



Home Office

# **Country Policy and Information Note**

## **Democratic Republic of Congo: Unsuccessful asylum seekers**

**Version 4.0**

**January 2020**

# Preface

## Purpose

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

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

## Assessment

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

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

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

## Country of origin information

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

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

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

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

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

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

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

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

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

## Feedback

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

## Independent Advisory Group on Country Information

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

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

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

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# Assessment

Updated: 13 January 2020

## 1. Introduction

### 1.1 Basis of claim

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

### 1.2 Points to note

- 1.2.1 A person who has been found not to need protection and has no right to remain is expected to leave the UK. If they do not leave voluntarily then the Home Office may, on a case-by-case basis, seek to involuntarily remove them when it is safe to do so (see [Monitoring of returns](#)).
- 1.2.2 A person may return to the DRC using a valid passport. Alternatively, if they do not have a valid passport, they may return on an emergency travel document (ETD) issued by the DRC authorities following a face-to-face interview by a Congolese official in the UK to confirm their identity and nationality. Home Office officials are not routinely present at these interviews (see [Returns process](#)).
- 1.2.3 A person who is involuntarily removed may be escorted to the DRC. Some voluntary returns may also be escorted by a third party partner in exceptional circumstances, e.g. medical cases (see [Returns process](#)).
- 1.2.4 In facilitating a return, including of unsuccessful asylum seekers (UAS) and/or foreign national offenders (FNOs), the Home Office does not inform the DRC authorities whether the person claimed asylum or is a FNO. However, the DRC authorities may ask the person why they are returning to the DRC during the redocumentation process or on arrival. A returnee may also volunteer this information to DRC officials during the returns process (see [Returns process](#)).
- 1.2.5 The UK government does not monitor returnees once they have arrived in the DRC (or indeed those returning to other countries). This is because:
- returns only take place when it is considered safe to do so
  - it is inappropriate for the UK to assume responsibility for foreign nationals in their country of origin who have been found not to need protection in the UK
  - the act of monitoring might, in itself, draw the authorities' attention to the person placing them at unwarranted risk (see [Monitoring of returns](#)).
- 1.2.6 The Home Office has obtained information about the treatment of individual returns from the DRC non-government organisation, the Bill Clinton Foundation for Peace (BCFP), including detail which is not in the public domain. The Home Office has redacted any material that is not already in the public domain which might enable the DRC authorities or others to identify the individuals (see [Information provided by the Bill Clinton Foundation for Peace](#) and Annexes [M](#) and [N](#)).

## 2. Consideration of issues

### 2.1 Credibility

- 2.1.1 For guidance on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Exclusion

- 2.2.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts.
- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.2.3 For guidance on the exclusion clauses and restricted leave, see the [Asylum Instruction on Exclusion: Article 1F of the Refugee Convention](#) and the [Asylum Instruction on Restricted Leave](#).

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### 2.3 Refugee Convention reason

- 2.3.1 Persons who have been refused asylum and / or have been convicted of a crime in the UK do not, for these reasons alone, fall within the scope of the Refugee Convention on grounds of imputed or actual political opinion, race, religion or nationality. Nor do they form a particular social group. This is because they do not share
  - an innate characteristic or common background that cannot be changed or share a fundamental belief that they should not be forced to renounce **and**
  - have a distinct identity which is perceived as being different by the surrounding society (which is not defined solely by persecution).
- 2.3.2 Persons, however, who are able to demonstrate that their claims are based on being, or perceived as being, in opposition to or critical of the government while in the DRC or the UK fall within the scope of the Refugee Convention

on grounds of imputed or actual political opinion (see also [country policy and information note: Opposition to the government](#)).

- 2.3.3 Establishing a convention ground alone is not sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of the actual or imputed convention reason.
- 2.3.4 For further guidance Convention grounds, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.4 Risk

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

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

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

- 2.4.2 In [BM and Others](#) the Home Office acknowledged that, owing to the poor prison conditions at that time, a period of detention of more than approximately one day would result in a breach of Article 3. The UT accepted this assessment as ‘clearly warranted by substantial and compelling evidence’ (para 13). Conditions in detention centres and prisons continue to be poor with ill-treatment reportedly commonplace. It therefore remains the case that a person detained for more than a day, even for a relatively short period of time, is likely to face conditions that breach Article 3 (see [Detention conditions](#)). However, a period of detention of around a day for questioning about a person’s immigration history will not, by itself, result in a person facing conditions that amount to a breach of Article 3.
- 2.4.3 While the UT did not consider UAS and FNOs at risk in general it did find those persons who are wanted / suspected by the DRC authorities of criminal activity in the DRC are likely to be at risk of harm: ‘The DRC authorities have an interest in certain types of convicted or suspected offenders, namely those who have unexecuted prison sentences in DRC or in respect of whom there are unexecuted arrest warrants or who supposedly committed an offence, such as document fraud, when departing DRC. Such persons are at risk of imprisonment for lengthy periods and, hence, treatment proscribed by Article 3 ECHR.’ (para 119(iv))



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

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

- 2.4.5 Evidence available since [BM and Others](#) was heard indicates that the penalties for the use of fraudulent documents may lead to imprisonment. However, sources also report that corruption is commonplace at all levels of the DRC state and the government’s administrative systems, including the issuance of passports, are inadequate. There is also a lack information on how persons using fraudulent documents, including passports, are penalised in practice (see [False / fraudulent documents](#)). In such an environment, bribery and fraud may be widespread and evidence of individual (and state employee) criminal activity undocumented. Decision makers will therefore need to determine whether the person is likely to have committed a criminal act that would make him or her of interest and whether this is likely to be known by the DRC authorities.
- 2.4.6 Where a person is likely to have used a fraudulent document to leave the DRC and they face arrest and detention for even a short period of time, they are likely to face conditions that breach Article 3. The onus will be on the person to demonstrate that they are of interest to the government, including with relevant documentary or other evidence.
- 2.4.7 Since 2012, the UK has returned over 80 Congolese UAS (most involuntary returns) to the DRC, some of whom are FNOs. Other western states including Belgium, Canada, Estonia, Finland, France, Germany, the Netherlands, Norway, Sweden and Switzerland have also returned Congolese nationals to the DRC, including UASs and FNOs. The total number of returns from western states, including the UK, since 2012, which is publicly reported, is over 500 persons (see [Returns statistics](#)).
- 2.4.8 Following the promulgation of [BM and Others](#) in June 2015 further information has become available about the situation reportedly faced by returnees on arrival in the DRC. There does not appear to be systematic monitoring or checking of returnees by any organisation besides the International Organisation for Migration (IOM), which only observes voluntary returns that it facilitates. However, there a number of domestic and international organisations in the DRC that report on human rights generally and / or may monitor returns on an ad hoc basis (see [Monitoring of human rights, including returns](#)).

- 2.4.9 Catherine Ramos, a member of a UK-based NGO Justice First and author of Unsafe Return 3 (UR3), states that she ‘monitors’ returns by maintaining contact with some returnees from the UK and their families, and the Congolese NGO, the Bill Clinton Foundation for Peace (BCFP) (see [Unsafe Return reports](#)). The BCFP states that it monitors returns from the UK and other European states when it is informed of a return by a returnee’s lawyers, family or other persons. These appear to be involuntary returns only (see [Information provided by the Bill Clinton Foundation for Peace](#)).
- 2.4.10 No western government that has provided publicly available information about returns - including Belgium, Canada, Estonia, Finland, France, Germany, the Netherlands, Norway, Sweden and Switzerland - has reported a substantiated account of detention and ill-treatment of a voluntary or involuntary returnee. Nor is the second secretary political (SSP) at the British Embassy (BE) in Kinshasa contacted by the Home Office in September 2019 aware of substantiated accounts of arrest, detention or ill-treatment on return. The SSP was aware of the allegations of detention on return of Aristote Monsego in October 2016, whose case is documented in UR3. These were, however, investigated by BE officials at the time but they were unable to confirm the allegations (and no other source has been able to provide a full account of what happened on return or the current whereabouts of Mr Monsego) (see [Reports published 2015 to 2018](#) and [Reports/information released in 2019](#)).
- 2.4.11 Western governments acknowledge, however, that returnees are likely to be questioned by the Congolese immigration authorities (Direction Générale de Migration (DGM)) and, in some cases, by the national security agency (Agence Nationale de Renseignements (ANR)) on arrival. Corruption and bribery are reported to be widespread generally in the DRC. Some sources indicate that requests by immigration and security officials at N’djili airport for ‘special’ payments (bribes) of persons travelling through the airport, including both foreign nationals and Congolese, may be common (see [Corruption](#) and [Returns process](#)).
- 2.4.12 The IOM facilitates voluntary returns from Europe, including from the UK although the last voluntary return it facilitated from the UK took place in 2014. (The IOM does, however, continue to offer to facilitate voluntary returns of FNOs from the UK.) The IOM observes returns it has facilitated on arrival but is not aware of substantiated difficulties for returnees, such as harassment or detention. The one allegation of difficulties on return it was aware of, as of August 2019, transpired to be unfounded following investigation (see [EASO queries, Cedoca COI focus and FCO investigations](#)).
- 2.4.13 In contrast, a number of media and NGO sources have reported that some returnees have faced difficulties on return, including harassment, demands for bribes, and detention and ill-treatment. The publicly available detail about the profiles, experiences and circumstances of these returns is limited. Most, if not all, of the returnees referred to in these sources appear to have been involuntarily removed. One study undertaken by Dr Jill Alpes in 2016 noted that 14 out of 15 cases were reportedly involuntarily returned (see [Reports published 2015 to 2018](#)).

- 2.4.14 The information released prior to 2019 from these sources is anonymised, anecdotal and lacks sufficient detail to establish the profiles of the returnees, what happened, why and how the information was verified. The lack of detail also means it is not possible to determine if the returnees referred by different sources are in fact the same people. For example, Dr Jill Alpes during her research spoke to at least one of the individuals documented in Catherine Ramos' report Unsafe Return 3 (UR3) (for consideration of UR3, see below; for information about other reports see [Reports published 2015 to 2018](#)).
- 2.4.15 One source, Catherine Ramos in her report UR3 released in May 2019, provides case studies of 18 returns from the UK undertaken between 2012 and May 2018, most of whom were involuntarily removed. UR3 also mentions 5 further cases of return but provides only limited information and does not indicate that these individuals were arrested or detained on arrival. The case studies include 8 individuals documented by the BCFP. Three of the returns in UR3 are named, the remainder are anonymised (see [Unsafe Return reports](#) and [Information provided by the Bill Clinton Foundation for Peace](#)).
- 2.4.16 One of the anonymised cases is of an individual involuntarily returned to the DRC in 2012 who subsequently came back to the UK and claimed asylum again based on the person's return experiences. This application was refused by the Home Office but was subsequently allowed and granted asylum following an appeal. UR3 also claims that a further 9 of the cases were detained on arrival for varying periods of one day to a year. Eight of the remaining cases were not detained on arrival but faced various other difficulties following their return to Kinshasa including arrest (for reasons not directly connected to the return), difficulties with obtaining documentation and destitution (see [Unsafe Return reports](#)).
- 2.4.17 No source, however, documents difficulties on arrival for returns from the UK or elsewhere since February 2018. This period includes the inauguration of a new president, Felix Tshisekedi, in January 2019. President Tshisekedi has reportedly encouraged the return of political exiles, and members of his government had been living in exile and only returned to the DRC after his election (see [Treatment of returns](#) and [country policy and information: Opposition to the state](#)).
- 2.4.18 The Home Office has carefully considered UR3 to assess its weight as evidence and noted the following:
- Ms Ramos' previous reports, Unsafe Return 1 (UR1) of November 2011 and Unsafe Return 2 (UR2) of November 2013, were submitted in the CG case of [BM and Others](#). Ms Ramos correctly points out that the UT in that case considered information cited from UR1 and summarised in the Home Office's COI report of March 2012 which it described as 'considered and focussed' (see paragraphs 34 and 75 of [BM and Others](#)). However this appears to be in regard to UT's assessment that persons with a political profile may be at risk, rather than there is a general risk to returns, as the UT went on to state 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' (para 76). The UT makes no direct reference to UR2 in its findings in [BM and Others](#) (see [Unsafe Return reports](#)). The UT's assessment of UR1 is also at odds with the Court of Appeal's assessment in the cases of P and R (see below)

- Ms Ramos has no specific academic qualification or training in undertaking objective qualitative and quantitative COI research (see [Unsafe Return reports](#))
- There are no notes or records of interviews, conversations, emails, correspondence and FOI responses appended to the report. As a result, it is not possible to trace the original information to source (see [Unsafe Return reports](#))
- UR3 does not clearly set out where, when, what questions were asked and how the information for each case study was obtained. As a result it is not possible to distinguish between facts and unsupported assertions (see [Unsafe Return reports](#))
- One of the cases, Aristote Monsengo, UR3 accepts as being arrested and detained. However, UR3 fails to acknowledge that, as set out in the FOI response 48637, which it selectively referenced in this case study, that the case was investigated by the British Embassy in Kinshasa which concluded that there was insufficient evidence to confirm the arrest or detention. No source has been able to confirm Mr Monsengo's whereabouts or the allegations made about the reasons and circumstances of his alleged detention (see [Unsafe Return reports](#))
- Ms Ramos presents the accounts of the returnees at face value. There is no indication that she has critically assessed the information provided to her or the credibility of the individuals, including any past lack of credibility. As noted by the Upper Tribunal (UT) in the earlier country guidance case of [BK \(Failed asylum seekers\) DRC CG \[2007\] UKAIT 00098](#), which considered risk on return for failed asylum seekers to the DRC, heard in July and September 2007 and promulgated on 31 October 2008, 'the fact an asylum seeker has been untruthful in one process does not necessarily mean that he is untruthful when in another process, but it is well-established that, in the absence of special circumstances, past lack of credibility is relevant to assessment of current credibility.' (para 359; see also [Unsafe Return reports](#))
- The UT in [BK](#) also observed that:

'We have considered whether, notwithstanding the lack of substance to each of the cases considered individually, there is nevertheless a cumulative weight which should be attached to them. The argument for so considering them is that they evidence a persistent voicing of concerns by NGOs and others in several European countries over a considerable period of time and that there is a significant degree of consistency between their accounts. The difficulty we have with attaching cumulative weight to this body of evidence, apart from their individual forensic shortcomings, is that we consider there are surrounding circumstances which cast serious doubt on the motives of those who have alleged they have been victims. The vast majority (certainly the UK

cases) are persons who have been found not credible in their appeals and who, we know from other sources, are likely to have made their way from the DRC in the first place with the help of illegal migration networks.

‘Having made personal ties in European countries and experienced a far higher standard of living than obtains in the DRC, it is very likely that some (if not many) of these people will want to return to the UK or Europe. They may well, therefore, have a vested interest in claiming that they were mistreated on return. Of course, ulterior motives of this kind may be absent, but what we have to bear in mind is the general context in which evidence of this kind is sought and obtained in untested and undocumented form. As regards the claimed consistency, these accounts disclose as many divergencies as they do points of agreement.’ [paras 382-383] (see also [Unsafe Return reports](#)).

- The methodological weakness in UR3 identified above are consistent with the observations of the judge in the High Court case [R \(P\) v SSHD: R \(R\) v SSHD \[2013\] EWHC 3879 \(Admin\)](#), heard on 15 October 2013 and promulgated on 9 December 2013, in regard to Ms Ramos’ previous reports, Unsafe Return 1 and Unsafe Return 2:

‘The Unsafe Return [1] report was compiled by a single author, Catherine Ramos. Whilst there is no reason to doubt her integrity or the sincerity of her motives, it is unclear what expertise or qualification Ms Ramos has, if any, in relation to investigating, interviewing and reporting on the matters in issue: the report itself does not record her qualifications, but it is elsewhere recorded that she is an interpreter and a trustee of Justice First. What is clear is that her report approached matters from a subjective and even emotional perspective, recording that "Residents in Tees Valley were greatly affected by the removal of the ten Congolese adults and their nine children, as they had been deeply embedded in the local community" (page 7). It is apparent that the report was designed to produce evidence to support a particular point of view advocated by Justice First ("This report aims to demonstrate the need for ..." p.10). The data in the report was based on accounts provided by a number of anonymous returnees, but does not provide individual histories or detailed notes of interviews, instead summarising how many of the interviewees claimed to have suffered various forms of ill-treatment. There was no attempt to assess the credibility of the accounts provided or to obtain evidence from other sources (save for one account of an interview with a Congolese Immigration Officer). Far from addressing the warning given in BK about the need to provide relevant particulars of failed asylum seekers so that the truth of their claims could be gauged, the report provides neither the Defendant nor the court with any basis for assessing the veracity of the anonymous accounts which it collated. I should mention that on 3 October 2013 Ms Ramos produced a further report, Unsafe Return II, summarising accounts of further returnees to the DRC (again without identifying them) and updating the situation of the 17 returnees referred to in the Unsafe Return report. Mr Blundell objected to Unsafe Return II being admitted in evidence, both because its late production meant that the Defendant had not been able to respond to it and, more fundamentally, because the report post-dated the Defendant's



decisions and so could not affect the legality of those decisions. For those reasons, but also because Mr Jacobs [the appellant's counsel] accepted that he ultimately placed little reliance on the report, I have not treated Unsafe Return II as being part of the evidence in these proceedings.' [para 35]

2.4.19 These methodological shortcomings equally apply to UR3 and significantly diminish the weight that can be attached to UR3 as evidence.

2.4.20 Ms Ramos based 8 of the case studies in Unsafe Return 3 on information provided by the BCFP. The BE in Kinshasa and the Home Office contacted the director of the BCFP in Kinshasa on several occasions between late August and November 2019 to establish the nature of the organisation's work and what information it held about returns from the UK (see [Information provided by the Bill Clinton Foundation for Peace](#)).

2.4.21 The BCFP claimed the following:

- It monitors cases when it is informed of a return and only intervenes when there is an arrest. In practice, it does not observe voluntary returns or involuntary returns where it is not informed.
- If a person's name is on a 'wanted list' they are arrested on arrival. Persons who are considered 'dangerous' or 'combattants' (persons who have actively opposed the government<sup>1</sup>) are arrested. The ANR monitors DRC nationals in the UK and elsewhere. Everyone who is removed to the DRC is 'suspected' of activities against the DRC government but although the BCFP acknowledge not everyone will be arrested they consider that this happens very often.
- Sometimes if a person is not considered 'dangerous' they will be released on payment of money.
- Anyone who is arrested will only be set free on payment of some money, the amount can vary according to the seriousness of the detention.
- Besides arrest, some returnees may face difficulties during or following arrival because they lack family and valid ID documents, and face problems integrating because of language barriers.
- BCFP is not aware of problems for returnees since the formation of the Tshisekedi government in January 2019 (see [Information provided by the Bill Clinton Foundation for Peace](#)).

2.4.22 The Home Office has carefully considered the information provided by BCFP to assess its weight as evidence and noted the following:

- The BCFP evidence is generally consistent with the case studies of returns cases in UR3. However there are a number of anomalies between UR3 and BCFP in their descriptions of the returnees'

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<sup>1</sup> The UT in BM and Others observed 'that the term "combatants" denotes those who have actively opposed the regime both historically and by their activities overseas' (para 43(ii)). See also, for example, an explanation of 'combattants' amongst the Congolese diaspora in South Africa – Social Science Research Council, Rosette Sifa Vuninga, 'Combattants...' 14 March 2017, [url](#);

experiences (see [Information provided by the Bill Clinton Foundation for Peace](#) and [Unsafe Return reports](#)).

- The BCFP claimed to have assisted 70 or more returns since 2000, and 10 since 2015. However, the BCFP does not have detailed and coherent records of these cases. It was only able to provide information about the 8 cases identified in UR3, in less detail than UR3, and insufficient to determine with accuracy the dates and reasons for arrest. In email correspondence supplied by the BCFP, a further 3 cases of return are identified but not mentioned in discussion with the Home Office: an allegation of ill-treatment in 2006 and 2 returns in early 2017 about which there is no indication that there was a problem on return (see [Information provided by the Bill Clinton Foundation for Peace](#)).
- The BCFP claims to regularly meet and contact the UN Joint Human Rights Office (UNJRO), local NGOs, western Embassies in Kinshasa, and international organisations such as Amnesty International. It also stated that it regularly sends out communications about human rights matters to various organisations including the British Embassy in Kinshasa (BE). However, the second secretary political at the BE was not aware of contact between the BE and the BCFP since October 2016 (when the BFCP released a press release about Aristote Monsego which was brought to the attention of the BE) and September 2019 (when the BE contacted the BFCP at the suggestion of the Home Office). The UNJRO was unaware of evidence of ill-treatment on return when contacted by the BE, while Amnesty International has not reported in English on treatment to the DRC. Amnesty, however, did release a report about returnees in Dutch in 2017 based on Dr Alpes research in early 2016, which the Belgian authorities noted and considered in their response to EASO in 2018 (see see [Reports published 2015 to 2018](#), [EASO queries](#), [Cedoca COI focus and FCO investigations](#), [Unsafe Return reports](#) and [Information provided by the Bill Clinton Foundation for Peace](#)).

2.4.23 The Home Office accepts that the BCFP is involved in the monitoring of human rights generally and may have had contact with some returnees from the UK. However, the lack of detail and inconsistencies between the BCFP's own information and that of UR3, and the lack of detailed evidence of returns cases it claims to have been involved diminish the weight that can be attached to its information.

2.4.24 The information in UR3 and BCFP has been considered against other available background information that is contemporaneous or post-dates the report:

- The Belgian Office for Commissioner General for Stateless Persons and Refugees (CGRS) conducted a review, covering the period July 2018 to May 2019, of publicly available material concerning treatment of returns from Belgium. The CGRS also contacted 4 DRC-based NGOs (these are anonymised, so may include organisations contacted by the BE in June 2019), the IOM and Belgian immigration officials involved in returns. However, other than Unsafe Return 3, the CGRS found no evidence of ill-

treatment on return (see [EASO queries, Cedoca COI focus and FCO investigations](#)).

- The Home Office asked the European Asylum Support Office to make enquiries of EU member states (MS) as to whether they received DRC asylum applications from - and returned - UAS and FNOs to the DRC. No MS indicated that they were aware of substantiated problems on return (see [EASO queries, Cedoca COI focus and FCO investigations](#))
- Between June and November 2019 the BE in Kinshasa undertook enquiries in Kinshasa about the situation of returns, contacting the UNJRO, local NGOs (of whom 3 responded, including the BCFP - see consideration above), the IOM and 3 western Embassies - Canada, Germany and the Netherlands - all representing countries which undertake returns to the DRC.
  - While 2 of the NGOs that responded indicated that returnees had sometimes faced difficulties including harassment and detention, mostly of 'combattants' in the past, neither had specific examples. One of the NGOs, Les Voix de sans Voix, observed that the new government was not interested in particular groups and had invited all those living 'illegally abroad' back to the DRC.
  - All of the western Embassies contacted were not aware of problems faced by returnees, albeit none monitored returns.
  - The UNJRO, which monitors human rights generally but not returns specifically, had received complaints of problems for 3 returnees from France and Ireland from family members in 2011. However, it had not investigated these and was unable to confirm if they had occurred. It was not aware of other problems nor had it received specific complaints about returnees since then. Nor did the UNJRO identify returnees as a potential group of interest to the government.
  - The IOM stated it could only comment on voluntary returns that it had facilitated from Europe but was not aware of substantiated incidents of arrest, detention or other form of abuse of returns (see [EASO queries, Cedoca COI focus and FCO investigations](#)).
- The Home Office also interviewed the second secretary political (SSP) at the British Embassy (BE) in Kinshasa about returns in September 2019 who had been in post since May 2018. The BE official was unaware of complaints of problems on return until contacted by the Home Office in June 2019 in regard to UR3. The SSP also confirmed that while the BE did not monitor returns it did engage with the UNJRO, western Embassies, the IOM and other local groups about human rights generally but was not aware of evidence of substantiated ill-treatment on return (see Unsafe Return reports and [EASO queries, Cedoca COI focus and FCO investigations](#)).

2.4.25 There is no cogent evidence that the law penalises persons who claim asylum or are convicted of crimes abroad and then return to the DRC. UR3 claimed that DRC nationals who commit offences overseas can be arrested



for the same offence in the DRC. However, this is not supported by reference to the relevant law, nor do other sources consulted refer to this provision within the law and it was not an issue raised or considered by the UT in [BM and Others](#) which considered risks faced by FNOs (see [Government's legal framework](#)).

- 2.4.26 There is no evidence that the government has a general policy to arrest and detain UAS or FNOs who return to the DRC per se (see [Government's legal framework](#)).
- 2.4.27 Almost all evidence about difficulties on return, that indicates the method of return, relates to involuntary returns: Dr Alpes refers to one voluntary return in 2009 but details are absent to independently verify what happened to the individual. The IOM has stated that it is not aware of returns to the DRC from Europe that it has facilitated experiencing any significant difficulties on return, such as arrest and detention. Even taking the available allegations at face value, since 2009 there has been no clear and cogent evidence that voluntary returns of UAS or FNOs are at risk of serious harm on arrival (see [Treatment of returnees](#)).
- 2.4.28 In regard to involuntary returns, again taking the various reports as prima facie evidence, there is no clear pattern of abuse by the authorities to indicate that all UAS and / or FNOs are targeted for that reason alone, with motives identified by sources varying, including arrest and detention to identify possible 'combattants' or to elicit bribes. The reports that describe difficulties on return are, however, anecdotal, lack detail and / or exhibit methodological weaknesses that, when considered against other background information, do not establish that there are a substantial number of cases showing that involuntarily returned UAS and/or FNOs are at real risk of being subjected to serious harm on that account alone (see [Treatment of returnees](#)).
- 2.4.29 It is likely that the DRC government monitors its nationals in the UK, though the extent of its capacity and effectiveness is unclear. The government may also seek to establish information about the person, their activities in the UK and their reason for return to the DRC during their redocumentation process or on arrival. A person who is able to demonstrate that they are or may be suspected of being opposed to or critical of the DRC government - as a 'combattant' - because of their profile and activities in the DRC or abroad is likely to be of interest to the authorities (see [Treatment of returnees](#) and the country policy and information note on [DRC: Opposition to the government](#)).
- 2.4.30 Persons returning to the DRC may be asked to pay a bribe to facilitate their passage through immigration and security control at Ndjili airport, Kinshasa, though some sources report that the DGM have become more professional in recent years. Being required to pay a bribe is unlikely, in itself, to amount to a serious harm. However, some sources suggest that being unable to pay a bribe may result in delays in the person proceeding through immigration and security control at the airport (see [Returns process](#), [Treatment of returnees](#) and [Corruption](#)).
- 2.4.31 All returnees travelling to the DRC will have a passport or an ETD issued by the DRC authorities after a face-to-face interview in the UK. Returnees may

be questioned on arrival by the DGM and the ANR during which time they may be detained briefly. Factors that may affect the length of questioning and detention on arrival may include, for example:

- Whether the person has family members, friends or other support in the DRC who are able to meet them on arrival and assist their return
- Whether the person is able to fluently speak French / Lingala to facilitate progress through immigration control
- Existing mental health conditions which may affect their behaviour on arrival
- The ability of the person to pay a bribe if asked

2.4.32 If a person has family, NGO or other assistance on arrival these are likely to assist their progress through immigration and security control. Conversely, an inability to communicate clearly in French or Lingala, a mental health condition that affects the person's behaviour or being able to pay a bribe may increase the likelihood that they are detained for one day or more and faces a breach of Article 3. However, no single factor is likely to be determinative as to whether a person is delayed or detained.

2.4.33 When taken as a whole, the evidence does not establish that there are very strong grounds supported by cogent evidence to depart from the general findings of the UT in the case of [BM and Others](#). A person who is an UAS and / or FNO is not likely to be at risk of serious harm for that reason alone. Each case, however, needs to be considered on its facts with the onus on the person to demonstrate why they would be at risk.

2.4.34 For general guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#)

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## 2.5 Protection

2.5.1 As the person has a well-founded fear of persecution from the state, they are unlikely to be able to avail themselves of the protection of the authorities.

2.5.2 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#)

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## 2.6 Internal relocation

2.6.1 As the person has a well-founded fear of persecution from the state, it is unlikely to be possible for them to relocate to escape that risk.

2.6.2 For further guidance on internal relocation see the instruction on [Assessing Credibility and Refugee Status](#).

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## 2.7 Certification

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

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

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# Country information

Section 3 updated: 18 November 2019

## 3. Sourcing

- 3.1.1 This note includes information published since March 2015 (some of which was collated prior to March 2015, where this occurs, this has been identified and discussed in the text below) when the country guidance of BM and Others was heard by the Upper Tribunal of the UK's Immigration and Asylum Chamber (UTIAC). There is one exception, an information response by the Immigration and Refugee Board of Canada of 2014 on the subject of forged and fraudulent documents, which does not appear to have been considered by the Upper Tribunal in BM and Others.
- 3.1.2 In BM and Others the UTIAC considered a large body of evidence from a wide range of sources up to March 2015 which is listed in the Appendix of the determination. Additionally, the Tribunal summarised what it considered to be the main evidence and that of the expert witness, Dr Erik Kennes, in sections IV and V respectively of the determination<sup>2</sup>.
- 3.1.3 The Home Office's country information and guidance (CIG) document of September 2015 includes, in its annexes, source material submitted by the Home Office in BM and Others not in the public domain at the time (see Annexes A to W)<sup>3</sup>. This document is no longer available on the gov.uk website but an archived copy remains on [www.ecoi.net](http://www.ecoi.net).

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Section 4 updated: 5 December 2019

## 4. Returns statistics

### 4.1 Definitions

- 4.1.1 The Home Office's User Guide for Immigration Statistics explained when persons may be returned to their country of origin or a third country:
- 'The Home Office... seeks to return people who do not have any legal right to stay in the UK. This includes people who:
- enter, or attempt to enter, the UK illegally (including people entering clandestinely and by means of deception on entry);
  - overstay their period of legal right to remain in the UK;
  - breach their conditions of leave;
  - are subject to deportation action; for example, due to a serious criminal conviction and
  - have been refused asylum.
- 'People who have claimed asylum and whose claims have been refused, and who have exhausted any rights of appeal, which would suspend the

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<sup>2</sup> UT IAC, BM and Others, 2 June 2015, [url](#)

<sup>3</sup> Home Office, CIG – treatment on return, September 2015, (no longer available on the gov.uk website, publicly accessible via refworld or ecoi.net), [url](#).

return, can be returned as a result of enforcement action (by deportation, administrative or illegal entry powers); this may include some cases dealt at port/juxtaposed controls. People who have claimed asylum can also be returned under third country provisions without substantive consideration of their asylum claim.

