or not. We notify the authorities prior to each forced return, and they are met by the immigration authorities at the airport.

Sweden

Specific data regarding FNOs cannot be provided but generally they secure that the returnee has a valid travel document before they let the returnee pass through. An interview with the returnee can take place if it is deemed necessary – it rarely happens.

Answers to Question 5

Are FNOs questioned, if so what are they asked?

Australia

Not applicable.

Belgium

We do not know all types of questions, but typical is: identity check, questions about the reasons of staying in Belgium (it happens frequently that the DEPA says he has applied for asylum – this has never any consequence), political allegiance, ... As far as we know, no-one has been detained longer than 24 hours for these questionings, unless there was a criminal offence for which the Congolese authorities had still to proceed to criminal investigation or because of outstanding criminal sentences or warrants in DRC)

Canada

Unknown.

Finland

Some questions about the home town and address.

Germany

No information.

New Zealand

Not known

Norway

The deportees have not been subject to questioning, according to our knowledge.

Sweden

We have no information regarding this.

Answers to Question 6

Are FNOs detained on arrival, if so why?

Australia

Not applicable.

Belgium

Only for questioning (see above)

Canada

The CBSA is unaware of clients being detained upon arrival.

Finland

No.

Germany

No information.

New Zealand

Not known

Norway

The deportee is handed over to the authorities shortly after arrival. We have not experienced anything indicating that the deportee is detained after the hand-over. This procedure is the same whether the deportee is an offender or not.

Sweden

We have no information regarding this.

Answers to Question 7

If FNOs are detained, where and for how long?

Australia

Not applicable.

Belgium

Max 24 hours (mostly even less than 12 hours) at the airport or nearby

Canada

The CBSA is unaware of clients being detained upon arrival.

Finland -

Germany

No information.

New Zealand

Not known

Norway

N/A

Sweden

We have no information regarding this. To our knowledge, the persons returning with the Swedish Migration Board are not detained.

Answers to Question 8

Do you have information about detention conditions? **NO; N/A responses from all countries**

Answers to Question 9

Do you have representatives at N'djili airport who oversee FNOs through immigration process (from arrival to departure from the airport)?

Australia

In general terms, if a detainee is escorted either by a departmental officer or a contracted security officer, they may accompany the detainee on arrival at the airport in the detainee's destination country. However, these officers must abide by any directions given on arrival by officers at the airport. If the detainee was an unescorted removal, no Australian officials would oversee their arrival at the airport.

Belgium

General rule: only present if requested before and present at arrival of charters (ILO at embassy, Mrs Katarina Smits)

Canada

No. Canadian representatives for that region are based in Nairobi, Kenya, and on occasion make country visits. The CBSA has an overseas liaison network, and work closely with international partners and non-governmental agencies to monitor countries in their areas of responsibility.

Finland **No.**

Germany **No information.**

New Zealand **No.**

Norway **No.**

Sweden **No.**

Answers to Question 10

Do you monitor returnees once in the DRC?

Australia

Australia is bound by the customary international law principle of non-interference in the internal affairs of other sovereign states. Australia's consular obligations and entitlements under international law do not extend to monitoring the welfare of non-nationals offshore.

Belgium

Only if requested before departure (in specific individual cases)

Canada

As part of its removal program, Canada regularly monitors general country conditions but does not monitor individual cases in foreign countries, as such; post-removal monitoring is not a routine or required practice for the Canadian removals program.

Finland **No.**

Germany **No.**

New Zealand

New Zealand has no resettlement arrangements or monitoring capabilities in the DRC.

Norway **No.**

Sweden **No.**

Answers to Question 11

Can we publicly disclose all or part of the above information (if only part, please identify which)? **YES (all countries)**

Annex E – FCO letter of meeting with French official

Letter from the British Embassy, Kinshasa to the UK Home office, dated 11 December 2014.

Re: Conversation with French Immigration Officer, 02 December 2014

I met with the French Immigration officer on December 2nd, 2014 at the French Embassy. He has been in post since 2012, and his main role is to support the Government of DRC in tackling illegal immigration to France, through providing training to airlines and immigration officers, and identifying document fraud. He works at the airport approximately four times per week. The following are the questions I have asked him regarding returnees.

i) How many FAS / FNO returns since 2012?

On average, one (1) individual is returned every week to DRC since 2012. 62 people were returned in 2012; in 2013, 53 people were returned; and in 2014 up to the end of November, 32 people were returned.

ii) Do you notify the DRC authorities of the returnees' immigration status (FAS or FNO) in your country?

French Embassy Officials do not normally provide the status of the returnees to Congolese authorities. However, if it's a serious crime such as murder or rape French officials would inform the Congolese authorities.

iii) Are you aware if the DRC authorities have a specific interest in returnees who are FAS and FNOs?

No, they are not aware of such interest from DRC authorities.

iv) Specifically, do you notify DRC authorities of any served convictions in France?

Yes, French officials do notify DRC authorities of serious crimes such as murder or rape committed in France. The Congolese authorities do not request this information.

v) Have any Congolese who have committed serious crimes in France been returned to the DRC?

Yes, they have been returned.

vi) If so, how many?

There have been 1 or 2 every year since 2012.

vii) Any substantiated evidence of ill-treatment (detention / torture, etc) on return of any returnee (FAS, FNO, or other)? If so what and when?

They do not have substantiated evidence of ill-treatment.

viii) Do you monitor these returns at the airport?

No, they do not conduct any monitoring activity at the airport.

Annex F – FCO letter of meeting with Belgian official

Letter from the British Embassy, Kinshasa to the UK Home office, dated 11 December 2014.

Re: Conversation with Belgian Migration Officer, 18 November 2014

I met the Belgian Migration Officer on 18th November at her office in the Belgian Embassy, Kinshasa, to discuss with her the charter flight which was carried out by the Belgians on 5 November and returned 23 Congolese nationals, and wider migration issues relating to the DRC. She has been working on migration issues with the DRC since 1996, initially for the Commissioner General of Refugees and Stateless People, and since 2000 as an Immigration Liaison Officer, mainly working in West and Central Africa. She has regularly worked in the DRC since 1994, and has been based in Kinshasa for 50% of her time since 2010.

The Migration Delivery Assistant at the British Embassy Kinshasa went to the airport to observe the Belgian charter flight return, and provided me with the following report:

A Belgian Air Forces Charter flight, with 23 Congolese Nationals on board, landed at the N'djili International Airport in Kinshasa at 00:42 AM, Wednesday November 5, 2014. The returnees were escorted by at least 76 Belgian police officers. Belgian Immigration officials and DGM officers conducted the immigration process of the process of the returnees. The British Embassy Kinshasa observed the process from the foot of the plane to the immigration area where all the returnees were shuttled on the bus. The returnees were allowed to collect their bags straight from the immigration area. After completing their immigration process at the airport, the returnees were required to board another bus to go to the ANR (Agence Nationale de Renseignements) for further identification.

One returnee, presumably with psychological issues, was escorted by the Belgian Immigration Officers to a medical facility in Righini in the suburb of Kinshasa. At 2:00AM, as the Belgian officials were leaving, the observer also left the airport while all other returnees were still going through the immigration formalities. No incident to report.

