

# COI Focus

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## DEMOCRATIC REPUBLIC OF THE CONGO

### Treatment reserved by national authorities to their citizens on returning to the country

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14<sup>th</sup> June 2019 (update)

Cedoca

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All the sources used are briefly mentioned in a footnote and described in detail in a bibliography at the end of the document. Sources which have been consulted but which were not used are listed as consulted sources. In exceptional cases, sources are not mentioned by name. When specific information from this document is used, the user is asked to quote the source mentioned in the bibliography.

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## Contents

<b>List of abbreviations used</b> .....	<b>3</b>
<b>Introduction</b> .....	<b>4</b>
<b>1. Migratory context</b> .....	<b>5</b>
1.1. Migratory flows .....	5
1.2. Relations with Belgium .....	6
<b>2. Legislative framework relating to migration</b> .....	<b>7</b>
<b>3. Re-admission agreements</b> .....	<b>7</b>
<b>4. Types of return</b> .....	<b>8</b>
4.1. Voluntary return .....	8
4.1.1. Organisation and identification procedure .....	8
4.1.2. Figures .....	8
4.2. Forced return .....	9
4.2.1 Organisation and identification procedure .....	9
4.2.2. Figures .....	9
<b>5. Entry into the country</b> .....	<b>9</b>
5.1. Authorities present .....	10
5.2. Procedure on arrival .....	11
5.3. Overview of reported problems .....	11
<b>6. Follow-up in the country</b> .....	<b>14</b>
6.1. Support programmes .....	14
6.2. Overview of reported problems .....	14
<b>Summary</b> .....	<b>15</b>
<b>Bibliography</b> .....	<b>16</b>

## List of abbreviations used

ANR	Agence nationale de renseignements [National Intelligence Agency]
CLC	Comité laïc de coordination [Lay Co-ordination Committee]
DGDA	Direction générale des douanes et accises [General Directorate of Customs and Excise]
DGM	Direction générale de migration [General Migration Department]
DPI	Applicant for international protection
DRC	Democratic Republic of Congo
Fedasil	Agence fédérale pour l'accueil des demandeurs d'asile [Federal Agency for the Reception of Asylum Seekers]
FRONTEX	European Border and Coast Guard Agency
ICCPR	International Covenant on Civil and Political Rights
IOM	International Organisation for Migration
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
OCC	Office congolais de contrôle [Congolese Office of Control]
OE	Office des étrangers [Immigration Office]
OFIDA	Office des douanes et accises [Customs and Excise Office]
ONATRA	Office national des transports [National Transport Office]
REAB	Return and re-integration of asylum seekers from Belgium
RMGs	Rebel and Militia Groups
RVA	Régie des voies aériennes [Air Transportation Board]
SNCC	Société nationale des chemins de fer du Congo [Congo National Railway Company]
SSF	State Security Forces
UCL	Université catholique de Louvain [Louvain Catholic University]
UNHCR	United Nations High Commissioner for Refugees
USDOS	United States Department of State

## Introduction

The present report is an update of the COI Focus of 20th July 2018 entitled *Sort des Congolais rapatriés en République démocratique du Congo (RDC) depuis 2015 [Fate of Congolese repatriated to the Democratic Republic of Congo (DRC) since 2015]*. It concerns the attitude of the Congolese authorities towards their citizens returning after having illegally left the country and/or having applied for international protection (DPI) in Belgium and/or having lived there. The treatment of returned citizens by their authorities on account of their political, ethnic, religious or terrorist profile is not the subject of this research.

This report covers the period between July 2018 and May 2019.

Return to the country of origin should be considered when a foreigner no longer meets the conditions required for staying in Belgium. Such a return can be voluntary or forced. Voluntary return means that the decision to return comes from the foreigner, who can organise his travel by himself, or take advantage of a return programme co-ordinated by the Federal Agency for the Reception of Asylum Seekers (Fedasil) and organised by the International Organisation for Migration (IOM) or the Immigration Office (OE).<sup>1</sup> On the other hand, return is forced when the person is sent back to his country of origin by the host country against his wishes. Forced returns are organised by the OE<sup>2</sup>.