‘Asylum-related returns relate to cases where there has been an asylum claim at some stage prior to the return. This will include asylum seekers whose asylum claims have been refused, and who have exhausted any rights of appeal, those retu[r]ned under third country provisions, as well as those granted asylum/protection, but removed for other reasons (such as criminality).’<sup>4</sup>

4.1.2 The Home Office’s migration statistics ‘new classification’ of enforced removals describes these as ‘...enforced removals from detention, non-detained enforced removals and other returns from detention. The detained figures relate to those detained in immigration removal centres (IRCs), short term holding facilities (STHF) and pre departure accommodation (PDA).’<sup>5</sup>

4.1.3 The migration statistics also provided a definition of voluntary return:

‘a) Assisted returns - Since January 2016, the support formerly described as AVR now is provided by the Home Office’s Voluntary Returns Service (VRS). These are included in the tables within either “Assisted returns” or “Controlled returns”. The term “Assisted returns” will relate to support provided under AVR, the Choices programme run by Refugee Action, up to Q4 2015 and support under VRS from Q1 2016. Refers to a range of programmes that are available to individuals who are in the asylum system or who are irregular migrants and who wish to return home permanently to either their (non-EEA) country of origin or to a third country where they are permanently admissible. The Home Office has been funding AVR programmes since 1999. They were delivered by Refugee Action (prior to April 2011, by the International Organization for Migration) until December 2015. Assisted returns also include some cases where the return incurred public expense.

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

‘c) Other verified returns (previously “Other confirmed voluntary departures”) relate to persons who it has been established have left or have been identified leaving the UK without formally informing the immigration authorities of their departure. These persons can be identified either at embarkation controls or by data-matching. For the financial year 2016/17 (from 1st April 2016 to 31st March 2017), other verified returns include non-

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<sup>4</sup> Home Office, User Guide to Home Office Immigration Statistics (p97), updated 22 August 2019, [url](#)

<sup>5</sup> Home Office, Immigration statistics (Returns table vol 5; Notes), released August 2019, [url](#).

visa nationals matched against records with no valid leave in the UK to establish as a proxy those leaving the UK without informing the immigration authorities. These returns have been included as part of a one-off data matching exercise.<sup>6</sup>

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## 4.2 Returns from the UK

- 4.2.1 Between July 2012 and June 2019 a total of 82 Congolese unsuccessful asylum seekers are recorded as having returned to the DRC from the UK. Of these, 65 were involuntary removals while a further 9 returned voluntarily<sup>7</sup>.
- 4.2.2 Between July 2012 and June 2019 there were a total of 48 non-asylum returns from the UK to the DRC. Of these, 31 were involuntary and 17 were voluntary<sup>8</sup>.
- 4.2.3 Therefore in total 130 DRC national returns to the DRC took place between July 2012 and June 2019, of whom 96 were involuntary and 34 were voluntary returns. Home Office return statistics do not identify the number of returns of foreign national offenders (FNOs) by nationality and destination. Returns of FNOs are included within the total number of returns.

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## 4.3 Returns by other states

- 4.3.1 The following countries have publicly disclosed that they undertake returns of unsuccessful asylum seekers (UAS) and/or foreign national offenders (FNOs) to the DRC:
- Belgium
  - Finland
  - Luxembourg
  - Malta
  - Netherlands
  - Norway
  - Sweden
  - Switzerland<sup>9</sup>
  - Germany<sup>10</sup>
  - Canada<sup>11</sup>

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<sup>6</sup> Home Office, Immigration statistics (Returns table vol 5; Notes), released August 2019, [url](#).

<sup>7</sup> Home Office, Immigration statistics (Returns table vol 5; rt05q), released August 2019 [url](#).

<sup>8</sup> Home Office, Immigration statistics (Returns table vol 5; rt05q), released August 2019 [url](#).

<sup>9</sup> EASO, Policy query 108, July 2019, [Appendix D](#)

<sup>10</sup> German Embassy (Kinshasa), Response to British Embassy query, July 2019, [Annex E](#)

<sup>11</sup> Canadian Embassy (Kinshasa), Response to British Embassy query, July 2019, [Annex F](#)

- 4.3.2 In an EASO policy query response of July 2019<sup>12</sup>, responding states provided the number of voluntary and involuntary returns of UAS/FNOs between 2012 and 2019 (unless otherwise stated):

Country	RAS	FNO	Total
Belgium	282	39	321
Finland	-	-	22
Luxembourg	3	1	4
Netherlands	<55	<5	Circa 55-60
Norway	62 (includes FNOs)	-	62
Sweden (data from 2015)	22 (includes FNOs)	-	22
Switzerland	77	26	103

- 4.3.3 Additionally, Canada returned 46 FNOs between 2014 and 2018<sup>13</sup>, while Germany removed 9 FAS and/or FNOs voluntarily and 2 involuntarily in 2018<sup>14</sup>.
- 4.3.4 The Norwegian police regularly publish returns statistics which indicate that Congolese nationals without permission to stay in Norway, including failed asylum seekers, are returned to the DRC. The Norwegian authorities return statistics for the year up to the end of October 2019 indicate 2 returns of unsuccessful asylum seekers to the DRC<sup>15</sup>.
- 4.3.5 The Belgian Office of the Commissioner General for Refugees and Stateless Persons (CGRS) in its COI focus on returns of June 2019, based on information up to 24 May 2019, noted that there were:
- 25 involuntary returns (5 of whom were escorted) and 12 assisted voluntary returns in 2018
  - 7 involuntary returns in 2019 as of May and 5 voluntary returns as of March 2019<sup>16</sup>.
- 4.3.6 Eurostat collated data on the number of migration returns to the DRC between 2014 and 2018 for 19 EU states<sup>17</sup>, 5 of which returned Congolese nationals (Belgium, Estonia, France, Sweden and the UK). The data does not specifically state if the returns were UAS or non-protection cases, or which were voluntary or involuntary. NB the data, however, do not correspond to the statistics provided by member states themselves, including the UK (see above):

<sup>12</sup> EASO, Policy query 108, July 2019, [Appendix D](#)

<sup>13</sup> Canadian Embassy (Kinshasa), Response to Foreign Office query, July 2019, [Annex F](#)

<sup>14</sup> German Embassy (Kinshasa), Response to Foreign Office query, July 2019, [Annex E](#)

<sup>15</sup> NPIS, Forced returns (2019 figures), 31 October 2019, [url](#)

<sup>16</sup> CGRS, COI Focus – DRC returns (ps8-9), 14 June 2019, [url](#)

<sup>17</sup> Eurostat, Third country nationals who have left by destination, last updated 13 November 2018, [url](#).



	2014	2015	2016	2017	2018
Belgium	85	75	:	:	:
Estonia	:	:	0	5	:
France	40	30	25	35	40
Sweden	:	:	5	5	:
United Kingdom	10	20	20	35	30

- 4.3.7 The International Organisation for Migration (IOM) observed in August 2019 that it facilitated returns from Europe, although had not assisted a return from the UK since 2014. The numbers of returns it has facilitated have declined from 25 a year in 2015 to an average of 15 a year, with around 10 of these returning from Belgium<sup>18</sup>.

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Section 5 updated: 5 December 2019

## 5. Returns process

### 5.1 Redocumentation in the UK

- 5.1.1 The Home Office's Country returns guide of September 2019 sets out the process for redocumenting Congolese nationals who are required to return to the DRC where they do not possess a valid passport:

'All [emergency travel document] ETD applications should be submitted to the [DRC] embassy in London. A mandatory face to face interview is required in order to confirm nationality before and [sic] ETD can be issued. ETD interviews are conducted by a Congolese Official on secondment to the United Kingdom.

'Interview days are held at immigration removal centres (IRCs) and reporting centres. Add hoc prison interviews are also considered on a case by case basis... Once an ETD is agreed, the decision is forwarded to Kinshasa for verification and issue.'<sup>19</sup>

- 5.1.2 The same guide also listed the evidence that is required to be submitted to the DRC Embassy in support of the application for the ETD:

- submission letter
- four passports photographs
- laissez-passer application form
- bio-data form
- supporting evidence<sup>20</sup>

- 5.1.3 An email of 5 December 2019 from the country policy and information team to Home Office officials involved in the returns process with the country policy provided further detail to the redocumentation process:

<sup>18</sup> IOM, Response to Foreign Office query, 7 August 2019, [Annex K](#)

<sup>19</sup> Home Office, Country returns guide (DRC), August 2019, [url](#)

<sup>20</sup> Home Office, Country returns guide (DRC), August 2019, [url](#)



- 'The Home Office (HO) caseworker completes an ETD application form on behalf of the returnee providing relevant biodata based on information on the HO file and electronic databases, including that taken from any supporting evidence available such as ID documents and information provided by the returnee at an interview.
- 'If the returnee is not compliant with the redocumentation process then the biodata are taken from information on the HO file, electronic databases and any supporting evidence available.
- 'The biodata usually include the returnee's name, date of birth (dob), place of birth, last place they lived in the DRC, details of any family members and their addresses in the DRC, names and addresses of any schools attended in the DRC, places of worship, local police stations and 4 photographs of the returnee.
- 'The ETD application form is then sent directly to the DRC Embassy in London by the HO caseworker.
- 'The Direction General de Migration (DGM) attaché based at the DRC Embassy in London conducts a mandatory face-to-face interview with the returnee. HO officials are not routinely present at these interviews. The purpose of this interview is to establish / confirm the applicant's identity and nationality.
- 'The DGM attaché then completes a report of the interview and - along with biodata, other relevant supporting evidence and photographs - sends this to the DGM in Kinshasa.
- 'The DGM in Kinshasa review the information provided by the attaché in London and, if verified, will issue an ETD (known as a 'Sauf Conduit pour Retour' – safe conduct for return) which is then sent to the British Embassy in Kinshasa where it is checked by the Migration Delivery Assistant (MDA).
- 'The MDA then forwards the ETD to the Home Office in the UK, where the name / dob are checked against biodata held on file before being given to the DGM attaché in London.
- 'The DGM attaché adds the returnee's photograph to and stamps the ETD before returning the document to the Home Office.'<sup>21</sup>

5.1.4 Information requested at redocumentation interviews<sup>22</sup> and the redocumentation process itself are also available in a Foreign Office letter dated 23 January 2014 and a Home Office note of a meeting with the DRC DGM secondee in September 2014<sup>23</sup>.

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## 5.2 Travel from the UK to the DRC

5.2.1 The process for a person returning to the DRC using a ETD is set out below:

<sup>21</sup> Home Office, Email on redocumentation and returns process, 5 December 2019, [Annex P](#)

<sup>22</sup> Home Office staff do not attend redocumentation interviews.

<sup>23</sup> Home Office, Country Policy Bulletin – DRC (Annexes C and F), October 2014, [url](#)

- 'Voluntary return – the ETD is sent to the Home Office returns teams at the airport from which the applicant is leaving the UK. An HO official will meet the returnee at the airport and hand over the ETD. Some voluntary returnees may be escorted in exceptional cases, for example following a risk assessment of their behaviour, at the request of the airline on whose aeroplane the returnee is being removed or on medical grounds. If escorted, the HO gives the ETD to the escorts who will carry the document until it is handed over to the DRC authorities at the airport in Kinshasa.
- 'Involuntary return – the HO gives the escorts the returnee's ETD who hold onto the document until arrival at the airport in Kinshasa where they hand it over to the DRC authorities, which may be at airside or at immigration control desks. The returnee is not provided with the ETD or a copy, although they may see document during the return or on arrival. Only one ETD is issued for each returnee however escorts may hold a copy in case the original ETD is damaged or lost.
- 'Escorts have discretion to provide the returnee with a small quantity of cash to assist with onward travel, for example US\$50. Where a discretionary payment is made, this will be given directly to the returnee and not DRC officials.'<sup>24</sup>

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### 5.3 Process on arrival

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

'Upon arrival at Ndjili airport [Kinshasa], returnees are controlled [i.e. checked] by the [Direction Générale de Migration – General Office for Migration] DGM and often by the [Agence Nationale de Renseignements - National Intelligence Agency] ANR although not systematically. Eleven repatriation flights have been carried out departing from Belgium since January 2015. According to the monitoring by the Belgian Immigration Office, there were no incidents.'<sup>25</sup>

- 5.3.2 The June 2019 CGRS COI focus, based on a number of sources, reported:

'The website of the General Migration Directorate (DGM) of the DRC gives some information on the services present at the borders:

"Decree-law N° 036 /2002 of 28th March 2002 relating to the designation of services and public bodies authorised to operate at the borders of the Democratic Republic of Congo, determines as restrictively clear [sic] the services authorised to operate on the borders of the DRC. They are: The General Directorate for Migration (DGM); the Customs and Excise Office (OFIDA) [which became the DGDA by decree of December 200932]; the Congolese Control Office (OCC) [...]; the Public Health Service. To these four services, the newly created Central Department of the Border Police of

<sup>24</sup> Home Office, Email on redocumentation and returns process, 5 December 2019, [Annex P](#)

<sup>25</sup> CGRS, Query response, 28 February 2018, not published - see [Annex A](#).

the National Congolese Police Force can be added, which supports these four services and ensures the protection and physical surveillance of the borders. Together, these five services, including the concessionaires (ONATRA, RVA, SNCC, etc. [...]) and non-apparent services, provide the integrated management of borders in accordance with their specific missions"[...]. [translation]

'The DGM operates in reserved areas at border-crossing points and frontiers, specifically in the following domains:

"Management of migratory flows: border-crossing control, checking travel documents; application and execution of police measures on migrants. Counter-intelligence: systematic collection of migrants' personal details; managing prohibitions of entry and exit; establishing migrant statistics; monitoring of "targeted" persons and strategic locations; fight against organised cross-border crime "[...]. [translation]

'Still according to the DGM's website, its missions are as follows:

"The implementation of government policy regarding immigration; the implementation on Congolese soil of laws and regulations on immigration and emigration; Policing foreigners; Policing the Borders, i.e. the regulation of entries and exits from the national territory; issuing ordinary passports to nationals and visas to foreign nationals; collaboration in tracking criminals and wrongdoers or suspected persons reported by the Interpol International Criminal Police Organisation. However, it should be noted that to date, ordinary passports are still being issued by the Ministry of Foreign Affairs and International Co-operation"[...]. [translation] The DGM website furthermore gives a description of the role of the Central Border Police Department of the national police force. It ensures:

"The security and maintenance of public order at border-crossing points; The physical monitoring of borders to fight illegal migration and organised cross-border crime; The channelling of migrants to official border-crossing points; Support for all other services in the case of problems to restore public order; The identification of common law offences"[...]. [translation]

'The Human Rights Report published in 2018 by the United States Department of State (USDOS) mentions that not only the DGM and the police, but also to the Republican Guard, which is overseen by the presidency, are responsible for the control of Congolese borders (without specifically mentioning Ndjili airport).

'Furthermore, the Belgian immigration officer in Kinshasa has specified that the National Intelligence Agency (ANR) can also be present (information confirmed at the beginning of April 2019 by an OE adviser).'<sup>26</sup>

### 5.3.3 An Immigration and Refugee Board of Canada (IRBC) response of 10 July 2019, based on a number of sources aimed primarily at non-Congolese travellers, observed:

'The page on the Democratic Republic of the Congo (DRC) of the French travel guide website [Petit Futé](#) indicates that entering or exiting the country via the airport is done with [translation] "[varying degrees of] ease depending

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<sup>26</sup> CGRS, COI focus (section 5.1.), June 2019, [url](#)

on the day and the public officials [travellers] are dealing with,” and explains that “Congolese customs officers, like their immigration colleagues at the Migration Directorate (Direction générale de migration, DGM) ... are particularly zealous” [... at] seeking bribes and favours (Petit Futé n.d.). The same source adds that the [translation] “airport area is overrun by police officers and soldiers,” who may also be looking to get “a little something” (Petit Futé n.d.).

‘According to its website, the DGM [translation] “operates in reserved areas at border posts and borders,” particularly by “[s]ystematically collecting migrants’ personal data,” “[m]anaging prohibitions on entry and exit,” “[m]onitoring ‘target’ persons,” and “[a]pplying and enforcing police orders relating to migrants” (DRC n.d.a).

‘The DGM website indicates that the DGM [translation] “conducts checks at entry and exit posts to certify that migrants crossing the border meet the country’s entry or exit requirements” and lists the following general conditions for entering and exiting the DRC:

‘In accordance with legislative and regulatory provisions, migrants must meet the following conditions to enter or exit the DRC:

- ‘Be in possession of a valid travel document authorizing them to cross the border
- ‘Be in possession of a valid visa, if required
- ‘Produce documents attesting to the purpose and conditions of the stay and covering the whole duration of their stay and the repatriation bond (return travel document)
- ‘Not appear on any watchlist
- ‘Not considered a potential threat
- ‘Be in possession of a travel order, for those holding a service passport
- ‘Be in possession of a leave certificate, for all public servants and employees. (DRC n.d.b)

‘The website adds the following regarding document verification by the DGM... The Migration Directorate checks travel documents to ensure they are valid and to look for various types of document fraud.... To carry out this work, the DGM uses several techniques, including:

- ‘Physical handling
- Ultraviolet lamps
- Passport reader. (DRC n.d.b)’<sup>27</sup>

#### 5.3.4 The same IRBC response, based on a number of sources aimed primarily at non-Congolese travellers, noted:

‘The website of the NDjili International Airport in Kinshasa states that [Aéroport international de NDijili English version] “arriving passengers must [allow for] an average of 30 to 45 minutes to complete the formalities of

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<sup>27</sup> IRBC, Entry/exit procedures..., 10 July 2019, [url](#).

police and customs and to retrieve their luggage” (Aéroport international de NDjili n.d.a). However, according to the travel guide Lonely Planet’s website, entering the DRC, especially when arriving in Kinshasa by airplane, can be “lengthy and frustrating” and include “delays” and “intimidation,” meaning that, “in general,” entry procedures can take “an hour or two” (Lonely Planet n.d.). Similarly, the Government of Canada’s advice and warnings regarding travel to the DRC indicate that [Canada English version] “[t]ravellers going to the DRC commonly encounter difficulties at the airport and other ports of entry” and adds that “[a]rrival at N’Djili International Airport in Kinshasa can be chaotic” (Canada 28 June 2019a). Petit Futé states that [translation] “while there has been some improvement in recent years, airport processing is sometimes Kafkaesque” (Petit Futé n.d.).

‘According to the Government of Canada’s travel advice, [Canada English version] “[t]ravellers can sometimes be temporarily detained and asked by security and immigration officers to pay unofficial ‘special fees’” (Canada 28 June 2019a). In the same vein, Lonely Planet states that travellers may be asked “to take a seat in a side office for no apparent reason and [be asked] for a bribe” (Lonely Planet n.d.). Similarly, in advice for travellers to the DRC, the US Department of State recommends that American nationals contact their embassy in the event of harassment at any of the country’s ports of entry, “such as detention, passport confiscation or demands by immigration and security personnel for unofficial ‘fees’” (US 20 Nov. 2018).’<sup>28</sup>

- 5.3.5 The IRBC response also noted, citing a number of sources again primarily commenting on the experiences for non-Congolese travellers, that:

‘According to Petit Futé, DGM officers are responsible for checking passports and visas and registering travellers, and it is their responsibility to submit the completed [translation] “migration” form, which is provided to travellers in aircraft inbound to the DRC (Petit Futé n.d.).

‘According to Lonely Planet, immigration checks can create problems when entering DRC territory (Lonely Planet n.d.). Petit Futé reports that the DGM is [translation] “sadly famous for systematic racketeering,” but that this is especially the case “inside the country, because at the Kinshasa and Lubumbashi airports, DGM officers are now drilled and relatively efficient” (Petit Futé n.d.).’<sup>29</sup>

- 5.3.6 The Second Secretary Political at the British Embassy in Kinshasa noted in September 2019 that ‘... the DGM were the main government agency with responsibility for immigration control, though other agencies have a stake in border security and issuing visas. The SSP had seen some police but not military at the airport.’<sup>30</sup>

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<sup>28</sup> IRBC, Entry/exit procedures..., 10 July 2019, [url](#).

<sup>29</sup> IRBC, Entry/exit procedures..., 10 July 2019, [url](#).

<sup>30</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

## 6. Monitoring of human rights, including returns

### 6.1 Human rights monitoring

- 6.1.1 While freedom of press and speech is limited<sup>31</sup> <sup>32</sup> a number of local and international organisations monitor the general human rights situation in the DRC. Freedom House noted in its report covering 2018 that: 'Thousands of nongovernmental organizations (NGOs) are active in the country, but many face violence and other obstacles to their work.'<sup>33</sup>
- 6.1.2 The International Center for Not-for-Profit Law (ICNL) noted in August 2019: 'Congolese civil society is comprised of a range of actors on the local, regional, and national levels. Most civil society organizations (CSOs) seek to advance the social and economic development of their communities, often through the provision of goods and services for the public interest. The individuals who participate in CSOs come from a variety of ethnic, religious, political and national movements and include workers, students, women, and entrepreneurs... Civil society today continues to operate in a complex social, economic, cultural, and political environment and struggles to ward off manipulation by various political forces, including the governing majority on the one side and the opposing minority on the other. The government has increasingly cracked down on criticism, including through the forced "disappearance" of journalists, and blocked opposition protests. The public authorities justify these crackdowns as necessary to preserve "public order". One consequence of these government actions has been that Congolese civil society has become increasingly divided into two political camps: some CSOs are aligned with opposition political parties that want political change through new elections, while other CSOs support existing political parties.'<sup>34</sup>
- 6.1.3 The USSD report for 2018 observed that: 'Elements of the [state security forces] SSF continued to kill, harass, beat, intimidate, and arbitrarily arrest and detain domestic human rights advocates and domestic NGO workers, particularly when the NGOs reported on or supported victims of abuses by the SSF or reported on the illegal exploitation of natural resources in the east. In 2016 the government declined to renew the work permit of a Human Rights Watch researcher and revoked the visa of Congo Research Group director Jason Stearns, officially for reasons of "undesirability." During the year the government declined to issue or renew visas for some international journalists and researchers. Representatives from the Ministry of Justice and the ANR met with domestic NGOs and sometimes responded to their inquiries.
- '... The government cooperated at times with investigations by the United Nations and other international bodies but was not consistent in doing so.'<sup>35</sup>

<sup>31</sup> FH, Freedom in the World 2019 - DRC, undated 2019, [url](#).

<sup>32</sup> USSD, DRC human rights report 2018 (section 2a), March 2019, [url](#).

<sup>33</sup> FH, Freedom in the World 2019 - DRC, undated 2019, [url](#).

<sup>34</sup> ICNL, DRC, updated August 2019, [url](#).

<sup>35</sup> USSD, DRC human rights report 2018 (section 5), March 2019, [url](#).



6.1.4 The UN Mission to the DRC (MONUSCO) operates a Human Rights Office (UNJHRO) which is 'comprised of the MONUSCO Human Rights Division (HRD) and the former Office of the UN High Commissioner for Human Rights in the DRC'. The UNJHRO is mandated to, amongst other things, promote and protect human rights, and investigate human rights violations. It is headquartered in Kinshasa, with 13 field offices and 6 sub-offices<sup>36</sup>.

6.1.5 The EASO response of July 2019, containing information from a variety of sources submitted by EU member states, noted:

'Some of the most relevant local organisations in DRC working on the protection of human rights include:

'Alliance pour l'Universalité des Droits Fondamentaux (AUDF)

'Association Africaine de Défense des Droits de l'Homme (ASADHO)

'Association Congolaise pour l'Accès à la Justice (ACAJ)

'Fonds pour les Femmes Congolaises (FFC)

'Promotion de la Déclaration des Droits de l'Homme (PDUDH)

'Voix des Sans Voix (VSV)

'Action des chrétiens pour l'abolition de la torture au Congo (ACAT Congo)

'The United Nations Joint Human Rights Office (UNJHRO) has the mandate to monitor the human rights situation in the DRC and assist the state to respond to human rights violations.[...] As part of UNJHRO, the United Nations Organization Stabilization Mission in the DR Congo (MONUSCO) is the UN agency with the mandate to protect civilians, humanitarian personnel and human rights defenders under imminent threat of physical violence and to support the Government of the DRC in its stabilisation and peace consolidation efforts.

'Concerning the monitoring of returnees in particular, the International Organization for Migration (IOM) has deployed the Displacement Tracking Matrix (DTM) in seven provinces of the DRC (Kasaï, Kasaï Central, Kasaï Oriental, Lomami, Sankuru, South Kivu, Tanganyika), in order to collect up-to-date information on internally displaced persons (IDPs) and returnees, and support humanitarian response.'<sup>37</sup>

6.1.6 The Second Secretary Political (SSP) at the British Embassy (BE), Kinshasa, when asked about the Embassy's contact with groups monitoring human rights generally and returns in particular in September 2019, observed that

'The BE is in contact with the International Organisation for Migration (IOM), but in these meetings it has not discussed returns nor have the IOM raised returns as an issue of concern.

'[On the subject of contact with other organisations monitoring returns, the SSP noted... ] contact with the Bill Clinton Foundation for Peace (BCFP)

<sup>36</sup> MONUSCO, human rights, undated, [url](#).

<sup>37</sup> EASO, Response, 3 July 2019, [url](#)

was made for the first time in three years, as far as the SSP was aware, this week [mid September 2019] (at the suggestion of the Home Office).

‘However, the Embassy is in active contact with a range of other actors that monitor human rights via regular meetings providing updates on the human rights situation e.g. monthly briefings run by the UNJRO which bring together a range of actors including local NGOs, international NGOs, and western Embassies.

‘The BE has bi-weekly meetings with the western Embassies to discuss human rights, law and order, and democracy.

‘On the reliability of NGOs, the SSP considered that this could be a “mixed bag”. There is a tendency for an NGO to tell you what it thinks you want to hear and accordingly it can exaggerate making it tricky to get to the bottom of an issue. Information from NGOs often needs to be treated with a “pinch of salt”. Given the size of the country, NGOs based in different areas will often give different answers based on prevailing local conditions making “country-wide” assessments difficult and often inaccurate.

‘The SSP was not familiar with the BCFP – had no previous dealings with the organisation. Nor was he aware of the BCFP being mentioned in discussions with other western Embassies. The chair of BCFP is however known to the Vice-Consul as they have met in the course of their work (though not for some years).’<sup>38</sup>

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## 6.2 Monitoring of returns

6.2.1 The UK’s then immigration minister, Caroline Nokes, explained in a response of February 2018 to a parliamentary question regarding returns to Sudan but applicable to the DRC and elsewhere, that the Home Office does not undertake post-return monitoring as a matter of principle because

- returns only take place when it is safe to do so, on a case-by-case basis
- the individuals returned are foreign nationals who have been found not to need protection, so it would be inappropriate for the UK to assume ongoing responsibility for them
- the act of monitoring itself may bring the returnee to the attention of the authorities of the country of origin and, by doing so, may put the returnee at risk<sup>39 40</sup>.

6.2.2 The same parliamentary response stated where specific allegations are made to the UK government that a returnee has experienced ill-treatment on or after return, these will be investigated by the Home Office and Foreign Office (FCO)<sup>41</sup>.

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<sup>38</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

<sup>39</sup> Home Office, Immigration Minister’s written response (165448), 27 July 2018, [url](#).

<sup>40</sup> Home Office, Immigration Minister’s written response (127780), 8 February 2018, [url](#).

<sup>41</sup> Home Office, Immigration Minister’s written response (127780), 8 February 2018, [url](#).



- 6.2.3 The CGRS EASO response of February 2018 cited a UNHCR-Belgian official who observed that there is no organisation that systematically monitors returns to the DRC<sup>42</sup>.
- 6.2.4 The Second Secretary Political (SSP) at the British Embassy (BE) in Kinshasa observed in September 2019 that the BE
- ‘... is aware of returns in that the [British Embassy-based migration delivery assistant] MDA facilitates the redocumentation process for potential returnees. However, officials from the BE do not attend the airport when the individuals are returned. There would be logistical difficulties in attending returns and BE staff do not have routine airside access at the airport, nor in ordinary situations would they. Without such a pass, BE staff would not be present at immigration control, rather they would attend the airport and wait at the arrivals area – physically outside the airport.
- ‘The SSP was not aware during his time in Kinshasa of any attempts by a returnee’s escorts to contact the BE during the return.
- ‘There was not follow-up monitoring of returnees (for the reasons above). In addition, the returnees are third country nationals in their home country, it would be inappropriate for the UK government to monitor them once in the DRC. There would also be logistical issues: Kinshasa is a city of between 11-16 million people and the DRC itself is the size of Western Europe. Should an individual not wish to make themselves known to the BE, it would be impossible to track them down.’<sup>43</sup>
- 6.2.5 The DRC NGO, Voix de sans of Voix, contacted by the Foreign Office in June 2019, stated that it did monitor returns in the period 2007 – 2009 but did not indicate that it continued to do so. The organisation, however, when asked about other organisations that monitors, suggested that the International Organisation for Migration may monitor returns<sup>44</sup>.
- 6.2.6 Another Kinshasa-based NGO, Les Amis de Nelson Mandela pour le Defense des Droits Humains (AMNDH), stated that it monitored returns ‘but not like it used to be in the past because we noticed that there is halt since the new regime [post January 2019] took over.’ Such monitoring appeared contingent on being informed of a return: ‘When we have been informed on time, we go to the airport to observe how returnees are being handled. Sometimes we do inform migration services, some other times we do it in a clandestine way but in collaboration with family members of the subject.’ On being asked whether it was aware of the other organisations that monitored returns, the response was that the following organisations did monitor returns: ‘Voix sans voix, [o]ther youth movements: LUCHA, FILIMBI, International organisations’. However, no further details were provided about the nature and extent of this monitoring process undertaken by AMNDH or other organisations<sup>45</sup>.

<sup>42</sup> CGRS, Query response, 28 February 2018, [Annex A](#)

<sup>43</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

<sup>44</sup> VSV, Response to British Embassy query, July 2019, [Annex I](#)

<sup>45</sup> AMNDH, Response to British Embassy query, July 2019, [Annex J](#)

- 6.2.7 The DRC-NGO, the Bill Clinton Foundation for Peace, stated that it has been monitoring returns from the UK since 2000<sup>46</sup>. See subsection [Information provided by the Bill Clinton Foundation for Peace](#) / ‘Cases of return from the UK’ below for more information.
- 6.2.8 The IOM reported in August 2019 that it observes the arrival of its caseload of facilitated returns, meeting returnees at the immigration control desk at N’djili airport in Kinshasa<sup>47</sup>.

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### 6.3 Accessibility of the British Embassy

- 6.3.1 The SSP at the British Embassy (BE) in Kinshasa observed in September 2019 that:

‘... the BE is [open] to DRC nationals, NGOs, etc, the SSP considered the BE was open to meet people. People – DRC nationals and British Citizens – come to the Embassy all the time. If it is a consular matter, the guards will refer the case to one of the diplomatic staff. However, if told someone was at risk, the BE would also assist.

‘The diplomatic staff’s email addresses are widely circulated and there is a general BE email address, with the in-box regularly monitored by staff, in addition to a telephone switchboard. Individuals will frequently contact either the switchboard or generic email inbox and be referred to the appropriate member of staff for a response.

‘The SSP was not aware that the Embassy had been contacted by a returnee, NGO or other persons about a returns issue during his time at post [since May 2018].

