



DEMOCRATIC REPUBLIC OF CONGO COUNTRY REPORT

OCTOBER 2004

Country Information and Policy Unit

**Immigration and Nationality Directorate
Home Office, United Kingdom**

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1. Scope of the Document

1.1 This Country Report has been produced by Immigration and Nationality Directorate, Home Office, for use by officials involved in the asylum / human rights determination process. The Report provides general background information about the issues most commonly raised in asylum / human rights claims made in the United Kingdom. It includes information available up to 1 September 2004.

1.2 The Country Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum / human rights determination process.

1.3 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

1.4 The structure and format of the Country Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

1.5 The information included in this Country Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented; rather that information regarding implementation has not been found.

1.6 As noted above, the Country Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For

example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. Country Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text.

1.7 The Country Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

1.8 This Country Report and the accompanying source material are public documents. All Country Reports are published on the IND section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

1.9 Country Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in Country Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country Information Bulletins, which are also published on the IND website. They also have constant access to an information request service for specific enquiries.

1.10 In producing this Country Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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2. Geography

2.1 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004), the Democratic Republic of Congo (DRC) (formerly Zaire) has an area of 2,344,885 sq km (905,365 sq m), and is the second largest country of sub-Saharan Africa. The country shares borders with the Republic of Congo to the north-

west, the Central African Republic and Sudan to the north, Uganda, Rwanda, Burundi and Tanzania to the east and Zambia and Angola to the south. There is a short coastline at the outlet of the River Congo. The basin of the River Congo is the country's dominant geographical feature. [1] (p261)

2.2 The capital and main urban centre is Kinshasa, and other major towns are Lubumbashi, Mbuji-Mayi, Kananga and Kisangani. [1] (p261) Politically, the country is divided into 11 administrative provinces: Bandundu, Bas-Congo, Equateur, Kasai Occidental, Kasai Orientale, Katanga, Kivu-Maniema, North Kivu, Province Orientale, South Kivu and Kinshasa. [1] (p261 and 292) Maps of the DRC are available via sources [55] [56b] and [57].

2.3 The United States Department of State (USSD) Background Note on the DRC, published in October 2003, stated that the DRC had an estimated population of around 56 million in 2002 with an estimated annual growth rate in 2003 of 2.9 per cent. [3a] Europa 2004 also recorded that "The DRC's population comprises numerous ethnic groups, which the external boundaries separate." [1] (p261)

See also Section 6B Ethnic Groups

2.4 Europa 2004 also stated that "Many of the country's inhabitants follow traditional beliefs, which are mostly animistic. A large proportion of the population is Christian, predominantly Roman Catholic, and there are small Muslim, Jewish and Greek Orthodox communities." [1a] (p299)

See also Section 6A Freedom of Religion

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3. Economy

3.1 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004), "Although the Democratic Republic of the Congo (DRC, formerly Zaire) commands enormous economic potential and is richly endowed with a wide range of resources, the mining sector dominates the economy." [1] (p274)

3.2 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) also reported that:

"The economy was dominated by subsistence agriculture, a large informal sector, and widespread barter; most sectors of the economy remained moribund. Production and incomes remained low, and the World Bank estimated that 80 percent of the population lived on less than 50 cents (185 francs) a day; however, gross domestic product (GDP) grew by approximately 5 percent during the year, and inflation remained below 20 percent. Infrastructure was in serious disrepair, financial institutions remained weak, and public education and health services continued to deteriorate." [3b] (p1)

3.3 Europa 2004 noted that the national currency of the Democratic Republic of Congo

is the Congolese franc (100 centimes = 1 FC). [1] (p294) Exchange rate is approximately Franc Congolais = US\$1 (Feb 2004) [22h]

3.4 USSD 2003 also noted that “Public sector employees, including most soldiers, received very low salaries and sometimes were not paid for months, which caused widespread hardship and contributed to tensions within the armed forces and corruption in the civil administration.” [3b] (p1)

3.5 According to Europa 2004 a number of international aid and finance institutions are assisting the DRC economy, which is shifting towards a more market-orientated policy. [1] (p291) The United Nations (UN) Integrated Regional Information Networks (IRIN) reported on 22 July 2004 that a study by the International Monetary Fund (IMF) found that the government had implemented far reaching reforms, but still had a long way to go. [18am]