This report is in six parts. While the first sketches the current migration context, the second is devoted to the relevant legislative framework. The third part deals with possible readmission agreements between Belgium and the Democratic Republic of Congo. The fourth part concerns the types of return (voluntary and forced) implemented by the Belgian authorities. In the fifth part, Cedoca looks at the entry into the DRC by examining information on the authorities present, procedures on arrival and potential problems reported. The follow-up by the authorities of their nationals after they returned to their country is the subject of the last part of this report.

This report is not exhaustive and has been drawn up on the basis of public information. In addition, Cedoca has contacted four human rights organisations active in DRC and in particular in Kinshasa. Three organisations responded within the time limits for this research<sup>3</sup>. Cedoca draws attention to the fact that the sources consulted do not always specify the type of return (voluntary or forced). Furthermore, some information has been directly obtained from actors involved in the organisation of returns, such as the OE and IOM.

Cedoca uses the term "asylum seeker" when it refers to information prior to the new terminology dating from the entry into force in March 2018 of the law transposing the European Asylum Procedures directive of 2013 into Belgian law<sup>4</sup>.

The documentary research for this update was terminated on 24th May 2019.

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<sup>1</sup> Fedasil, s.d., [url](#)

<sup>2</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16th December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals has been transposed into Belgian law by three texts: the law of 19th January 2012 amending the law of 15th December 1980, the law of 19th January 2012 amending the legislation concerning the reception of asylum seekers and the royal decree of 19th June 2012 amending the royal decree of 8th October 1981 on the access to the territory, residence, establishment and removal of foreigners and the royal decree of 20th July 2001 relating to the functioning and personnel of the General Federal Police Inspectorate and local police within the framework of the monitoring of forced return.

<sup>3</sup> Names and contact details have not been communicated as the decision-makers wish to remain anonymous for security reasons. Cedoca has identified these associations as follows: Association A, B and C.

<sup>4</sup> CGRA, 21/03/2018, [url](#)

## 1. Migratory context

### 1.1. Migratory flows

The most recent report of the Office of the United Nations High Commissioner for Refugees (UNHCR) entitled *Global Trend. Forced Displacement in 2017* concerns the year 2017 and specifies that the first place of refuge of the Congolese is the African continent<sup>5</sup>. The DRC is the third largest country of displacement with 5.1 million people, including 4.4 million internally displaced people, 620,800 refugees and 136,400 asylum seekers. The majority of refugees from the DRC live in neighbouring countries (Uganda, Rwanda and Burundi) but also in South Africa and France<sup>6</sup>.

As far as migration between the DRC and Belgium is concerned, in 2010 the Applied Demographic Study Group (Catholic University of Louvain, UCL) and the Centre for Equal Opportunities and the Fight against Racism specifically examined the phenomenon of Congolese migration and its impact on the presence of Congolese nationals in Belgium. The study presents the historical and sociological outline of this migration:

"The country's independence was the starting point for Congolese migratory flows. While there were only 10 Congolese nationals residing legally in Belgium at the end of the war, there were 2,585 in 1961. This number gradually increased until today, with only two periods of stagnation in 1985 and 1995. In 2008, there were 16,132 Congolese nationals legally residing in Belgium and more than 25,000 Congolese by birth who had become Belgian.[...] The first Congolese migrations, between 1946 and 1974, were essentially those of students (a student migration phenomenon which did not stop), tourists and shopkeepers. Between 1975 and 1983, a period during which Belgium ended economic migration by quotas, Congolese migration was maintained and even increased, contrary to other migrations. This discrepancy can be explained by a difference in the reasons for migration. In fact, it is only accurate to speak of economic migration of Congolese nationals from the 80s onwards. It was also during this period that the first large flows of refugees appeared, a trend which also marked the 90s and the years 2000, with peaks in asylum requests made in 1992-93 and during the second Congo war, from 1998 to 2003. Congolese migration to Belgium has gone from a principally student transit strategy to a strategy of settlement motivated by requests for international protection and family reunification. Between the beginning of the 60s and the end of the 80s, indeed, a large number of Congolese nationals returning to their country can be seen. From the 90s onwards, these returns are severely restricted and Congolese migrants are looking more to settling and long-term migration"<sup>7</sup>. [translation]

A report published in February 2019 by Justice et Paix reflected on the root causes of Congolese migration to Belgium:

"[...] it is estimated that only around 80,000 Congolese nationals are living in Belgium. The main reasons for migration put forward by these persons are studies and family reasons (+/-30%) and conflicts (+/-25%). [...] this figure remains relatively low. This may be explained by the difficulties and high cost such a voyage represents, thus reserving this 'privilege' to people from the higher middle class, or even affluent groups. The possibility of migrating to Europe is far from the reality

<sup>5</sup> A study by the OIM on migration in West and Central Africa (Regional study 2009) already mentioned at the time that the principal destinations for Congolese emigrants were on the African continent: South Africa (18.2%), the Republic of Congo (13.1%), Zambia (9.2%), Rwanda (8.7%), Zimbabwe (8.7%) and Uganda (8.5%). After these countries, Belgium has the largest number of Congolese emigrants (6.1%) and then France (3.3%). Cf. OIM, 2011, [url](#)

<sup>6</sup> UNHCR, s.d., [url](#)

<sup>7</sup> European Migration Network, s.d., [url](#). For further details on this study, cf. Groupe d'étude de démographie appliquée (UCL), Centre pour l'égalité des chances et la lutte contre le racisme (Schoonvaere Q.), 2010, [url](#)

of thousands of other Congolese nationals who are forced into exile in their own country or the region"<sup>8</sup>. [translation]

In 2017 and 2018, Belgium ranked third in terms of the number of requests for international protection made in the European Union by Congolese nationals, after France and Greece<sup>9,10</sup>.

## 1.2. Relations with Belgium

Concerning migration, the Belgian Minister of the Interior launched a campaign in the DRC in 2006 to discourage Congolese nationals from migrating and seeking asylum in Belgium. This campaign, named *Vanda na Mboka* (Remain in the country) and carried out in partnership with the Congolese government, provided Congolese nationals with accurate information regarding the dangers and problems which illegal migration may entail. Since then, other illegal immigration prevention campaigns have been carried out by Belgium in the DRC, in particular through travelling theatre groups or television broadcasts<sup>11</sup>.

Political relations between Belgium and the DRC have been quite tense during recent years. According to an article in *Jeune Afrique* published in November 2017, several events have contributed to this climate: the doubt raised by President Kabila (without mandate since 2016) about his candidature for a third presidential term, the organisation of a large Congolese opposition meeting in Genval (Belgium) in June 2016 which brought about the creation of the Rassemblement, the nomination of Bruno Tshibala as Prime Minister in violation of the New Year's Eve agreements, Western pressure on some of Joseph Kabila's close relations eventually leading to sanctions against them by the European Union, as well as the presence in Belgium of many opponents and applicants for international protection<sup>12</sup>.

The reaction of the authorities to the peace march of 31st December 2017 organised by the Lay Co-ordination Committee (CLC) brought about the suspension of bilateral co-operation between the two countries<sup>13</sup>. The DRC furthermore demanded the closure of the General Belgian Consulate in Lubumbashi at the beginning of 2018, the termination of the activities of the Enabel development agency<sup>14</sup> and the closure of the Maison Schengen which acted as the European consulate in Kinshasa<sup>15</sup>. At the same time, Brussels Airlines was forced to reduce the frequency of its connections between Brussels and Kinshasa, from seven to four flights per week<sup>16</sup>.

Since Félix Tshisekedi was sworn in as president of the DRC at the beginning of 2019, there are signs of an easing of tensions, notably the authorisation given to Brussels Airlines to resume the frequency of its flights and the re-opening of the Maison Schengen<sup>17</sup>.

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<sup>8</sup> Justice et Paix, 02/2019, [url](#)

<sup>9</sup> Eurostat, 12/03/2019, [url](#) ; Eurostat, 15/06/2017, [url](#) ; Eurostat, 16/05/2019 [url](#)

<sup>10</sup> It should be noted that Greece was not concerned by the European Centre commonly known as the "Maison Schengen", which is responsible for issuing visas for many European countries. Cf. Centre européen des visas, s.d., [url](#) ; Metro, 02/08/2018, [url](#)

<sup>11</sup> Pécoud A., s.d., [url](#) ; Congo One, 21/05/2006, [url](#) ; Le Potentiel via AllAfrica, 19/07/2006, [url](#) ; Université de Lubumbashi (Tshibambe G. N., Kabunda G. M.) via IMI, 08/2010, [url](#)