‘The SSP was asked about the case of the DRC returnee who was allegedly taken to the BE in August 2012 (as mentioned in the report, Unsafe Return 3 – case study 2). The SSP was not aware of the incident and stated that he could not comment on the practice of the guards in 2012 but he was surprised that the incident had not been reported to the diplomatic staff and assistance provided had it occurred. However, without details of the incident – factors such as which entrance to the Embassy the individual was taken, when it took place (if it was at night then most the diplomatic staff would not be at the Embassy though some staff would be available in emergencies) – it would be difficult to determine what might have happened.’<sup>48</sup>

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Section 7 updated: 18 November 2019

## 7. Treatment of returnees

### 7.1 Government’s legal framework

- 7.1.1 The CGRS COI focus of June 2019 observed:

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<sup>46</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#); BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>47</sup> IOM, Response to British Embassy query, 7 August 2019, [Annex K](#)

<sup>48</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

'On 1st November 1976, the DRC ratified the International Covenant on Civil and Political Rights (ICCPR), which enshrines the right to leave one's country and to return to it (Article 12)<sup>18</sup>. Article 30 of the Constitution promulgated on 18th February 2006 and amended in 2011 states:

"Any person on national soil has the right to travel there freely, to make his home there, to leave it and to return to it, within the conditions fixed by law. No Congolese national can be deported from the territory of the Republic, nor be forced into exile, nor be forced to live outside his habitual place of residence"<sup>19</sup>. [translation] Cedoca has not found any information in Congolese legislation relating to sanctions in the case of illegal departure from the country or an application for international protection abroad, or to sanctions linked to the fact of having lived abroad. On 5th April 2019, Cedoca interviewed Geert Verbauwheide, adviser to the Identification and Deportation Section of the Inland Control Department of the OE on this subject, who responded on the same day that he had no knowledge of such legislation in the DRC<sup>20</sup>. This information is confirmed by the IOM in an e-mail of 14th May 2019 stating that it is not aware of legislation in the DRC under which leaving the country illegally and/or applying for international protection would be punished.'<sup>49</sup>

- 7.1.2 The US State Department (USSD) observed in its human rights report covering events in 2018, that

'The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government sometimes restricted these rights.

'The government occasionally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.'<sup>50</sup>

- 7.1.3 The USSD report, however, makes no specific comment on the treatment of unsuccessful asylum seekers or foreign national offenders returned to the DRC<sup>51</sup>.

- 7.1.4 Catherine Remos in Unsafe Return 3 (UR3) claimed that 'Under Congolese law those who commit offences outside the country can also be arrested in the DRC for the same offence.'<sup>52</sup> However, UR3 does not refer to the provision in DRC law which permits Congolese to be arrested for the same crime committed overseas. Nor does the report provide specific evidence where the law has been applied in practice or explain the circumstances where such law would apply.

- 7.1.5 In October 2014, the second secretary political at British High Commission in Nairobi interviewed the Directeur Central de la Chancellerie of the DGM in Kinshasa who observed:

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<sup>49</sup> CGRS, COI focus (section 2), June 2019, [url](#)

<sup>50</sup> USSD, Human rights report 2018 (section 2d), March 2019, [url](#)

<sup>51</sup> USSD, Human rights report 2018 (section 2d), March 2019, [url](#)

<sup>52</sup> Ramos, C, 'Unsafe Return 3' (p23), May 2019, [url](#)

'If an individual [returnee] has committed a violent crime [in the UK or elsewhere], 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.'<sup>53</sup>

- 7.1.6 No other sources consulted comment on laws covering extra-territorial 'double jeopardy', i.e. being tried twice for the same crime, in the DRC (see [Bibliography](#)).

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## 7.2 Returns from the UK and other western states

- 7.2.1 This note does not consider returns of Congolese migrants, asylum seekers, foreign national offenders or refugees from neighbouring countries to the DRC<sup>54</sup>.
- 7.2.2 There is limited publicly available information about the treatment of unsuccessful asylum seekers or foreign national offenders from the UK (or other western European states) published since March 2015<sup>55 56 57</sup>.

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## 7.3 Reports published 2015 to 2018

- 7.3.1 The Immigration and Refugee Board of Canada (IRBC) issued a response on returns in July 2017<sup>58</sup> which references a number of sources including Amnesty International (referring to information provided as evidence in BM and Others), the Home Office's country information guidance document of September 2015 (now archived – see [Bibliography](#)) and the Observer. As the original information from each of these sources pre-dates March 2015 and was considered by the Upper Tribunal in BM and Others in reaching its determination it has not been reproduced below<sup>59</sup>.
- 7.3.2 The IRBC response, however, includes a further 3 sources not considered by the Upper Tribunal in the BM and Others. The first is a paper by Blondel et al (the research co-ordinator was Dr Jill Alpes) citing the International Refugee Rights Initiative (IRRI) as the source published in May 2015. The IRBC response noted that '...[IRRI], an NGO that works to address the causes of conflict-related displacement and ensure respect for the rights of those forced to leave their homes (IRRI 2011) by providing research data on

<sup>53</sup> HO, DRC policy bulletin (Annex D: FCO letter dated 14 October 2014), October 2014, [url](#)

<sup>54</sup> DRC nationals may sometimes leave the country and then return in large numbers. For example, over 300,000 Congolese migrants were expelled from Angola in October 2018, most of whom returned to Kasai province in the DRC. See Irinew, Briefing, 8 November 2018, [url](#); ACAPS, Displacement from Angola, 18 October 2018, [url](#)

<sup>55</sup> Ministry of Interior, Slovak Republic, Query response, February 2018, [Annex B](#).

<sup>56</sup> See also sources consulted in [Bibliography](#)

<sup>57</sup> European Asylum Support Office (EASO), Query response compilation, July 2019, [url](#)

<sup>58</sup> IRBC, Response, 10 July 2017, [url](#).

<sup>59</sup> UT IAC, BM and Others (Section IV and the Appendix), 2 June 2015, [url](#)

the risks faced by failed refugee claimants in 22 countries, includes the DRC in the list of countries where the practices of the authorities create "return-related risks" (IRRI May 2015, 4).<sup>60</sup>

7.3.3 However, the IRRI paper was limited to desk-based research carried out between October 2014 and May 2015<sup>61</sup> and, in regard to the DRC, appears to be based on publicly available documents published in 2012 and 2013 (see footnotes 103 to 109 of page 34)<sup>62</sup>.

7.3.4 The articles by 2 other sources in the IRBC response - Jeune Afrique and La Presse - appear not to have been considered by the Tribunal in BM (they are not referenced in the Appendix<sup>63</sup>). Citing these sources, the IRBC response noted:

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

‘A [...] March 2015 article in La Presse reports that the President of the Congolese Community of Montreal (Communauté congolaise de Montréal) stated that he had not heard from a Congolese man [translation] "deported" to the DRC who was arrested "as soon as he arrived at Kinshasa airport" and then incarcerated (La Presse 26 Mar. 2015).’<sup>64</sup>

7.3.5 The IRBC qualified its response by stating:

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

‘This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection.’<sup>65</sup>

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

‘Oral sources: Les amis de Nelson Mandela pour la défense des droits humains; Association africaine de défense des droits de l'homme;

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<sup>60</sup> IRBC, Response, 10 July 2017, [url](#).

<sup>61</sup> Blondel et al, Post-deportation risks (p2), May 2015, [url](#)

<sup>62</sup> Blondel et al, Post-deportation risks (p34), May 2015, [url](#)

<sup>63</sup> UT IAC, BM and Others (Appendix), 2 June 2015, [url](#)

<sup>64</sup> IRBC, Response, 10 July 2017, [url](#).

<sup>65</sup> IRBC, Response, 10 July 2017, [url](#).

International Organization for Migration; researcher specializing in migration to the DRC.

'Internet sites, including: Amnesty International; ecoi.net; Electronic Immigration Network; Forced Migration Review; Freedom House; Human Rights Watch; Internal Displacement Monitoring Centre; International Refugee Rights Initiative; Le Phare; Le Potentiel; Radio Okapi; United Nations – Refworld, High Commissioner for Refugees; United States – Department of State.'<sup>66</sup>

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

'In the seven years to 2015, France deported 590 Congolese citizens whose application for asylum had failed. Claiming asylum in another country, however, may be treated by the Congolese authorities as an act of treason, and almost every returned asylum seeker monitored in 2011 by the organisation Justice First [see Unsafe Return, November 2011<sup>67</sup>] was imprisoned, tortured, forced to pay a ransom, raped or subjected to sexual harassment.

'A study by the British Home Office [UK Home Office fact finding mission of June 2012<sup>68</sup>] found that people who were repatriated to DRC were systematically summoned to the Congolese Bureau of Migration on their arrival at the airport and sometimes questioned by the National Intelligence Agency in Kinshasa. These people face multiple risks, from extortion involving sums from [US]\$6,000 to \$25,000 to imprisonment without access to a lawyer and being held in poor conditions of detention. Some people had been forced to sign a document stating that they had left the airport without any difficulty but were then arrested at home a few hours later; when the UN mission MONUSCO tried – unusually so – to intervene, the Congolese authorities denied that there was any possibility of people having been detained.'<sup>69</sup>

- 7.3.8 It is unclear if the IRRI article bases its observations on the UK Home Office FFM report alone. However, for the sake of clarity, the FFM report did not make findings but simply collated the views of a range of sources, some of whom stated that returnees may face problems on return while others were not aware of this<sup>70</sup>.
- 7.3.9 However the FMR article's specific points on DRC returns are drawn from a report produced by Justice First in 2011 and a Home Office report of a fact finding mission to Kinshasa in 2012. Both documents were considered by the Tribunal in BM and Others in reaching its findings<sup>71 72</sup>.

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<sup>66</sup> IRBC, Response, 10 July 2017, [url](#).

<sup>67</sup> Justice First, Unsafe Return, 24 November 2011, [url](#).

<sup>68</sup> Home Office, Report of a FFM, November 2012, [url](#).

<sup>69</sup> FMR, Post-deportation (pages 76-77), February 2017, [url](#).

<sup>70</sup> Home Office, Report of a FFM, November 2012, [url](#).

<sup>71</sup> FMR, Post-deportation, February 2017, [url](#).

<sup>72</sup> UT IAC, BM and Others (section IV and the Appendix), 2 June 2015, [url](#)



- 7.3.10 Dr Jill Alpes, one of the authors of the IRRI paper, conducted her own research on the experiences of Congolese nationals returned to the DRC. In article on the Migration Policy Institute (MPI) website dated 23 May 2019 she explained that she had

‘... conducted [interviews] with 15 returnees during field research in Kinshasa, Democratic Republic of the Congo (DRC), in January and February 2016, as well as subsequent contacts with some. Of the 15 returnees interviewed, 14 were forced to return to the DRC. One interviewee was a participant of an International Organization for Migration (IOM) assisted return program. Of the 14 deportees, five were deported by the United Kingdom, four by France, two by Belgium, and one each by Canada, Germany, and Sweden.

‘Interviewees were identified through introductions by NGO staff, volunteers working in detention centers, lawyers, acquaintances, and priests in both EU Member States and Kinshasa. The author also carried out six informal interviews with government officials in the DRC.’<sup>73</sup>

- 7.3.11 The individuals had all returned between 2011 and 2016, however no further information is provided about the profile of the returnees or details of their return<sup>74</sup>. It is possible that the 5 UK returnees to which Dr Alpes refers were also documented by Catherine Ramos in Unsafe Return 3 (UR3), who noted in UR3:

‘In 2016, when preparing to carry out fieldwork in the DRC on post deportation for Amnesty Netherlands, Dr. Jill Alpes consulted with me [Catherine Ramos] about possible contacts in Kinshasa. She held face-to-face meetings with returnees whose cases are documented in this report. The report, *Deported – Human Rights in the Context of Forced Returns – Summary* (July 2017), for Amnesty International (2017) [published in Dutch] documents the risks to returnees after removal from Europe.’<sup>75</sup>

- 7.3.12 UR3 further noted ‘[w]hilst in Kinshasa in February 2016 Dr. Jill Alpes met with Adamo Kizey (Case Study 8).’<sup>76</sup>

- 7.3.13 In her article of May 2019, Dr Alpes further observed, in general for returnees but informed by her research on the DRC, that:

‘Post-deportation risks vary in terms of level of severity. Some are so severe that they reach the threshold of a human-rights violation, casting doubt on the legality of the deportation. Other post-deportation risks may not rise to this level, but should feed into debates about the legitimacy and effectiveness of return to those circumstances, given the broader policy context. A final set of risks can be prevented by adjusting preparations for and implementation of the deportation...

‘Post-deportation vulnerabilities also stem from different factors—some linked to external conditions, and others to the characteristics of individual returnees. Within the first category, risks may occur due to political and

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<sup>73</sup> MPI, ‘After deportation...’, 23 May 2019, [url](#)

<sup>74</sup> MPI, ‘After deportation...’, 23 May 2019, [url](#)

<sup>75</sup> Ramos, C, Unsafe Return 3 (p8), May 2019, [url](#)

<sup>76</sup> Ramos, C, Unsafe Return 3 (p14), May 2019, [url](#)

economic conditions in the country to which individuals are deported, or to aspects of the deportation process under the control of the state carrying out the return. There are considerable differences between how EU Member States identify migrants for deportation and handle appeals of removal orders...

‘Other post-deportation risks are closely linked to the specific profile of the deportees. The deportation of failed asylum seekers, for example, can be particularly sensitive because applying for asylum necessarily entails making negative statements about state authorities in one’s country of nationality (e.g. in relation to rape allegations or killings by the police or military, repression of opposition activities, or the state’s inability to provide access to justice). Because few avenues exist for unauthorized immigrants to gain legal residence in Europe, authorities in returnees’ countries of nationality may assume that deportees have applied for asylum while abroad.’<sup>77</sup>

7.3.14 Dr Alpes opined in a blog on the University of Oxford, Faculty of law, website of November 2016, with reference to her research earlier in 2016, that:

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

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

‘To avoid problems upon return, a large number of those deported to DRC with whom I spoke had arranged for safe passage by asking family members to make informal arrangements with police officers at the airport. These arrangements cost between 20\$ to 200\$. Me[n] and women who fail to make these arrangements can see themselves confronted with the arbitrary

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<sup>77</sup> MPI, After deportation..., 23 May 2019, [url](#)



behavior of police officers, such as the confiscation of their luggage –often the only belongings they managed to save at the time of deportation after years of living abroad.’<sup>78</sup>

- 7.3.15 Dr Alpes opined in her later article of May 2019 that, based on her research in 2016, in the context of human rights breaches committed against perceived opposition groups and other critics of state including journalists and members of civil society:

‘... returned Congolese nationals face suspicion by police officers upon arrival and at times arbitrary arrest and detention, mostly with limited means to rebut accusations of supposed criminal activity. Four of the 15 returnees interviewed during this study were detained upon arrival. Their detention lasted two to 55 days, during which they were held in a military prison, at the police post, or at the headquarters of the Congolese national security service. Seven others reported that they would have been detained had they not been able to secure safe passage at the airport through family connections or bribes ranging from 25 to 3,000 euros. Since 2016, Ramos has documented another nine cases of detention and extortion. [This is reference to Unsafe Return 3 – see subsection on Unsafe Return reports below.]

‘The systematic nature of these arrests and detention is, despite this evidence, difficult to prove, in part because of how the justice and penitentiary system operates. For example, two deportees interviewed in Kinshasa explained that the Congolese police had asked them to sign documents certifying that they had been released without torture, detention, or fines. After they signed, the police agents asked them for a “present.” Each gave roughly 25 to 35 euros, about half of the monthly salary of a secondary school teacher. In the words of one interviewee: “It’s better to lose money than to take the risk to be picked up by national intelligence.”’<sup>79</sup>

- 7.3.16 Dr Alpes in the same May 2019 article observed that ‘One reason police officers detain or extort money from deportees is returnees are suspected of engaging in political activism while abroad. The Congolese media reported, for example, that the diaspora was financing local demonstrations against the president in the run-up to the 2018 general election.’<sup>80</sup>

- 7.3.17 Dr Alpes cited 3 examples of individuals arrested on arrival. The first, Michael, had lived outside the DRC for 46 years, was a member of a politically prominent and well-connected family and had taken part in activities critical of the DRC government while abroad. With regard to the second, Dr Alpes stated:

‘Crucially, because of the general perception that the Congolese diaspora engages in political activism, it seems that the political profile of individual deportees does not have to be particularly pronounced to result in detention. Lionel, for example, was not politically active while living in the United Kingdom but was still brought to national intelligence headquarters after arriving on a charter flight in 2012 along with 22 other deportees—a practice

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<sup>78</sup> Dr Jill Alpes, Blog on deportation, 9 November 2016, [url](#).

<sup>79</sup> MPI, ‘After deportation...’, 23 May 2019, [url](#)

<sup>80</sup> MPI, ‘After deportation...’, 23 May 2019, [url](#)

described as common by staff of a Congolese nongovernmental organization. Because of predeparture lack of access to communication, Lionel could not inform contacts in Kinshasa of his arrival time. Consequently, his family friend was unable to meet police officers at the airport to negotiate Lionel's release. The following day, national intelligence officers did not allow the friend to provide Lionel with food and water, though he was released a day later without having to pay the officers.'<sup>81</sup>

7.3.18 The third example relates to a voluntary return:

'Interviews suggest that migrants who participate in voluntary return programs can also be subjected to detention. For example, after his return from the United Kingdom in 2009, Charles was interrogated by border police for 2.5 hours and then taken to an underground cell for three days. During his detention, he was not able to see a lawyer, and apart from occasional biscuits, he was not given food. The officers accused Charles of having insulted the country and its leaders when abroad and claimed to have seen him at a London demonstration. They also questioned why he had left the DRC and why he no longer had a passport. Because Charles was part of an assisted voluntary returns program, Charles was able to buy himself out of detention by promising he would pay the officers the money he was to receive from the International Organization for Migration (IOM) post-release.'<sup>82</sup>

7.3.19 Dr Alpes commented on documents used by individuals to return, noting:

'Having access to identity documents is essential, both during deportation and upon deportees' return. When a removal order is issued for migrants who do not possess the documents required to travel, their country's consulate or the government of the deporting state may issue emergency travel documents, such as laissez-passers. For the country seeking to return a migrant, these documents need only carry the individual over the border; the lack of standard travel and identity documents can create post-deportation risks for returnees, however. When individuals are deported with emergency travel documents that are incomplete, contain errors, or were issued by an authority other than the country of nationality, they may be detained while local authorities investigate their identity. Some may also find it difficult to access official identity documents later.'<sup>83</sup>

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

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

'Upon arrival at Ndjili airport [Kinshasa], returnees are controlled [i.e. checked] by the [Direction Générale de Migration – General Office for Migration] DGM and often by the [Agence Nationale de Renseignements -

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<sup>81</sup> MPI, 'After deportation...', 23 May 2019, [url](#)

<sup>82</sup> MPI, "After deportation...", 23 May 2019, [url](#)

<sup>83</sup> MPI, 'After deportation...', 23 May 2019, [url](#)

National Intelligence Agency] ANR although not systematically. Eleven repatriation flights have been carried out departing from Belgium since January 2015. According to the monitoring by the Belgian Immigration Office, there were no incidents.’<sup>84</sup>

7.3.21 The same CGRS response further noted:

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

‘Two academic studies from 2015 and 2016 report risks of physical violence, without presenting factual cases [this reference includes Jill Alpes study in 2016 and cited above].

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

‘The UK continues to return Congolese to Kinshasa, considering there is no substantial evidence of ill treatment. [Office français de protection des réfugiés et apatrides – the French Office for the Protection of Refugees and Stateless Persons] OFPRA doesn’t have information related to the subject other than that collected during its mission in 2013 [Report of a mission to the Democratic Republic of Congo, 30 June to 7 July 2013<sup>85</sup>; extracts of which were considered by the Upper Tribunal in BM and Others<sup>86</sup>]. The October 2017 Ambtsbericht [Dutch foreign office report] refers to UNHCR which deems that a case by case assessment needs to be done according to the place of return and its specific security conditions. The [Swiss State Secretariat for Migration] SEM also continues to return Congolese, but has not updated its research on risk on return since 2015.

‘In February 2018, the [UN Joint Human Rights Office in the DRC] UNJHRO didn’t rule out that cases occur without being documented. In 2017, [Amnesty International] AI published a research on human rights in the context of forced return [this appears to be based on Dr Alpes research in 2016, see [Reports published 2015 to 2018](#) above], reporting extortion, detention, and ill treatment in Kinshasa. However, neither AI, nor [Human Rights Watch] HRW, nor the [US Department of State] USDOS tackle this subject in their annual reports of 2017, 2016 and 2015. The European Court

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<sup>84</sup> CGRS, Query response, 28 February 2018, not published - see [Annex A](#).

<sup>85</sup> OFPRA, Fact finding report, April 2014, [url](#).

<sup>86</sup> UTIAC, BM and Others (Appendix), 2 June 2015, [url](#)

of Human Rights seemed to confirm in June 2017 its 2014 position, i.e. that the burden of proof of the risk of ill treatment lies with the applicant. The UNHCR-Belgium officer responsible for contacts with the media regrets that there is no organization in the field which systematically monitors the fate of these persons.’<sup>87</sup>

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

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

‘The press release of the Bill Clinton Foundation for Peace (FBCP) posted on the foundation’s Facebook page, on 21 October 2016, informed about a case of a deportee who was expelled from Great Britain and was detained in sub-human conditions in cell of the ANR in Kinshasa. The reason for his expulsion from Great Britain is not known but once he had arrived in his country he was considered to be a “combattant”[...]’<sup>88</sup> [This is likely to be the case of Aristote Monsengo, see [Unsafe Return reports](#) below.]

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

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

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

‘[...] The] Belgian Immigration officer based in Kinshasa, added also per email on the same day [12 March 2018], that in case of special flights, the [Agence Nationale de Renseignements] ANR sometimes comes in for identification purposes and that there are no problems on arrival. [The Belgian immigration officer] ... follows all cases, even individual escorts.’<sup>89</sup>

- 7.3.24 In November 2018, Freedom from Torture (FfromT) published a report of its analysis of medico-legal reports produced between January 2013 and July

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<sup>87</sup> CGRS, Query response, 28 February 2018, not published - see [Annex A](#)

<sup>88</sup> Ministry of Interior of Slovakia, Query response, February 2018, not published – see [Annex B](#).

<sup>89</sup> CGRS, Email, 13 March 2018, [Annex C](#).

2018 of 74 Congolese asylum seekers in the UK. The report 'was written in collaboration with the Survivors Speak OUT network and Congolese survivors through a series of workshops to provide survivor commentary and recommendations.' The report explained that:

'All [the Congolese asylum seekers] were detained and tortured because of their own or others' political or human rights activity. This includes being a member or rank-and-file supporter of opposition parties, campaigning organisations and pressure groups, and other types of civil society organisation. It encompasses a wide range of forms of public expression on issues such as democracy and human rights, including women's rights.'<sup>90</sup>

7.3.25 As part of the report, FfromT '... conducted focus groups and individual discussions with 30 Congolese torture survivors to discuss accountability for torture in the Democratic Republic of Congo (DRC)... The 30 survivors, 17 men and 13 women, are either current or former therapy clients at Freedom from Torture.'<sup>91</sup> The survivors believed that 'the [Congolese] Government views people in the diaspora as having "betrayed" the country by talking about what is happening in the DRC. They said that the government views anyone returning, either voluntarily or not, as a "high-level opponent". They feared people would be treated "without mercy" on return and probably imprisoned'.<sup>92</sup>

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

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

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

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<sup>90</sup> FfromT, 'A tool to silence...' (p3), November 2018, [url](#).

<sup>91</sup> FfromT, 'A tool to silence...' (p8), November 2018, [url](#).

<sup>92</sup> FfromT, 'A tool to silence...' (p11), November 2018, [url](#).



'Three of the seven people had travelled to or lived in countries in Africa and Europe prior to their most recent detention, two of whom were detained at the airport on return to the DRC and one of who was seized at home. One had been deported from a neighbouring country having made an unsuccessful asylum claim there some years earlier, following repeated detention in the DRC for political opposition activities. He described being detained as part of a "round-up of dissenters" and deported directly into the hands of the Congolese authorities, who then detained him. Two had travelled to or were living in Europe and were detained on return to the DRC, one at the airport and one from home, on the basis of allegations that they had met or had assisted dissident members of the Congolese diaspora opposed to the government of President Kabila.'<sup>93</sup>

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## 7.4 Reports/information released in 2019

### Unsafe Return reports

- 7.4.1 Catherine Ramos, describing herself as a director of Yorkshire Returnees Company and Justice First and that 'she has monitored the post return experience of returnees to the DRC since 2007 and continues to maintain contact with many of the returnees and/or their families', released a report, Unsafe Return 3 (UR3), in March 2019, which was reissued with minor amendments in May 2019. UR3 does not indicate that Ms Ramos has academic or other professional expertise in undertaking academic or COI research<sup>94</sup>.
- 7.4.2 UR3 follows on from Ms Ramos' 2 earlier reports, Unsafe Return 1 (UR1)<sup>95</sup> and Unsafe Return 2 (UR2)<sup>96</sup>, on the subject of treatment on return. Unsafe Return 1 was considered in the Court of Appeal cases of P and R in December 2013 (paragraphs 34-37)<sup>97</sup>.
- 7.4.3 Both UR1 and UR2 are also listed in the appendix of the country guidance case of BM and Others. UR1 is referenced twice in the Upper Tribunal's findings (paragraphs 34 and 75), while UR2 is not referenced in the UT's findings at all. The reference to UR1 in paragraph 34 is to the summary of it in the Home Office COI report of March 2012, with the UT quoting one sentence: '[t]he returnees in this report [UR1] were perceived or actual political opponents of the current DRC regime.' While the UT goes on to note that it agreed with the 'considered and focussed evidence of JF [Justice First], digested in [34] above, which we accept' this appears to be in the context that UR1 documented cases of returnees who were, or were perceived to be, political opponents. This was also consistent with the UT's assessment regarding the UK Home Office fact finding mission which it found persuasive - that those persons who are 'wanted' or are considered to be 'combattants' may be at risk. The UT did not, however, scrutinise further

<sup>93</sup> FfromT, 'A tool to silence...' (p36), November 2018, [url](#).

<sup>94</sup> Ramos, C, Unsafe Return 3 (p40), May 2019, [url](#)

<sup>95</sup> Ramos, C, Unsafe Return 1, November 2011, [url](#)

<sup>96</sup> Ramos, C, Unsafe Return 2, November 2013, [url](#)

<sup>97</sup> UK Court of Appeal, Cases of P and R, 9 December 2013, [url](#)



UR1 or UR2 or accept the reports' contention that returnees generally are at risk<sup>98 99</sup>.

7.4.4 UR3, amongst other things, also:

- criticises the Home Office's (HO) country policy and information note on unsuccessful asylum seekers and foreign national offenders of January 2019<sup>100</sup>
- alleges that the HO and Foreign and commonwealth Office have withheld information about the ill-treatment of returns and passed unreliable evidence to the UK courts
- criticises the UK's lack of monitoring of returnees<sup>101</sup>

7.4.5 UR3 also claimed to document the experiences of 18 cases of DRC nationals returned from the UK to Kinshasa between 7 June 2012 and May 2018 (the report also mentioned 4 or 5 additional cases of return but these are without any detail about the person or their experiences on return)<sup>102</sup>.

7.4.6 UR3 explained how the case studies (CS) were identified and verified:

'When deciding which case studies to include in this report, I have triangulated information from returnees through reference to FOI 48637, Home Office/FCO correspondence and emails, through emails and telephone calls to barristers, lawyers, diplomats and human rights groups in the DRC and lawyers, MPs and family of returnees in the UK. Christian Rumu, Amnesty DRC researcher based in Nairobi, contacted the Bill Clinton Foundation for Peace in Kinshasa for information about returnees and contact numbers.'<sup>103</sup>

7.4.7 However, it is unclear what Ms Ramos means by 'triangulation' or how she has gone about this:

- There are no notes or records of interviews, conversations, various emails, letters (including those with and between the FCO and Home Office) and freedom of information (FOI) responses referred to are not appended to the report
- It is not clear where, when and how all the information for each case study was obtained, with the result that many of the case studies are anecdotal and are composed of unsupported assertions
- References to particular incidents / facts from sources are not always contextualised, which can lead to misleading presentation and interpretation of the information. For example, the Home Office FOI response 48637 of June 2018 is selectively quoted, so neither the date of a quote or that it forms part of part of an email chain discussing the situation is made clear. The FOI response contains multiple email chains

<sup>98</sup> UT of IAC, BM and Others, June 2015, [url](#)

<sup>99</sup> Home Office, COI report (section 32), March 2012, (accessed via ecoi.net), [url](#)

<sup>100</sup> The CPIN is archived, but a copy is available on [ecoi.net](#)

<sup>101</sup> Ramos, C, Unsafe Return 3 (ps6-8), May 2019, [url](#)

<sup>102</sup> Ramos, C, Unsafe Return 3 (ps23-34), May 2019, [url](#)

<sup>103</sup> Ramos, C, Unsafe Return 3 (p8), May 2019, [url](#)

about discrete issues covering a period a period of 29 months (January 2016 to May 2018).

- 7.4.8 A consequence of the opacity in the gathering and presentation of the information is that much of the evidence for the case studies is anecdotal and lacking in context so that is not possible to determine assertions from fact.
- 7.4.9 One source – the Kinshasa-based Bill Clinton Foundation for Peace (BCFP) – that Ms Ramos mentions as being consulted in the triangulation process is referenced in 4 of the case studies: CS4, CS5, CS6 and CS16. The Home Office, with the assistance of the British Embassy in Kinshasa, contacted BCFP which, amongst other things, volunteered details of returns cases which it claimed to have assisted and directly (or indirectly via press releases) informed Ms Ramos about. Based on the information provided by the BCFP cross-checked against Unsafe Return 3, the 8 cases about which they provided information appear to correspond to the following case studies in Unsafe Return 3:
- CS4 (Aristote Monsengo)
  - CS5
  - CS6
  - CS8 (Adamo Kizey)
  - CS10
  - CS12
  - CS16
  - CS18 <sup>104 105</sup>.
- 7.4.10 UR3 names 3 of the 18 case studies: Derick Mbikayi (CS3), Aristote Monsengo (CS4) and Adamo Kizey (CS8). The remaining cases are anonymous<sup>106</sup>.
- 7.4.11 UR3 claimed that returnees in the case studies experienced the following:
- ‘1/18 arrested at airport by ANR and has since disappeared
  - ‘8/18 returnees allege that they were arrested at N’djili airport
  - ‘1/18 suffering from schizophrenia was detained on arrival and has been arrested on a further two occasions
  - 1/18 has been unable to access Olanzapine
  - 5/18 suffered prolonged imprisonment and ill treatment
  - 1/18 has witnessed other UK returnees arrested at the airport
  - 1/18 has been arrested for holding false ID card (voter’s card)
  - 1/18 was detained for using a mobile phone near Makala prison

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<sup>104</sup> BCFP, Response to a British Embassy query, October 2019, [Annex M](#)

<sup>105</sup> BCFP, Response to a British Embassy query, November 2019, [Annex N](#)

<sup>106</sup> Ramos, C, Unsafe Return 3 (ps23-36), May 2019, [url](#)

- 2/18 state they were in Makala prison with other UK returnees who were kept apart to prevent them speaking in English, a language the guards/prisoners did not understand
- 3/18 had families pay large sums of money in order to leave the airport and avoid imprisonment
- 1/18 paid an airport official to avoid arrest
- 1/18 family paid money to extract returnee from prison
- 1/18 was forced to answer charges against him in the DRC of belonging to an Insurrectional Movement

'A family in London informed me by telephone of the death of their son from malaria. The returnee is not included in the case studies.' <sup>107</sup>

7.4.12 CPIT analysis of the 18 case studies based on the information contained in UR3<sup>108</sup> and that provided by the BCFP<sup>109</sup> (see also [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK) indicated the following:

- 3 are named - Derick Mbikayi (CS3), Aristote Monsengo (CS4), and Adamo Kizey (CS8) - and 15 are anonymous
- At least 16 were 'removed', i.e. involuntarily returned (CS1, CS2, CS3, CS4, CS5, CS6, CS7, CS8, CS9, CS10, CS11, CS12, CS15, CS16 and CS18); 2 of the remaining cases (CS14 and CS17) are referred to as 'returnee' suggesting involuntary return
- Of the removed,
  - 3 were returned in 2012 (CS2, CS3, CS7)
  - none in 2013
  - none in 2014
  - 3 in 2015 (CS4, CS6, CS8)
  - 3 in 2016 (CS5, CS10, CS16)
  - 5 in 2017 (CS1, CS11, CS12, CS13, CS15)
  - 2 in 2018 (CS9 and CS18)
  - It is not clear from the Information in UR3 for CS14 when the person returned to the DRC but it seems likely from what facts are provided that the removal was in 2016. There is no information about CS17 to indicate when the date of return might have occurred.
- 10 were reportedly arrested on arrival (CS1, CS2, CS3 (Derick Mbikayi), CS4 (Aristote Monsengo), CS5, CS6, CS7, CS9, CS11 and CS16 (UR3 and BCFP are not consistent about CS16: UR3 does not mention arrest

<sup>107</sup> Ramos, C, Unsafe Return 3 (ps10-11), May 2019, [url](#)

<sup>108</sup> Ramos, C, Unsafe Return 3 (ps23-40), May 2019, [url](#)

<sup>109</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#); BCFP, Written response 2, October and November 2019, [Annex N](#); Home Office, Summary of BCFP emails, 13 November 2019, [Annex O](#)

on arrival<sup>110</sup>, however BCFP stated the returnee was<sup>111</sup>). No specific mention of detention for the remaining 8.