I asked the Belgian Migration Officer for some additional information during our meeting. She confirmed that the 22 returnees who were taken to the ANR offices were released the following day, based on the information that she received from the ANR. They were kept there overnight due to the late arrival of the flight. I asked how she was sure that they had been released. She said she has a very transparent relationship with both the DGM and ANR. She said that she has been called in the past by DGM and ANR if there are problems, for example if the returnee has nowhere to go when returned to DRC. She also said that she had received no calls or representations from family members who were expecting the returnees' arrival, to

say that they had not arrived back after being taken to ANR. She is therefore confident that that all the returnees were released.

I asked why the returnees were taken to ANR for identification rather than being processed at the border. She explained that the identification at ANR is the same as that completed at the border, and that ANR insist that a family member must come and collect the returnee at the end of the identification process. All charter flight returnees have the identification process completed at ANR instead of at the airport.

I then put the following questions to her:

i. How many Failed Asylum Seekers (FAS) and Foreign National Offenders (FNO) have you returned from Belgium to DRC since 2012?

Belgium does not distinguish between FAS and FNO in their returns statistics, and it is therefore not possible to provide a breakdown of the numbers. In total, 172 Congolese nationals have undergone an enforced return since 2012: 55 in 2012, 72 in 2013, and 45 until October 2014.

ii. Do you notify the DRC authorities of the returnees' immigration status (FAS or FNO) in your country?

No.

iii. Are you aware if the DRC authorities have a specific interest in returnees who are FAS and FNOs?

Not as far as she is aware.

iv. Specifically, do you notify the DRC authorities of any served convictions in the home country? If so, for what crimes committed?

Not normally. There has been one occasion where the Belgians notified the DRC authorities, when returning an individual with mental health issues who had attempted to murder another person. This was done because there was a need for the authorities to be aware of the violent nature of the individual, for protection reasons.

v. Have any Congolese who have committed serious crimes in Belgium been returned to the DRC? If so, how many?

Yes. The Belgian Migration Officer has dealt with a number of these cases herself. However, as they do not retain information on the breakdown of FAS and FNOs who are returned, it is not possible to provide details on the numbers of these.

vi. Do you have any substantiated evidence of ill-treatment (for example detention or torture) on return of any returnee (FAS, FNO, or other)?

No, none.

vii. Do you monitor these returns at the airport?

The Belgians monitor only the charter flight returns. They also conduct individual returns on commercial flights, but these are not monitored.

viii. Are you aware of the Congolese authorities monitoring returnees to identify political activists returning to the DRC from abroad? Which agencies do this?

ANR would be responsible for this type of work, but they are not interested in the type of people who are being returned as they were only involved in low level political activities. They are only interested in a group that she described as “combatants”, not low level political opponents. She explained that the combatants are a Congolese diaspora movement active in Belgium, France and the UK who directly oppose the President and claim that he is a foreigner. They have been responsible for violence targeted against visiting DRC authorities, including Léon Kengo Wa Dondo (President of the Senate) and Léonard She Okitundu.

ix. What capability do the DRC authorities have to monitor returnees at the airport?

There are police and security service personnel at the airport, although they are not there to specifically monitor returnees. The DRC authorities do not have IT systems which could be used to monitor returnees for example facial recognition systems, or IT databases that include information about activists.

x. Is APARECO an active political group in the DRC? If so, are they able to operate openly in the DRC?

The Belgian Migration Officer was not sure whether APARECO are an active group in the DRC, although she thought it may be a possibility. She did not know whether they are able to operate openly.

xi. Do you have any evidence that APARECO members have been harassed, detained and/or ill-treated for their activities for the group in the DRC?

The Belgian Migration Officer was not aware of any cases of this type.

xii. Are you aware of any other groups in the Congolese diaspora active in Belgium which might be of interest to the DRC authorities?

The DRC government are concerned about the “combatants” who oppose the regime, because of their previous activities and also because of the activities they undertake overseas. In particular, the ex-combatants will launch physical attacks against visiting Congolese politicians and officials if they are aware that they will be visiting a foreign country. It is the violence of their actions that concerns the Congolese authorities. The ex-combatants do not belong to a specific political group, and they are generally not politicians themselves, and are not trying to become politicians. Based on the history of violence against visiting DRC authorities and the messages they spread on the internet, she most violent of these groups are in the UK, France, and Belgium (in that order).

Annex G – FCO letter of meeting with Swiss official

Letter from the British Embassy, Kinshasa to the UK Home office, dated 20 November 2014

Re: Conversation with Swiss Premier Collaborateur, 20 November 2014

I met the Swiss Premier Collaborateur on 20th November at his office in the Swiss Embassy, Kinshasa, to discuss with him migration issues relating to the DRC. He has been in post since June 2013, and has responsibility for a range of portfolios across the Swiss Embassy, including migration and human rights. I asked him the following questions:

i. How many Failed Asylum Seekers (FAS) and Foreign National Offenders (FNO) have you returned from Switzerland to DRC since 2012?

In 2012, Switzerland returned 7 Congolese nationals; 8 in 2013, and none in 2014. It is not possible to distinguish the number of FAS and FNOs within those figures, as the Embassy is not informed of the reason for removal and is therefore unaware of whether an individual is a FAS or an FNO.

ii. Do you notify the DRC authorities of the returnees' immigration status (FAS or FNO) in your country?

No. The Embassy is not even given this information. However, as delegations from DRC travel to Switzerland in order to identify alleged Congolese citizens prior to their return, the immigration status might be made known by the returnee during these identification interviews.

iii. Are you aware if the DRC authorities have a specific interest in returnees who are FAS and FNOs?

The DRC authorities have an interest in those who pose a political risk, or who are a high level activist. The Premier Collaborateur said that in his experience, he did not think that the DRC authorities had an interest in those who had simply applied for asylum, and he was unsure whether they would be interested in those who are FNOs as they had never asked him for these details.

iv. During the UK's 2012 Fact Finding Mission, the Swiss official stated that the Swiss were are obliged by 'international law to inform the DRC authorities if a returnee is a 'danger to the Congolese state' and that the Swiss would inform the DRC authorities if a return had committed a serious crime, the example of rape was given. Are you aware of this requirement, and do you notify the DRC authorities of any served convictions in the home country? If so, for what crimes committed?

No. The Premier Collaborateur was not aware of any legal requirement to inform the DRC authorities if a returnee is a 'danger to the Congolese state', or if they had committed a serious crime. He also confirmed that this information is not given during identification interviews held in Switzerland.

v. Have any Congolese who have committed serious crimes in Switzerland been returned to the DRC? If so, how many?

The Premier Collaborateur did not know as the Embassy is not informed of the reason for removal.

vi. Do you have any substantiated evidence of ill-treatment (for example detention or torture) on return of any returnee (FAS, FNO, or other)?

No, none.

vii. Do you monitor these returns at the airport?

Yes. All returnees are met at the airport by a representative from the Embassy, normally the Consul. They will liaise with the DGM officials at the airport to ensure that they have all the documents required and that the returnee has been accepted back into DRC. They do not always wait to see whether the returnee leaves the airport, but they will only leave when they are assured that all necessary information has been provided and accepted.

viii. Are you aware of the Congolese authorities monitoring returnees to identify political activists returning to the DRC from abroad? Which agencies do this?

The Premier Collaborateur did not know whether the Congolese authorities monitor returnees to identify political activists as they have not had any returnees in 2014 and are not informed of the reasons for return. The Ministry for Foreign Affairs and the National Intelligence Agency (ANR) do however observe the diaspora and monitor the internet to identify anti-governmental messages. For example, the Swiss recently received a request from the DRC Government to close down a website and a radio station Premier Collaborateur that were alleged to be spreading anti-governmental messages.

ix. What capability do the DRC authorities have to monitor returnees at the airport?