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4. History

Pre-Independence

4.1 As noted in Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004), immediately prior to independence from Belgium the country was known as the Belgian Congo. [1] (p262)

The Mobutu Regime 1960 - 1997

4.2 According to Europa 2004, the independence of the Republic of the Congo was proclaimed on 30 June 1960. Later that year, following political turmoil and the attempted secession of Katanga and South Kasai, Colonel Joseph-Desire Mobutu assumed control of the country. [1] (p262)

4.3 According to Europa 2004, in August 1964, the country was renamed the Democratic Republic of Congo. On 24 November 1965, Colonel Joseph-Desire Mobutu assumed full executive powers and declared himself the head of the Second Republic [1] (p 262)

4.4 According to Europa 2004 Mobutu imposed a five-year ban on party politics, and in 1966 founded the Mouvement Populaire de la Revolution (MPR) to facilitate the concentration of power in the hands of the president. [1] (p262) The government, legislature and judiciary, all institutions of the MPR, and all citizens, were made MPR party members. [1] (p262) By 1970, Mobutu had eliminated all potential opposition. In October 1971, the country was renamed the Republic of Zaire. [1] (p262) In 1972, President Mobutu took the name Mobutu Sese Seko Kuku Ngbendu Wa Za Banga. [1] (p262)

4.5 According to Europa 2004, it was not until 1990 that internal pressure obliged Mobutu to allow a multi-party political system. This change led to a proliferation of

political parties being formed. [1] (p263) A number of governments were formed in response to the various political and economic crises which beset the country over the following years. [1] (p264-266)

4.6 According to Europa 2004, in August 1996, Mobutu left the country for cancer treatment in Switzerland. During his prolonged absence there was a rapid escalation of violence in the eastern provinces of North and South Kivu. [1] (p266-267)

4.7 According to Europa 2004, what initially appeared to be a regional movement seeking to protect the Tutsi population in South Kivu soon gathered momentum and emerged as a national rebellion seeking, with the support of Rwanda, to overthrow the Mobutu regime. Europa 2004 stated:

“Rwandan Hutu militiamen and former soldiers of the Force Armées Rwandais (ex-FAR), who had fled their own country following their military defeat in 1994 [following the genocide of Tutsis in Rwanda], had been allowed to mingle freely with civilian refugees and had converted the refugee camps into bases for rearmament and preparation for the future reconquest of Rwanda. By mid-1996 Rwandan Hutu militias, known as Interahamwe, had begun to create their own territory in the Kivus, and with the support of Congolese Hutu Banyarwanda and members of the Zairean Armed Forces (FAZ), were killing and expelling Congolese Tutsi Banyarwanda and other ethnic groups. The picture was complicated by historical rivalries in the area, including widespread resentment of Tutsis resident in Sud-Kivu (known locally as the Banyamulenge), and a dispute dating from the early days of the national conference over their entitlement to Zairean nationality. The conflict soon spread further south, and in early October [1996] the Deputy Governor of Sud-Kivu ordered the Banyamulenge to leave the country within a week. Although the order was subsequently suspended, it provoked the mobilization of a powerful Tutsi backlash.” [1] (p266)

4.8 The Tutsi rebels were joined by other dissidents to form the Alliance des forces démocratiques pour le libération du Congo-Zaïre (AFDL) led by Laurent Kabila. By November 1996, AFDL forces occupied a substantial area of the east of the country. [1] (p266-267)

4.9 According to Europa 2004, despite the return of Mobutu in December 1996, and attempts to resolve the crisis, further territory fell to AFDL troops in the ensuing months with little opposition from government forces. On 16 May 1997, Mobutu and his entourage left Kinshasa, travelling to Togo, and then to Morocco, where he died on 7 September 1997. Many of his family and supporters fled to the neighbouring Republic of Congo. [1] (p267)

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The Laurent Kabila Regime 1997 - 2001

4.10 According to Europa 2004, AFDL troops entered Kinshasa in May 1997 and Laurent Kabila declared himself the president of the country, renamed it the Democratic Republic of the Congo and appointed a new Government, which, while dominated by

members of the AFDL, also included members of the Union pour la Democratie et le Progrès Social (Union for Democracy and Social progress) (UDPS) and of the Front patriotique, and avoided a potentially unpopular preponderance of Tutsis. To consolidate his power, on 28 May he also issued a constitutional decree, which accorded him legislative and executive power as well as control over the army and the treasury. This constitutional decree was to remain in force until a new constitution was adopted. Of the previously existing state institutions, only the judiciary was not dissolved. [1] (p267)