- Of those detained, CS3 was held for a 'period of imprisonment'; CS was 'arrested' (UR3 stated simply that he was arrested<sup>112</sup>; the BCFP claimed it was for 'some' days<sup>113</sup>) CS7 released after 1 day. The others who were detained for longer periods, ranging from 2 weeks to a year
- CS4 (Aristote Monsengo) alleged detention and ill-treatment was investigated by the Foreign Office in Kinshasa<sup>114</sup>
- 4 (CS8 (Adamo Kizey), CS9, CS10 and CS16) were arrested after leaving the airport for reasons that are not clearly connected to the return itself. UR3 and BCFP are inconsistent over CS10: UR3 does not mention that he was arrested<sup>115</sup>, while the BCFP claim the returnee was arrested after visiting the IOM's office in Kinshasa<sup>116</sup>
- 6 (CS1, CS2, CS6, CS7, CS8 (Adamo Kizey) and CS15) were reportedly removed on incomplete 'safe passage' (ETDs) documents. In 2 other returns (CS10 and CS13), the returnee's photograph 'obscured' information on the document
- 2 returned using their own passports (CS5 and CS18)
- 8 were released from detention (CS2 and CS11) or allowed through Ndjili airport (CS2, CS7, CS12, CS13, CS14 and CS15) on payment of a bribe
- 17 out of 18 are male (CS18 is female)<sup>117</sup>

7.4.13 Below are summaries of the case studies as documented in Unsafe Return 3 and, where relevant, cross-checked against information provided by BCFP:

#### **Case study 1: anonymous**

UR3: the individual was removed on 17 October 2017 on an incomplete 'safe conduct' (ETD). Arrested on arrival, detained for a year but while in prison met a representative of an NGO in July 2018 who contacted a lawyer who was able to arrange bail. The person was released on 5 October 2018 on conditional bail, with reporting conditions. Failed to report, an arrest warrant was issued for him. Father a 'well-known' combatant; person accused of 'insurrectional activities'<sup>118</sup>.

#### **Case study 2: anonymous**

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<sup>110</sup> Ramos, C, Unsafe Return 3 (ps33-34), May 2019, [url](#)

<sup>111</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#); BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>112</sup> Ramos, C, Unsafe Return 3 (p27), May 2019, [url](#)

<sup>113</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>114</sup> Home Office, FOI response 48637 (ps22-23), 12 June 2018, provided on request

<sup>115</sup> Ramos, C, Unsafe Return 3 (ps30-31), May 2019, [url](#)

<sup>116</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>117</sup> Ramos, C, Unsafe Return 3 (ps23-40), May 2019, [url](#)

<sup>118</sup> Ramos, C, Unsafe Return 3 (p23), May 2019, [url](#)

CS2 was removed in June 2012 and arrested on arrival at N'djili airport. He claimed that he was imprisoned and tortured for over six months. He escaped from the DRC and returned to the UK, applied for asylum in September 2013, was refused but his asylum case was allowed at appeal by Judge Moore [in March 2019 version of Unsafe Return 3 reference was made to Judge Miller] in 2017<sup>119</sup>.

UR3 also stated in its summary section (not in the case studies section):

'In 2017, in a UK Court, Judge Moore determined that the FFM version of events was not reliable and that R23/2012 (Unsafe Return II) had been arrested, detained and tortured for several months post removal. During a phone call on 8 June 2012 the Appellant informed Detention Action that the five returnees were not being allowed to leave N'djili airport. I called him back... Although, the FCO denied having had any contact with R23/2012 in Kinshasa or with his family in the UK, Judge Moore determined that he had been taken by prison guards to the British Embassy and the family had been contacted by the Embassy... The 2017 determination raised concerns about the lack of travel documents for returnees and determined that the Home Office knew of problems from an early stage.'<sup>120</sup>

### **Case study 3: Derek Mbikayi (DM)**

UR3 stated:

'... removed on 7 June 2012 and imprisoned in Kinshasa. He is named as a returnee in a UNJHRO email. He also maintains that he did not receive 100 dollars at N'djili airport on 8 June 2012 and that all five returnees were imprisoned. His mother in the UK told me in a face-to-face meeting that there was no contact from her son after his arrival at N'djili airport.

'He was locked in a room at the airport with the other four returnees. The men were interrogated and accused of being combatants. He was imprisoned and interrogated. He feared for his life. After a period of imprisonment he was put into a van by guards and left abandoned. He had no family in the DRC. He was taken in and, as he had no ID, he stayed inside for fear of arrest. When I called him in November 2012, he was very apprehensive and he changed his phone number.'<sup>121</sup>

### **Case study 4: Aristote Monsengo**

UR3 stated:

'Aristote Monsengo (AM) was removed to the DRC on 10 October 2016. Contact with his family in the UK ceased at N'djili airport. I asked the Bill Clinton Foundation for Peace (BCFP), a Congolese human rights group, to find out for the family in the UK whether he had been detained. A source in ANR disclosed to BCFP that Mr. Monsengo was in National Intelligence Agency (ANR) detention. BCFP published a press release about the detention of Mr. Monsengo in inhuman conditions and asking for the UK and the EU to halt removals to the DRC. A British Embassy official contacted the President of BCFP and insisted on having the name of the source as it would

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<sup>119</sup> Ramos, C, Unsafe Return 3 (ps243-40), May 2019, [url](#)

<sup>120</sup> Ramos, C, Unsafe Return 3 (ps24-25), May 2019, [url](#)

<sup>121</sup> Ramos, C, Unsafe Return 3 (p25), May 2019, [url](#)

assist the work of the Embassy. The name was given and the need for confidentiality stressed. At a meeting with the Chief Administrator of ANR the name was disclosed, thereby, placing the source in danger. Consequently, the source was unwilling to disclose further details and the family in the UK was unable to receive further information about their son. On 15th November 2016, an email reveals that DGM was not cooperating with the Embassy over this arrest.<sup>122</sup> [This reference to the British Embassy email taken from FOI response 48637 is taken out of context, subsequently the Foreign Office were able to speak to the DRC authorities and concluded that there was not clear evidence of his arrest.]

HO: Case matched.

The HO's and British Embassy's efforts to investigate Mr Monsego's circumstances are documented in FOI response 48637.

Following his return on 10 October 2016, the Home Office and British Embassy (BE) in Kinshasa were notified by the BCFP that Mr Monsengo had been detained on or shortly after his arrival. At the request of the Home Office, the FCO investigated Mr Monsengo's whereabouts in Kinshasa contacting local sources<sup>123</sup>, including the BFCP, but could not confirm the detention, with the Deputy High Commissioner at the BE noting in an email of 25 November 2016 that

'It's impossible not to conclude, therefore, that this is looking increasingly like a wild goose chase, deliberate or otherwise. Unless the NGO is able to provide some concrete information to confirm its allegations, or we corroborate them with a third party source e.g [redacted] or [redacted] family in the UK, I'm not sure there's much to be gained by pursuing investigations further this end.'<sup>124</sup>

See also [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK.

### **Case study 5: anonymous**

UR3 noted that CS5:

'... was removed to the DRC on 2 December 2016. During his asylum case, it had been determined he was low profile and of no interest to DRC authorities.

'As DN returned to the DRC on his own passport, there was no re-documentation interview. DN says he managed to talk his way through Immigration control. ANR officers were waiting for him inside the airport and asked for him by name. This suggests that there is leakage of information between the Home Office and the DRC Embassy/authorities or that dissidents in the UK are being monitored.

'DN made no contact with his family. The Bill Clinton Foundation for Peace informed me that an Immigration officer had reported that DN had been taken to ANR for in-depth interrogation. DN was tortured and required

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<sup>122</sup> Ramos, C, Unsafe Return 3 (p25), May 2019, [url](#)

<sup>123</sup> Home Office, FOI response 48637 (ps16-38), 12 June 2018, provided on request

<sup>124</sup> Home Office, FOI response 48637 (ps22-23), 12 June 2018, provided on request



medical treatment. Some time after his extraction from prison, he was rushed into hospital for emergency treatment to remove poisons from his system. He underwent a gastric lavage and a barium enema.

'DN has been forced to live in hiding. Money which has been sent by Western Union is sent in the name of other people. He has had to rely on others to take him food. He has had repeated bouts of malaria and typhoid. Often he has not had access to food. It is not possible to keep in regular contact because there is no mobile network or it is not possible to charge phones. Amnesty International is aware of this case. I had asked the Carter Centre if they could provide information to assist in this case. However, the person charged with such matters was out of the office. I received an email regretting they had been unable to save the person this time.'<sup>125</sup>

No evidence, however, was submitted of Amnesty's involvement or comment on this case.

See also BCFP's account of return of 'DN' in subsection, [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK. There are some inconsistencies between the UR3 and BCFP accounts.

#### **Case study 6: anonymous**

UR3 reported:

'The returnee was removed on the 10 November 2015 on an incomplete safe conduct. The only personal detail filled in was his name. He claims that he was arrested at N'djili airport. UK escorts had told him that he would be met by Embassy officials and a charity at N'djili airport. This was not the case. He was imprisoned for about two weeks in an overcrowded cell and forced to sit next to the area used as a toilet. His ring was stolen from him. After his release I passed him the contact for the Bill Clinton Foundation for Peace.

'In a statement he wrote that, at Nairobi airport, the escorts asked him if he wanted to call the Embassy in Kinshasa. He spoke to a woman. She confirmed that she worked in the British Embassy and would meet him to guarantee his safety. She also told him that the Embassy worked with a charity for the safety of deported Congolese. He states that he asked the Congolese officers to check his travel document. They told him there was no point. During his interview at the airport he asked about the woman from the Embassy. He was told there was nobody who worked for the Embassy there. The Congolese officers had incorrect information on file about him.

'In Kinshasa he has attempted to get Congolese ID but only has the incomplete safe conduct with his name as identification. DGM informed him that he was in the DRC illegally, that he should not have been allowed into the country. He is not safe.'<sup>126</sup>

See also the case of TB in [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK. There are some inconsistencies between the accounts of UR3 and the BCFP.

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<sup>125</sup> Ramos, C, Unsafe Return 3 (p27), May 2019, [url](#)

<sup>126</sup> Ramos, C, Unsafe Return 3 (p27-28), May 2019, [url](#)

### **Case study 7: anonymous**

UR3 noted that CS7 was removed on 6/7 July 2012 using travel documents with no photo ID. And further stated:

'In a signed statement taken in Kinshasa and brought to the UK, a relative said that he waited from 15.00 hours and was told the flight would arrive from Accra at 5 a.m. the next day, Saturday. It arrived about 17.30 on Friday. The relative was told that the luggage had been lost and that the men would not be released. The returnees were driven to ANR via the DGM offices. Family followed the returnees to DGM. The driver told them that the returnees had been transferred to ANR.

'The returnee was allowed one phone call at about 22.30 to inform family that he was at ANR. His relative arrived at ANR at about 23.00 hours and was allowed 5 minutes to talk to the returnee. Officers did not have the authority to release him. The following day the detained men were interrogated and asked about the reasons for their removal from the UK. I received a text about 6 p.m. to say the men were with their families. The message further stated that they were safe, but, possibly, the previous "lot" to arrive in Kinshasa were not safe. The relative thought that having paid money and speaking the President's language had helped gain release.

'I continued to email and speak to this returnee and his family. He was traumatised by the interrogation about his activities in the UK. He was being watched by security services. He had no ID. He left Kinshasa for Eastern Congo. The returnee and his grandfather were killed in an attack by M23 rebels a few weeks later. His brother criticised the UK authorities, stating "mon frère a perdu sa vie pour leurs incomprehension". (my brother lost his life because of their lack of understanding).

'The British Consul relied on ANR assurances by phone that the three returnees had been released on the same day of arrival. It is well documented that ANR deny that people are being held in detention. She emphasised that the men picked up their luggage and were transferred with it to ANR. A relative of one returnee told me that he had nothing, no wallet, no suitcase.<sup>127</sup>

### **Case study 8: Adamo Kizey**

UR3 stated:

'In October 2015 I was in contact with Adamo Kizey (AK) during his detention in Campfield Immigration Removal Centre (IRC). He called me as he was being taken to Heathrow airport to say that his safe conduct document was incomplete and had the photograph of another man (See Appendix 2). Escorts told me by phone that they had doubts about the photo. AK states that escorts told him that there were three photos in the office and one of them was of him.

'The escorts contacted the Home Office and caseworker. I contacted family MP, James Berry. His staff stated that the Home Office and British High Commission in Nairobi were satisfied that the photo was of the returnee. The returnee was initially refused onward flight from Nairobi to Kinshasa on the

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<sup>127</sup> Ramos, C, Unsafe Return 3 (ps28-29), May 2019, [url](#)

document and was held for 24 hours at Nairobi airport. Escorts told me that the UK authorities were going to send photocopies of an old passport and that IOM would meet AK and assist him. When I said that IOM would not assist him, I was asked if I could contact a charity in Kinshasa, as “we need a solution”. The following day AK was put on a flight to Kinshasa. He was refused entry at N’djili airport initially.

‘British Embassy official, Alice Motion, met the returnee outside N’djili airport. She did not escort him during the immigration process. She told me over the phone that it was AK’s photo on the safe conduct and it could be used for ID purposes. At a meeting at DGM with Attorney General Kumbi Phanzu on 25 November 2015 it was determined through facial recognition that the photograph on the safe conduct was not of the returnee. Ms. Motion had given unreliable information. She is no longer in position...

‘The returnee and his DRC lawyer arranged to meet with Ms. Motion at the Embassy but they were not allowed inside.

‘The returnee alleges he was given 100 dollars by Ms. Motion who told him it was not an FCO problem but a Home Office problem. The returnee and his lawyer went to the United Nations Joint Human Rights Office (UNJHRO) in Kinshasa where they were told such matters did not fall within its mandate. They advised AK to go to the British Embassy. Human rights activists, clergy and Dr. Jill Alpes who have met the returnee in Kinshasa have confirmed that the photo was not of the returnee.

‘In October 2015 Dr. Hani Zubeidi sent a letter of complaint, a copy of the travel document and statements about this case to the Home Office. A reply (CMS Ref: 131100666) was received on 18 November 2015 stating that the returnee ‘has come into contact with a lot of personnel in the detention estate and they have all confirmed the photograph of your client reflected what was printed on his ETD’. I raised this case with Keith Vaz, then Chair of the Home Affairs Select Committee.

‘On 5th May 2016 he wrote AK was arrested and detained in the DRC on 7 November 2016 by Congolese Police. Money was paid by family in the UK for his temporary release. As he did not have a valid ID document, he was using a voter’s card with his photo but the name of another person. He was prosecuted in Court, firstly, under the name of VOVOKA, the name on the ID card, and then under his own name.’<sup>128</sup>

See also the case of Adamo Kizey in [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK.

### **Case study 9: anonymous**

UR3 noted:

‘The returnee was removed to the DRC in February 2018. He had been diagnosed with schizophrenia in prison in the UK. His mother told me that he had been hearing voices.

‘The patient record shows registration at Heathrow Immigration Removal Centre on 20 February 2018. It indicates a mental health problem and that

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<sup>128</sup> Ramos, C, Unsafe Return 3 (ps29-30), May 2019, [url](#)

the patient started taking Olanzapine in prison. He reported that he was under the care of a mental health team. Staff advise that a psychiatrist and MHT review asap.

‘The returnee was arrested on arrival at N’djili airport and taken to a holding centre, until it could be decided where to send him. It was believed ‘il est venu comme agent’. (he has come as a spy). He was held for two weeks.

‘The Pastor of a church in Kinshasa which engages with prisoners, providing food and clothing helped secure the returnee’s release. He has been arrested on two further occasions because of his behaviour and family have sent money for his release. Although family in the UK and Europe have tried to provide medication for him, it has proved difficult for people in Kinshasa, with little understanding of the illness, to encourage him to take his medication. He is hearing voices again.’<sup>129</sup>

### **Case study 10: anonymous**

UR3 stated that:

‘The returnee was removed on 15 November 2016... He was removed on an incomplete safe conduct. The attached photo ID obscured information... At N’djili airport the returnee was not taken through the immigration booths but taken into a side room. He was questioned. He was left waiting for some hours and then told to leave the airport. He had nowhere to go. The returnee was put in a taxi and, as he had been assured by escorts that IOM would assist him, he was taken to IOM. It was closed. The taxi driver allowed him to sleep in his taxi and took him back to IOM the following day. IOM stated they could not help anyone who did not have a reintegration package. They advised him to go to the British Embassy.

‘The returnee’s mental health has worsened since his arrival in Kinshasa. He is at risk. When friends in the UK have sent him items, they have been taken from him by people who threaten to report him to the authorities if he does not hand them over.’<sup>130</sup>

See also BCFP’s account of the case of ‘P’ in subsection, [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK. There are anomalies between the accounts of the BCFP and UR3 over the date of removal and events at the IOM offices<sup>131</sup>.

### **Case study 11: anonymous**

UR3 stated:

‘In an email to his UK lawyer the returnee described his imprisonment. “I was incarcerated for four weeks ....I was subject to daily beating due to the fact that I can’t speak the country language and I was accused of being a foreign rebel of some sort. I was held at Makala prison I wasn’t being fed all my belongings were taken from me. I fear for my safety on a daily basis.”

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<sup>129</sup> Ramos, C, Unsafe Return 3 (p30), May 2019, [url](#)

<sup>130</sup> Ramos, C, Unsafe Return 3 (ps30-31), May 2019, [url](#)

<sup>131</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#); BCFP, Written response 2, October and November 2019, [Annex N](#)

‘He was removed to the DRC on 28 December 2017 at a time of great tension and repression in the DRC. Elections had not taken place. The removal period had ended on 26 December and he intended applying for bail. In the early hours of 28 December he was taken from his room in an Immigration Removal Centre to the airport, where he claimed asylum. However, he was removed and arrived in Kinshasa on the same day. He asked to see his travel document but he was not allowed to see it. He alleges that a photocopied paper with his name but no photograph was handed over at N’djili airport.

‘He states that the DRC authorities were fully aware of his criminal history. He gave no information. His mother received a call telling her that, if she wanted to speak to him, she would have to pay 400 dollars. She was given details and she transferred money via Western Union. The returnee had come to Europe at the age of four and to the UK at the age of 13. All his family is in the UK. He maintains that returnees he had known in the UK were held in prison with him. Returnees in the prison were considered to be combatants.

‘Currently, he has a place to sleep. His mother sends him money for food. He is not recognised in the DRC and it is not possible to complete the necessary paperwork for ID. This is corroborated by a Congolese barrister who states returnees who have been out of the country for a long time will be unable to satisfy the requirements in law to acquire a voter’s card.

‘In the UK the returnee had been taking medication for PTSD. Like other returnees he suffered difficulties due to the sudden withdrawal of PTSD medication.’<sup>132</sup>

### **Case study 12: anonymous**

UR3 stated:

‘This returnee had arrived in the UK 26 years earlier. He had been signing for four years when suddenly detained whilst signing on 3 January 2017. A photo was taken. He was removed on 10 January 2017. He was given 50 dollars which were taken off him at the airport. At that time there was great unrest and violence in Kinshasa as there had been no election in November 2016.

‘He was interviewed and asked why he had been sent back. He was threatened with prison until his situation was “sorted out”, unless he paid money... 200 dollars were sent from the UK to a person in the DRC who went to the airport to secure release. The returnee had no ID and was unable to go out. Contact in 2019 has not been possible.’<sup>133</sup>

See also the case of ‘M’ in [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK.

### **Case study 13: anonymous**

UR3 stated:

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<sup>132</sup> Ramos, C, Unsafe Return 3 (ps31-32), May 2019, [url](#)

<sup>133</sup> Ramos, C, Unsafe Return 3 (p32), May 2019, [url](#)

'The returnee was raised in care from the age of eleven (Barnet Social Services). The date of arrival in the DRC, 12 November 2017, is stamped on the incomplete safe conduct. His photo is attached and obscures the information on the top right-hand side of the document. His partner said that they were in contact with a lawyer who advised the returnee to shout out and claim asylum at the airport. He did so but this was ignored. I spoke to the returnee in November 2017. He alleges returnees were sedated and he found speaking difficult... At N'djili airport other returnees were arrested. He avoided arrest as an official said he would pretend that he knew him, if he paid money. The official took him home where he stayed for about two weeks. He had to leave the address as the security forces turned up looking for him. He went to another family in December 2017. There is nobody he can trust.

'Returnee 13 told me that officers were filming as they disembarked from the plane. He saw his photograph in an office at N'djili airport along with tens of others. He recognised the face of his friend who was still in the UK. He told me not to tell his friend so as not to frighten him. I decided to tell his friend the following Monday morning so that he could immediately contact his UK lawyer. At N'djili airport the returnee had exchanged phone numbers with one of the returnees who was taken to prison. They agreed to contact each other when he was released but he has not heard from him... The returnee has expressed his fear at seeing people killed and how he fears for his own safety. The returnee is now "in the middle of nowhere". He has been beaten up many times. He has been robbed. He does not know the system and has no ID. He is scared to speak because he stands out because of his lack of language. He has had malaria.

'In February 2019 the returnee's partner told me that he is ill and needs money for medication. She said that men are often criticised for abandoning their families... She has not been able to contact him recently. I have not been able to contact him in February 2019. The family contacted Joan Ryan MP.'<sup>134</sup>

#### **Case study 14**

UR3 stated: '... At N'djili airport over 1,000 dollars was demanded for release from the airport. Family in the UK sent 500 dollars to secure release.'<sup>135</sup>

#### **Case study 15**

UR3 noted

'The returnee was removed on an incomplete safe conduct in 2017. Family in the UK spoke to the returnee when he was at Nairobi airport. A friend of his sister had friends in the DRC who would go to collect him at N'djili airport. They were waiting to hear how much to pay.

'I was told that the returnee was at N'djili airport with DGM. He had been given a phone to call the friend in the DRC who had confirmed to DGM that

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<sup>134</sup> Ramos, C, Unsafe Return 3 (ps32-33), May 2019, [url](#)

<sup>135</sup> Ramos, C, Unsafe Return 3 (p33), May 2019, [url](#)



they would collect him. Money would have to be paid before he would be allowed to leave.’<sup>136</sup>

### **Case study 16**

UR3 stated:

‘The returnee was not shown his travel document by escorts and was not given a copy of the document by Congolese Immigration. He believes there was no document.

‘The returnee was described as “dirty” and “crazy” by a human rights defender who met him in Kinshasa. He was homeless and had nowhere to stay and had slept on the street. Communication with his family was difficult and his children would cry when speaking to him. In early 2017 the returnee sounded very distressed... In 2017 the returnee was arrested outside Makala prison when I was speaking to him on the phone. I immediately contacted the Bill Clinton Foundation for Peace and Amnesty International. A BCFP human rights defender was in Makala prison and looked for the returnee but did not find him. The returnee had been taken inside the prison as it is forbidden to use a mobile in the vicinity of Makala prison. The returnee handed over a mobile phone in order to get out of Makala.

‘In 2019 it was not possible to make contact with him. His father confirmed that his son’s mobile had been stolen.’<sup>137</sup>

See also BCFP’s account of return in the case of ‘JOY’ subsection, [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK. There are inconsistencies between the account of UR3 and the BCFP.

### **Case study 17 - anonymous**

UR3 stated ‘Maintaining contact with this returnee has proved difficult. He has had repeated bouts of malaria. He has no family in the DRC.’<sup>138</sup>

### **Case study 18 - anonymous**

UR3 stated:

‘The returnee is a female who arrived in the UK on a visa. She claimed asylum in the UK when her family was targeted in the DRC. She claimed her family were supporting democratic change in the DRC in late 2016 when they were taken away by security agents. Neighbours told her they had been arrested. Their phone rings out. Their home was ransacked by state agents. ... She was removed on her own passport on 26 May 2018. Post return she has nowhere to live and no way to support herself. Mental and physical health issues are going untreated. At one point I asked the returnee if she was safe, she told me, “Je ne suis pas en sécurité. Je dors là. A l’église.” (I am not safe. I sleep there. In the church). Friends did take her in and it is believed she is with those friends at the present time. Her family is still missing.

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<sup>136</sup> Ramos, C, Unsafe Return 3 (p33), May 2019, [url](#)

<sup>137</sup> Ramos, C, Unsafe Return 3 (ps33-34), May 2019, [url](#)

<sup>138</sup> Ramos, C, Unsafe Return 3 (p34), May 2019, [url](#)

'When asked about her removal from the UK, she said: "Ils m'ont fermé les mains, le ventre". (They locked my hands, my stomach). At N'djili airport she was registered by DGM. It has been difficult for friends in the UK to maintain contact by phone with the returnee. A DRC barrister attached to the ICC met the returnee in Kinshasa.'<sup>139</sup>

See also BCFP's account of 'IK' in subsection, [Information provided by the Bill Clinton Foundation for Peace](#) / Cases of return from the UK<sup>140</sup>.

### **Additional cases**

UR3 stated:

'One returnee did not make further contact with me after replacing his UK mobile. He had been met by family at the airport. I have been informed that a second returnee left the airport. A third returnee is believed to have left the DRC.

'The family of a returnee told me by phone that he had died from malaria following his removal.

'At a meeting with a family in London I was informed of the death of a relative at the hands of the state soon after his arrival.'<sup>141</sup>

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### **EASO queries, Cedoca COI focus and FCO investigations**

7.4.14 A COI query about the treatment on return was sent to EU member states by the European Asylum Support Office (EASO) on behalf of the Home Office. Belgium, Denmark, Ireland, Netherlands, Norway, and Sweden provided responses to the query and a compilation response was produced by EASO on 3 July 2019. The source information included in the response is based on publicly available information from a range of sources:

'Updated information on the treatment of returnees to Kinshasa by the immigration authorities or other state agencies was scarce among all sources consulted.

'In June 2019, Catherine Ramos, director of the British organisation Justice First, published an update of previous reports on the treatment of Congolese repatriated from UK to DRC between 2015 and 2019. According to this source, there were cases of returned Congolese being detained upon arrival at N'djili airport, requested to pay airport officials in order to avoid arrest or leave the airport, accused of being a 'spy/combatant, if they do not hand over items sent to them from the UK.' Other problems faced by returnees and listed by this source include: disappearance, destitution and hunger as result of not having any family members in Kinshasa, lack of identification documents, no access to medication for schizophrenia, HIV and PTSD, exposure to malaria and typhoid. Further, the same source noted:

'An allegation which is not being taken into consideration when assessing risk on return is that Congolese people, formerly resident in the UK, have

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<sup>139</sup> Ramos, C, Unsafe Return 3 (p34), May 2019, [url](#)

<sup>140</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#); BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>141</sup> Ramos, C, Unsafe Return 3 (p35), May 2019, [url](#)

been recruited by the DRC authorities and are now working with DGM in Kinshasa. These are people who have been part of Congolese communities in the UK, who have attended demonstrations, weddings, parties and funerals and who have photographs of such events. According to a source, the new computer system at N'djili airport holds the names of all those who have claimed asylum. A Congolese detainee in a UK Immigration Removal Centre told me that, during his re-documentation interview with the Congolese Immigration official based in London, the official proposed he go back to the DRC to "work with us".<sup>142</sup>

7.4.15 CGRS COI Focus, June 2019, noted:

'Catherine Ramos is the only source to mention detention and ill-treatment following a forced repatriation of Congolese nationals (from Great Britain). The other sources consulted do not mention any such problems.

'The report (ambtsbericht) by the Dutch authorities published in December 2018, which specifically mentions the return of Congolese nationals, states specifically with regard to minors:

"There are no indications that children who have returned from abroad have landed on the street or have been treated badly by authorities.[...] UFM's can return to family if they cooperate in this. If the family does not want this or cannot be found, the Don Bosco reception centre... is prepared to receive these UFM's until at least their eighteenth birthday. Over the past four years, no UFM's have been forced to return from the Netherlands to Kinshasa"  
[translation]

'This report also indicates the position of the UNHCR with regard to repatriated Congolese nationals (without specifying the country of origin):  
"With regard to the return of rejected asylum seekers from the DRC, the UNHCR takes the position that this depends on the place of origin and the situation at the time of return. In short, it must be considered on a case-by-case basis. For rejected asylum seekers there are no formal impediments or harassment on the part of the government, but the local security situation can of course have a major influence on the way in which a rejected asylum seeker can take up his or her life. Return. As far as is known, adult or minor refused asylum seekers who have left the country without an exit visa from the DGM do not experience any problems with the authorities upon their return. There are no known cases of (forcibly) returned migrants being ill-treated by the authorities upon arrival. There are no signs that persons returning from abroad to their own residential area are more likely to be at risk than other groups in the regions. It is not known whether deported Congolese nationals travelled onwards to the regions where they come from"  
[...]. [translation] The USDOS report published in March 2019 devotes a chapter to freedom of movement, in which allusion is made to border controls (generally but not specifically for the repatriation of Congolese nationals from abroad to Ndjili/Kinshasa):

"The SSF and RMGs established barriers and checkpoints on roads and at airports and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes

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<sup>142</sup> Ramos, C., Unsafe Return 3(p23), May 2019, [url](#)

detaining them until they or a relative paid. The government required travelers to submit to control procedures at airports and ports during domestic travel and when entering and leaving towns”.