The Premier Collaborateur did not know what capability the DRC authorities have to monitor returnees at the airport.

x. Is APARECO an active political group in the DRC? If so, are they able to operate openly in the DRC?

The Premier Collaborateur had not heard of APARECO.

xi. Are you aware of any other groups in the Congolese diaspora active in Switzerland which might be of interest to the DRC authorities?

L'Association pour la promotion de la Démocratie et de Développement de la République Démocratique du Congo (The Association for the promotion of Democracy and Development in the DRC; APRODEC), who the Premier Collaborateur believed operate out of Belgium and not in the DRC, regularly send emails to the diplomatic corps and international organisations in Kinshasa, including the Swiss Embassy, criticising the Government of DRC on issues such as the possibility of changing the constitution to allow the President to stand for a third term. The Premier Collaborateur did not know their structure, for example whether they claim to be a political party or opposition group, and did not know what their overall goal is.

Annex H – FCO letter of meeting with Kinshasa-based human rights organisation

10 December 2014

Re: Conversation with the Executive Director for a Kinshasa-based human rights organisation, 10 December 2014

I met the Executive Director for a Kinshasa-based human rights organisation on 10th December in the British Embassy, Kinshasa, to discuss with him migration issues relating to the DRC. The Executive Director asked that he and his organisation not be named. The Executive Director has been working with the organisation since 1987, having joined as a programme officer and worked his way up to his current position as head of the organisation. The organisation, which was established in 1983, has 14 permanent members of staff and around 2000 volunteers across the DRC, with the stated goal of the promotion and defence of human rights and democracy in DRC. The volunteers observe and document human rights violations, which they then report back to the central organisation.

I asked him the following questions:

i. Do you monitor returns from UK and other European countries at airport? Yes, the organisation does monitor returns although the Executive Director himself does not as he delegates the task. Until 2009, the organisation had an office at the airport from which they could monitor returns. Due to the expense of the rent they could no longer maintain this office after 2009. They now go to the airport to observe returns whenever this is requested by partners in Europe, for example civil society organisations such as Coordination et Initiatives pour Réfugiés et Etrangers (CIRE) in Belgium, or whenever they are informed of forthcoming returns by DGM officials. They rely on DGM immigration officers to allow them access to the immigration desks and baggage hall, although they are not allowed access to the office in which the returnees are interviewed by DGM. They will be provided information on the returnees in advance to help with identification, and then rely on DGM to inform them of the individual or will ask the people going through immigration if they are the person being returned (for example “Are you Mr xxxxx”). They have not monitored any returns this year, and attended the airport approximately 2-3 times in 2013 to observe groups of arrivals, for example a Belgian charter return. Lack of resources make it difficult to observe all the returns that they are asked to.

ii. How do the DRC authorities process returnees (forced and voluntary) from UK and Europe arriving at N’djili airport in Kinshasa? Are the returnees questioned on arrival?

The returnees are met by DGM when coming off the plane, and are taken to the arrivals hall and then to a DGM office to be questioned by DGM and ANR. The organisation is not able to access the room to observe this questioning, but the

returnees report that they are asked questions such as what they were doing when they were overseas, how long they have been overseas, and why they were expelled from that country. The DGM and ANR officials will write down the answers, and on occasion will ask them for money and clothing. In general they will then be allowed to proceed to the baggage hall and to leave the airport, unless there is a need for further questioning.

iii. Are the DRC authorities interested in returnees from the UK and / or other European countries?

The authorities are interested insofar as they want to ask the returnees additional questions, but the Executive Director did not think that they had a specific interest in failed asylum seekers or those who had committed crimes overseas. He said that DGM may ask an individual why they are being returned and whether they have committed a crime, but that if the person replies that they have not they have no way to check this information; and that he did not think they would be interested even if the person replied that they had committed a crime, unless they had an outstanding arrest warrant in DRC or elsewhere. He said that names would be checked against Interpol to determine this information.

He said that they were interested in those who were on a “blacklist” held by DGM, and that these were the people who would be taken for further questioning by the ANR. He had been informed about this blacklist by his contacts in DGM. He said that the following groups of people would be on the blacklist: those who were wanted by the police in Congo (not those who had committed crimes overseas, only people with outstanding arrest warrants in DRC); and opposition political activists for example those who had plotted a coup against the government, or who were believed to have been involved in attacks against Congolese authorities whilst visiting overseas.

iv. Are you aware of substantiated evidence of returnees (specifically FAS / FNOs) facing problems on arrival?

The Executive Director was not aware of any cases of returnees facing problems on arrival. He did mention three cases of individuals who were not returnees who had faced problems following arrival.

The first is a Canadian citizen of Congolese origin who was visiting DRC on vacation and who DGM stated was a combatant (an individual in opposition to the DRC government involved in violence against the government) and who they detained at Kin Maziere approximately one year ago. Based on oral evidence from family members and the next door neighbour, the Executive Director believed that the true cause of his detention was because an ANR Chief who lived next door to the house that the individual shared with his sister wished to buy the house, but had been refused. The Executive Director did not know whether the individual was still in detention.

The second example is a Congolese citizen who lived in South Africa and was an active member of the Union pour la Démocratie et le Progrès Social (UPDS, a political opposition party active in Congo), who was arrested in DRC in 2013 for 9 months on the basis that members of that party had been known to attack Congolese authorities visiting South Africa.

The third example was of a British citizen of Congolese origin who a family member informed the organisation had been arrested this year whilst on holiday in the DRC. The Executive Director was unable to provide any more information about this case as he did not have the file in front of him. Note: the British Embassy is aware of the case and is providing consular assistance.

v. Do you monitor FNOs / FAS returnees once in the DRC?

The organisation does not monitor returnees once they are in the DRC, unless they are contacted by the individual for a specific reason. The Executive Director reported that on rare occasions they have been contacted by individuals claiming that ANR have visited their home after return and asked family members whether they have returned and whether they have had contact with them, but there have been no further problems reported after return. He was unable to quantify the frequency, but said there can be 2-3 months between reports of this type being made to them.

vi. Are you aware of APARECO – is it an active political group in the DRC?

The Executive Director is aware of APARECO, and said that they are not authorised to operate here although there are APARECO members in DRC who operate clandestinely. He had no information on the size, structure, policies or leadership of APARECO in DRC.

vii. Do you have any evidence that APARECO members have been harassed, detained and/or ill-treated for their activities for the group in the DRC?

The Executive Director reported that a number of APARECO members were on a recent amnesty list signed by President Kabila which pardoned a number of people who had been arrested due to links with armed groups. On this basis he believed that some APARECO members had been arrested due to their activities for the group in DRC. The Migration Delivery Assistant has seen a copy of the list, but it does not reference the groups to which those pardoned belonged and therefore has not been submitted as evidence.

Annex I: FCO letter of meeting with UNHRO

12 December 2014

Re: Conversation with the United Nations Joint Human Rights Office, 01 December 2014

I met the UN Human Rights Coordinator who has been in DRC for two years. According to the United Nations Organization Stabilization Mission in the DR Congo website, the UN Joint Human Rights Office (JHRO) was mandated in DRC in 2008 to “assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigate human rights violations with a view to putting an end to impunity, assist in the development and implementation of a transitional justice strategy, and cooperate in national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law”.

More information on the remit of the JHRO can be found at the following link: <http://www.monusco.unmissions.org/Default.aspx?tabid=10766&language=en-US> .