<sup>12</sup> Jeune Afrique, 16/11/2017, [url](#)

<sup>13</sup> Congoactuel, 19/04/2018, [url](#)

<sup>14</sup> Enabel [site web], s.d., [url](#)

<sup>15</sup> Le Vif, 28/09/2018, [url](#)

<sup>16</sup> L'écho, 22/02/2019, [url](#)

<sup>17</sup> L'écho, 22/02/2019, [url](#) ; DigitalCongo, 07/03/2019, [url](#) ; Times.cd, 02/2019, [url](#)

## 2. Legislative framework relating to migration

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 Verbauwhede, 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>21</sup>.

## 3. Re-admission agreements

On 9th September 2016, the MP Denis Ducarme asked the following parliamentary question (among other questions about returns to the DRC and Guinea): "Do the re-admission agreements signed with these two countries function correctly within the framework of the return of their citizens?". The Secretary of State for Asylum and Migration, responsible for administrative simplification, deputy to the Minister for Security and the Interior, responded on 10th April 2017:

"In 2006, an agreement protocol or Memorandum of Understanding (MoU) was concluded with the Democratic Republic of Congo (DRC) to facilitate the return of rejected asylum seekers and illegal immigrants. In practice, this agreement is working very well"<sup>22</sup>. [translation]

On 5th April 2019, Geert Verbauwhede (OE) confirmed this information:

"There is no re-admission agreement. There is, however, a Memorandum of Understanding (MoU) between the OE [Immigration Office] and the Congolese authorities covering several aspects of migratory co-operation. This text contains a procedure for identification and deportation. Given the confidential nature of this text, it cannot be shared without the agreement of all contracting parties"<sup>23</sup>. [translation]

<sup>18</sup> Mémoire online (Kandolo On'Ufuku wa Kandolo P. F.), 2005, [url](#)

<sup>19</sup> Journal officiel de la République démocratique du Congo, 18/02/2006, [url](#)

<sup>20</sup> Verbauwhede G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>21</sup> OIM, e-mail, 14/05/2019

<sup>22</sup> Chambre des représentants de Belgique, 14/04/2017, [url](#)

<sup>23</sup> Verbauwhede G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

## 4. Types of return

The website of the DRC Embassy in Brussels does not give any details as to the circumstances of the return of Congolese nationals, unless it is in the specific framework of the end of studies or a labour contract:

"[...] any person having stayed outside our country to follow a training course leading to a diploma or end-of-studies certificate or any person having been sent for a given job in a representation of a Congolese company can request a certificate of permanent return to the country for the purpose of exemption from customs duties for the removal of their personal belongings "<sup>24</sup>. [translation]

### 4.1. Voluntary return

#### 4.1.1. Organisation and identification procedure

In an e-mail of 13th May 2019, the IOM communicated that it never shares with the Congolese national authorities the fact that a person has made an application for international protection. It does not have any information on the various types of laissez-passer. The IOM furthermore specifies the following elements regarding the organisation of voluntary returns:

« IOM only books commercial flights with different airlines. Beneficiaries travel as standard passengers.

The person willing to return, will initially acquire all the information about the voluntary return program. Upon request, IOM can organize a skype session with the country of return (IOM colleagues on site). During a preparatory phase IOM will, together with the returnee, discuss the possibilities after return and the type of support that the beneficiary is entitled to (this on a grid of categories provided by Fedasil). During the preparation before the return takes place, IOM assesses all elements that are important during and after travel. Meaning: travel documents, medical problems, family situation, reception in the country of return and reintegration plan.

Once everything is organized, the return can take place. IOM only provides assistance in the case of a voluntary return. The person is expected at the airport 3 hours before the flight, where he/she, accompanied by IOM, carries out all procedures like any other passenger (check-in, customs, ...). Since the person is traveling with IOM, and the return is therefore voluntary, there are no traces of forced repatriation in their passport.

During the journey, if desired and when available, IOM can assist during the necessary transfer. In addition, IOM can arrange transportation to the final destination. IOM cannot intervene during necessary checks at the airport.

After arrival the person has one month to contact the IOM office in the country of return. After this first contact the reintegration support can start »<sup>25</sup>.