‘Questioned regarding potential problems which Congolese nationals may have encountered during repatriation organised by Belgium in the past, on 5th April 2019, Geert Verbauwhede of the OE [of the Belgium Immigration Office] responded that none had occurred. He furthermore explained that there had not been any particular factor having an impact on the reception reserved for them on arrival (for example, the possession of a type of travel document - laissez-passer or ordinary passport -, the means of return - with or without escort -, compliance with the applicable legislation regarding migration, the fact that Belgium is the country of departure).

‘The last repatriation of Congolese nationals from Brussels to Kinshasa took place on 26th March 2019 on a flight organised jointly by [FRONTEX](#) and the following countries: Belgium, Germany, Switzerland, Austria, Hungary and The Netherlands. This flight departing from Brussels concerned Congolese (seven, of whom three were from Belgium) and Guinean nationals. This collective repatriation was announced on the website of the organisation Getting the Voice Out from 24th March 2019 (the website also mentions the return on this flight of Senegalese nationals), but the organisation did not publish any information about how it was conducted or about reception conditions in Kinshasa. The immigration officer responsible for monitoring their reception at Ndjili confirmed that there had been no problem on arrival: "After passing through the formalities of the DGM, they went home [...] there was no ANR check". [translation]

‘Moreover, Cedoca asked four human rights organisations active in the DRC[...] if they had, since the last COI Focus (July 2018), any information relating to problems encountered by Congolese nationals repatriated from Belgium. Three of the four associations contacted responded to this request and confirmed that they had not recorded any problems during repatriations carried out by the Belgian authorities:

‘Association A answered on 7th May 2019:

“Regarding the information relative to forced repatriation of Congolese nationals organised in Brussels to Kinshasa between July 2018 and April 2019, we confirm the information you have, as we have not received any information to the contrary. We do not have any information according to which people may have been blocked or arrested on their return to Kinshasa”. [translation]

‘On 7th May 2019, Association B indicated that "the information in your possession is correct. There are no problems". [translation]

‘Lastly, Association C explained in an e-mail dated 9th May 2019: "We have not yet recorded any cases of the arbitrary arrest of a person or several persons deported from Belgium in the past year and from January 2019 to May [2019]...". [translation]

'The IOM indicated in an e-mail of 13th May 2019: "Up to now, no returnee has encountered any problems with the national authorities at the time of his voluntary return"...' [translation]<sup>143</sup>

- 7.4.16 In response to an EASO policy query about returns to the DRC asked of EU member states in June 2019, the Belgium authorities responded to question of whether returns are met by Belgian officials at N'djili airport:

'Yes (sometimes – in the framework of specific individual cases or in the framework of NRO – JRO, organized with FRONTEX or by Belgium alone – until three years ago). The stories of ill treatment of returnees resurface frequently (especially in the UK). The Belgian Immigration Liaison Officer in Kinshasa (who is also functioning as an [European Liaison Officer] EURLO) has already made inquiries on many occasions about these allegations. These allegations could never be corroborated. There is no trace of system(at)ic ill treatment. It is true that DEPA returnees (especially those removed by NRO – JRO) will be interrogated not only by the DGM but also by the intelligence services in Kinshasa. But those people can go home at the latest the day after arrival (most of the time the same day).'<sup>144</sup>

- 7.4.17 The Belgian authorities added in response to the question of whether there were specific groups that the DRC authorities are interested: 'There are no specific risks linked to return of [rejected asylum seekers] RAS or FNOs. Anyway, for every individual returnee, whatever his / her previous status was, an individual assessment is made by the Immigration Office (art. 3 and 8 ECHR).'<sup>145</sup>

- 7.4.18 In the same EASO policy query, the Swedish government observed with regard to the question of whether its officials met returnees on arrival in Kinshasa: 'No. We use the help of the EURLO (European Return Liaison Officer) in the DRC when acquiring temporary travel documents in return cases. The EURLO may assist at the airport if such a need would arise. To our knowledge this has not been the case so far.'<sup>146</sup>

- 7.4.19 At request of the Home Office, the British Embassy (BE) in Kinshasa made enquiries between June and November 2019 of informed sources in Kinshasa about the treatment of returnees. This included contacting local NGOs, the UN Joint Human Rights Office (UNJRO), the International Organisation for Migration (IOM), and other western Embassies; the BE also provided its observations on the treatment of returnees. Responses to these enquiries are appended to this note (see Annexes E to O).

- 7.4.20 Sources were contacted by email and in person, and sent an electronic questionnaire which was, in the case of UNJRO, IOM and the Congolese NGO – the Bill Clinton Foundation for Peace, followed up with further written questions in order to clarify information provided in the original responses. Relevant excerpts of these responses are provided below; the full responses are appended to this note.

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<sup>143</sup> CGRS, COI Focus – DRC returns (ps12-13), 14 June 2019, [url](#)

<sup>144</sup> Belgium government, EASO policy query 108, July 2019, [Annex D](#)

<sup>145</sup> Belgium government, EASO policy query 108, July 2019, [Annex D](#)

<sup>146</sup> Swedish government, EASO policy query 108, July 2019, [Annex D](#)

7.4.21 Representatives of the Canadian, Dutch and German Embassies in Kinshasa contacted by the BE in June 2019 confirmed that all 3 countries undertook returns of unsuccessful asylum seekers and/or foreign national offenders to the DRC. None were aware of problems on return such as arrest or detention, albeit none monitored returns or had officials present on arrival<sup>147 148 149</sup>.

7.4.22 The UN Joint Human Rights Office (UNJRO) reported in July 2019 that, on the general political and human rights situation:

‘Despite a slight opening up of democratic space observed since the December 2018 elections, overall, the human rights situation in the DRC has only slightly improved. Between January and May 2019, UNJHRO documented a 12% decrease in the number of violations documented as compared to the five previous months (August-December 2018). This is largely explained by a slight decrease both in the number of violations committed by State agents, particularly from the national police, and in the number of abuses committed by armed groups. However, the number of violations and abuses documented remains high. Of the total number of violations, 60% are attributable to State agents, particularly FARDC soldiers (29%), and 40% to armed group combatants.

‘Following the December 2018 elections and commitments made by President Tshisekedi to improve the human rights situation, there has been a slight opening up of the democratic space. The most visible signs of this positive development were the release of some political prisoners and prisoners of opinion, the return of political exiles and the holding of several peaceful demonstrations.

‘However, obstacles to freedom of the press, attacks and threats against human rights defenders and other civil society actors and the repression of several peaceful protests, including through lethal force, continued to be observed. The vast majority of these violations were committed by State agents, mainly from the national police.

‘The human rights situation remains extremely worrying in conflict-affected provinces, where nearly 80% of all violations were documented...’<sup>150</sup>

7.4.23 On the subject of returns specifically, the UNJRO observed that:

‘... [it] does not specifically monitor returns of FAS and FNO, but it will investigate allegations of violations of their rights brought to its attention. Between 2011 and 2012, the UNJHRO was informed of three cases where returnees to Kinshasa were arrested and taken under custody by the intelligence services (ANR) upon arrival at the airport. Since then, the UNJHRO has not been informed of any similar cases... the returnees that the UNJHRO met in 2011 and 2012 declared that they were arrested upon arriving at the airport for having an opinion contrary to the government, and that they were also threatened by the security services.’<sup>151</sup>

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<sup>147</sup> German Embassy (Kinshasa), Response to BE query, July 2019, [Annex E](#)

<sup>148</sup> Canadian Embassy (Kinshasa), Response to BE query, July 2019, [Annex F](#)

<sup>149</sup> Netherlands Embassy (Kinshasa), Response to BE query, July 2019, [Annex G](#)

<sup>150</sup> UNJRO, Response to BE query, July 2019, [Annex H](#)

<sup>151</sup> UNJRO, Response to BE query, July 2019, [Annex H](#)



- 7.4.24 The UNJRO clarified that it ‘... was informed [of these arrests] by members of [the returnees]’... families. They reportedly returned from Ireland and France. Of the three cases, only one concerned an unsuccessful asylum seeker. Unfortunately, UNJHRO does not have any additional information on these cases... UNJHRO did not investigate the allegations and therefore cannot confirm the arrests and threats.’<sup>152</sup>
- 7.4.25 On being asked which Congolese groups overseas might be of interest to the authorities in the DRC, the UNJRO observed: ‘The Congolese abroad who may be of interest to Congolese authorities could be political opponents, journalists, human rights activists or those who were witnesses of human rights violations’. The UNJRO clarified, however, that it ‘does not keep a list of persons abroad in this situation [i.e. at risk]’ but its assessment was based on evidence of ‘Numerous documented incidents of attacks and threats against journalists, human rights defenders and other civil society actors in the country, as well as ill-treatment documented in some cases of illegal detention.’<sup>153</sup>
- 7.4.26 The UNJRO response also noted that it ‘works in partnership with several NGOs that have reported on cases where returnees from abroad were victims of human rights violations upon their return to the DRC’. Adding that the NGO Les Voix de sans Voix (VSV) may have more information about the treatment of returnees (see response below)<sup>154</sup>.
- 7.4.27 Five NGOs were contacted by the British Embassy, Kinshasa, in July and November 2019, and emailed written questionnaires:
- 1 did not respond (Association Congolaise pour l’Accès à la Justice / Congolese Association for Access to Justice) (ACAJ));
  - 1 declined to respond (Association africaine de defense des droits de l’homme / Africa Association in Defence of Human Rights (ASADHO)); and
  - 3 provided responses
    - Voix de sans of Voix / Voice of the voiceless (VSV);
    - Les Amis de Nelson Mandela pour le Defense des Droits Humains / The friends of Nelson Mandela in Defence of Human Rights (AMNDH))
    - Bill Clinton Foundation for Peace (BCFP) (see Annexes I, J, M, N and O below).
- 7.4.28 The BCFP provided additional information following further written questions and interview at the British Embassy in Kinshasa. This is discussed in the following sub section, [Information provided by the Bill Clinton Foundation for Peace](#).
- 7.4.29 The executive director of VSV observed that the NGO did monitor returns between 2007 and 2009 (but did not indicate that it has done since then). The director went on to observe that returnees faced ‘[i]nformal hassles

<sup>152</sup> UNJRO, Response to BE query, July 2019, [Annex H](#)

<sup>153</sup> UNJRO, Response to BE query, July 2019, [Annex H](#)

<sup>154</sup> UNJRO, Response to BE query, July 2019, [Annex H](#)

/harassments from migration services agents (DGM, RVA): They assume that returnees have money and high valuable belongings. Detention and maltreatment (mostly “combattants”). However, the representative was unable to provide information about any investigations or details about the incidents, noting, in response to a later question about groups that the authorities had an interest, that it had ‘[n]o evidence, we lost documents in a fire sometimes [sic] ago.’<sup>155</sup>

- 7.4.30 On the subject of which groups the DRC authorities have an interest in, the VSV director considered ‘[o]ld [i.e. the pre 2019] government: “Combattants”, political asylum seekers, ex-army forces. New regime: Not applicable. All we know is that the president asked all those people who are living illegally abroad to come back.’<sup>156</sup>
- 7.4.31 The executive director of AMNDH stated that the organisation monitors returns ‘but not like it used to be in the past because we noticed that there is halt since the new regime took over.’ The director further explained how they monitor: ‘When we have been informed [of a return] on time, we go to the airport to observe how returnees are being handled. Sometimes we do inform migration services, some other times we do it in a clandestine way but in collaboration with family members of the subject.’<sup>157</sup>
- 7.4.32 In response to whether returnees faced problems on arrival, the AMNDH director noted: ‘Yes, in the past they used to be secretly detained in ANR prisons without right to receive visitors. Some detainees used to disappear if there were no denunciations from activists/Human rights organisations... Some were investigated when we still had funding and human resources to work on cases. We were successful in getting some people release[d] from prisons.’<sup>158</sup>
- 7.4.33 On the reasons why returnees were detained, the director of AMNDH observed that ‘During Kabila’s regime [...] They were considered as being hostile to the government.’ The director also observed in responses to which groups of returnees the authorities are interested ‘... in Kabila’s regime they were interested in groups of “Combattants” because of their ‘Hostility to the government’. The director claimed that ‘[c]ases were investigated with migration departments of France, Belgium, Spain, Japan.... They might have evidence [see also responses from BE government above]’<sup>159</sup>
- 7.4.34 In response to the BE query about problems faced by returns, the head of mission, International Organisation for Migration (IOM), Kinshasa, noted that, in regard to cases that the IOM had assisted ‘[o]ne returnee from Belgium was taken for further interview after arrival at the airport. His Laisser-Passer [emergency travel document] mentioned that his former [...] employee [sic] to the DRC’s Intelligence Service (ANR)... [On whether this was investigated] No. At the request of the migrant, IOM could attend the interrogatory [interrogation / questioning]’. The IOM official further explained,

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<sup>155</sup> VSV, Response to BE query, July 2019, [Annex I](#)

<sup>156</sup> VSV, Response to BE query, July 2019, [Annex I](#)

<sup>157</sup> AMNDH, Response to BE query, July 2019, [Annex J](#)

<sup>158</sup> AMNDH, Response to BE query, July 2019, [Annex J](#)

<sup>159</sup> AMNDH, Response to BE query, July 2019, [Annex J](#)

‘This was the only confirmed case. IOM had to verify once [sic] [an] allegation made by a migrant in [sic; from the] UK, but after interview with the migrant himself, it turned that it was fake allegations.’<sup>160</sup>

7.4.35 On being asked about the DRC government’s attitude to returnees from Europe and whether this had changed under the new president, the IOM representative observed ‘[n]o. [The] Congolese authorities continues [sic] to welcome returning migrants and encourage the return assistance that include re-integration package[s].’<sup>161</sup>

7.4.36 The Second Secretary Political (SSP) at the British Embassy in Kinshasa observed in September 2019 that

‘Other than the complaints received in the report Unsafe Return 3 (revised and released in May 2019), the SSP was not aware of problems faced by returnees based on the information available to him.

‘He had no reason to believe that returnees would be held in detention by the police, over and above anyone else.

‘Asked whether bribery may be an issue at the airport, the SSP consider corruption a universal issue: bribery was commonplace. Not aware that returnees are asked for bribes but it is possible.’<sup>162</sup>

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#### Information provided by the Bill Clinton Foundation for Peace

7.4.37 Catherine Ramos stated in Unsafe Return 3 that she contacted the Bill Clinton Foundation for Peace (BCFP) for information about returnees and contact numbers. The BCFP are also cited as either a source or as having been contacted in 4 of Unsafe Return 3’s 18 case studies (CS): CS4 (Aristote Monsego), CS5, CS6 and CS16.<sup>163</sup>

7.4.38 The British Embassy (BE) in Kinshasa and the Home Office (HO) in the UK emailed, spoke to and met the director of the BCFP on several occasions between the end of August and mid-November 2019 to obtain and clarify information held by the BCFP about the treatment of returnees. This resulted in the following:

- A BCFP written response of 10 September 2019 (original in French, English translation provided by the BE) in response to a written questionnaire (also sent to other Congolese NGOs contacted by the BE)<sup>164</sup>
- A BCFP written response (in English) of 28 October 2019 in reply to further questions from the Home Office<sup>165</sup>

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<sup>160</sup> IOM, Response to BE query, 7 August 2019, [Annex K](#)

<sup>161</sup> IOM, Response to BE query, 7 August 2019, [Annex K](#)

<sup>162</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

<sup>163</sup> Ramos, C, Unsafe Return 3 (ps 8, 25-27, 33-34), May 2019, [url](#)

<sup>164</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>165</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

- BE/HO notes of an interview (conducted in English) at the BE in Kinshasa with the director of the BCFP on 4 November 2019<sup>166</sup>
- An email (in English) from the director of the BCFP of 9 November 2019 responding to outstanding questions from the Home Office after the interview of 4 November 2019<sup>167</sup>
- A HO summary of 31 email chains (written in a mixture of French and English) sent between October 2006 and May 2018 forwarded to the HO by the director of the BCFP on a range of issues, including returns from the UK<sup>168</sup>

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## Background

7.4.39 The director explained that the BFCP was founded in 1997 in Congo-Brazzaville but is now based in Kalumu town, Kinshasa. It has 10 staff<sup>169</sup> and is funded by donations from its members and ‘people with a good heart’<sup>170</sup>.

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## Monitoring of returns

7.4.40 The director stated that the BCFP monitors returns from the UK and Europe more generally<sup>171</sup> <sup>172</sup>, claiming that the BFCP has observed around 70 returns from the UK since 2000, including 10 or more since 2015. The BCFP monitors returns when informed by the returnee’s lawyers, family or other persons. The director acknowledged that he could not be exact about the numbers or details of cases that BCFP had been monitoring, noting that it did not have a computer in 2000 and although it later obtained a computer this had been stolen. However, the BCFP had managed to log a few of the cases<sup>173</sup>.

7.4.41 The returns included unsuccessful asylum seekers and those who had ‘committed serious offenses’ outside of the DRC<sup>174</sup>. The director, however, was unclear as to whether the BCFP monitored voluntary and involuntary returns stating in the written response of 10 September 2019 that ‘we do the monitoring of the Congolese returnees that include those who chose freely to return to DRC from Europe, and those who returned from UK and chose to go back to DRC.’<sup>175</sup> However, in his written response of 28 October 2019 he observed in answer to a question whether voluntary returns are treated differently from involuntary returns, ‘[w]e are not informed about the case of the voluntary returns from UK to DRC, so I cannot tell.’ While in his email

<sup>166</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>167</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>168</sup> Home Office, Summary of BCFP emails, 13 November 2019, [Annex O](#)

<sup>169</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>170</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>171</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>172</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>173</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>174</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>175</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

response of 9 November 2019 he noted 'I cannot confirm that [the returnees assisted]... were forced to remove [sic] from UK.'<sup>176</sup>

7.4.42 The director explained how BCFP undertakes the monitoring in practice:

'When we are informed of [a return]... we inquire about the date of their deportation, the time they will land at N'djili Airport/Kinshasa. Our lawyer [redacted] and myself are always present sometimes with the family of the returnees.

'We provide... the names of the returnees we are expecting to [Congolese] immigration officers in order to facilitate us to meet the returnees. Sometimes, they do not allow us to see them.

'According to Security agents, they do not let us meet some returnees for security reasons, especially those who have been filed by ANR (Intelligent [sic] agency) and they presented as dangerous.'<sup>177</sup>

7.4.43 The director added that the BCFP go to the 'waiting hall in the airport Ndjili'. Further noting that the BFCP '... visit them [returnees] sometimes to hear their complaints or the problem they are facing so that we can forward them to the local authorities, especially to DGM Directors and ANR's Director in a soft way. And we release a public note in which we denounce their poor condition.'<sup>178</sup> It is not clear from the context of this statement in his 10 September 2019 response where the returnees were when visited but the director observed in his written response of 28 October 2019 that returnees may be detained in a 'DGM cell or ANR undergrounds cells'. He added when asked how he knew where people were kept '[w]e used to be informed. Formerly; the cell in Kinshasa named Kin-Manzire. After they transferred it to their Headquarters [sic] and later to their building situated in the Haut Commandement.' He claimed to have visited these locations<sup>179</sup>.

7.4.44 See also subsection below 'Contact with western Embassies, human rights organisations and the DRC authorities' for information about the BCFP's links with DGM and ANR.

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## General treatment of returns

7.4.45 In his written response of 10 September 2019 the director observed: 'Certain of them [returnees] when they arrived at the airport, the immigration offices used to arrest them and detained in their cells. Certain were set free from the DGM and others often sent to the ANR for identification. Their treatments are inhuman because the DGM don't feed those who are detained in their cells. The condition of detention in the cell is very bad.' When asked to explain what he meant by 'certain' returnees were arrested while others are set free at the interview on 4 November 2019 he clarified:

'[If] [t]he person's name is on a "wanted list" they are arrested on arrival. These people are identified by agents of the national security agency (ANR) which has an office in the DRC Embassy in the UK (there were 2 or 3 ANR

<sup>176</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>177</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>178</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>179</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

agents in the UK, [the] BCFP [are not] sure how many there are currently). People who are seen as “dangerous”, who are “combatants” – political activists – living in the Diaspora, are arrested. ANR has offices in other countries too. [The director] knows about the ANR activities in the UK as talked with ANR agents who have returned to the UK.

‘The former DRC Ambassador to the UK, Barnabé Kikaya Bin Karubi, had ANR officers target Congolese opposition in the UK. An opposition activist in the UK, Professor Reverend Julien Ciakudia, complained to the UK parliament about the behaviour of Bin Karubi in 2014.

‘Returnees are not treated well; people are not well treated in prison generally.

‘Everyone who is deported is “suspected” and followed-up by ANR. [The director] thought everyone who travels to the UK, including regular migrants (on business or visitors) would be of interest to ANR, gave the example of an Anglo-Congolese who was arrested and detained on return to the DRC.

‘Asked to clarify if everyone who goes to the UK is of interest – [afterall] many 1,000s of people travel to and from the UK each year. [The director] acknowledged if people not arrested, then they are questioned. Some people have to pay money to pass through the airport. Gave example of a Belgian-Congolese doctor living in Belgium who returned to Kinshasa and accused of plotting against the government who was stopped.’<sup>180</sup>

- 7.4.46 When asked if the treatment of returnees from the UK was different from that of those from other European states, in particular Belgium, France and the Netherlands, the director noted:

‘I cannot tell, but it seems to be the same. Because we monitored the cases of two persons one from Norway and the other from Ireland. They were... [JM] deported from Norway to Congo in the year 2016. He was arrested at the Airport in Goma in the Eastern a part of Congo and sent to prison in Kinshasa up to now under number RMP [...]. [...] from Ireland was arrested in Kinshasa on 25th May 2011, he was released on July 2019 this year. His file number is RP. [...].’<sup>181</sup>

- 7.4.47 In his written response of 10 September 2019, the director noted:

‘And if the returnee is not considered as dangerous, sometimes the Security officers ask for money before they release returnees at the Airport, and hand him to us before we hand them to their families.

‘Some of the returnees do not have family in DRC, without any valid documents from DRC. Another problem they face is the language barrier and the environment when we are interviewing them or their integration in the society.’<sup>182</sup>

- 7.4.48 In his written response of 28 October 2019, the director stated in response to the question of how and why a person was released ‘For the political grounds and the security reasons according to them.’ [This appears more

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<sup>180</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>181</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>182</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)



likely to be the reasons for why the person was detained in the first place.] However, he added in an email of 9 November 2019 '[i]t depends on the case.' He also noted that, in response to the question if money was required for a the release, how much and who paid for this:

'In DRC no one will be arrested and set free without paying some money. The amount paid depends on the gravity of the case. At times their families, people with good heart and the BCFP and so on [will pay]. The amount they asked start from 200US\$ up to 10.000 US\$. Because we had a proof of a British called [M] paid on amount of 7.000US\$ to ANR before being released by his family.

'[Money is provided]... Through the contribution of our memberships; Lawyers, family and people with good heart and so on.'<sup>183</sup>

7.4.49 The director stated that in general returnees faced 'At times arrestation [sic] and jailed in prison', although they were also 'very often' arrested and detained because they were 'suspected' people by the DGM and the ANR, and kept in a DGM cell or ANR underground cells<sup>184</sup>. The director also claimed that: 'There are ill treatment cases and injuries there was one deportee who is dead in the commune of Masina and your Embassy in Kinshasa has the file.' However, the BCFP did not provide further information about this case<sup>185</sup> while the Second Secretary Political at the British Embassy stated in September 2019 that the BE was not aware of problems for returnees<sup>186</sup>.

7.4.50 The director was asked if the BCFP were still in contact with returnees, the director noted in his written response of 28 October 2019 '[y]es. Certain are facing insecurity problems here lack of an identity, language and mental cases, have been reported.' However, the director was also invited to provide details of cases the BCFP maintained contact, but provided no further information. While he also noted that '[w]e are aware of so many cases of those return from UK... But the major problem we have, certain among them had changed their addresses. And therefore it is very hard for us to fellow their situations. Some of them were living underground.'<sup>187</sup>

7.4.51 On being asked why the DRC authorities have an interest in returnees from the UK, the director observed:

'They are considered as dangerous persons and being called as combatants. Also UK has strong [opposition]... The former Kabila regime did not respect human rights. The UK is a stronghold of opponents to former regime. Opponents in the UK seen as "stronger" than elsewhere, those in other countries. Most of them arrested – evidence of these documented by BCFP releases. Will send these releases.

'On being asked why UK was more of an opposition stronghold than other European states, such as Belgium and France, [the director] stated that [he]

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<sup>183</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>184</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>185</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>186</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

<sup>187</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

could not talk about France (or Belgium) as not informed of returns from these countries.

‘Asked if the situation for returnees was different under the Tshisekedi government, [the director] stated that the new president is willing but not able. Maybe things will change in the future. Explained that the alliance between Tshisekedi and Kabila does not give Tshisekedi much power to bring reforms.’<sup>188</sup>

- 7.4.52 The director acknowledged that the BCFP had not been ‘informed about any [returns] case[s] since he [President Tshisekedi] was brought at [sic] power [i.e. from January 2019].’<sup>189</sup>

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### Cases of return from the UK

- 7.4.53 The director claimed that the BCFP was aware of ‘many’ returns and observed in his written response of 28 October 2019 that ‘[w]e are aware of so many cases of those return from UK that you are talking about. But the major problem we have, certain among them had changed their addresses. And therefore it is very hard for us to follow their situations. Some of them were living underground.’ When asked to be more specific about the numbers of cases and their details, the director ‘referred to 70 cases assisted [since 2000]... However, BCFP only intervene if a returnee is arrested. It is possible that other returnees come back, are questioned and released/pass through airport. [The BCFP are] [n]ot informed of these cases.’<sup>190</sup>

- 7.4.54 On being invited to provide further specific details of returns cases, the director named 8 individuals in his written responses about whom he provided the following information:

- **Aristote Monsengo** ‘was deported from London on the 10th October 2016’<sup>191</sup>. Following his arrival the BCFP did ‘follow [sic] his case from the airport Ndjili to the DGM and in the ANR where he got disappeared up to now’<sup>192</sup>.
- **TB** was deported from London on the 10th November 2015<sup>193</sup>. The BCFP ‘welcome[d] him at the airport and he was sent to the DGM headquarters [sic] they detained him for some days’. The BCFP also provided limited information about the circumstances of the release.<sup>194</sup> No further details were provided about the case.
- **DN** was ‘deported’ on the 2 December 2016<sup>195</sup>. The BCFP claimed to have ‘helped him to be released [from]... the DGM.’ Adding at the interview on 4 November 2019 that DN was ‘arrested first at the airport,

<sup>188</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>189</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>190</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>191</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>192</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>193</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>194</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>195</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

detained a week then released with the help of BCFP[.]’ Asked for further information, the director also noted that ‘[DN] was arrested by the ANR as [we] were told the next day by one [of the] DGM’s [...]inspector[s]. We even published a Press Release to denounced [sic] his arbitrary arrests.’<sup>196</sup> No further details were provided about the case.

- **M** was ‘deported’ on the 10 January 2017<sup>197</sup>. No further information was provided<sup>198</sup>.

**P** was ‘deported’ on the 28 November 2016<sup>199</sup>. The BCFP provided further details about the case, some of which are not consistent with information provided in UR3<sup>200</sup>.

- **JOY** – the BCFP provided details about his arrival not mentioned or consistent with UR3<sup>201 202</sup> At the interview on 4 November 2019 the director explained that he was

‘Informed of [the] return by Catherine Ramos... arrested... for using his phone outside Makala prison. The director could recall the date of his arrest but did not remember exactly the date of JOY’s arrival at the Airport in Kinshasa. Will check his notes and send more details.’

The director added in his email of 9 November 2019 that JOY ‘was detained for speaking over [the] phone outside of the prison central of Makala’. But no further information was provided<sup>203</sup>.

- **Adamo Kizey** ‘was deported in October 2015 and arrested several times in Kinshasa. For instance he was arrested from 07 to 08 November 2016 by special Police Branch (Bureau 2) at Kasa-Vubu roundabout in Kinshasa.’<sup>204</sup> The director added in his written response of 28 October 2019 and interview of 4 November 2019 that Mr Kizey:

‘... was deported on October 2015 we welcome him at the Airport. He was invited by the Court several times. On 7th November 2016 he was arrested by the police and we helped [him] to be released on 8th November 2016. He is facing insecurity problems here due to lack of national ID card (carte d’électeur) and languages... [Adding when asked why Mr Kizey was not arrested] AK did not get arrested at the airport because his lawyer came to welcome him. He was arrested afterwards because his ID was not the original.’<sup>205</sup>

- **IK** ‘deported’ on 26 May 2018, was ‘abandoned’ in Kinshasa and has a mental health problem<sup>206</sup>. The director explained that at the interview on

<sup>196</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>197</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>198</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>199</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>200</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>201</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>202</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>203</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>204</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>205</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>206</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

4 November 2019 that he did not have details of the case but agreed to forward these, which were held by the BCFP lawyer. No further information was provided<sup>207</sup>.

7.4.55 The director observed that the '[m]ajority of names mentioned were rejected Asylum seekers and others were forced to return.'<sup>208</sup>

7.4.56 After the interview of 4 November 2019 the Home Office invited the director to confirm which of the named returns were documented amongst the 18 case studies in Unsafe Return 3. No further information was provided. However, based on an analysis of the information the director provided, the Home Office considers that all 8 cases featured in Unsafe Return 3, as set out below:

BCFP case	Unsafe Return 3 case study number
Aristote Monsego	CS4
DN	CS5
TB	CS6
Adamo Kizey	CS8
P	CS10
M	CS12
JOY	CS16
IK	CS18

209 210

7.4.57 While the director was only able to name 8 cases in his written notes and interview, a further 3 cases of returns from the UK were mentioned in the email chains he forwarded to the Home Office (HO):

- RK returned from the UK in early 2017. This individual was not previously mentioned in the BCFP's written responses or interview with the British Embassy in Kinshasa (BE) / HO in October / November 2019. No information is provided about the return. The email chain is with a UK-based NGO.
- VL returned from the UK in early 2017. This individual was not previously mentioned in the BCFP's written response or interview with the BE/HO in October/November 2019. The email chain is with a UK-based NGO which noted the individual passed through the airport after money was paid; no further information is provided. [These details resemble the description of case study 15 in UR3<sup>211</sup>]

<sup>207</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>208</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>209</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#); BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>210</sup> Ramos, C, Unsafe Return 3 (ps 25-34), May 2019, [url](#)

<sup>211</sup> Ramos, C, Unsafe Return 3 (p33), May 2019, [url](#)

- MM returned in October 2006. This individual was not previously mentioned in the BCFP's the written responses to and notes of the interview with the BE/HO in October/November 2019. The email was from a UK-based activist alleging that MM was detained and beaten on arrival. No further information is provided about the case. The email was forwarded by BCFP to multiple but not to the British Embassy in Kinshasa<sup>212</sup>.

7.4.58 There is reference to another individual, MaM in the email chains. However, this individual is likely to be 'M', but no detailed information is provided<sup>213 214 215</sup>.