Three members of his team attended this meeting at his office on Monday, December 1st, 2014. I asked them questions related to the human rights of returning Failed Asylum Seekers (FAS) and Foreign National Offenders (FNO), and about the political group APARECO.

i) Are you aware if the DRC authorities have an interest in returning FAS/FNOs?

No, they are not aware that the DRC authorities have an interest in returning FAS or FNOs.

They said that it is possible that the DRC authorities may have interest in some Congolese returnees, and that family members of some returnees from countries other than the UK had reported that individuals had been arrested or harassed on arrival, but they [UNHJRO] were unable to provide any further details such as names, numbers of individuals, or dates on which this was alleged to have occurred.

They were unable to provide specific examples of the type of groups that the DRC authorities may be interested in, but thought that it could be those linked to radical opposition political parties.

ii) Are you aware of any substantiated reports of FAS/FNOs, or other returnees being ill-treated on return?

They were did not have any substantiated reports of returnees being ill-treated on return to DRC.

iii) Do you monitor returns at the airport?

No, they do not monitor returns.

iv) If not, why?

They do not have sufficient resources to monitor returns at DRC airports.

v) Do you have access to DGM, ANR, or other security service detention facilities?

No, they have no access at all to security service detention facilities.

vi) Is APARECO able to operate in the DRC?

No, APARECO is not able to operate openly in the DRC.

vii) Do you have any evidence that APARECO members have been harassed, detained and/or ill-treated for their activities for the group by state actors?

They provided one example, of a British national of Congolese origin who was arrested while vacationing in DRC on the grounds that he was a member of radical opposition parties such as APARECO. They were unable to provide any further details of this case.

Note: Based on the information provided, this appears to be the same case as that referenced by the human rights organisation interviewed by the Migration Delivery Officer on 10th December 2014 and documented in the FCO letter to the Home Office of the same date.

viii) Do you have any other relevant information about APARECO: size, structure, policies, and leadership in the DRC which you may be able to share?

No, it is not possible to gather this information as APARECO does not operate openly in DRC.

Annex J – FCO letter of conversation with returnee, 11 December 2014

Re: Conversation with a returnee from the UK, 11 December 2014

I was approached by an individual who had been returned to DRC from the UK in October 2014, as he had questions about how to access the reintegration assistance that was outstanding to him. I asked him whether he would be happy to answer some questions about the process of return that he had experienced as evidence to be used in the country guidance case, to which he agreed. The returnee was a foreign national offender in the UK, who returned to DRC voluntarily under the Facilitated Returns Scheme. We met at the British Embassy Kinshasa on 11th December 2014.

I asked him the following questions:

i. Were you interviewed by the Congolese secondee in the UK as part of the redocumentation process, and if so what questions were you asked?

Yes. He asked questions to establish whether the returnee was Congolese, such as where he was from in DRC, where he went to school and college, and details of the area that he said he was from for example where one could find the police station or the hospital. He also asked whether he had any family in DRC or in the UK. He asked whether he was returning to DRC voluntarily, and when informed that he was he asked why he had chosen to return to DRC. He asked whether he had committed a crime, and for details of the crime committed. He also asked about his treatment in prison, for example whether he had access to healthcare. The returnee said he provided full answers to all the questions, including providing details of the crime he had committed in the UK.

ii. What happened when you arrived at N'Djili airport?

He was escorted by two escorts from the UK, and taken by them from the plane to the terminal where he was handed over to DGM. He was then interviewed by DGM, who asked him why he had come back to Congo, and for details of where he was going to stay including his address. He then went to collect his bags, which were checked by DGM to confirm that they contained nothing dangerous, and was met by a relative who left the airport with him. He said that he had no problems on arrival.

iii. Do you think that the DRC authorities in Kinshasa were aware of why he was returning to DRC?

Yes, because he provided them with full details in the redocumentation interview and on arrival at the airport.

iv. What have you done since returning to DRC? Have you approached the IOM for assistance?

Since returning, he has been trying to find somewhere to live as he is currently staying with a relative, but rent is extremely expensive in Kinshasa. He has used the initial £500 of his reintegration assistance developing business ideas (agricultural

project and plastic recycling project), but has had difficulty accessing the remaining £1000 and has asked me for help in doing so. I have agreed to contact IOM and the FRS team directly so that the outstanding funds can be paid to him.

v. Have you had any difficulties re-establishing yourself in DRC?
Other than the expense of living here, no. He has not received any visits from DGM or ANR, and the authorities have not shown any interest in him as far as he is aware.

Annex K – FCO letter of meeting with IOM, 20 November 2014

Re: Conversation with Chef de Mission for IOM, 20 November 2014

I met the Chief of Mission for the International Organisation for Migration (IOM) on 20th November in the IOM office, Kinshasa, to discuss with him migration issues relating to the DRC. The Chief of Mission has been accredited to the DRC in September 2012. He has also worked in Europe, West and Central Africa and Central Asia during his career where he was in charge of Voluntary Return and Reintegration Programmes. In the DRC, his Office is ensuring the reception and reinsertion of returnees from various countries, mainly Europe. I asked him the following questions:

i. Do you monitor or assist voluntary FAS and FNO returnees on arrival?

Yes. IOM have a scheme for monitoring voluntary returnees in place with a number of countries, mainly ex-Europe, as per the attached statistics. The return of those individuals voluntarily returning from these countries is observed by an IOM representative at the airport in Kinshasa, whenever IOM are informed that there will be a return. IOM are not informed of the reason for return and therefore do not know whether the returnees are FAS or FNOs.

ii. How are voluntary returnees processed on arrival by the DRC authorities? What questions are they asked?

In the majority of cases, the returnee passes through the airport without anything to distinguish them from a regular migrant and the DRC authorities are not even aware that they have voluntarily returned. If the DRC authorities are aware that somebody is voluntarily returning, they will go through the normal immigration process. They are not asked any additional questions to those normally asked on return.

iii. In addition to monitoring or assisting at the airport, do you provide additional assistance to returnees?

Yes, although the exact services offered depends on the country from which they are returned. IOM are in the process of standardising this process. They will provide assistance for: health issues; reintegration; and direct expense needs, for example transport costs.

In terms of reintegration assistance, IOM will work in advance of the return to identify opportunities for returnees to establish sustainable businesses on return, for example checking whether a business idea would be feasible in DRC. They will on occasion provide some low-level financial management advice after return.

They then follow up with the returnees six months after the return; in person if it is possible depending on the location of the returnee and the associated costs; or over the telephone if a visit in person is not possible. This forms the basis for an internal report which confirms whether the individual has remained in DRC, and what

activities they are undertaking linked to the reintegration assistance provided by IOM.

IOM also monitor a centre in Kinshasa, Maison Boboto, which is in place for the return of unaccompanied minors. Le Centre Don Bosco in conjunction with the Maison provides accommodation for up to 18 unaccompanied minors, and specialised services for the protection of children, including education and assistance in their integration into socio-professional life.

iv. How many FAS and FNO returnees have you assisted (at the airport or subsequently) from Europe since 2012, and from which countries do these returnees come from?

IOM are not informed of the reason for return, and therefore cannot provide a breakdown of the figures for FAS and FNOs. The attached table provides further information on the number of voluntary returnees that IOM have assisted since 2004 . In total (up to November 2014), IOM has provided support to 92 returnees: 24 in 2012, 48 in 2013, and 20 in 2014.

v. Are you aware if the DRC authorities have an interest in returning FAS or FNO?