#### 4.1.2. Figures

Cedoca contacted the OE and the IOM to obtain the number of voluntary returns to Kinshasa organised by Belgium. In an e-mail of 5th April 2019, Geert Verbauwheide (OE) specified the data for the period from 1st January 2018 to 20th March 2019. Twelve assisted voluntary returns were organised in 2018,

<sup>24</sup> Ambassade de la République démocratique du Congo près le Benelux et l'Union européenne, s.d., [url](#)

<sup>25</sup> OIM, e-mail, 14/05/2019

and two returns in 2019 (up to 28th February 2019)<sup>26</sup>. The IOM confirmed the above-mentioned figures for 2018 in an e-mail of 14th May 2019 and mentioned three more voluntary returns in March 2019 (thus five so far)<sup>27</sup>.

## 4.2. Forced return

### 4.2.1 Organisation and identification procedure

Contacted by Cedoca, Geert Verbauwheide of the OE explained that in view of the deportation to Kinshasa of a person not in possession of a Congolese passport, the OE contacts the national authorities. The central authorities of the DRC or the Congolese Embassy deliver a laissez-passer in accordance with the above-mentioned MoU. He furthermore confirmed that the OE never communicates to the embassy concerned whether a deported person has or has not made an application for international protection in Belgium<sup>28</sup>.

Still according to the OE official, there are several possibilities for the deportation of a Congolese national:

- commercial airlines: direct flights between Brussels and Kinshasa (Brussels Airlines);
- special flights organised with FRONTEX<sup>29</sup>.

The OE has no specific procedure. Individual support may be provided on a case-by-case basis (for example ensuring special care through a doctor, nurse, social worker, psychologist, trusted person, etc.)<sup>30</sup>.

### 4.2.2. Figures

Geert Verbauwheide communicated the number of forced returns organised by the OE from Brussels to Kinshasa. In 2018, Belgium organised twenty-five forced returns to Kinshasa. Among the returnees, twenty-two were escorted and five were repatriated on a special flight organised by Belgium with the co-operation of FRONTEX. In 2019, seven forced returns were organised (two escorted) of which four on a special flight organised by Belgium with the co-operation of FRONTEX (figures as of 31st March 2019)<sup>31</sup>.

## 5. Entry into the country

This section assesses the degree of attention a national receives from his authorities during the checks carried out on his return to the country, based on various identifiable factors: travel documents (laissez-passer or ordinary passport), the return arrangements (with or without escort, with or without

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<sup>26</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>27</sup> OIM, e-mail, 14/05/2019

<sup>28</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>29</sup> For more information, cf. FRONTEX [site web], s.d., [url](#)

<sup>30</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>31</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

reception by the IOM), the respect or not of the relevant legislation on migration, or the fact of returning from Belgium.

## 5.1. Authorities present

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 2009<sup>32</sup>]; the Congolese Control Office (OCC) <sup>33</sup>; the Public Health Service.

To these four services, the newly created Central Department of the Border Police of 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. <sup>34</sup>) and non-apparent services, provide the integrated management of borders in accordance with their specific missions"<sup>35</sup>. [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 "<sup>36</sup>. [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"<sup>37</sup>. [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

<sup>32</sup> The website of Kinshasa airport ([url](#)) states that the DGDA checks specifically the goods which passengers should declare on arrival (objects purchased/inherited abroad, purchased in duty free, more than 5,000 US\$ in cash currency (or its equivalent in another currency). For further information regarding the DGDA, cf. DGDA, s.d., [url](#)

<sup>33</sup> The OCC is a product quality, quantity and compliance control company for the whole territory of the DRC. To know more, cf. OCC [website], s.d., [url](#)

<sup>34</sup> Ed. : ONATRA = Office national des transports, RVA= Régie des voies aériennes, SNCC= Société nationale des chemins de fer du Congo

<sup>35</sup> DGM, 28/01/2018, [url](#)

<sup>36</sup> DGM, 28/01/2018, [url](#)

<sup>37</sup> DGM, 28/01/2018, [url](#)

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"<sup>38</sup>. [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)<sup>39</sup>.

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>40</sup>.