4.11 According to Europa 2004, following several demonstrations on 26 May 1997, Kabila also issued a decree banning all political parties and public demonstrations. [1] (p267)

4.12 According to Europa 2004, rebellion and disaffection again escalated in the east after Kabila issued a further decree on 28 July 1998 expelling Rwandan members of the armed forces from the country. The rebellion, assisted by the Rwandan Government, was launched in North and South Kivu when a group calling itself the Rassemblement Congolais pour la Democratie (RCD) announced its intention to oust Kabila. The rebels were a disparate group of disaffected ex-Kabila civilian, military and opposition figures from outside and inside the country. [1] (p268)

4.13 According to Europa 2004, other African countries became involved in assisting the various parties to the conflict. Initially, the RCD rebels, assisted by Rwandan and Ugandan forces captured a large area comprising most of the east of the country. Their attempt to take Kinshasa in August 1998 was stalled, however, after military support to Kabila was provided by Zimbabwe, Namibia and Angola, and later Chad. [1] (p268)

4.14 According to Europa 2004, in November 1998, a new rebel group emerged called the Mouvement pour la Liberation du Congo (MLC) led by Jean-Pierre Bemba. The MLC based itself in the Equateur Province and was made up of large numbers of former Zairean soldiers. The MLC developed close ties with the Ugandan Government. [1] (p268-269)

4.15 According to Europa 2004, by the end of 1998 the RCD controlled one-third of eastern DRC, while the MLC controlled much of Equateur. The fighting displaced thousands of people and there were many reports of serious human rights abuses by all sides. In 1999 the RCD split into two factions: one headed by Ernest Wamba dia Wamba (RCD-ML), and the other by Dr Emile Ilunga (RCD-Goma or RCD-G). [1] (p269)

4.16 According to Europa 2004, in July 1999 a ceasefire agreement was signed under the Lusaka Peace Accord between the countries involved and later by the rebel groups. This also set out arrangements for the withdrawal of foreign forces, deployment of UN forces and the start of an inter-Congolese dialogue to resolve the conflict. [1] (p268) In November 1999 the UN Security Council established the United Nations Mission for Congo - MONUC - which was increased in size the following year. Fighting subsequently subsided in most areas, although there were many incidents of serious clashes in the rebel-held areas in 2000, involving rebel groups, and also Ugandan and Rwandan forces. [1] (p269-270)

4.17 According to Europa 2004, Laurent Kabila was assassinated in the Presidential Palace in Kinshasa on 16 January 2001, reportedly by one of his soldiers. [1] (p270)

See also Section 6C Assassination of Laurent Kabila

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The Joseph Kabila Regime

Events of 2001 – Peace Negotiations

4.18 According to Europa 2004, Laurent Kabila's son, Joseph Kabila, was formally installed as the new President of the DRC on 23 January 2001 and "His installation gave an immediate boost to the peace process." [1] (p270-271) According to the same source, "Kabila dissolved his father's cabinet and appointed a new government on 14 April 2001." [1] (p271) He also ended some restrictions on political activity in May 2001 and ordered the release of a number of detained human rights activists. [1] (p271)

4.19 According to Europa 2004, in March and April 2001, following the withdrawal of DRC forces from positions of military engagement, MONUC troops were deployed to rebel-held areas. [1] (p271) The same source also noted that "Wamba dia Wamba was ousted as the RCD-ML leader in August 2001 by Mbusa Nyambisi, who was based in the eastern town of Beni." [1] (p271) In October 2001 MONUC's mandate was extended by the UN to cover the disarmament, demobilisation, reintegration, repatriation and resettlement of combatants identified by the Lusaka accords as 'negative elements'. [1] (p271)