The DRC authorities are not interested in whether a returnee is a FAS. They may be more interested in whether a returnee has committed a crime overseas, but they do not request this information from IOM. IOM knows from discussions with the Congolese authorities that sometimes when a person has committed a crime, the authorities want to know its nature and the returnees are questioned by ANR (Agence Nationale de Renseignement). That process may take one to several hours, but they are released after being questioned. As far as IOM knows and from all information it has received from informal sources at the airport, returnees are not put in a detention facility.

vi. Are returnees detained on arrival?

No.

vii. Do you have any substantiated evidence of ill-treatment (for example detention or torture) on return of any returnee (FAS, FNO, or other)?

No, no evidence of this. Those whom IOM have followed up with post-return have not reported ill-treatment. It is not possible for IOM to comment on those who were returned to DRC without their reintegration assistance.

Annex L – FCO letter re return of 13/14 October 2014

14 October 2014

Dear Colleague,

Re: Home Office Return 13/14 October 2014

One voluntary returnee was returned on 14th October 2014 on a Kenya Airways flight via Nairobi. The flight landed in Kinshasa at approximately 11:10am, and the return was witnessed by [deleted], Migration Delivery Assistant, British Embassy Kinshasa.

It had originally been planned that there would be an escorted removal on the same flight, but this was cancelled at the last minute the previous evening when the flight departed Heathrow. There were therefore three escorts on board the flight, who accompanied the returnee to Kinshasa. When the flight landed, the returnee was met by two DGM officials at the foot of the plane, and they escorted him to the immigration arrivals area, followed by the UK escorts. The escorts entered the immigration arrivals area and handed their passports to a DGM official so that they could be stamped with arrivals stamps. The escorts received their passports back and returned to the plane.

The DGM official handed the Emergency Travel Document to an Immigration Officer so that the details could be registered on the immigration system. The returnee was then taken to the office of a DGM employee off the main arrivals area, along with the observer from the British Embassy Kinshasa. In the office, a DGM official took his name, DOB and address in Kinshasa, to which he replied that he did not know where he would be staying as he does not know anything about Kinshasa. These details were written on a piece of paper due to difficulties understanding pronunciation. These details were then recorded on a paper form. After 5-10 minutes, the IO returned and provided the returnee with a photocopy of his ETD, and informed him that he could use it in order to apply for a Congolese passport.

The returnee was then allowed to enter the baggage collection hall, alongside the observer from the BEK. He collected his luggage within 5 minutes and the returnee exited the building alongside the observer at approximately 12pm. When the observer left, the returnee was asking bystanders for information on hotels and how to call a taxi.

[deleted]

Second Secretary (Migration)
British Embassy, Kinshasa

Annex M – FCO letter re return of 16/17 October 2014

17 October 2014

Dear Colleague,

Re: Home Office Return 16/17 October 2014

One voluntary returnee was returned on 17th October 2014 on a Kenya Airways flight via Nairobi. The flight landed in Kinshasa at approximately 11:10am, and the return was witnessed by [deleted], Migration Delivery Assistant (MDA), British Embassy Kinshasa.

Prior to the flight landing, DGM officials instructed the MDA to remain in the back DGM office whilst the returnee was in the immigration area.

Around 11:20am, a smartly-dressed gentleman entered the DGM office flanked by two DGM officers who introduced him to the MDA as the returnee from London. The returnee was cooperative all the time. He provided his name, DOB, address in Kinshasa (same as the one sent by Home Office via email), and stated that he was well treated during the trip.

At 11:30am, a Lieutenant-Colonel, in the Congolese National Police (PNC) uniform, bearing a resemblance with the returnee entered the DGM office. He hugged the returnee, and introduced himself as the returnee's relative. At that point, a DGM official instructed both the MDA and the Lieutenant-Colonel to leave the room and wait in the adjacent departure area. After 15 minutes, an Immigration Officer emerged in the Departures Area to ask the Lieutenant-Colonel to go back to the office to fetch the returnee, whereas the MDA was told to vacate the airport facilities since the returnee was already with his family.

The MDA left the airport facilities at 11:50am.

[deleted]

Migration Delivery Assistant
British Embassy, Kinshasa

Annex N – FCO letter re return of 13/14 November 2014

14 November 2014

Re: Home Office Return 13/14 November 2014

One voluntary returnee was returned on 14th November 2014 on a Kenya Airways flight via Nairobi. The flight landed in Kinshasa at 10:30am, and the return was witnessed by [deleted], Migration Delivery Officer (MDO), British Embassy Kinshasa.

At 10:40am, the returnee entered the arrivals hall at N'Djili Airport, accompanied by three escorts and a medic. The escorts gave the UKVI paperwork to a DGM official. At 10:50am a DGM Director approached the MDO and escorts to ask why the individual had been returned. She was informed that this was because he no longer had the right to remain in the UK. The returnee was then taken into a room in a corridor off the main arrivals hall, where he was asked some questions such as how he had originally travelled to the UK and where he would stay now that he had returned to Kinshasa. At 11:20am the DGM officials completed their paperwork.

The returnee had been asked in the UK whether he would be met by anybody at the airport, and he confirmed that he would be. During the questions, the returnee stated that he did not have the contact details or address of the person he would be staying with in Kinshasa, and stated that he did not have any friends or family here. I lent the returnee my phone so that he could call his mother and ask her for the details. At this point it became clear that there was nobody at the airport to meet him, and when his mother tried to contact her friend (also based in London) who was supposed to be arranging for someone to meet him she was unable to make contact.

At 11:25am, the returnee, a DGM official, and I walked around the arrivals area and outside the airport to see whether there was anybody there to meet him. When we confirmed that there was nobody there, we returned to the same DGM office and the returnee called his mother again to see whether she could provide any further information. She said that she would call back when she had managed to contact her friend. At 11:38am the returnee went to collect his suitcase from the baggage hall, and on return attempted to call his mother again. She confirmed that she had been unable to contact her friend.

DGM were concerned about the welfare of the returnee, as he only had £10 cash on him and claimed to have no friends or family in Kinshasa. We therefore agreed between us that I would provide him with \$50, and that he would use this money to buy a SIM card for his phone and that he would provide DGM with that number in case they needed to contact him, and to pay for a taxi and if needed a hotel for the night in case his mother continued to have difficulty contacting her friend. At 12:09pm we left the DGM office and went to a mobile phone shop to purchase the SIM card.

At 12:32pm we left the mobile phone shop, returned to the DGM office to collect a copy of his removal paperwork and to ask for recommendations for hotels in the neighbouring area, and then exited the airport to find a taxi.

The returnee left the airport accompanied by a DGM official at 12:48pm. The DGM official went with him as the returnee does not speak Lingala or French, and does not have identity documentation such as a passport, and they were concerned that a hotel would not accept him to stay as he could not demonstrate that he is Congolese. He was therefore accompanied so that the DGM official could explain the situation. I gave the returnee my business card so that he could call to confirm that he had arrived at the hotel.

I called his mother at 2:40pm to check whether the returnee had been in touch with her. She confirmed that he had been in touch with her and said that he had some money for the night. She was continuing to try to find a contact in DRC who he could stay with, and would look into the possibility of sending additional funds for his support.

At 4:05pm, the returnee called me to say that he had arrived safely at the hotel and had been in touch with his mother. Whilst we were on the phone, somebody knocked at the door and he said he would call me back. When he did, he said that his father's friend was at his hotel and was going to help him. He thanked me for my help, and the call finished at 4:11pm.