## 5.2. Procedure on arrival

The Belgian immigration officer stationed in Kinshasa explained in an e-mail of December 2017 that persons forcibly repatriated from Belgium are handed over to the DGM on arrival at Ndjili/Kinshasa airport for the purposes of identification. They may in addition undergo a check by the ANR, but this is not systematic<sup>41</sup>.

On 1st April 2019, during the monitoring of the latest flight from Brussels to Kinshasa on 26th March 2019, the immigration officer explained that only the DGM carried out monitoring, specifying that: "there was no ANR monitoring and the DGM told me that this would be the case for all returns"<sup>42</sup>. [translation]

On 4th April 2019, Geert Verbauwheide, OE adviser, e-mailed clarifications on the types of monitoring (monitoring of documents, interviews etc.) carried out by the Congolese authorities at the airport at the time of return:

"Monitoring concerns all returning persons ('ordinary' passengers) and also in particular persons repatriated by the Belgian authorities. In the case of commercial flights, there is no supplementary interview of the repatriated person on arrival. This does not preclude that the person may be interrogated if he or she is wanted by the Congolese authorities for reasons of public order. In the case of special flights, there is always a supplementary interview by the Congolese Intelligence Service (ANR), after the Migration Service (DGM) has received the repatriated person. Having said this, on the basis of the monitoring we carried out, we believe that this does not pose any risk given that any person repatriated on a secure flight is released within one day"<sup>43</sup>. [translation]

## 5.3. Overview of reported problems

Catherine Ramos of the British non-governmental organisation Justice First, author in 2011 and 2013 of the reports *Unsafe return I* and *Unsafe return II*, published at the beginning of 2019 an update entitled *Unsafe return III. Removals to the Democratic Republic of Congo 2015-2019*. She describes the problems encountered during repatriation of Congolese nationals from Great Britain to the DRC between 2012 and 2018. Catherine Ramos cites seventeen case studies of people who have encountered problems relating to non-compliant or absent travel documents or to the necessary

<sup>38</sup> DGM, 28/01/2018, [url](#)

<sup>39</sup> USDOS, 13/03/2019., [url](#)

<sup>40</sup> Smits K., OE Immigration Officer, e-mails, 22/12/2017 ; Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>41</sup> Smits K., OE Immigration Officer, e-mails, 22/12/2017

<sup>42</sup> Smits K., OE Immigration Officer, e-mails, 01/04/2019

<sup>43</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

payment of a sum of money to be able to leave Ndjili airport. She mentions several cases of people who have been subjected to interrogation, detention and ill-treatment, including some in 2017 and 2018<sup>44</sup>.

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<sup>45</sup> 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 (see section 2.4.6.) is prepared to receive these UFM<sup>45</sup> until at least their eighteenth birthday. Over the past four years, no UFM<sup>45</sup> have been forced to return from the Netherlands to Kinshasa"<sup>46</sup> [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"<sup>47</sup>. [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<sup>48</sup> and RMGs<sup>49</sup> 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 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"<sup>50</sup>.

Questioned regarding potential problems which Congolese nationals may have encountered during repatriation organised by Belgium in the past, on 5th April 2019, Geert Verbauwheide of the OE 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

<sup>44</sup> Justice First (Ramos C.) in City of sanctuary, 2019, [url](#)

<sup>45</sup> Ed.: UFM = unaccompanied foreign minors.

<sup>46</sup> Ministerie van buitenlandse zaken, 11/12/2018, [url](#)

<sup>47</sup> Ministerie van buitenlandse zaken, 11/12/2018, [url](#)

<sup>48</sup> Ed.: SSF = state security forces

<sup>49</sup> Ed.: RMGs = rebel and militia groups

<sup>50</sup> USDOS, s.d., [url](#)

escort -, compliance with the applicable legislation regarding migration, the fact that Belgium is the country of departure)<sup>51</sup>.