See also Section 6C Security Situation Disarmament of Armed Groups

Events of 2002 – Peace Agreement

4.20 According to Europa 2004, the Inter-Congolese Dialogue (ICD) started in Sun City in South Africa in February 2002. All the major parties to the ICD and many of the minor ones were represented. Although intense debates failed to bring the various parties to the ICD to form a power-sharing partnership a peace agreement was finally made in the following months between the DRC Government and the MLC and RCD-ML rebel groups. [1] (p271) According to a report by the United Nations (UN) Integrated Regional Information Networks (IRIN) of 25 April 2002 the peace agreement provided for the current president, Joseph Kabila, to retain his post during a transition period until elections were held. Under the terms of the peace agreement an assembly, a senate, a senior army council and a new national army were to be created. [18a]

4.21 Also, according to Europa 2004:

"On 30 July 2002 a peace agreement brokered by [South African President] Mbeki was signed by Kabila and President Kagame of Rwanda in Pretoria, South Africa. Under the accord, Kabila pledged to arrest and disarm the Interahamwe militia in the DRC, while the Rwandan Government was to withdraw its troops from the country. President Robert Mugabe of Zimbabwe subsequently announced his intention of withdrawing the remaining Zimbabwean troops supporting the DRC Government, and

by the end of October 2002, most, if not all, had left. In mid-August the DRC and Uganda reached an accord in the Angolan capital, Luanda, providing for the normalization of relations between the two countries, and the full withdrawal of Ugandan troops in the DRC.” [1] (p272)

4.22 According to Europa 2004:

“In late October [2002] the UN commission investigating the illegal exploitation of the DRC’s resources by nations involved in the conflict published its final report. The report was the most detailed produced by the commission, and alleged the systematic exploitation of the DRC by ‘elite networks’ from Zimbabwe, Angola, Uganda, Rwanda, and the DRC itself. . . . The findings of the commission were rejected by every accused nation, and, although welcomed by the UN Security Council, by mid-2003 no action had been taken against those accused of exploitation in the report.” [1] (p272)

4.23 According to Europa 2004, peace talks between the groups participating in the Inter-Congolese Dialogue resumed in November 2002, and ended with the signing of a new peace agreement on 17 December 2002. The peace agreement allowed for a new Transitional National Government to be headed by the current president, with four Vice-Presidents who would be representatives of the incumbent government, the MLC, RCD-Goma, and the political opposition. [1] (p272)

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Events of 2003 – Transitional National Government

4.24 An IRIN report dated 3 April 2003 stated that the peace agreement signed in December 2002 was ratified when delegates from all parties to the conflict in the DRC signed a power-sharing peace deal on 2 April 2003 in South Africa. At the final session of talks, the DRC Government, rebel movements, opposition political parties and representatives of civil society agreed to set up a Transitional National Government (TNG) to oversee democratic elections due to take place in 2005. Joseph Kabila would retain his position as President of the DRC, and be the head of the TNG, supported by four vice-presidents from the rebel groups and civilian opposition. It was also agreed that rebel fighters should be merged with the existing Congolese army to form a new national army. [18e]

4.25 An IRIN report dated 5 May 2003 stated that the unarmed political opposition was not united in its choice of vice-president. The choice of Arthur Z’Ahidi Ngoma was opposed by the UDPS and PALU political parties, led by veteran opposition politicians, Etienne Tshisekedi and Antoine Gizenga respectively. [18f]

4.26 According to two IRIN reports dated 1 and 3 July 2003, the new Transitional National Government (TNG) was set up on 30 June 2003 and comprised the President, four vice-presidents, 36 ministers and 25 deputy ministers from the previous administration, the pro-government Mayi-Mayi [Mai-Mai] militia, the rebel forces, the unarmed political opposition and civil society. Joseph Kabila remained the President of the DRC while the Transitional National Government was in operation. The vice-

presidents were Jean-Pierre Bemba (MLC rebel group), Abdoulaye Yerodia Ndombasi (former government), Arthur Z'Ahidi Ngoma (political opposition) and Azarias Ruberwa (RCD-Goma rebel group), who took their oath of office in July 2003. The setting up of the TNG effectively ended the five-year conflict that began in August 1998 between the various rebel forces and the DRC Government. [18g] [18h]

See also Section 5 Political System Government

4.27 According to an IRIN report dated 25 August 2003, a new National Assembly and Senate was opened by President Joseph Kabila on 22 August 2003 in Kinshasa. The National Assembly was made up of 500 members from the numerous parties to the Inter-Congolese Dialogue, namely the former government, the unarmed political opposition, civil society and former rebel groups. The Senate was made up of 120 members from the various parties to the national power-sharing accord. [18i]

See also Section 5 Government and Political Parties

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Events of 2004

For information on events in 2004 refer to separate headings, including: Section 5 Military Service; Section 5 Internal Security; Section 6A Human Rights Issues General; Section 6B Human Rights Issues - Specific Groups; Section 6C Security Situation.