At 4:23pm, a DGM official called to confirm that the returnee had arrived safely at the hotel earlier that afternoon.

Annex P – FCO letter re two returns on 5/6 December 2014

December 2014

Dear Colleague,

Re: Home Office Return 05/06 December 2014

Two escorted returnees were returned on 6th December 2014 on a Kenya Airways flight via Nairobi. Scheduled for 10:00 AM, the flight landed in Kinshasa at approximately 09:05 AM.

When the flight landed, the returnees were met by DGM officials at the foot of the plane, and they escorted them to the immigration office to complete their administrative procedures. At 10:03 AM, the returnees met with two observers from the British Embassy Kinshasa (BEK), the Consul and the Migration Delivery Assistant (MDA), in the DGM office. The observers were prepared for one of the returnees to stay in a hotel for two days as he was not originally from Kinshasa, and offered him an airline ticket to fly to Eastern Congo, but he declined and chose to stay with the other returnee in Kinshasa.

At 11:15 AM, when the observers left the airport departure area, the two returnees were heading to the baggage collection hall unescorted.

[deleted]

Migration Delivery Assistant
British Embassy, Kinshasa

[Back to contents](#)

Annex Q – FCO letter of meeting with DGM, 23 January 2014

Letter from British Embassy, Nairobi, to the Home Office, following an interview with the Directeur Central de la Chancellerie, at the Direction Generale de Migration (DGM) in Kinshasa on 15/01/2014, re the returns process.

23 January 2014

I met with [deleted], Directeur Central de la Chancellerie, at the Direction Generale de Migration (DGM) in Kinshasa on 15/01/2014. All questions below were answered directly by the Directeur; notes of his responses are provided following the questions. The Directeur stated that he is content to be quoted, but not named.

1. What is the process for UK returnees/deportees arriving at Kinshasa airport with Emergency Travel Documents (ETDs) issued by the DGM or passports?

All arrivals from the UK have been authorised to return before they leave the United Kingdom. They undergo a process of identification which starts with an interview and examination of supporting documents, by the DGM attaché in London. The documents and interview notes are then sent to Kinshasa for DGM to undertake enquiries. If they are satisfied that the person referred is Congolese, they will issue an ETD in Kinshasa, which is then sent to London to facilitate the travel to Kinshasa. At N'Djili airport in Kinshasa, DGM officials check the ETD against the person returning, to ensure that identity corresponds to the returnee. They are then allowed to enter the Democratic Republic of Congo (DRC).

2. Are returnees questioned on arrival? If so what questions are they asked?

Any questions put to returnees are related to identity only. No other questions are asked, as DGM are concerned only with nationality and identity.

3. In what circumstances may a returnee be detained? What action does DGM take?

There are no recorded cases of detention upon return. All enquiries that seek to determine a DRC national's criminality are conducted prior to their documentation as a Congolese national. DGM receive regular lists of Congolese nationals who have a warrant outstanding against them in the DRC, and are therefore subject to travel restrictions. If there are any Congolese nationals that are thought to be outside of the country, then Interpol are contacted. If any Congolese nationals that are undergoing a documentation process in the UK are on the list of those with outstanding warrants, then DGM would inform To date there have been no cases where a Congolese national undergoing the identification process in the UK has an outstanding warrant in DRC. Any criminal conviction that has occurred outside of the DRC is of no relevance to any warrant process.

4. What is DGM's immigration detention procedure?

There is no detention centre for returning Congolese nationals. There is an immigration detention centre in Kinshasa, but this facility is for non-Congolese nationals who have transgressed Immigration rules in DRC. There is bed space for 60-80 people, but occasionally it can hold over 100 Immigration offenders. About 80% of Immigration offenders are from West Africa, although there are sometimes offenders from Europe.

5. If detained, how long will a) an ordinary returnee and b) a Foreign National Offender (FNO) be held?

Congolese nationals who return have already been identified as such (see answer to question 1), so there is no need for detention. All Congolese returnees are checked against their respective travel document and then allowed to enter. There is no separate process for Congolese nationals who have committed offences outside of the DRC – DGM have no interest in criminal convictions outside of DRC.

6. If detained, where are a) ordinary returnees and b) FNOs held?

There is no detention facility for returning Congolese nationals.

7. Is there a monitoring process for released FNOs and, if so, how does it work?

There is no monitoring process for any Congolese nationals who have returned from the UK, or any other country. DGM have primary responsibility for identity and nationality and are not involved in monitoring of any Congolese nationals in or outside of the country.

8. The Congolese Ambassador to the United Kingdom, HE Barnabe Kikaya-bin-Karubi, stated in a letter in August 2012 that “people who are being deported for having committed crimes in the UK are held in custody for a period of time to allow the Congolese justice system to clarify their situation”. Is that true?

This is not the case. All enquiries are conducted prior to any Congolese national returning to the DRC. Any crimes committed outside of DRC are of no interest to DGM and are not part of the DGM identification process. There is no detention facility at N’Djili airport and no returnees are placed in custody. DGM control the whole process of identity, from interviews in the UK, documentation verification and ETD issue in Kinshasa. The Ambassador plays no part in the process.

1st Secretary Political Migration (MDO) East and Central Africa & Somalia

Annex R – FCO letter, Interview with DGM of 24 September 2014

14 October 2014

I met with [deleted], Directeur Central de la Chancellerie, Direction Generale de Migration (DGM), at the DGM offices in Kinshasa on 24th September 2014. All information in response to the questions below was provided directly by the Directeur. The Directeur stated that he is content to be quoted, but not named.

What are your position, role and responsibilities in DGM, and who do you report to?

The Directeur is head of the Chancellery section of DGM. The Directeur is one of the seven central Directeurs within DGM, and reports directly to the Director General. The Directeur is responsible for visas for foreign nationals, primarily residence visas; and is also the main point of contact for a number of external partners, including many Embassies such as the UK, Swiss, South African, and Belgian.

Do DGM want to know about status as a failed asylum seeker on return to Kinshasa?

No. DGM are aware that only those people who have been found not to be at risk of persecution on return are returned to DRC. There are a range of reasons as to why people may wish to stay in the UK, for example to find a job, and in order to achieve this they may apply for asylum. DGM are not interested in any statements that have been made in the UK leading to the refusal of their asylum application.

Do DGM want to know about status as a foreign national offender on return to Kinshasa?

If an individual has committed a violent crime, for example sexual assault, DGM will record this information so that if a crime is later committed in DRC, an investigation can be carried out to determine whether it is linked to the person who was returned. Certain countries have data sharing agreements with DGM in which they provide this information on those who they are returning. This will not prevent DGM from allowing that person back into the country. Because the person has not committed a crime in DRC, they are free to go.

Is the secondee in London instructed to ask about reasons for detention (immigration and/or prison) in the UK?

The secondee's only job is to identify who is Congolese and who is not. That is his mission, and he has no other mandate within it. He may choose to ask the question in order to start a conversation with the person. It is difficult to get the relevant

information about whether a person is Congolese or not, especially if they do not want to talk to you, and if he starts by asking “Are you Congolese” they are likely to reply “no”.

The secondees’ reports will say whether the person is Congolese; not Congolese; or he has doubts whether they are Congolese. This is the information that DGM is interested in.

If the secondee finds out that someone has committed a dangerous crime, he may include this information in his report if he thinks that it is important. This will not stop DGM from allowing that person back in the country, as they have not committed a crime in DRC. The information will only be recorded by DGM in case that person commits another crime in the DRC.