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### **Contact with western Embassies, human rights organisations and the DRC authorities**

- 7.4.59 The director was asked what contact the BCFP has with other human rights organisations: 'Yes, I do or we do work with ASADHO, Ange du Ciel, Human Rescue DRC, Dieu Défenseur Universel, Le Groupe Exporteur International, NGO Déclaration Internationale des Droits de l'Homme and collaborates with Human Rights Watch, Amnesty International, FIDH, Ligue Belge des Droits de l'Homme, UN Human Rights section in DRC and many others.'<sup>216</sup>
- 7.4.60 When asked why other organisations contacted by the British Embassy / Home Office had not indicated that problems occurred or were unable to provide details, the director at the interview on 4 November 2019 responded: 'BCFP has monthly meetings with the UN Joint Human Rights Office, most western embassies and other NGOs in Kinshasa. Also sends press releases of returns cases (where the person has faced difficulties) to these organisations; it's up to them to check returns, investigate and make reports.'<sup>217</sup>
- 7.4.61 On being asked what contact he had made with the British Embassy in the Kinshasa, the director observed in his written note of 10 September 2019 that 'yes, we release public notes and send the results of our investigations to the UK Embassy, and we publish them on social medias and online. I do not [know] about any other existing NGO who does the monitoring of the returnees.'<sup>218</sup> The Second Secretary Political at the British Embassy, however, stated that he was not aware of problems faced by returnees and that 'contact with the Bill Clinton Foundation for Peace (BCFP) was made for the first time in three years [since the case of Aristote Monsego in 2016], as far as the SSP was aware, this week [w/c 9 September 2019] (at the suggestion of the Home Office).'<sup>219</sup>

<sup>212</sup> Home Office, Summary of BCFP emails, 13 November 2019, [Annex O](#)

<sup>213</sup> Home Office, Summary of BCFP emails, 13 November 2019, [Annex O](#)

<sup>214</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>215</sup> Home Office, case information database, search 14 November 2019

<sup>216</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>217</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>218</sup> BCFP, Written response 1, 10 September 2019, [Annex M](#)

<sup>219</sup> British Embassy, Note of interview, 13 September 2019, [Annex L](#)

7.4.62 The director was asked about the BCFP's working relationship with Catherine Ramos: 'Mrs. Catherine Ramos came across one of our press release and she was very interested with it. And she started be in contact with us. That is all... Catherine Ramos informs BCFP of returns. BCFP copies her into its "press releases" about returns when these are issued.'<sup>220</sup> He also gave his views on accuracy of Unsafe Return 3:

'Well, unsafe report 3 has a section 18 cases studies of Congolese returned from the UK to the DRC since 2016 including BCFP cases... I have read the Report called Unsafe Return and all the contents were carefully noted. She has made a good Report which is accurately true and verifiable. She wrote this report through certain of our Press Release and the information we provided to her and many other NGOS and so on. If certain European countries who have their Embassies here don't say the truth to their Authorities about human rights abuses in DRC. Thus, we must thank Mrs.Catherine Ramos for her Report on deportees. If you were in the DRC during the authoritarian Regime of the former President Joseph Kabila Kabange, then you can't argue with me.'<sup>221</sup>

7.4.63 With regard to his links with the DGM and the ANR, the director commented that:

'I don't or we don't have relationship with the Direction Générale de Migration (DGM) General Office of Migration and Agence Nationale de Renseignement (ANR) National Security Agency. But we do have people within the DGM and ANR that we are collaborating with them to provide us some information and it is not free, at times they asked for some money before given [sic] us information about certain cases.'<sup>222</sup>

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Section 8 updated: 5 December 2019

## 8. Detention conditions

8.1.1 A number of sources report that conditions in detention centres, including at unofficial sites<sup>223</sup>, are inadequate and life-threatening<sup>224 225 226</sup>. The USSD report for 2018<sup>227</sup> observed:

'Conditions in most prisons throughout the country worsened during the year, aggravating the already harsh and life threatening conditions due to food shortages, gross overcrowding, and inadequate sanitary conditions and medical care. Even harsher conditions prevailed in small detention centers run by the ANR, Republican Guard (RG), or other security forces, which often detained prisoners for lengthy pretrial periods without access to family or legal counsel. Some civil society activists arrested in Kinshasa were

<sup>220</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>221</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>222</sup> BCFP, Written response 2, October and November 2019, [Annex N](#)

<sup>223</sup> Freedom from Torture (FfromT), A tool to silence... (p44), November 2018, [url](#)

<sup>224</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)

<sup>225</sup> UN HRC, Human rights situation report (para 71), 13 August 2018, [url](#)

<sup>226</sup> FH, Freedom in the World 2019 - DRC, undated 2019, [url](#)

<sup>227</sup> UN, Committee against Torture, Concluding observations... (paras 20 and 22), 3 June 2019, [url](#)



reportedly held in an underground cell operated by the RG at a military camp.’<sup>228</sup>

#### 8.1.2 The USSD also observed that

‘Because inmates had inadequate supplies of food and little access to water, many relied exclusively on relatives, NGOs, and church groups to bring them sustenance. The United Nations reported 223 individuals died in detention during the year, a 10-percent increase compared with the 201 deaths recorded in 2017. These resulted from malnutrition, poor hygienic conditions, and lack of access to proper medical care... Directors and staff generally ran prisons for profit, selling sleeping arrangements to the highest bidders and requiring payment for family visits.’<sup>229</sup>

#### 8.1.3 Sources identified a number of inadequacies in detention facilities that were a threat to life and health:

- Prevalence of violence, including torture
- Inadequate potable water, sanitation, ventilation, lightning and access to healthcare
- Overcrowding, malnutrition and poor hygiene
- Understaffing and poor training of staff leading to supervision of prisoners by other inmates
- Limited recreational facilities, undersupply of resources and poor maintenance<sup>230 231 232 233</sup>

#### 8.1.4 The UN documented over 5,000 prisoner escapes in 2017<sup>234</sup>, noting mass escapes continued into 2018<sup>235</sup> although at around 800 were significantly less than the year before<sup>236</sup>.

#### 8.1.5 While the government did allow the Red Cross, the UN and NGOs access to some prisons it ‘consistently denied’ access to national intelligence and Republican Guard facilities<sup>237</sup>.

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Section 8 updated: 5 December 2019

## 9. False / fraudulent documents

### 9.1 Corruption

#### 9.1.1 Transparency International (TI) ranked the DRC 161<sup>st</sup> out 180 countries in its corruption perception index (CPI) for 2018 (a low rank equates to relatively

<sup>228</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)

<sup>229</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)

<sup>230</sup> FfromT, ‘A tool to silence...’ (ps45; 48-49), November 2018, [url](#).

<sup>231</sup> UN HRC, Human rights situation report (para 71), 13 August 2018, [url](#)

<sup>232</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)..

<sup>233</sup> UN, Committee against Torture, Concluding observations... (paras 20 and 22), 3 June 2019, [url](#)

<sup>234</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)

<sup>235</sup> UN HRC, Human rights situation report (para 71), 13 August 2018, [url](#)

<sup>236</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)

<sup>237</sup> USSD, DRC human rights report 2018 (section 1c), March 2019, [url](#)

high levels of corruption)<sup>238</sup>. The USSD report for 2018 noted: ‘The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.’<sup>239</sup> While Freedom House (FH) observing on events in 2018 that ‘Extensive corruption in the government, security forces, and mineral extraction industries have corroded basic public services and development efforts. Appointments to high-level positions in government are often determined by nepotism and other malfeasance. Accountability mechanisms are weak, and impunity prevails.’<sup>240</sup>

#### 9.1.2 TI noted in in July 2019 that

‘[President] Tshisekedi has inherited a corrupt and inefficient state apparatus that struggles with its legitimacy and is embroiled in multiple deadly conflicts.

‘At the heart of the corruption and conflict are the forms of neopatrimonial governance and state capture that have defined politics in the DRC for decades. Powerful patron-client networks reproduce corruption and predation at every link of the hierarchy, putting the greatest burdens on low-ranking corrupt officials and ordinary citizens.’<sup>241</sup>

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### 9.2 Law on false / fraudulent documents

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

‘The law pertaining to the use of false documents in the Democratic Republic of Congo (DRC) is the Code Code Pénal Congolais (Congolesse Penal Code), Section IV: des Faux Commis en Ecritures, art. 124-127: A person using a fraudulent document with intent will be tried as the person who produced the false document (article 126). Prison term varies from six months to five years and or a fine (art. 124)[...].’<sup>242</sup>

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### 9.3 Identification of forged / fraudulent documents

#### 9.3.1 The EASO response of November 2016 also observed that:

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

‘The steps DGM undertakes to verify documents used to cross borders are described in DGM’s official website, under Control Procedure (Procédure de Contrôle) (3), as are the steps taken on discovering a fraudulent document (Mesures de Police aux Frontières) [...].’<sup>243</sup>

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<sup>238</sup> TI, CPI 2018, 29 January 2019, [url](#).

<sup>239</sup> USSD, DRC human rights report 2018 (section 4), March 2019, [url](#)

<sup>240</sup> FH, Freedom in the World (DRC), February 2019, [url](#)

<sup>241</sup> TI, DRC overview of corruption, 8 July 2019, [url](#)

<sup>242</sup> EASO, Query response, 17 November 2016, [url](#).

<sup>243</sup> EASO, Query response, 17 November 2016, [url](#)

- 9.3.2 The EASO response further observed, however, that none of the responding EU states were able to provide information on whether the Congolese authorities would be aware of anyone leaving the DRC on a false document or what happens in practice to person who left the DRC on a false document(s) and returns to the country<sup>244</sup>.
- 9.3.3 CPIT was not able to find additional specific information on the identification and punishment for use of fraudulent documents in the sources consulted – see [Bibliography](#).

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## 9.4 Prevalence of fraud / forgery

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

‘In correspondence with the Research Directorate, the President of the Association for Peace, Human Rights and Justice (Ligue pour la paix, les droits de l'homme et la justice, LIPADHOJ), a Congolese NGO that promotes human rights and works for the protection of victims' rights (VRWG n.d.), stated that there were [translation] "a lot" of fraudulent identity, administrative and legal documents in the Democratic Republic of the Congo (DRC) (LIPADHOJ 14 Mar. 2014).

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

‘According to the President of ACAJ, the prevalence of fraudulent documents [translation] "is mainly due to the dysfunction of the public administration, and to corruption, influence-peddling and the prevailing culture of impunity" (ACAJ 20 Mar. 2014). In correspondence with the Research Directorate, the Director of the Centre for Human Rights and Humanitarian Law (Centre des droits de l'homme et du droit humanitaire, CDH), an NGO located in Lubumbashi, in the province of Katanga, stated that fraudulent documents are being produced by government employees who [translation] "often erase any traces of their crimes, with a few exceptions" (CDH 30 Mar. 2014). The representative of the Embassy of Canada in Kinshasa also stated that there is [translation] "a thorny problem of impunity at all levels, with an unwieldy and ineffective bureaucracy" (Canada 26 Mar. 2014).’<sup>245</sup>

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

<sup>244</sup> EASO, Query response, 17 November 2016, [url](#)

<sup>245</sup> IRBC, Query response, 10 April 2014, [url](#).

- ‘Passports: Rare cases that we deal with once or twice a year and, very often, photos are substituted ...
- ‘Acts/certificates/attestations of birth: Twenty percent of cases are falsifications: The documents are not recorded in the civil status register .... [Because of the weaknesses of the civil status system,] it is easy for an individual to obtain false documents.
- ‘Death certificates and marriage certificates: One out of every two death certificates received last year for verification was falsified, [that is,] not recorded in the appropriate register, and two out of every three marriage certificates received last year were falsified, given that there was no information in the register for the year indicated.
- ‘Notices to appear and search/arrest warrants from Kinshasa: These cases are rare. Last year, we received only one false document of this kind. There was no information in the appropriate register, the stamp and the signature were both false, and the name of the signing authority was incorrect. ... the Inspector General of police stated that he would open an investigation to identify the culprit and take legal action against them.
- ‘Police certificates: We received four last year and two were falsified: no information in the identification register and the name of the signatory was incorrect.
- ‘Bank statements: A number are falsified. In five out of ten cases received, either the account number was correct but the amounts were incorrect, or neither the number nor the client's name existed. (ibid.)

‘After consulting the American and British embassies in Kinshasa, the representative of the Embassy of Canada also stated that 70 percent of marriage documents received by the Embassy of the United States and approximately 50 percent of civil status certificates obtained by the Embassy of the United Kingdom are falsified (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.’<sup>246</sup>

#### 9.4.3 The USSD human rights report for 2018 observed:

‘Because of inadequate administrative systems, passport issuance was irregular. As of January only fully biometric DRC passports were recognized. Officials accepted bribes to expedite passport issuance, and there were reports the price of fully biometric passports varied widely. There were also credible reports that the government refused to issue passports to civil society activists and opposition members critical of the government. On September 25, ACAJ director Georges Kapiamba reported that he was [not] able to travel after his passport was confiscated in 2017.’<sup>247</sup>

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<sup>246</sup> IRBC, Query response, 10 April 2014, [url](#).

<sup>247</sup> USSD, DRC human rights report 2018 (section 2d), March 2019, [url](#).

## Annex A: Belgium EASO response, February 2018

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

Only Belgium and Slovakia provided substantive responses to the query.

### EASO COI QUERY SYSTEM

Democratic Republic of Congo (DRC)

Date of the query 19 February 2018

Completion date 27 February 2018

Urgent Standard

### QUERY

Requesting Country United Kingdom

Organisation UK Home Office, Country Policy and Information Team

Phone/Fax [Redacted]

Contact [Redacted]

E-mail address [Redacted]

### Question/ Subject

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

### Context /Background of query (If needed)

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

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

Preliminary search (Websites and sources checked by the requesting EU+ country)

Refworld; ecoi.net; Google searches

### ANSWER

Responding country Belgium

Organisation CGRS

Name of author/expert [Redacted]

Phone/Fax [Redacted]

E-mail address [Redacted]

Answer:

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

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

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

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

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

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

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

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## Annex B: Slovakia EASO response, February 2018

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

Only Belgium and Slovakia provided substantive responses to the query.

### EASO COI QUERY SYSTEM

Democratic Republic of Congo (DRC)

Date of the query 19 February 2018

Completion date

Urgent Standard

### QUERY

Requesting Country United Kingdom

Organisation UK Home Office, Country Policy and Information Team

Phone/Fax [Redacted]

Contact [Redacted]

E-mail address [Redacted]

Question/ Subject

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

Context /Background of query (If needed)

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

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

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

### ANSWER

Responding country SLOVAKIA

Organisation Migration Office, Ministry of Interior of the Slovak Republic

Name of author/expert [Redacted]

Phone/Fax [Redacted]

E-mail address [Redacted]

### Answer

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

According to the Dutch Ministry of Foreign Affairs report on the DRC, published on 19 May, and having used a confidential source for reported information, 'Returnees risk being questioned upon return by the 'Agence Nationale de Renseignements (ANR)' (248).

The press release of the Bill Clinton Foundation for Peace (FBCP) posted on the foundation's Facebook page, on 21 October 2016, informed about a case of a deportee who was expelled from Great Britain and was detained in sub-human conditions in cell of the ANR in Kinshasa. The reason for his expulsion from Great Britain is not known but once he had arrived in his country he was considered to be a 'combattant' (249).

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

'Failed asylum seekers, in particular, can be in grave danger upon return. In theory, deporting states are not allowed to pass on information about the asylum history of deportees. In practice, leakages can occur. Based on information gathered in the field, through interviews with Congolese police officers, newly developing collaborations between deporting states and foreign police officers and the potential presence of intelligence agents at some countries' Embassies in Europe facilitate such leakages. Failed asylum seekers can be at risk upon return in cases where their application was unduly turned down, if they fabricated fraudulent documents in their quest to overcome the high threshold for evidence in asylum claims or because officials in countries of origin accuse asylum seekers of having tarnished the regime in power during their asylum application.' (250).

In the same source, the author reports:

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

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<sup>248</sup> Ministerie van Buitenlandse Zaken, Algemeen Ambtsbericht Democratische Republiek Congo, Den Haag, p. 91, 19 May 2016, (<https://www.rijksoverheid.nl/documenten/ambtsberichten/2016/05/19/algemeen-ambtsbericht-democratisch-republiek-congo-2016-05-19>), accessed 23 February 2018, working translation from Dutch.

<sup>249</sup> The Bill Clinton Foundation for Peace, Press Release No. 184/FBCP/CEI/2016, 21 October 2016, available at: ([https://www.facebook.com/search/str/+184%2FFBCP%2FCEI%2F2016/keywords\\_search?filters\\_rp\\_author=%7B%22name%22%3A%22author%22%2C%22args%22%3A%22182365755183497%22%7D](https://www.facebook.com/search/str/+184%2FFBCP%2FCEI%2F2016/keywords_search?filters_rp_author=%7B%22name%22%3A%22author%22%2C%22args%22%3A%22182365755183497%22%7D)), accessed 23 February 2018, summarized and translated from French.

<sup>250</sup> Border Criminologies [weblog], What Happens After Deportation? Human Stories Behind the Closed Doors of Europe, the University of Oxford, Faculty of Law, 9 Nov 2016, (<https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/11/what-happens>), accessed 23 February 2018.

access to water are all 'extra' services that prison inmates need to pay for themselves.

To avoid problems upon return, a large number of those deported to DRC with whom I spoke had arranged for safe passage by asking family members to make informal arrangements with police officers at the airport.

These arrangements cost between 20\$ to 200\$. Men and women who fail to make these arrangements can see themselves confronted with the arbitrary behavior of police officers, such as the confiscation of their luggage –often the only belongings they managed to save at the time of deportation after years of living abroad' (<sup>251</sup>).

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

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

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

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

- Crer (collectif contre les rafles, les expulsions et pour la régularisation), [weblog], Les carnets noirs: Expulsions vers la RDC, état des lieux et responsabilités, June 2014, ([http://theowl.hotglue.me/Refugees\\_CarnetsNoirs](http://theowl.hotglue.me/Refugees_CarnetsNoirs)), accessed 23 February 2018.

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<sup>251</sup> Border Criminologies [weblog], What Happens After Deportation? Human Stories Behind the Closed Doors of Europe, the University of Oxford, Faculty of Law, 9 Nov 2016, (<https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/11/what-happens>), accessed 23 February 2018.

## Annex C : CGRS email, March 2018

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

Dear [redacted],

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

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

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

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

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

Kindest regards,

[Redacted]

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## **Annex D: EASO Policy query 108, (date of reply) July 2019**

An European Asylum Support Office (EASO) response compiling the answers from EU members states to a request for information about the policy of EU members with regard the return of nationals of the Democratic Republic of Congo.

Query 108 is comprised of input from 21 member states. This includes 7 member states who responded but requested that their responses were not disclosed.

### **Easo query system**

#### **Compilation of all original replies**

Query title: EASO Query (108) - Return of nationals of the Democratic Republic of Congo

Date of Query: 14/06/2019

Query Type: Policy

Requesting Entity: United Kingdom

Dissemination policy: Restricted to national asylum administrations in the EU+ countries. In case of questions, please contact [ids@easo.europa.eu](mailto:ids@easo.europa.eu).

The UK has requested to use Member States' replies for public information, unless otherwise stated.

This compilation and query summary report is available on:

EASO Information and Documentation System ([IDS](#)) and Management Board (MB)

Restricted Area on the [EASO website](#).

Background information/reasons for asking query.

The UK has obtained a report by Catherine Ramos, a UK-based freelance researcher, who is a trustee of an NGO that assists refugees/asylum seekers, which includes, amongst others, 18 case studies of nationals of the Democratic Republic of Congo (DRC) returned to the DRC between 2012 and 2018 from the UK who faced problems, including arrest and detention, on return to Kinshasa. The report is titled [Unsafe Return 3](#).

The UK is reviewing the information in Unsafe Return 3, although the majority of the case studies are anonymous, and available country information on returns. In light of this, the UK is interested in eliciting insights from EU+ countries on questions related to the return of applicants from DRC to that country.

Information collected through this query will be publicly disclosed. Accordingly, you are kindly requested to indicate whether you grant your consent to this end.

#### **Response Rate**

21 EU+ countries (AT, BE, CH, CY, DE, EL, ES, FI, FR, HR, IS, LU, MT, NL, NO, PL, PT, RO, SE, SK, UK) replied to this EASO query. AT, DE, ES, NL, PL, PT and RO requested to limit their replies to internal use in national administrations only.

Individual replies to questions

Question 1	<p>For the reference period June 2012- June 2019 has your country received applications for international protection by citizens of the Democratic Republic of Congo? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If not, please skip all remaining questions.</p>
AT	Not publicly disclosable
BE	YES
HR	YES
CY	YES
FI	YES
FR	YES.
DE	Not publicly disclosable
EL	YES
IS	YES
LU	YES
MT	<p>YES</p> <p>It should be noted that for the reference period June 2012 – June 2019, Malta only received a total of 4 applications for international protection by persons claiming to be citizens of the Democratic Republic of Congo.</p>
NL	YES
NO	YES
PL	Not publicly disclosable
PT	Not publicly disclosable
RO	Not publicly disclosable
SK	<p>In general, the asylum applicants from DRC are rather rare in Slovakia. Due to a very busy period I've focused just on most relevant data - for last 2 years: January 2017- April 2019 April. Based on our statistics the only application from DRC we received in 2017. No more applications from DRC received in 2018 and 2019 (till end of April).</p> <p>Also, based on our Alien and Border Police statistics, no return to DRC (voluntary or forced) was organised in 2017-2018.</p>



ES	Not publicly disclosable
SE	YES
CH	YES
UK	YES
Question 2	<p>If yes to any of the categories of persons indicated in the previous question, how many have you returned during the reference period June 2012-June 2019? If possible, break down by group, e.g. RAS forcibly returned; RAS voluntarily returned, etc.</p> <p>Rejected asylum seekers (RAS):</p> <p>Foreign national offenders (FNOs):</p> <p><input type="checkbox"/> N/A</p>
AT	Not disclosable
BE	<p><input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or</p> <p><input checked="" type="checkbox"/> Foreign national offenders (FNOs)</p>
HR	So far we have not had in process of forced removal a rejected asylum seeker or an illegal migrant from DR Congo.
CY	NO
FI	<p><input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or</p> <p><input checked="" type="checkbox"/> Foreign national offenders (FNOs)</p>
FR	Reference to EASO Query 65 – no more recent data available
DE	Not publicly disclosable
EL	n/a
IS	In this period Icelandic authorities have only received four applications from citizens of the DRC. One was granted protection, two absconded and one application is being processed. There has not been a case regarding foreign national offenders from the DRC in the referenced period. In the event of a RAS or a FNO it would be assessed on an individual basis whether the person would be returned. There is no specific policy regarding the DRC in this area.
LU	<p><input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or</p> <p><input checked="" type="checkbox"/> Foreign national offenders (FNOs)</p>

MT	<input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or <input checked="" type="checkbox"/> Foreign national offenders (FNOs)
NL	<input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or <input checked="" type="checkbox"/> Foreign national offenders (FNOs)
NO	<input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or <input checked="" type="checkbox"/> Foreign national offenders (FNOs) Yes, we return both rejected asylum seekers and foreign national offenders by force and voluntarily.
PL	Not publicly disclosable
PT	Not publicly disclosable
RO	Not publicly disclosable
SK	n/a
ES	Not publicly disclosable
SE	<input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or <input checked="" type="checkbox"/> Foreign national offenders (FNOs)
CH	<input checked="" type="checkbox"/> Rejected asylum seekers (RAS) and/or <input checked="" type="checkbox"/> Foreign national offenders (FNOs)
UK	Yes. We return both failed asylum seekers and foreign national offenders by force and voluntarily. However, we are currently reviewing our position in light of the evidence submitted in Unsafe Return 3.
Question 3	If yes to any of the categories of persons indicated in the previous question, how many have you returned during the reference period June 2012-June 2019? If possible, break down by group, e.g. RAS forcibly returned; RAS voluntarily returned, etc. Rejected asylum seekers (RAS): Foreign national offenders (FNOs): <input type="checkbox"/> N/A
AT	Not publicly disclosable
BE	COMMENT : for voluntary returnees (AVRR), we do not have the differentiation per category; for forced returnees (FR), sometimes a

person can be as well a RAS as a FNO (to be complete, I have also mentioned the general total of forced returnees)

Rejected asylum seekers (RAS):

2012: 12 AVRR, 55 FR (of whom 1 FNO and 44 RAS)

2013 : 24 AVRR, 72 FR (of whom 3 FNO and 61 RAS)

2014 : 16 AVRR, 73 FR (of whom 6 FNO and 51 RAS)

2015 : 21 AVRR, 61 FR (of whom 4 FNO and 45 RAS)

2016 : 25 AVRR, 41 FR (of whom 8 FNO and 25 RAS)

2017 : 12 AVRR, 54 FR (of whom 10 FNO and 35 RAS)

2018 : 12 AVRR, 25 FR (of whom 6 FNO and 15 RAS)

2019 (31/05) : 8 AVRR, 7 FR (of whom 1 FNO and 6 RAS)

Foreign national offenders (FNOs): see above

HR	n/a
CY	n/a
FI	Rejected asylum seekers (RAS): Total returned 22 person, we are not able to separate the grounds of returns
FR	Reference to EASO Query 65 – no more recent data available
DE	Not publicly disclosable
EL	n/a
IS	n/a
LU	Rejected asylum seekers (RAS): ): RAS forcibly returned 3, RAS voluntarily returned 1 Foreign national offenders (FNOs): FNO returned 1
MT	n/a
NL	Rejected asylum seekers (RAS): <55 Foreign national offenders (FNOs): <5
NO	The data below includes FNO returns: RAS forcibly removed: 43 – also includes FNO returns RAS voluntarily removed 19 – the numbers also include non-asylum seekers. Non-asylum returns forcibly removed: 13
PL	Not publicly disclosable

PT	Not publicly disclosable
RO	Not publicly disclosable
SK	n/a
ES	Not publicly disclosable
SE	<p>Rejected asylum seekers (RAS): 9 voluntarily and 13 by force.</p> <p>Unfortunately we only have data going back to 2015 when it comes forced returns.</p> <p>Foreign national offenders (FNOs): 3, all of which all are included in the number of forced returns mentioned above.</p> <p>This means that of the 13 individuals that were returned by force, three individuals had criminal precedents (these n).</p>
CH	<p>Rejected asylum seekers (RAS): 23 voluntary returns and 54 forced returns</p> <p>Foreign national offenders (FNOs): 14 voluntary returns and 12 forced returns</p>
UK	<p>The UK does not publish data on FNO returns (some of whom may also be RAS). Therefore, the data below for the period July 2012 to March 2019 are for asylum and non-asylum cases, and includes FNO returns:</p> <p>RAS forcibly removed: 63</p> <p>RAS voluntarily removed: 16</p> <p>Total: 79</p> <p>Non-asylum returns forcibly removed: 35</p> <p>Non-asylum returns removed voluntarily: 18</p> <p>Total: 53</p>
Question 4	If your country implements returns to DRC, do representatives of your government attend the returnee's arrival in Kinshasa? <input type="checkbox"/> Yes <input type="checkbox"/> No
AT	Not publicly disclosable
BE	<p>YES (sometimes – in the framework of specific individual cases or in the framework of NRO – JRO, organized with FRONTEX or by Belgium alone – until three years ago). The stories of ill treatment of returnees resurface frequently (especially in the UK). The Belgian Immigration Liaison Officer in Kinshasa (who is also functioning as an EURLO) has already made inquiries on many occasions about these allegations. These allegations could never be corroborated. There is no trace of system(at)ic ill treatment. It is true that DEPA returnees</p>

(especially those removed by NRO – JRO) will be interrogated not only by the DGM but also by the intelligence services in Kinshasa. But those people can go home at the latest the day after arrival (most of the time the same day).

HR	n/a
CY	n/a
FI	YES
FR	Reference to EASO Query 65 – no more recent data available
DE	Not publicly disclosable
EL	n/a
IS	n/a
LU	No.
MT	No.
NL	Yes
NO	No.
PL	Not publicly disclosable
PT	Not publicly disclosable
RO	Not publicly disclosable
SK	n/a
ES	Not publicly disclosable
SE	No. We use the help of the EURLO (European Return Liaison Officer) in the DRC when acquiring temporary travel documents in return cases. The EURLO may assist at the airport if such a need would arise. To our knowledge this has not been the case so far.
CH	NO
UK	No.
Question 5	Are there any particular groups of applicants from DRC whom you consider to be at risk of persecution in DRC, including RAS and/or FNOs?  <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify:
AT	Not publicly disclosable

BE	NO  There are no specific risks linked to return of RAS or FNOs. Anyway, for every individual returnee, whatever his / her previous status was, an individual assessment is made by the Immigration Office (art. 3 and 8 ECHR).
HR	No.
CY	YES
FI	No → Finland considers applications case by case taking all individual circumstances into account.
FR	Reference to EASO Query 65 – no more recent data available
DE	Not publicly disclosable
EL	All cases are examined on an individual basis according to the specific characteristics and country situational information, available at the moment of the decision.
IS	n/a
LU	YES
MT	No.  This answer should be read in light of the fact that out of the 4 applications that were received in the reference period; 1 was rejected, 1 was discontinued as implicitly withdrawn, and 2 are still pending. It should also be noted that in view of the limited caseload of nationals from the Democratic Republic of Congo, Malta does not have an official guidance note concerning this country of origin, and each case is assessed individually
NL	No.
NO	No. All cases are assessed individually.
PL	Not publicly disclosable.
PT	Not publicly disclosable
RO	Not publicly disclosable
SK	n/a
ES	Not publicly disclosable
SE	No.
CH	YES



UK

See the UK's published [country policy and information notes on the DRC](#). Persons who oppose the state and who by their profile and their activities attract the state's adverse interest may be at risk of persecution. However, each case is considered on its individual facts.

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## Annex E : German Embassy response July 2019

The British Embassy in Kinshasa on behalf of the Home Office (CPIT) contacted a number of sources in the DRC. The sources were asked how failed asylum seekers (FAS) and/or Foreign National Offenders (FNOs) returned to the DRC are processed at N'Djili airport and are treated by the government on and after arrival, including whether there is evidence of detention and ill-treatment.

The Germany Embassy, Canadian Border Services Agency, the Embassy of the Netherlands, UNJHRO provided substantive responses to the query.

1. Does your government return failed asylum seekers (FAS) and/or foreign national offenders (FNOs) to the DRC?

**Answer** - Yes

2. If so, do you return voluntarily and/or by force?

**Answer** - Both, with practical problems regarding the return by force (e.g. passport substitutes not available)

3. How many FAS / FNOs are returned?

**Answer** - Voluntarily: 9 people last year, this year so far no one; by force: two people last year

4. What documents do returnees travel on?

**Answer** - Passport / Passport substitutes / Emergency Travel Document

5. Do you inform the DRC authorities of the return and the reasons for return?

**Answer** - When the return is organized via a normal flight there is no communication with DRC authorities; on charter flights yes, as it's linked to a "diplo clearance".

6. Is someone from your Embassy, or other organisation linked to the Embassy, present at the airport when the returnees arrive?

**Answer** - No – I am not even sure if the relevant authority in Berlin is allowed to give us the information/data of people returning.