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<sup>52</sup>. 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<sup>53</sup>. The immigration officer responsible for monitoring their reception at Njdili 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"<sup>54</sup>. [translation]

Moreover, Cedoca asked four human rights organisations active in the DRC<sup>55</sup> 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"<sup>56</sup>. [translation]

On 7th May 2019, Association B indicated that "the information in your possession is correct. There are no problems"<sup>57</sup>. [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 this year"<sup>58</sup>. [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"<sup>59</sup>. [translation]

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<sup>51</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>52</sup> Smits K., OE Immigration Officer, e-mails, 01/04/2019, 02/04/2019

<sup>53</sup> Getting the Voice Out, 24/03/2019, [url](#)

<sup>54</sup> Smits K., OE Immigration Officer, e-mail, 01/04/2019

<sup>55</sup> These associations have requested that their names and contact details are not communicated. They are reputable associations active in the DRC in the field of human rights.

<sup>56</sup> Official from Association A active in the DRC in the field of human rights, e-mail, 07/05/2019

<sup>57</sup> Official from Association B active in the DRC in the field of human rights, e-mail, 07/05/2019

<sup>58</sup> Official from Association C active in the DRC in the field of human rights, e-mail, 09/05/2019

<sup>59</sup> OIM, e-mail, 14/05/2019

## 6. Follow-up in the country

### 6.1. Support programmes

The OE is not aware of any specific support programme set up by the national authorities in the country for the benefit of returnees. The OE adviser specifies:

"There are assisted voluntary return programmes (REAB) which are generic for any person who asks for support during a return. In the framework of a forced return, 'special needs' support can be put into place in the case of a vulnerable person. The EU-subsidised ERRIN programme might also be used, for both voluntary and forced returns"<sup>60</sup>. [translation]

The IOM is not aware of any specific support programme set up by the national authorities for the benefit of returnees<sup>61</sup>.

### 6.2. Overview of reported problems

The sources consulted and associations contacted do not give any other information than that mentioned in paragraph 5.3 regarding problems which repatriated Congolese nationals may have encountered on their entry into the DRC.

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<sup>60</sup> Verbauwheide G., Adviser to the Identification and Deportation Section of the Inland Control Department of the OE, e-mail, 05/04/2019

<sup>61</sup> OIM, e-mail, 14/05/2019

## Summary

The DRC is the third largest country of displacement, with 5.1 million people, i.e. 4.4 million internally displaced persons, 620,800 refugees and 136,400 applicants for international protection. The majority of refugees from the DRC live in neighbouring countries (Uganda, Rwanda and Burundi).

An estimated 80,000 Congolese nationals are currently living in Belgium. Congolese nationals come to Belgium mainly to study, for family reasons and owing to enduring conflicts in the DRC. In 2017 and 2018, Belgium ranked third in terms of the number of applications for international protection from Congolese nationals in EU member states, after France and Greece.

Belgium has carried out (since 2006) campaigns in the DRC to prevent illegal immigration and to discourage Congolese nationals from migrating and applying for international protection in Belgium. Politically, relations between Belgium and the DRC have been quite tense in recent years, but since Félix Tshisekedi was sworn in as President at the beginning of 2019, there have been signs of an easing of tensions, in particular the authorisation given to Brussels Airlines to resume the frequency of its flights and the re-opening of the Maison Schengen.

In 2006, a Memorandum of Understanding was concluded with the DRC to facilitate the return of failed applicants for international protection and illegal immigrants. According to the sources consulted, this agreement works very well in practice and voluntary or forced returns have been organised for several years from Belgium to the DRC.

On their arrival at Ndjili airport, persons forcibly returned to Kinshasa from Belgium undergo identification checks.

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

The organisation Getting the Voice Out published a communiqué at the time of the last collective repatriation on 26th March 2019 by Belgium to the DRC, but has not given any information relating to the reception of the Congolese nationals in their country of origin.

The report of the Dutch authorities devotes a chapter to repatriation to the DRC (without specifying the country of departure) which endorses the position of the UNHCR according to which no problems have been reported on the occasion of the forced return of Congolese nationals to the DRC.

The report of the American government specifies that checks take place at border posts, during which persons (no specific profile defined) can be harassed or are victims of extortion (or even detained until they have paid).

The other sources contacted (the Foreign Office, including the Immigration Officer stationed in Kinshasa, the adviser to the Identification and Deportation Section of the Interior Control Directorate, the International Organisation for Migration, and three human rights organisations active in the DRC) have not mentioned any problems encountered by Congolese nationals repatriated voluntarily or forcibly from Brussels to Kinshasa during the reporting period, i.e. between July 2018 and May 2019.

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