If DGM are interested in an individual’s detention / status as an FNO in the UK, why are they?

DGM are only interested insofar as the information on the crimes committed relates to investigations of other crimes committed in DRC. DGM are not interested in crimes committed outside of DRC.

If DGM are interested in an individual’s detention / status as a FAS in the UK, why are they?

DGM are not interested in an individual’s detention or status as a FAS in the UK.

Are DGM officials at the airport in Kinshasa aware of a returnee’s detention history / status as an FNO / FAS in the UK?

The Director at the airport is made aware of some returns, for example charter flights or through the flight manifest, in advance of the plane landing at the airport. This information is not widely shared. Immigration Officers, including those at the immigration desks, are not told that somebody is being returned.

How do DGM process returns from the UK at the airport in Kinshasa?

That depends on what type of return is being carried out.

If the person is a voluntary returnee, DGM have no way to know that they are being returned from the UK. They will be treated like any other person on the flight, and go through the normal immigration process.

If it is an enforced removal without escorts, all travel documents will be handed to the pilot in advance of the plane arriving in Kinshasa. The pilot will alert airport officials in advance of landing that they have people on board who are enforced returnees. There is an immigration officer on duty who is stationed on the tarmac. This immigration officer will meet the pilot at the plane and take the papers. They will check the identity of the person against the papers to confirm that it is the same person. If the papers have been issued by DGM, for example an Emergency Travel Document, the immigration officer will check the DGM immigration database to

confirm that the papers have genuinely been issued by DGM. The arrival information is recorded in the DGM immigration database as normal, for example name, passport number, date of arrival. If the papers are in order, the person will be allowed to proceed as normal.

If it is an enforced removal with escorts, the escorts will take the returnee to the immigration officer and hand the papers over to the immigration officer. The immigration officer will check the identity of the person against the papers to confirm that it is the same person. If the papers have been issued by DGM, for example an Emergency Travel Document, the immigration officer will check the DGM immigration database to confirm that the papers have genuinely been issued by DGM. The arrival information is recorded in the DGM immigration database as normal, for example name, passport number, date of arrival. If the papers are in order, the person will be allowed to proceed as normal.

If the immigration officer is not satisfied that the papers are genuine or that the identity of the person matches those of the papers, they will not allow them to enter DRC and the person will be returned to the UK.

What information does the DGM ask returnees at the airport in Kinshasa?

The main role of the immigration officer is to ensure that the person who is being returned has the same identity as the person named on the papers for return. If somebody is using an Emergency Travel Document it is possible that they will ask why the person is being returned, but that is to make conversation only. The answer that is provided is not recorded anywhere.

Are there any circumstances under which somebody would be detained when arriving at the airport?

For example if they have an outstanding arrest warrant against them. If they are arrested, they would be sent to the Tribunal because they are the ones with the outstanding arrest warrant. For people coming from Europe, this is very rare. Haven't seen one for a long time.

What would happen to a returnee who had been detained / was an FNO / FAS in the UK on return to the airport in Kinshasa?

They would be processed as described above and allowed to enter the country. If there are concerns, for example about the papers provided, nationality, or identity, they would not be allowed to enter the country and would be returned to the UK.

[deleted]

Second Secretary (Migration)
British Embassy, Kinshasa

Annex S - FCO letter re meeting with the Director N'Djili Airport

14 October 2014

I made an introductory call on 11 September 2014 to the Director of N'djili airport in Kinshasa [name redacted]. He clarified some information around the process when receiving returnees. In brief, the information he provided is as follows:

- Airport management are aware if a charter flight is landing, but not if returnees are on a scheduled flight;
- Immigration Officers (IO), i.e. those at the immigration booths, are not made aware of any returnees, even on a charter;
- When a returnee arrives, the IO will establish their name and nationality and inspect their passport / Emergency Travel Document (ETD);
- The ETD will be retained by the IO;
- All information for all arrivals at the airport is stored on a central database (name, passport number, visa number, duration and location of stay etc);
- IOs are not instructed to ask why a person is being returned if they are presented with an ETD;
- There is a "stop list" in place for those who are not allowed to enter/exit the country i.e. those with an outstanding court case against them in the DRC.

The Director strongly emphasised that there are no detention facilities at the airport. He named the Immigration Liaison Manager equivalents from the French and the Belgian Embassies and said I should check with them for confirmation. If there is an issue with an arrival i.e. they are on the stop list or are suspected of carrying drugs, they will be "interrogated" in an office which is normally used for work. If there is a need to detain the person, they will be transferred to DGM headquarters [in Kinshasa]. If the arrival is at night, they will have to sleep in the office overnight and are then transferred the next morning.

[deleted]

Second Secretary (Migration)
British Embassy, Kinshasa

Annex T – notes of meetings with DGM secondee, 15 October 2014

Notes of two meetings of a Home Official in the Returns Directorate with the Directeur Generale de Migration secondee based in London, dated 15 October 2014

I met with the London-based seconded Congolese official from the Directeur Generale de Migration (DGM) responsible for redocumenting Democratic Republic Congo (DRC) nationals in the UK (“the Secondee”) on 13 August 2014 for information on how he conducts redocumentation interviews. The Secondee provided the following information:

1. When conducting interviews he refuses to speak in English and will try all Congolese languages to see which the subject speaks. It's usually Lingala or French.
2. He asks the interviewees to write their names down so that he can check the spelling with the Emergency Travel Document (ETD) application form and he asks them to explain the meaning of their names.
3. He also checks their date of birth and place of birth against the application form.
4. He asks when they came to the UK and how they travelled here and if they were helped to enter the UK. He asks if they hid their passports.
5. He asks them whether or not they are Congolese and asks for details of where they lived - the address / province / schools attended / first language of parents / tribe.
6. He asks why they are detained / in prison. He said some volunteer this information and others don't.
7. He added that he tries to convince interviewees that they should prepare to go home and says that if they have committed an offence and been sentenced to 12 months or more in the UK then they will not be allowed to stay in the UK. He tells them about DRC and that it's not a bad place to return to.
8. All the information is fed back to DGM Head Quarters in Kinshasa including, where supplied by the interviewee, details of criminality in the UK.

I met the Secondee again on 15 September 2014 for further information about the redocumentation process in the UK. All questions below were answered directly by the Secondee; notes of his responses are provided following the questions. The Secondee stated that he is content for the information to be publicly disclosed but did not want to be named.

1. Brief description of duties and position within DGM.

The sole purpose of his work is identification. Before coming to the UK he was in charge of visa control for the DRC. He holds the position of Director.

2. Does he have specific instructions on what to do and questions to ask in UK?

As a trained immigration officer he said that he's been trained how to question people to establish their identity. Before taking up his post he received refresher training to bring him up to date. He has also worked as an instructor within the DGM.

3. Does he report directly or indirectly to Directeur Central de la Chancellerie?

He does not report to [the Directeur Central de la Chancellerie; name redacted] as they are the same grade. He reports to the Director General [name redacted] who reads his reports first and then passes them down to [name redacted] for consideration. He then passes them on to other senior officials, including the Directeur Central de la Chancellerie. They all analyse the report and send it back up the chain for the final agreements. The Director General notifies the Secondee of the final outcomes.

4. Are there other secondees in Europe, or similar posts?

His secondment is a pilot/test posting. If it works the DGM will replicate the model. They have spoken about doing this in South Africa, France and the US.