7. Do you monitor returnees after their arrival?

**Answer** - No

8. Are you aware of substantiated problems for returnees on or after return, including detention and ill-treatment?

**Answer** - No, but linked to the answers above.

9. Are you aware of any international or local organisations that monitor returns?

**Answer** - No

10. Are there profiles of Congolese in Europe who the DRC authorities may have interest?

**Answer** - No information

11. Are you aware of any change in the government's attitude to returnees from Europe and/or human rights generally since the December 2018 elections?

**Answer** - Nothing apart from the overall observations.

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## Annex F : Canadian Border Services Agency response July 2019

The British Embassy in Kinshasa on behalf of the Home Office (CPIT) contacted a number of sources in the DRC. The sources were asked how failed asylum seekers (FAS) and/or Foreign National Offenders (FNOs) returned to the DRC are processed at N'Djili airport and are treated by the government on and after arrival, including whether there is evidence of detention and ill-treatment.

Obtain information about the source: [Redacted], Senior Program Advisor, Removal Operations NQ (28 years in organisation); Responsible for North Africa, including the DRC

1. Does your government return failed asylum seekers (FAS) and/or foreign national offenders (FNOs) to the DRC?

**Answer** - Yes

2. If so, do you return voluntarily and/or by force?

**Answer** - Both

3. How many FAS / FNOs are returned?

**Answer** - Between 2014 and 2018, Canada removed 46 FNOs to the DRC. Since June 2018, 0 removed since we are experiencing difficulties in obtaining travel documents from the DRC authorities. Canada only removes criminals since a temporary suspension of removals is in place for DRC.

4. What documents do returnees travel on?

**Answer** - Laissez-passer issued by Embassy

5. Do you inform the DRC authorities of the return and the reasons for return?

**Answer** - Yes if we need a travel document and/or if we require visas for our officers

6. Is someone from your Embassy, or other organisation linked to the Embassy, present at the airport when the returnees arrive?

**Answer** - No

7. Do you monitor returnees after their arrival?

**Answer** - No

Are you aware of substantiated problems for returnees on or after return, including detention and ill-treatment?

**Answer** - No

8. Are you aware of any international or local organisations that monitor returns?

**Answer** - No

Are there profiles of Congolese in Europe who the DRC authorities may have interest?

**Answer** - No

9. Are you aware of any change in the government's attitude to returnees from Europe and/or human rights generally since the December 2018 elections?

**Answer** - Since June 2018, Canada is not able to obtain travel documents to

remove DRC citizens. Since the elections, communication is extremely difficult and we have no cooperation from the DRC for our removals.

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## Annex G : Netherlands Embassy response June 2019

The British Embassy in Kinshasa on behalf of the Home Office (CPIT) contacted a number of sources in the DRC. The sources were asked how failed asylum seekers (FAS) and/or Foreign National Offenders (FNOs) returned to the DRC are processed at N'Djili airport and are treated by the government on and after arrival, including whether there is evidence of detention and ill-treatment.

1. Does your government return failed asylum seekers (FAS) and/or foreign national offenders (FNOs) to the DRC?

**Answer** - Yes

2. If so, do you return voluntarily and/or by force?

**Answer** - Both

3. How many FAS / FNOs are returned?

**Answer** -

2017

Voluntarily : <5

By force : 0

2018

Voluntarily : 0

By force : <5

4. What documents do returnees travel on?

**Answer** - Valid passport or Emergency Travel Documents issued by the DRC Embassy or DGM.

5. Do you inform the DRC authorities of the return and the reasons for return?

**Answer** - NL informs the DRC Embassy in Brussels or the Eurlo in Kinshasa, only about the date of return, not about the reasons for return

6. Is someone from your Embassy, or other organisation linked to the Embassy, present at the airport when the returnees arrive?

**Answer** - No

7. Do you monitor returnees after their arrival?

**Answer** - No

8. Are you aware of substantiated problems for returnees on or after return, including detention and ill-treatment?

**Answer** - No

9. Are you aware of any international or local organisations that monitor returns?

**Answer** - No

10. Are there profiles of Congolese in Europe who the DRC authorities may have interest?

**Answer** - NL is not aware of such profiles

Are you aware of any change in the government's attitude to returnees from Europe and/or human rights generally since the December 2018 elections?

**Answer** - No, although NL experiences some slight change in the behaviour of the Embassy regarding the requests for identification, a little bit more reluctant to issue an Emergency Travel Document.

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## Annex H : UN Joint Human Rights Office response, July 2019

The British Embassy in Kinshasa on behalf of the Home Office (CPIT) contacted the UN Joint Human Rights Office in Kinshasa on 19 June 2019 and an initial response was received by email on 4 July 2019. CPIT followed up with further questions, a response was received on 7 July 2019.

1. Are you able to provide a brief overview of the current human rights context – has the UNJRO observed any change since the December 2018 national elections?

**Answer** - Despite a slight opening up of democratic space observed since the December 2018 elections, overall, the human rights situation in the DRC has only slightly improved. Between January and May 2019, UNJHRO documented a 12% decrease in the number of violations documented as compared to the five previous months (August-December 2018). This is largely explained by a slight decrease both in the number of violations committed by State agents, particularly from the national police, and in the number of abuses committed by armed groups. However, the number of violations and abuses documented remains high. Of the total number of violations, 60% are attributable to State agents, particularly FARDC soldiers (29%), and 40% to armed group combatants.

Following the December 2018 elections and commitments made by President Tshisekedi to improve the human rights situation, there has been a slight opening up of the democratic space. The most visible signs of this positive development were the release of some political prisoners and prisoners of opinion, the return of political exiles and the holding of several peaceful demonstrations.

However, obstacles to freedom of the press, attacks and threats against human rights defenders and other civil society actors and the repression of several peaceful protests, including through lethal force, continued to be observed. The vast majority of these violations were committed by State agents, mainly from the national police.

The human rights situation remains extremely worrying in conflict-affected provinces, where nearly 80% of all violations were documented. North Kivu remains by far the province most affected by conflict. Between January and May 2019, UNJHRO documented 1,025 human rights violations and abuses in North Kivu, nearly the same figure as that documented in the previous five months (1,024 violations).

2. Does the UNJRO monitor returns of failed asylum seekers (FAS) and/or foreign national offenders (FNOs) from Europe, including the UK?

**Answer** - The UNJHRO does not specifically monitor returns of FAS and FNO, but it will investigate allegations of violations of their rights brought to its attention. Between 2011 and 2012, the UNJHRO was informed of three cases where returnees to Kinshasa were arrested and taken under custody by the intelligence services (ANR) upon arrival at the airport. Since then, the UNJHRO has not been informed of any similar cases.



3. Has the UNJRO come into contact with FAS / FNO returnees from Europe, including the UK, for example during prison visits or other human rights investigations?

**Answer** - In 2018, during a monitoring activity at the prison of Makala in Kinshasa, the UNJHRO met one returnee in pre-trial detention for robbery. However, the returnees that the UNJHRO met in 2011 and 2012 declared that they were arrested upon arriving at the airport for having an opinion contrary to the government, and that they were also threatened by the security services.

4. If no, has the UNJRO received complaints / allegations of problems on return of FAS/FNO?

**Answer** - No.

5. Is the UNJRO aware of any problems on return for FAS / FNOs? If so, when and why?

**Answer** - In addition to the arrests, detentions and threats mentioned in the cases above, there are reportedly no specific measures to facilitate the reintegration of returnees.

6. Were these allegations investigated by the UN, or other organisation, and if they were what was the outcome?

**Answer** - No, these allegations have not been investigated by the UN.

7. Is the UNJRO aware of any organisations that do monitor returnees?

**Answer** - The UNJHRO works in partnership with several NGOs that have reported on cases where returnees from abroad were victims of human rights violations upon their return to the DRC.

8. Are there Congolese in Europe generally and the UK in particular who the DRC authorities may have interest?

**Answer** - The Congolese abroad who may be of interest to Congolese authorities could be political opponents, journalists, human rights activists or those who were witnesses of human rights violations.

9. If so, who, what and why?

**Answer** - The UNJHRO does not keep a list of persons abroad in this situation.

10. What is the evidence to support this?

**Answer** - Numerous documented incidents of attacks and threats against journalists, human rights defenders and other civil society actors in the country, as well as ill-treatment documented in some cases of illegal detention.

CPIT sought further clarification with regard the responses received. The following answers were received from UNJHRO, 7 July 2019.

11. The response observes that 'Between 2011 and 2012, the UNJHRO was informed of three cases where returnees to Kinshasa were arrested and taken under custody by the intelligence services (ANR) upon arrival at the airport. Since then, the UNJHRO has not been informed of any similar cases.' And

later 'No, these allegations have not been investigated by the UN.' Are you able to say who or what organisation informed the UNJRO of these 3 cases, from which country where they returned, were they unsuccessful asylum seekers (UAS) and/or foreign national offenders (FNOs) and any other relevant details about the cases?

**Answer** - UNJHRO was informed by members of their families. They reportedly returned from Ireland and France. Of the three cases, only one concerned an unsuccessful asylum seeker. Unfortunately, UNJHRO does not have any additional information on these cases.

12. I presume that since these allegations were not investigated by the UN, that the UNJRO is not able to confirm or deny whether the arrests took place?

**Answer** - That is correct, UNJHRO did not investigate the allegations and therefore cannot confirm the arrests and threats.

13. On the question of whether the UNJRO is aware of other organisations that monitor returns, the response states 'The UNJHRO works in partnership with several NGOs that have reported on cases where returnees from abroad were victims of human rights violations upon their return to the DRC.' Are you able to state which organisations have reported that returnees have experienced human rights violations on or after return? And are you able to provide any details of these allegations, including information such as the number of cases, where they returned from, if they were UAS/FNOs, etc?

**Answer** - La Voix des sans voix (VS). They may have more information on the treatment of returnees.

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## Annex I : Voix de sans Voix response, July 2019

The British Embassy in Kinshasa on behalf of the Home Office (CPIT) contacted a Voix de la sans Voix in June 2019 and received a written response on 9 July 2019.

**Name:** [redacted]

**Title / role:** Executive Director

**Organisation:** Voix de sans voix

1. How long been in organisation?:

**Answer:** I have been managing VSV since Floribert Tchebeya's murder in 2010.

2. Responsibilities?:

**Answer:** Promoting/ Defending human rights

Contributing to the consolidation of democracy

Monitoring of human rights in Kinshasa and provinces

Investigate human rights violations

3. Also brief information about the organisation: size and what is its work.

**Answer:** NGO created in 1983 by Floribert Tchebeya . 14 permanent staffs in Kinshasa and + 2000 volunteers spread in 24 districts.

4. Does your organisation monitor voluntary or forced return of Congolese nationals to the DRC from Europe, including the UK?

**Answer:** Yes( 2007-2009)

5. If so,

a. does this include monitoring the return of failed asylum seekers and/or foreign national offenders? Yes

b. how do you do this / who do you monitor?

**Answer:** We used to follow a cycle , from airport – DGM services for formalities / documents verification –family tracing – potential repatriation in province.

6. If you do not monitor returns,

**Answer:** N/A

a. have you come into contact with returnees?

b. If so, how many, what context and when?

c.

7. Are you aware of problems for returnees?

**Answer:** Yes

Informal hassles /harassments from migration services agents (DGM, RVA):  
They assume that returnees have money and high valuable belongings.

Detention and maltreatment ( mostly "combattants ")

8. If so,

- a. what, when and why?
- b. Were these investigated by your organisation and what was the outcome?

**Answer:** No response

9. Are you aware of other organisations that monitor returns?

**Answer:** OIM [International Organisation for Migration]

No information on national NGOs

10. Are there Congolese in Europe generally and the UK in particular who the DRC authorities may have interest?

**Answer:** Old government: "Combattants", political asylum seekers, ex-army forces.

New regime: Not applicable. All we know is that the president asked all those people who are living illegally abroad to come back.

If so, who, what and why?

What is the evidence to support this?

**Answer:** No evidence, we lost documents in a fire sometimes ago.

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## Annex J : Les Amis de Nelson Mandela pour le Defense des Droits Humains response, July 2019

The British Embassy in Kinshasa on behalf of the Home Office (CPIT) contacted a Les Amis de Nelson Mandela pour le Defense des Droits Humains in June 2019 and received a written response on 9 July 2019.

Below are the questions and responses provided by AMDDH in July 2019. The additional questions in bold are CPIT's follow-up questions.

**Name:** [redacted]

**Title / role:** Executive Director

**Organisation:** Les Amis de Nelson Mandela pour le Defense des Droits Humains

1. How long been in organisation):

27 years, since it was created in 1992

2. Responsibilities:

Expert in Democracy, Human rights and conflicts resolution

Capacity building of 13 permanent staff (8 Kinshasa/5 Kisangani)

Lobbying (BCNDUH and other international organisations )

3. Also brief information about the organisation: size and what is its work.

An organisation working with volunteers on capacity building of human rights defenders and activists, human rights lobbying and democracy. Works informally with some individuals from local services (ANR, DGM) who inform them when there is a returnee that has been arrested.

4. Does your organisation monitor voluntary or forced return of Congolese nationals to the DRC from Europe, including the UK?

Yes, but not like it used to be in the past because we noticed that there is halt since the new regime took over.

5. If so,

a. does this include monitoring the return of failed asylum seekers and/or foreign national offenders?

Yes

b. how do you do this / who do you monitor?

When we have been informed on time, we go to the airport to observe how returnees are being handled. Sometimes we do inform migration services, some other times we do it in a clandestine way but in collaboration with family members of the subject.

6. If you do not monitor returns:

**Answer:** N/A

a. have you come into contact with returnees?

b. If so, how many, what context and when?

7. Are you aware of problems for returnees?

Yes, in the past they used to be secretly detained in ANR prisons without right to receive visitors.

Some detainees used to disappear if there were no denunciations from activists/ Human rights organisations.

8. If so,

a. what, when and why?

During Kabila's regime. They were considered as being hostile to the government.

b. Were these investigated by your organisation and what was the outcome?

Some were investigated when we still had funding and human resources to work on cases. We were successful in getting some people release from prisons.

9. Are you aware of other organisations that monitor returns?

Yes, Vois sans voix, other youth movements: LUCHA, FILIMBI, International organisations

10. Are there Congolese in Europe generally and the UK in particular who the DRC authorities may have interest?

Yes, in Kabila's regime they were interested in groups of "Combattants"

- If so, who, what and why?

Hostility to the government

- What is the evidence to support this?

Cases were investigated with migration departments of France, Belgium, Spain, Japan.... They might have evidence.

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## Annex K: International Organisation for Migration, August 2019

Response to FCO and Home Office queries from head of mission, International Organisation for Migration, Kinshasa, on 7 August 2019

### Questions for the IOM

The IOM can only comment on cases of (voluntary) return to the DRC that it has facilitated: it is not able to comment on returns which took place without its assistance and/or follow-up.

Obtain information about the source: name; title / role; organisation (and how long been in organisation); and responsibilities.

- 1.) Does the IOM facilitate returns from UK and other European states of failed asylum seekers (FAS) and/or foreign national offenders (FNOs)?
  - If so, how many
    - from Europe in general? Figures have decreased since 2015 from 25 to the average of 15 a year with 10 a year coming from Belgium
    - from the UK in particular? IOM has not facilitated return from UK since 2014
- 2.) Does the IOM observe returns at N'djili? Yes, for the caseload facilitated by IOM.
- 3.) Does the IOM meet returnees at N'djili? Yes, at Immigration control desk. unless in the case of a returnee with specific vulnerabilities that require assistance at the plane
- 4.) What documents do the returnees use to travel to the DRC? Passports. Those without passport can return with Laisser-Passer (Special Travel Document) issued by the DRC Embassy.
- 5.) What assistance does the IOM provide to returnees – on arrival and/or afterwards?
- 6.) Is the IOM aware of returnees facing problems on arrival?
  - If so,
    - what, when and why?

One returnee from Belgium was taken for further interview after arrival at the airport. His Laisser-Passer mentioned that his former was employee to the DRC's Intelligence Service (ANR)
    - Were these investigated by the IOM or other organisation, and what was the outcome?

No. At the request of the migrant, IOM could attend the interrogatory.
- 7.) Is the IOM aware of problems after arrival? This was the only confirmed case. IOM had to verify once allegation made by a migrant in UK, but after interview with the migrant himself, it turned that it was fake allegations.
  - If so
    - what, when and why?

- were these investigated by the IOM or other organisation, and what was the outcome?
- 8.) Is the IOM aware of any international or local organisations that monitor returns?  
No. Only IOM monitors returns, but only for cases assisted and coordinated with IOM.
- 9.) Are there Congolese in Europe generally and the UK in particular who the DRC authorities may have interest?
- If so, who, what and why?
  - What is the evidence to support this?
- 10.) Is the IOM aware of any change in the government's attitude to returnees from Europe and/or human rights generally since the December 2018 elections?  
No. Congolese authorities continues to welcome returning migrants and encourage the return assistance that include re-integration package.

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## **Annex L: British Embassy, Kinshasa, 13 September 2019**

**Note of telephone interview between a CPIT team member and the Second Secretary Political, British Embassy, Kinshasa, undertaken 13 September 2019.**

**Note approved on 1 November 2019**

**Purpose of interview:** to explore whether / obtain information about

- the current political situation
- the British Embassy (BE) monitors returns of unsuccessful asylum seekers (UAS) and/or foreign national offenders (FNOs) from the UK to the Democratic Republic of Congo (DRC) or is contact with organisations that monitors such returns
- awareness of the arrest, detention and ill-treatment of returned UAS and/or FNOs from the UK to the DRC
- the British Embassy (BE) is accessible to DRC nationals, NGOs and others
- what information the BE has access to about human rights generally and returns in particular

**Role:** HM Consul/Second Secretary Political (SSP), British Embassy, Kinshasa

**Background and responsibilities:** The SSP has been in Kinshasa since May 2018. Responsibilities include managing the Home Office-funded migration delivery assistant (MDA); liaison with the government (including the Direction Générale de Migration (DGM)); and work on preventing modern slavery. The SSP engages with human rights, democracy and rule law issues generally. Further, as Consul, SSP has a relationship with police and prisons services.

### **Overview of the current political / human rights situation**

The government's full portfolio of ministers was approved on 10 September 2019 by parliament and includes a number of members of the Union for Democracy and Social Progress (Union pour la Démocratie et le Progrès Social; UDPS) some of whom were living overseas during the previous Government, such as the new foreign minister Marie Tumba Nzeza.

President Tshisekedi has made a number of positive statements on democracy and human rights. While there was reported to be an amnesty for 700 political prisoners, since there is no single list of prisoners it is difficult to know definitively who and how many have been released and if those released have been due to regular process or Presidential orders. It is also a slow and ongoing process. The BE is aware of reports that some prisons run by the security forces have been shut following the President's pledge to release political prisoners (though this is difficult to confirm definitively). The BE continues to monitor closely the human rights situation in DRC and encourage the government to take further action to improve the human rights situation.

Fundamental changes to systematic organisation and control of the security forces continue to be difficult to achieve. More than 50% of human rights abuses in DRC continue to be committed by state forces, as reported by the UN Joint Human Rights Office.

The SSP was not aware of current high-profile political prisoners. He observed that

exiled political leaders, such as Moise Katumbi, have returned to the country and campaign politically. The opposition political platform Lamuka is active in DRC politics and has recently stated its intention to work as the official opposition to the current government.

Freedom of expression is mixed but has generally improved since the elections. There have been some protests organised by the opposition since January 2019 in Kinshasa, Lubumbashi, Goma and Bukavu which the government has generally allowed. The security forces have intervened a few times and there have been 1 or 2 incidents of the police using live rounds. However, the responses have been less heavy-handed than the past. The BE is aware of at least one case of a police officer / soldier being investigated for causing injury or death during a demonstration. Despite some progress, human rights reports (from UN Joint Human Rights Office (UNJRO)) indicate violations of political space and freedom of expression continue, in particular against civil society groups and activists.

Asked about different treatment of the various opposition groups, the SSP was not aware of any major, recent incidents (since the December 2018 elections). The political opposition platform Lamuka led by rotating leadership including former Presidential candidate Martin Fayulu is able to operate and hold rallies including in the East where its main support base exists.

Lucha – originally a student humans rights group based in the East but has grown into larger advocacy group, critical of government– is active and takes a more confrontational approach in engaging with the government. It is often clamped down upon more harshly by the Government.

Demonstrations are less frequent compared to periods such as the end of 2016 (when Kabila's presidential mandate was due to expire) and January / February 2018, where protests drew a significant security response and clashes led to numerous deaths. At the time of the discussion on 13 September, the SSP was not aware of recent major demonstrations but when approving the notes in mid-October 2019 he observed that there was a large opposition march planned in Kinshasa. There is less security force infrastructure visible in Kinshasa. For example, fewer road blocks are present throughout the city.

The SSP was not aware of targeted attacks against the political opposition. Problems were more likely to occur when an individual 'crossed' someone in power, who can pay for the person to be arrested – more a case of personal vendetta.

On the subject of the government's perception of the Diaspora in London, the SSP caveated that it was not an area he was expert, but thought it was a matter of scale: the Congolese Diaspora was smaller in the UK than that in continental Europe, particularly Belgium, and less politically active. For example, some of the overseas leaders such as Jean Pierre Bemba had been based in Belgium before returning to the DRC. The SSP was not aware of major political groups being active in the UK. Going to the UK and overstaying the person's visa was commonplace for DRC nationals.

As far as the SSP was aware, the government had not asked the Foreign Office or the Home Office for the reasons why individuals were returned to the DRC from the UK (while the UK government position is not to inform the DRC authorities why someone is being returned). This was different from his experience as a Migration Delivery Officer in other countries where governments often asked why an individual

was being returned from the UK.

### **Monitoring of returns from the UK**

The BE is aware of returns in that the MDA facilitates the redocumentation process for potential returnees. However, officials from the BE do not attend the airport when the individuals are returned. There would be logistical difficulties in attending returns and BE staff do not have routine airside access at the airport, nor in ordinary situations would they. Without such a pass, BE staff would not be present at immigration control, rather they would attend the airport and wait at the arrivals area – physically outside the airport.

The SSP was not aware during his time in Kinshasa of any attempts by a returnee's escorts to contact the BE during the return.

There was not follow-up monitoring of returnees (for the reasons above). In addition, the returnees are third country nationals in their home country, it would be inappropriate for the UK government to monitor them once in the DRC. There would also be logistical issues: Kinshasa is a city of between 11-16 million people and the DRC itself is the size of Western Europe. Should an individual not wish to make themselves known to the BE, it would be impossible to track them down.

### **Contact with organisations that monitor returns and human rights generally**

The BE is in contact with the International Organisation for Migration (IOM), but in these meetings it has not discussed returns nor have the IOM raised returns as an issue of concern.

Other organisations: contact with the Bill Clinton Foundation for Peace (BCFP) was made for the first time in three years, as far as the SSP was aware, this week (at the suggestion of the Home Office).

However, the Embassy is in active contact with a range of other actors that monitor human rights via regular meetings providing updates on the human rights situation e.g. monthly briefings run by the UNJRO which bring together a range of actors including local NGOs, international NGOs, and western Embassies.

The BE has bi-weekly meetings with the western Embassies to discuss human rights, law and, order and democracy.

On the reliability of NGOs, the SSP considered that this could be a 'mixed bag'. There is a tendency for an NGO to tell you what it thinks you want to hear and accordingly it can exaggerate making it tricky to get to the bottom of an issue. Information from NGOs often needs to be treated with a 'pinch of salt'. Given the size of the country, NGOs based in different areas will often give different answers based on prevailing local conditions making 'country-wide' assessments difficult and often inaccurate.

The SSP was not familiar with the BCFP – had no previous dealings with the organisation. Nor was he aware of the BCFP being mentioned in discussions with other western Embassies. The chair of BCFP is however known to the Vice-Consul as they have met in the course of their work (though not for some years).

### **Information about difficulties for returnees on arrival**

Other than the complaints received in the report Unsafe Return 3 (revised and released in May 2019), the SSP was not aware of problems faced by returnees

based on the information available to him.

He had no reason to believe that returnees would be held in detention by the police, over and above anyone else.

Asked whether bribery may be an issue at the airport, the SSP consider corruption a universal issue: bribery was commonplace. Not aware that returnees are asked for bribes but it is possible.

### **Accessibility of the British Embassy**

Asked how accessible the BE is to DRC nationals, NGOs, etc, the SSP considered the BE was open to meet people. People – DRC nationals and British Citizens – come to the Embassy all the time. If it is a consular matter, the guards will refer the case to one of the diplomatic staff. However, if told someone was at risk, the BE would also assist.

The diplomatic staff's email addresses are widely circulated and there is a general BE email address, with the in-box regularly monitored by staff, in addition to a telephone switchboard. Individuals will frequently contact either the switchboard or generic email inbox and be referred to the appropriate member of staff for a response.

The SSP was not aware that the Embassy had been contacted by a returnee, NGO or other persons about a returns issue during his time at post.

The SSP was asked about the case of the DRC returnee who was allegedly taken to the BE in August 2012 (as mentioned in the report, Unsafe Return 3 – case study 2). The SSP was not aware of the incident and stated that he could not comment on the practice of the guards in 2012 but he was surprised that the incident had not been reported to the diplomatic staff and assistance provided had it occurred. However, without details of the incident – factors such as which entrance to the Embassy the individual was taken, when it took place (if it was at night then most the diplomatic staff would not be at the Embassy though some staff would be available in emergencies) – it would be difficult to determine what might have happened.

### **Access to government, including the security services**

The Embassy has had good access to the ministers including the Ministers of Interior and Justice (responsible for the security forces and DGM). Changes to the senior management of DGM and line Ministries mean that the BE is establishing new relations but working level coordination continues. The BE does not have a defence attache (this is covered regionally) limiting routine access to military.

The Government of DRC has a mixed record of proactively informing the BE of the arrest of British Citizens.

The BE also has some access to prisons, including Makala, and holding cells. Conditions are overcrowded, but prisoners are generally able to obtain better conditions if they have money.

International organisations, such as ICRC, have good access to prisons and prisoners throughout DRC but do not, as a matter of policy, share information on third-country detainees with diplomatic missions.

### **Government agencies at the airport in Kinshasa**

SSP stated that the DGM were the main government agency with responsibility for



immigration control, though other agencies have a stake in border security and issuing visas. The SSP had seen some police but not military at the airport.

### **Diaspora groups of interest / changes in government's attitude to opposition**

The SSP did not consider it likely there were particular diaspora groups of interest because he was not aware of evidence of problems for specific groups in the DRC.

UDPS supporters in the UK will now be in a better position than they were: they are now represented in government via the President and various ministerial appointments approved by parliament. The main opposition – the Lamuka platform – is able to operate, holds rallies and their leadership has returned to DRC.

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## **Annex M: Bill Clinton Foundation for Peace (BCFP), Written response 1**

A written response to a written query for information from the British Embassy (BE), Kinshasa, 10 September 2019. The original response was in French, the BE provided an English translation.

NB the Home Office has redacted any information which is publicly available having been already documented in Unsafe Return 3 that might enable the DRC authorities or others to identify the individuals.

### **BCFP response**

Our Organization is called 'The Bill Clinton Foundation for Peace' (BCFP). It was initiated on the 18 March 1996 in Congo-Brazzaville and its headquarter was transferred to the Democratic Republic of Congo on the 13 June 1997. This Organization was registered in DRC under N°F92/4778, on n° 43, Victoire Street, Matonge Area, Kalamu Town [Kinshasa].

I am the Director of BCFP since its beginning, 23 years ago. Our Executive Committee is composed of 10 staffs.

Yes, we do the monitoring of the Congolese returnees that include those who chose freely to return to DRC from Europe, and those who returned from UK and chose to go back to DRC.

Yes, we have some cases. Our Monitoring includes returnees to whose asylum applications have been refused, and Congolese who had committed serious offenses.

When we are informed of their cases, we inquire about the date of their deportation, the time they will land at N'djili Airport/Kinshasa. Our lawyer [redacted] and myself are always present sometimes with the family of the returnees.

We provide them with the names of the returnees we are expecting to immigration officers in order to facilitate us to meet the returnees. Sometimes, they do not allow us to see them.

According to Security agents, they do not let us meet some returnees for security reasons, especially those who have been filed by ANR (Intelligent agency) and they presented as dangerous.

And if the returnee is not considered as dangerous, sometimes the Security officers ask for money before they release returnees at the Airport, and hand him to us before we hand them to their families.

Some of the returnees do not have family in DRC, without any valid documents from DRC. Another problem they face is the language barrier and the environment when we are interviewing them or their integration in the society.

We visit them sometimes to hear their complaints or the problem they are facing so that we can forward them to the local authorities, especially to DGM Directors and ANR's Director in a soft way. And we release a public note in which we denounce their poor condition.

Yes, we have many cases, which we are investigating, some these cases are the following:

- Mr Aristote Monsengo was deported from London on the 10th October

2016;

- [TB] was deported from London on the 10th November 2015;
- [DN] was deported on the 02nd December 2016;
- [M] was deported on the 10 January 2017;
- [P] was deported on the 28th November 2016;
- [JOY] was arrested and sent to prison on [redacted].
- Mr Adamo Kizey was deported in October 2015 and arrested several times in Kinshasa. For instance he was arrested from 07 to 08 November 2016 by special Police Branch (Bureau 2) at Kasa-Vubu roundabout in Kinshasa.

However, sometimes we failed to get a positive outcome in our investigation. Mr Aristote Masengo's [sic] case is one of them. He has gone missing up today.

There is case of a young girl called [IK] who was deported from UK on the 26 May 2018 and was abandoned in Kinshasa, and she had mental health problem.

Yes, we release public notes and send the results of our investigations to the UK Embassy, and we publish them on social medias and online.

I do not [know] about any other existing NGO who does the monitoring of the returnees.

Yes, there [are] many Congolese in Europe in General, and especially in the UK whose profiles are interested by the Congolese authorities. They talk about Republic of laws, applying laws is like school. It takes time apply them in the right way.

They talk about 700 prisoners released, but where? And by whom? Around 100 prisoners have been released.

Yes, it is true [President Tshisekedi] has promised to release about 700 prisoners, but only few have been released.

The current government continue putting restriction on public demonstration. The Civil society, political parties, doctors, local Human Rights associations, BCFP planned to organize demonstrations to support the families of prisoners from 12/06/2019 and 25/06/2019. Members from Lucha and Filimbi were arrested and stopped to demonstrate. The Demonstration organized by Lamuka on the 30th June 2019 was reprimanded with violence by the Police and in Goma there were some peoples killed and others wounded.

Another recent example in Lubumbashi is 13 peoples were arrested because of Uranium theft; they were kept 52 days in ANR prison, and deported from Lubumbashi to Kinshasa, and they spent again 1 month in prison in Kinshasa, and again sent back to be judged in Lubumbashi. One of ANR's directors, Mr Roger Tshimanga was poisoned and died after he gave us information about the missing of Aristote Monsengo.

Actually, they are talking about illegal prisons run by ANR, DEMIAP, that they have been closed, but it is not the case. All the Intelligent agents who have been making up false accusations, and all the civilians and military judges are still there.

The following are the proof of arrests and illegal detentions in DRC:

- Reopening of illegal prisons;
- Prohibition of demonstration;
- Doubling of political parties and political plate-form such as AFDC-A, even UDPS;
- Appointment new mayors by the Governor of Kinshasa, which against the Constitution.
- FCC's members, including Justice and Finance, hold most of important ministries. The current president whom we love very much has good intentions but how can he implement them?

FCC manages all the key sectors of the Congolese politics: National Assembly, Senate, Government, and Justice.

One of the example is the appointment of the CEOs of SNCC and GECAMINES by the President and FCC's minister of Portfolio refused to recognize them.

Kindly find attached other Public Notes released by the BCFP.

Thank you

Bill Clinton Foundation For Peace.

[Redacted]

Director

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## Annex N: BCFP, Written response 2, October and November 2019

On 14 October 2019 the Home Office (HO) emailed the director of the Bill Clinton Foundation for Peace (BCFP) with a number of follow-up questions to his written response of 10 September 2019 (see [Annex M](#) above). The director replied by email on 28 October 2019.

On 4 November 2019 a locally employed member of the British Embassy (BE) staff in person and 2 officials from the HO in the UK via a teleconference call interviewed the director at the BE in Kinshasa. The officials took notes of the meeting, which were shared by email with the director on 6 November 2019. The officials also asked a number of further clarifying questions and invited the director to send relevant documentary evidence in support of his statements about the treatment of returnees.

On 9 November 2019 the director emailed further information in response to the questions. The director also forwarded a selection of 31 emails on a range of human rights issues, including returns from the UK (a summary of these emails is provided in [Annex O](#) below).

The text below is composite of:

- BCFP's written response of 28 October 2019
- HO/BE notes of 4 November 2019
- BCFP's additional responses of 9 November 2019

The director's written responses of 28 October 2019 are not prefaced by date.

Text in square brackets include follow-up questions to the written response of 28 October 2019 sent in advance of and asked the interview of 4 November 2019 as well the HO comment where no further information was provided.

NB the Home Office has redacted any information which is not already publicly available having been documented in Unsafe Return 3 that might enable the DRC authorities or others to identify the individuals.

### **1) How is the Bill Clinton Foundation for Peace (BCFP) funded and is it your full-time job?**

The funding of the BCFP comes from the contributions of its memberships and people with good heart. Yes, it is my full-time job. From Monday to Saturday. Sundays are due to urgent matters.

### **2) How long has the BCFP been monitoring returns from the UK?**

Well, I couldn't remember exactly the year but we started defending both British Citizens and deportees from UK for a long time ago.

**[Approximately when? Below you state you have reports of these cases – so is it clear from these?]**

**Interview notes, 4 November 2019:** Started 'defending' (assisting) returns from the UK in 2000 and assisted approximately 70+ cases since then.

### **3) Does the BCFP monitor returns from other countries too?**

Yes, if we are informed about their cases.

**4) In general, how are returns from the UK treated on arrival (describe the process)?**

Before their arrival, their lawyers, families or any other person used to inform us about their arrival, they give us the name of the plane, the person's name, date of arrival, time, and countries of transit.

Certain of them when they arrived at the airport, the immigration offices used to arrest them and detained in their cells. Certain were set free from the DGM and others often sent to the ANR for identification. Their treatments are inhuman because the DGM don't feed those who are detained in their cells. The condition of detention in the cell is very bad.

**[In your response you state 'certain of them' are arrested and detained, while others are set free. Can you explain who you mean by 'certain of them'? Do you mean some returnees are arrested while some returnees are not? If so, why are returnees treated differently?]**

**Interview notes, 4 November 2019:** The person's name is on a 'wanted list' they are arrested on arrival. These people are identified by agents of the national security agency (ANR) which has an office in the DRC Embassy in the UK (there were 2 or 3 ANR agents in the UK, BCFP [not] sure how many there are currently). People who are seen as 'dangerous', who are 'combatants' – political activists – living in the Diaspora, are arrested. ANR has offices in other countries too. [The director] knows about the ANR activities in the UK as talked with ANR agents who have returned to the UK.

The former DRC Ambassador to the UK, Barnabé Kikaya Bin Karubi, had ANR officers target Congolese opposition in the UK. An opposition activist in the UK, Professor Reverend Julien Ciakudia, complained to the UK parliament about the behaviour of Bin Karubi in 2014.

Returnees are not treated well; people are not well treated in prison generally.

Everyone who is deported is 'suspected' and followed-up by ANR. [The director] thought everyone who travels to the UK, including regular migrants (on business or visitors) would be of interest to ANR, gave the example of an Anglo-Congolese who was arrested and detained on return to the DRC.

Asked to clarify if everyone who goes to the UK is of interest - many 1,000s of people travel to and from the UK each year. [The director] acknowledged if people not arrested, then they are questioned. Some people have to pay money to pass through the airport. Gave example of a Belgian-Congolese doctor living in Belgium who returned to Kinshasa and accused of plotting against the government who was stopped.

**Emailed response, 9 November 2019:** 'REV. Jullien Ciakodia is a strong Congolese opposition leader and he has a political military Party in UK.'

**5) Is there a difference in treatment for voluntary returns (people who have no right to remain in the UK but arrange their own return to the DRC) and forced returns (some of whom may be escorted by UK immigration officials)?**



We are not informed about the case of the voluntary returns from UK to DRC, so I cannot tell. But we came across certain cases like Congolese British who came to Congo for visit or business. Certain were arrested and detained in the ANR, certain were sent to prison. Presently, [AB] a British Citizen is in prison since 2016 for unfounded reasons by martial court.

**[Do you know why these British Citizens of Congolese origin were arrested? Have you investigated?]**

Explained that the Anglo-Congolese wanted to invest in the DRC, had money and cars. This had attracted the interest of 3 security officers who took his money and detained him.

**Emailed response, 9 November 2019:** [AB] [i]s a British and not an Angolan Congolese [This was a misunderstanding – Anglo is an alternative for English; but the director was correct that the more accurate description is British-Congolese].

**6) Is the treatment of returns from the UK different from those from other European Union countries such as Belgium, France or the Netherlands?**

**a. If it is, why?**

I cannot tell, but it seems to be the same. Because we monitored the cases of two persons one from Norway and the other from Ireland. They were [JK] deported from Norway to Congo in the year 2016. He was arrested at the Airport in Goma in the Eastern a part of Congo and sent to prison in Kinshasa up to now under number RMP [...] [GMM] from Ireland was arrested in Kinshasa on 25<sup>th</sup> May 2011, he was released on July 2019 this year. His file number is RP.[...].

**7) How many returns cases from the UK has the BCFP assisted (state from when)?**

The BCFP has assisted many returns from UK for couples of years ago. **[How many exactly? Have you listed all these cases below?]** For some years ago, we used to inform your British Embassy here and have their record. **[When did you do this? Can you provide evidence of this?]**

**Interview, 4 November 2019:** Assisted more than 10 cases of returns from the UK to the DRC since 2015 but could not be exact, BCFP haven't got a computer with a log of cases.

[The director] agreed to send details of the cases. [See summaries of email chains below in [Annex O](#).]

**Emailed response, 9 November 2019:** Yes, BCFP has a Computer but not in the year 2000 to log all the cases. Despite that our Computer was stolen by unknown persons. But we were managed to get another one to log a few of them.

Yes; I do agreed with you to send you certain of our Press Releases and messages of which I did already [see summary of emails in [Annex O](#) below].

**8) Can you list these cases (in the attached response you mention 8 cases since 2015). For each of cases you have assisted can you provide:**

The names we have now are,

- Mr. ARISTOLE MONSENGO was expelled from UK on 10<sup>th</sup> October 2016, during his arrival we did follow his case from the airport Ndjili to the DGM and in the ANR where he got disappeared up to now.
- [TB] was expelled from UK to DRC on 10<sup>th</sup> November 2015, we welcome him at the airport and he was sent to the DGM headquarters they detained him for some days.

**[Details: why was he detained; how long was he detained; where is DGM headquarters; what happened to him in detention; why was he released; did you secure his release / witness his release and how; were you in contact with him after his release; what evidence / report have you of this?]**

**Interview, 4 November 2019:** [The director] added that BCFP [redacted].

[HO: BFCP – please provide any further details in answer to the questions above. No further information provided.]

- [DN] was expelled from the UK to DRC on 2<sup>nd</sup> December 2016. We helped him to be released at the DGM.

**[Details: was he detained, if he was why was he detained; how long was he detained; what happened to him in detention; why was he released; did you secure his release / witness his release and how; are you in contact with him after his release; what evidence / report have you of this?]**

**Interview, 4 November 2019:** DN arrested [redacted]

[Director - please provide any further details in answer to the questions above.]

**Emailed response, 9 November 2019:** [DN] was arrested by the ANR as were told the next day by one [of the] DGM's [...]inspector[s].We even published a Press Release to denounced [sic] his arbitrary arrests.

- [P] was expelled from UK on 28 November 2016 we [redacted].

**Details: was he arrested or simply held for questioning; when was he released from the airport; how did you help; if he was not detained, why was he different from the other cases you state were detained for several days?**

P was able to leave the airport. [Redacted].

Director - please provide any further details in answer to the questions above. [No further information provided.]

- [JOY] was expelled on [redacted].

**[You state above that JOY was removed from the UK and [redacted].Can you clarify what happened? If he was detained, where, when, why and for how long; how was he treated and how was he released?**

Informed of return by Catherine Ramos.

[Redacted]... arrested again for using his phone outside Makala prison.

The director could recall the date of his arrest but did not remember exactly the date of JOY's arrival at the Airport in Kinshasa. Will check his notes and send more details.

[The director - please provide any further details in answer to the questions above.]

**Emailed response, 9 November 2019:** [JOY] was detained for speaking over phone outside the prison central of Makala. [No further information provided.]

- Mr. ADAMO KIZEY [AK] was deported on October 2015 we welcome him at the Airport. He was invited by the Court several times. On 7<sup>th</sup> November 2016 he was arrested by the police and we helped [him] to be released on 8<sup>th</sup> November 2016. He is facing insecurity problems here due to lack of national ID card (carte d'électeur) and languages.

**[Can you confirm AK was not arrested at the airport? Why do you think he was not, why was his case different from the others above?]**

AK did not get arrested at the airport because his lawyer came to welcome him. He was arrested afterwards because his ID was not the original.

- [IK] was expelled from UK on 26 May 2018. She has mental problems.

**[Did she have any difficulties on arrival – was she arrested or detained? If not, why do you think this was, how was she different from the cases above?]**

**Interview, 4 November 2019:** The director doesn't have the details of the case – BCFP lawyer does. Stated he will provide these.

Director - please provide any further details in answer to the questions above.

[No further information provided.]

**[In your response to the British Embassy of 18 September 2019 you mentioned an 8<sup>th</sup> person, 'M'. Did you help him and can you provide details answering my question a to h below?]**

[The director] - please provide any further details in answer to the questions above.

[No further information provided.]

**[Can you confirm that all of these persons were forced returns?]**

[Director - can you confirm?]

**Emailed response, 9 November 2019:** No. I cannot confirm that they all were forced to remove from UK.

- a) **name and any background about the returnee. For example, if they were a rejected asylum seeker; were they a voluntary or forced return**

Majority of names mentioned were rejected Asylum seekers and others were forced to return.

**[Can you clarify who were forced to return – you suggest in answer to q5 above that you are not aware of voluntary returns, so this suggests all the cases you have named were forced returns?]**

[No further information.]

- b) **how you found out about the case?**

Through their lawyers, families and so on.

- c) **date of return?**

As I replied already.

- d) **what happened on arrival?**

At times arrestation and jailed in prison.

e) **what document they travelled on?**

The documents they travelled with were deportation documents and so on.

f) **was the person arrested and/or detained?**

Yes, very often.

If so:

i. **by which organisation?** The DGM and the ANR.

ii. **what were the reasons for detention?** Suspected people.

**[Suspected of what?]**

**[No further information]**

iii. **the length and location of detention?** DGM cell or ANR undergrounds cells.

**Where are DGM's offices?**

**Emailed response, 9 November 2019:** The DGM has offices: Yes, they have many offices. Their Headquarters [sic] is in Kinshasa DRC. There are offices in all the provinces and the communes.

**How did you know where kept?**

**Emailed response, 9 November 2019:** We used to be informed. Formerly; the cell in Kinshasa named Kin-Manzire. After they transferred it to their Headquarters [sic] and later to their building situated in the Haut Commandement.

**[Did you visit these locations?]**

**Emailed response, 9 November 2019:** Yes

iv. **how and why the person was released?** For the political grounds and the security reasons according to them.

**Emailed response, 9 November 2019:** It depends on the case.

v. **if money was required for the release, how much and who provided this?** In DRC no one will be arrested and set free without paying some money. The amount paid depends on the gravity of the case. At times their families, people with good heart and the BCFP and so on. The amount they asked start from 200US\$ up to 10.000 US\$. Because we had a proof of a British called [M] paid on amount of 7.000US\$ to ANR before being released by his family.

**Emailed response, 9 November 2019:** Through the contribution of our memberships; Lawyers, family and people with good heart and so on..

**[Does the BCFP pay for the release of people from detention? How much do you pay? Where do you get the money from?]**

vi. **any ill-treatment – what and any injuries / medical treatment?** There are ill treatment cases and injuries there was one deportee who is dead in the commune of Masina and your Embassy in Kinshasa has the file.

**[Which of the above cases faced ill-treatment? Can you provide details of the 'deportee' who is dead in Masina (name, when they arrived in the DRC; what happened to them on arrival; were they detained; where and why were they detained; how did you find out about the case?) Was the person's death result of being in detention or other causes?**

**What evidence do you have for this?]**

Not discussed at interview.

Director - please provide any further details in answer to the questions above. [No further information provided.]

**vii. did you report the case – if so, to whom/what, and when?**

**viii. Are you able to provide these 'reports'?** Yes, we can.

**[Can we have these reports?]** [See email summaries in Annex O]

**g. Were you at the airport to witness the events described above? If not, how did you find out about this?**

At the waiting hall in the airport Ndjili.

**h. Are you still in contact with the returnee? If so, what are their circumstances?**

Yes. Certain are facing insecurity problems here lack of an identity, language and mental cases, have been reported.

**[Which cases are you contact with? Do you have their details to share with us?]**

[No information provided]

**Have you referred any of the cases above to the British Embassy in Kinshasa, or any other organization, to obtain assistance?**

Director - please provide any further details in answer to the questions above. [No further information provided.]

**9) Are you aware of any other returns from the UK to the DRC than those above?** Yes, I think so.

**a. If yes, what happened to them (and what is the evidence for this)?**

We are aware of so many cases of those return from UK that you are talking about. But the major problem we have, certain among them had changed their addresses. And therefore it is very hard for us to follow their situations. Some of them were living underground.

**[How many cases – can you be exact? What cases – please provide details (different from above)? Are you aware of cases that had no problems other than being questioned on arrival?]**

**Interview 4 November 2019:** [The director] referred to 70 cases assisted – see response to question 2 above. However, BCFP only intervene if a returnee is arrested. It is possible that other returnees come back, are questioned and released/pass through airport. Not informed of these cases.

Director - please provide any further details in answer to the questions above. [No further information provided.]

**10) If not state above, why did or does the DRC government have an interest in returns from the DRC?**

They are considered as dangerous persons and being called as combatants. Also UK has strong opportunity [sic; opposition].

**[Do you consider that all failed asylum seekers from the UK are at risk from the DRC government? If so, why? Do you consider Congolese who have not claimed asylum in the UK but are forcibly returned to the DRC are at risk? If so, why? What evidence do you have to support this statement?]**

**Interview, 4 November 2019:** The former Kabila regime did not respect human rights. The UK is a stronghold of opponents to former regime. Opponents in the UK seen as 'stronger' than elsewhere, those in other countries. Most of them arrested – evidence of these documented by BCFP releases. Will send these releases. [See [Annex O](#) below.]

On being asked why UK was more of an opposition stronghold than other European states, such as Belgium and France, [the director] stated that could not talk about France (or Belgium) as not informed of returns from these countries.

Asked if the situation for returnees was different under the Tshisekedi government, [the director] stated that the new president is willing but not able. Maybe things will change in the future. Explained that the alliance between Tshisekedi and Kabila does not give Tshisekedi much power to bring reforms.

**11) Are you aware of any returns since Felix Tshisekedi became president in January 2019 from UK or elsewhere in Europe?**

**a. If so, what happened (were there any problems)?**

No, not yet we are not informed about any case since he was brought at power.

**12) What is your relationship with the Direction Générale de Migration (DGM; General Office of Migration) and Agence Nationale de Renseignements (ANR; National Security Agency)?**

I don't or we don't have relationship with the Direction Générale de Migration (DGM) General Office of Migration and Agence Nationale de Renseignement (ANR) National Security Agency. But we do have people within the DGM and ANR that we are collaborating with them to provide us some information and it is not free, at times they asked for some money before given [sic] us information about certain cases.

**13) What is your connection with Catherine Ramos and have you read her report, Unsafe Return 3?**

Mrs. Catherine Ramos came across one of our press release and she was very interested with it. And she started be in contact with us. That is all.

**Interview, 4 November 2019:** Catherine Ramos informs BCFP of returns. BCFP copies her into its 'press releases' about returns when these are issued.

**14/ Unsafe Report 3 has a section documenting 18 case studies of Congolese returned from the UK to the DRC since 2016, including BCFP cases:**

**a. which of the cases above are listed in Unsafe Return 3 (please identify which case study number)?**

**b. are the case studies in Unsafe Return 3 an accurate description of what happened?**

Well, unsafe report 3 has a section 18 cases studies of Congolese returned from the UK to the DRC since 2016 including BCFP cases.

a/ I have read the Report called Unsafe Return and all the contents were carefully noted. She has made a good Report which is accurately true and verifiable. She wrote this report through certain of our Press Release and the information we provided to her and many other NGOS and so on. If certain European countries who have their Embassies here don't say the truth to their Authorities about human rights abuses in DRC. Thus, we must thank Mrs.Catherine Ramos for her Report on deportees. If you were in the DRC during the authoritarian Regime of the former President Joseph Kabila Kabange, then you can't argue with me.

**[Please identify which of the case studies in Unsafe Return 3 are based on information from BCFP? Did [the director] provide the details of these cases to Ms Ramos, if so how (email / phone, etc)? Do the BCFP case studies in Unsafe Return 3 accurately reflect the information [the director] provided to Ms Ramos?]**

**Interview, 4 November 2019:** The director to confirm which are the BCFP assisted cases in Unsafe Return 3 and which cases the BCFP provided information to Catherine Ramos in the table below:

<b>BFCP</b>	<b>Unsafe Return 3 – case study number</b>
Aristote Monsego	Case study 4, page 25
DN	
TB	
Adamo Kizey	Case study 8, page 29
P	
JOY	
IK	
M	

[No further information or confirmation provided.]

**15) Do you work with any other NGOs – if so, which and what do you do with them?**

Yes, I do or we do work with ASADHO, Ange du Ciel, Human Rescue DRC, Dieu Défenseur Universel, Le Groupe Exporteur International, NGO Déclaration Internationale des Droits de l'Homme and collaborates with Human Rights Watch, Amnesty International, FIDH, Ligue Belge des Droits de l'Homme, UN Human Rights section in DRC and many others.

**Question asked following on from the written response of 28 October 2019**



**16) We have contacted a number of organisations – European Union member states, western Embassies in Kinshasa, UNJRO, IOM, other Congolese NGOs, etc – but none are aware or provide clear evidence of problems on arrival for Congolese returning from Europe and elsewhere. If problems on return for failed asylum seekers from the UK and other western states are, as suggested by BCFP, common, why are other organisations not aware / do not report this?**  
**Interview, 4 November 2019:** BCFP has monthly meetings with the UN Joint Human Rights Office, most western embassies and other NGOs in Kinshasa. Also sends press releases of returns cases (where the person has faced difficulties) to these organisations; it's up to them to check returns, investigate and make reports.

Done on 28<sup>th</sup> October 2019

[redacted]

President [Director]

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## **Annex O: Summary of Bill Clinton Foundation for Peace emails**

### **Summary of 31 emails sent by the director of the Bill Clinton Foundation for Peace (BCFP) sent on 9 and 10 November 2019.**

At the request of the Home Office during the telephone teleconference of 4 November 2019, the director of the BCFP agreed to forward reports / press releases relating to returns. On 8 and 9 November 2019 the director forwarded 31 email chains sent between October 2006 and May 2018 to the Home Office. The emails were written in a mixture of English and French and covers a range of subjects, with some email chains covering multiple issues. These issues covered include:

- returns of Democratic Republic of Congo (DRC) nationals from the UK
- arrest and detention of British nationals, mostly of Congolese origin
- arbitrary arrest and detention of Congolese nationals
- prison conditions

Correspondents include a UK-based NGO; representatives of international human rights organisations; a representative of the United Nations Organization Stabilization Mission in the DRC (MONUSCO); representatives of Congolese NGOs; a journalist working for a UK newspaper; a UK-based legal firm; the African Union; and various private individuals (some of whom may have been representatives of organisations).

Most of the email chains, however, particularly those including or forwarding press releases or general statements about the human rights situation in the DRC, were sent for information to multiple recipients including international human rights groups, western European governments.

The Home Office has not contacted all correspondents to obtain their consent to disclose their details, so in order to protect their identities of individuals only summaries of the email chains are provided below unless it is evident that the information was in the public domain, for example press releases. The most detailed summaries are for email chains that refer to returns of DRC nationals from the UK.

The names of individual returns, British nationals who were arrested and email correspondents and recipients – other than Aristote Monsego and Adam Kizey who are both named in Unsafe Return 3 - have been redacted or, in case of the returnees from the UK, abbreviated to their initials.

A copy of the summary was provided to the director of the BCFP.

#### **UK returns**

Five email chains (including an email referring to other returnees – see summary below) refer to Aristote Mosengo returned from the UK in October 2016. Details provided by BCFP in the email correspondence are generally consistent with those provided in the written responses to and notes of the interview with the officials from the British Embassy in Kinshasa (BE)/Home Office (HO) in October/November 2019. The email correspondence is dated between October 2016 and May 2018, and includes a UK-based NGO, and international human rights organisation, a journalist working for a UK newspaper and a representative of MONUSCO.

Three email chains refer to Adamo Kizey returned from the UK in October 2015. Details provided by BCFP in the emails are generally consistent with those provided

in the written responses to and notes of the interview with the BE/HO in October/November 2019. The correspondence is dated between November 2016 and March 2017 and includes contact with a UK-based NGO, an international human rights organisation and a representative of MONUSCO.

Two email chains refer to DN returned from the UK in December 2016. Details provided by BCFP in correspondence is generally consistent with those provided in the written responses to and notes of the interview with the BE/HO in October/November 2019. The correspondence is dated between December 2016 and March 2017 and is a UK-based NGO.

One email refers to Aristote Mosengo, Adamo Kizey and DN, plus MaM, JOY, P and M. The sole reference to the latter 4 - MaM, JOY, P and M – is that they are in the same situation as the other returns cases mentioned. MaM was not previously referred in the BFCP's written responses or interview with the BE/HO in October/November 2019. The email is dated March 2017 and is to representatives of an international human rights organisation and MONUSCO (in previous correspondence the individual indicated that they were working for the UN however the email in this chain was sent to a private email account).

One email chain refers to [RK], returned from the UK in early 2017. This individual was not previously mentioned in the BFCP's written responses or interview with the BE/HO in October/November 2019. No information is provided about the return. The email chain is with a UK-based NGO in early 2017.

One email chain refers to [VL], returned from the UK in early 2017. This individual was not previously mentioned in the BFCP's written response or interview with the BE/HO in October/November 2019. A UK-based NGO noted that the individual passed through the airport after money was paid; no further information is provided. The email chain is with a UK-based NGO in early 2017.

One email chain dated in November 2012 is from a lawyer at a UK-based law firm representing a Congolese national who had claimed asylum in the UK after having previously been returned to the DRC in June 2012. The lawyer requested information about the treatment of returns on arrival and what information is collected about them. The BFCP response states that there would be difficulties, including arrest and ill-treatment, on return and that returnees would be documented and fingerprinted by the DRC authorities. The response is generally consistent with information provided in the BFCP written responses and interview notes with the BE/HO in October/November 2019.

One email chain originating from a UK-based activist refers to [MM] returned in 2006 alleging that the returnee was ill-treated on arrival. This individual was not previously mentioned in the BFCP's written responses to and notes of the interview with the BE/HO in October/November 2019. No further information is provided about the case. The email was forwarded by BCFP to multiple recipients including a western government and an international news agency.

### **Arrests of British-Congolese nationals in the DRC**

Two email chains (one of which is also referred to in 'Arbitrary arrests and detentions' below) refer to the arrest and detention AB, a British national of Congolese origin/descent. Details provided by BCFP in correspondence are generally consistent with those provided in notes of the interview with the FCO/HO in November 2019. The correspondence is dated between August 2016 and February

2017 and was sent to a range of recipients.

One email chain forwarding to several correspondents a joint press release by BCFP and other NGOs about the arrest of a Congolese politician and ZM, a British passport holder. The email is dated August 2016.

Three emails chains including a BCFP press release refer to the arrest and detention of CM, a British national. The emails were sent in September 2014 to multiple recipients including, the UN, Human Rights Watch and a UK-based legal firm.

One email chain referring to the hospitalisation and arrest of BH, a British national between December 2010 and January 2011. The email chain was sent in December 2010 and January 2011 to multiple recipients.

### **Arbitrary arrest and detention in the DRC**

One email chain forwarding a press release from the NGO the African Association for the Defence of Human Rights (Association africaine pour la défense des droits de l'Homme; ASADHO) about the arrest and detention of a number of Congolese nationals, including 2 LGBTI persons/activists. The correspondence dates from January 2017 and is with a range of correspondents including a European government.

One email chain about arrest and detention, and respect for the law, with a DRC judge in October 2016.

One email chain forwarding a BCFP press release highlighting the arbitrary arrest and detention of a number of individuals including the British national, AB (see above in 'Arrests of British-Congolese nationals in the DRC'). The email chain is dated August 2016 and was sent to multiple recipients.

One email chain containing photographs of the body of the assistant of the former Voix des sans Voix director, Floribert Chebyeya, sent in September 2014 to a DRC newspaper. The email also refers to the assassination of Aimee Kabila in 2008, the daughter of Laurent Kabila, sent in March 2010. A second email also refers to Aimee Kabila sent in February 2006. Both chains referring to Aimee Kabila were sent to multiple recipients including international human rights groups.

One email chain containing a BCFP press release about the arrest and detention of [JK] who was imprisoned visiting a colleague in Makala prison. The email was sent to multiple recipients in April 2012.

One email chain contains a BFCP press which refers to the detention of non-DRC Africans by the Congolese immigration service for being in the DRC illegally. The email was sent to multiple recipients in June 2012.

One email chain containing an ASADHO press release about rights violations following the arrest and detention of over 130 military personnel and civilians in connection with an attack on the residence of the head of state, General Munene and Colonel Tshibangu. The email chain was sent in October 2012 to multiple recipients.

One email chain containing a BCFP press release refers to the arrest and detention of lawyer, [MTN], in November 2006. Emails were sent in December 2006 and January 2007 to multiple recipients.

### **Prison conditions**

One email chain containing a BFCP report about prison conditions in the DRC sent in June 2015 to multiple recipients including 2 international human rights organisations.

One email chain contains 5 questions put to BFCP and their responses about the human rights situation in the DRC sent to single recipient in May 2012.

One email chain containing a BCFP press release about the poor conditions in Makala prison, and arbitrary arrest and ill-treatment of a number of individuals detained in the prison. The email chain was sent in December 2006 to multiple recipients and includes a reply from the African Union.

13 November 2019

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## **Annex P: Home Office: email on redocumentation and return, December 2019**

Email from Home Office official involved in the returns process and the Migration Delivery Officer covering southern and central Africa, 5 December 2019

Hi [redacted]

Apologies I'm resending after clarifying a couple points with [redacted].

Anyway, thanks for explaining the redocumentation and returns process for Congolese nationals returning to the DRC which we've discussed over the phone and by email. Below sets out what happens as you understand it:

The Emergency Travel Document (ETD) issuance process for those persons who do not have their valid Democratic Republic of Congo (DRC) passport is as follows:

- The Home Office (HO) caseworker completes an ETD application form on behalf of the returnee providing relevant biodata based on information on the HO file and electronic databases, including that taken from any supporting evidence available such as ID documents and information provided by the returnee at an interview.
- If the returnee is not compliant with the redocumentation process then the biodata are taken from information on the HO file, electronic databases and any supporting evidence available.
- The biodata usually include the returnee's name, date of birth (dob), place of birth, last place they lived in the DRC, details of any family members and their addresses in the DRC, names and addresses of any schools attended in the DRC, places of worship, local police stations and 4 photographs of the returnee.
- The ETD application form is then sent directly to the DRC Embassy in London by the HO caseworker.
- The Direction General de Migration (DGM) attaché based at the DRC Embassy in London conducts a mandatory face-to-face interview with the returnee. HO officials are not routinely present at these interviews. The purpose of this interview is to establish / confirm the applicant's identity and nationality.
- The DGM attaché then completes a report of the interview and - along with biodata, other relevant supporting evidence and photographs - sends this to the DGM in Kinshasa.
- The DGM in Kinshasa review the information provided by the attaché in London and, if verified, will issue an ETD (known as a 'Sauf Conduit pour Retour' – safe conduct for return) which is then sent to the British Embassy in Kinshasa where it is checked by the Migration Delivery Assistant (MDA).
- The MDA then forwards the ETD to the Home Office in the UK, where the name / dob are checked against biodata held on file before being given to the DGM attaché in London.
- The DGM attaché adds the returnee's photograph to and stamps the ETD before returning the document to the Home Office.

Returns process for those travelling on an ETD:

- Voluntary return – the ETD is sent to the Home Office returns teams at the airport from which the applicant is leaving the UK. An HO official will meet the returnee at the airport and hand over the ETD. Some voluntary returnees may be escorted in exceptional cases, for example following a risk assessment of their behaviour, at the request of the airline on whose aeroplane the returnee is being removed or on medical grounds. If escorted, the HO gives the ETD to the escorts who will carry the document until it is handed over to the DRC authorities at the airport in Kinshasa.
- Involuntary return – the HO gives the escorts the returnee's ETD who hold onto the document until arrival at the airport in Kinshasa where they hand it over to the DRC authorities, which may be at airside or at immigration control desks. The returnee is not provided with the ETD or a copy, although they may see document during the return or on arrival. Only one ETD is issued for each returnee however escorts may hold a copy in case the original ETD is damaged or lost.
- Escorts have discretion to provide the returnee with a small quantity of cash to assist with onward travel, for example US\$50. Where a discretionary payment is made, this will be given directly to the returnee and not DRC officials.

This email is for your information. I am going to append it to our forthcoming country policy and information note on returns to the DRC, which will be published on gov.uk.

Thanks for your patience and help.

[Redacted]

Country Policy and Information Team

BICS Policy and International

Home Office



# Terms of reference

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

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

- Sourcing
- Returns statistics
  - Definitions
  - Returns from the UK
  - Returns from other EU states
- Redocumentation and returns process
- Treatment of returns
- Forged and fraudulent documents
  - Corruption generally
  - Law
  - Prevalence
  - Penalties in practice

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **4.0**
- valid from 13 January 2020

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**Official – sensitive: Start of section**

Deleted

**Official – sensitive: End of section**

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## Changes from last version of this note

Country information updated.

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