5. Does he use standard questions (for DGM officials) or does he devise his own in interviews?

He uses standard questions but he doesn't follow a set line of questioning. The interview flows by holding a conversation with the subject, to avoid the subjects "learning" the answers to the questions prior to interview.

6. Does he ask for information about criminality in all cases?

No.

7. Why does he ask about reasons for detention?

He asks what they did to end up in detention. He doesn't insist on getting an answer. He said that some want to answer and others don't. In his opinion a conversation puts people at ease and he tells detainees that the Congolese authorities are happy to see people go to the UK and Europe. He said that as he's not supposed to know why a person's in detention, he gives them the opportunity to tell him the reason why they're detained. He also tells them that they can't stay in the UK if they've committed a crime. He reiterated that if they don't want to give him their reasons for detention then that is fine.

8. Who, if anyone, has asked him to do this?

He stated that he's not asked to gather this information, he uses his own initiative. He feels that it convinces them that they have to accept they have to go home.

9. Does he send all the information obtained, including about detention, etc, to DGM (in Kinshasa), in what form does he send it (e.g. as a report)?

He stated that he does not go into great detail. He sums up the facts relating to their identity. I asked if he reports on the offences and initially he replied not at all but went on to say that he does on occasion and where the individual has provided this information.

10. Is he interested in the applicant's status as a failed asylum seeker (FAS)?

He advised that sometimes people will tell him they applied for asylum and sometimes this will be included in the report but that he's not interested in this.

11. What he understands the DGM to do with the information once received (is it used for anything other than redocumentation)?

When he was in Kinshasa earlier this year he had the impression that the DGM were not interested in the information as to why a person had been arrested in the UK. He was advised that he goes into too much detail in his reports. He said that he highlights the key information e.g. parents details, province, village and his conclusion on nationality. He has the impression that this is all they're interested in. I asked if, in his opinion, they would be interested in those who'd committed serious offence such as sex crimes and he said not.

12. What he understands the DGM to do with people who they know to be foreign national offenders (FNOs), i.e. those with criminal convictions in the UK (or elsewhere, on return at the airport in Kinshasa)?

Unable to answer.

13. What he understands the DGM do with people who they know to be FAS on return at the airport in Kinshasa?

Unable to answer. But he stated that the Immigration Officers don't have copies of his reports.

14. What happens to those returnees who do not provide any information about their reasons for 'detention' in the UK (or elsewhere) on arrival?

He stated that returnees aren't questioned on arrival as to the reason they've been in the UK.

Country Manager
Returns Directorate

Annex U – IOM assisted voluntary returns data

International Organisation for Migration – Assisted Voluntary Return Ex-Europe
Statistics to DRC (2004-2014), December 2014

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Belgium	13	25	0	16	16	8	16	4	4	11	6
Switzerland	3	6	3	0	6	5	6	1	6	5	0
UK	3	5	44	12	14	13	8	2	7	4	1
Netherlands	0	0	0	0	0	5	0	0	0	6	2
Sweden - Finland - Norway	0	0	0	0	0	0	3	2	4	7	11
Ireland	0	0	0	0	0	0	0	0	0	13	0
Poland	0	0	0	0	0	0	0	0	1	0	0
Russia	0	3	5	0	0	0	0	0	0	0	0
Danemark	0	0	0	0	0	0	0	0	0	2	0
Italy	0	0	6	0	0	0	4	0	2	0	0
Total	19	39	58	28	36	31	37	9	24	48	20

Returns by country

Switzerland	41
UK	113
Belgium	119
Netherlands	13
Sweden - Finland - Norway	27
Ireland	13
Poland	1
Russia	8
Danemark	2
Italy	12
Total	349

Annex V – Home Office note on facilitated returns scheme

A note from Criminal Casework, Home Office, on the Facilitated Returns Scheme dated 11 December 2014

Criminal Casework
Immigration Enforcement
Apollo House
36 Wellesley Road
Croydon
CR9 3RR
www.gov.uk

11 December 2014

The facilitated return scheme (FRS) was established on 12 October 2006 to make the early removal of foreign national offenders (FNOs) to their home country easier. The primary aim of the scheme is to encourage FNOs to leave the UK at the earliest possible opportunity, so reducing the time and costs associated with time spent in prison and immigration detention.

Subject to certain exceptions, FRS is open to all foreign nationals from non-European Economic Area (EEA) countries who have been convicted of a crime, irrespective of their offence, and are currently serving, or have served, a custodial sentence of up to four years.

Departure under FRS is not an alternative to deportation. A deportation order is made against anyone whose offending means that the Home Office considers deportation is proportionate. FNOs where deportation is not considered proportionate must be the subject of an administrative removal, illegal entry removal or port refusal decision to be eligible for FRS.

While FRS is voluntary, those who depart under it are subject to enforcement decisions. All decisions to deport or remove a foreign national under the terms of the scheme must be considered in accordance with Home Office policy, and must comply with the UK's international obligations in terms of protection.

The FRS scheme works closely with the International Organisation for Migration (IOM), a charitable organisation independent from the UK government. The IOM have offices in over 100 countries and they provide support and advice on resettlement and reintegration once the FNO returns home.

The FNO has one month to apply for the full reintegration package on arrival, however not all FNO's choose to take up this scheme.

Further information can be obtained from the Home Office Website by following the link attached below:-

<https://www.gov.uk/government/publications/early-removal-scheme-ers-and-the-facilitated-returns-scheme-frs>

The table below provides details of Foreign National Offender's who have returned to DRC between 2009 and 1 December 2014 under the FRS scheme.

Year and period of removal	Number returned	Number who made contact with IOM following return	Number obtained assistance from the IOM	Number escorted on return	Travel Document used
2009	5	4	3	3	
Jan – Jun	1	1	0	0	
Jul - Dec	4	3	3	3	
2010	2	1	1	1	
Jan – Jun	2	1	1	1	
Jul - Dec	0	0	0	0	
2011	4	2	2	2	
Jan – Jun	3	2	2	2	
Jul - Dec	1	0	0	0	
2012	2	2	2	1	
Jan – Jun	0	0	0	0	
Jul - Dec	2	2	2	1	
2013	5	4	4	3	
Jan – Jun	1	1	1	1	
Jul - Dec	4	3	3	2	
2014	2	0	0	1	
Jan – Jun	0	0	0	0	
Jul - Dec	2	0	0	1	
Total	20	13	12	11	18 ETDs; 2 passports

[Back to contents](#)

Annex W – Home Office FNO returns data

HO data compiled in December 2014

Table 1: Democratic Republic of Congo Foreign National Offender (FNO) removals

Year of removal	Total FNO removals
2009	10
2010	27
2011	15
2012	15
2013	11
2014 (to Sep-14)	2
Total 2009 - Sep 2014	80

(1) A Foreign National Offender (FNO) is defined as an individual with a criminal case on the Home Office's Case Information Database (CID) and may include individuals with asylum cases.

(2) Total FNO removals figures relate to those cases that have been deported, administratively removed or voluntarily departed from the UK.

(3) Democratic Republic of Congo refers to the nationality of the FNO as recorded on CID and may not necessarily refer to the country returned / removed to.

[Back to contents](#)

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

Below is information on when this version of the guidance was cleared:

- version **1.0**
- valid from **2 July 2015**
- this version approved by **Sally Weston, Director, Legal Strategy Team**
- approved on: **5 July 2015**

Changes from last version of this guidance

N/A

Related Content

See links in narrative

Related External Links

N/A

[Back to contents](#)