4.28 On 28 March 2004 there was an attempted coup in Kinshasa. [2b]

See also Section 6C Attempted Coup 28 March 2004

4.29 On 11 June 2004 a further coup attempt occurred in Kinshasa. [2c]

See also Section 6C Attempted Coup 11 June 2004

4.30 A report from IRIN dated 24 June 2004 stated that the chief prosecutor of the International Criminal Court would open an investigation into alleged war crimes committed in the DRC since 1 July 2002. The report stated that the initial focus of the enquiry would be in Ituri. [18aj]

See also Section 6C Security Situation Ituri

4.31 There were reports of serious fighting and human rights abuses in the east of the country, notably in Bukavu in May and June 2004.

See also Section 6C Security Situation Bukavu

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5. State Structures

The Constitution

5.1 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004):

“Following the proclamation of the Democratic Republic of the Congo a 15-point constitutional decree was promulgated on 28 May 1997, which abrogated all previous constitutional dispositions. The decree declared the institutions of the Republic to be the President, the Government, and the courts and tribunals; all institutions of the previous regime were suspended, except for the judiciary. All power was to be invested in the Head of State, pending the adoption of a new constitution.” [1] (p297)

5.2 The CIA World Factbook 2004 noted that “In November 1998, a draft constitution was approved by former President Laurent Kabila but it was not ratified by a national referendum; one outcome of the ongoing inter-Congolese dialogue will be a new constitution.” [13]

5.3 The Country Background Note of October 2003 on the DRC by the US State Department (USSD) stated “A transitional constitution was adopted on 2 April 2003. Extensive executive, legislative, and military powers are vested in the president and vice presidents. The legislature does not have the power to overturn the government through a vote of no confidence. The judiciary is independent; the president has the power to dismiss and appoint judges. The president is head of a 35-member cabinet of ministers.” [3d] The text of the draft Constitution of April 2003 was published by the Institute of Security Studies. [27]

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Citizenship and Nationality

5.4 The USSD Country Background Note October 2003 stated that on 17 May 1997 “Kabila declared himself president, consolidated power around himself and the AFDL, and renamed the country the Democratic Republic of Congo (D.R.C.).” [3d] According to information obtained from the British Embassy in Kinshasa in June 2000, this was a state decision, not supported by any decree whatsoever. The information continued, “As a result, all Zairean citizens, within the national territory or abroad, simultaneously and collectively became Congolese citizens. . . . A Zairean citizen who left Zaire at that time as a Zairean citizen also automatically became a Congolese citizen wherever he was.” [22a]

5.5 According to further information from the British Embassy in Kinshasa in August 2001, “Congolese nationality is governed by the provisions of Decree 197; modifying and finalising Nationality Law 81-002 of 1981.” [22c] The same source stated that Article 4 of Decree 197 stipulates that with effect from 30 June 1960, any person whose ancestor is or was a member of one of the ethnic groups established on DRC territory, as defined on 1 August 1885, and modified by subsequent conventions, is regarded as Congolese. [22c] The same source stated that Article 5 of Decree 197 defines entitlement to Congolese nationality by filial descent when a child, regardless of the country of birth,

has a father who is Congolese and/or a mother who is Congolese. [22c]

5.6 According to Citizenship Laws of the World published by the United States Office of Personnel Management (OPM) in March 2001, citizenship is from the following:

“BY BIRTH: Birth within the territory of Congo does not automatically confer citizenship.

BY DESCENT: Child of a Congolese parent, regardless of the child’s country of birth.

REGISTRATION: Citizenship may be granted by registration for the following persons:

- Foreign woman who has been, or is, married to a citizen of Congo.
- Foreign child adopted by citizens of Congo.

BY NATURALIZATION: Congolese citizenship may be acquired upon fulfillment of the following condition: Person has legally resided in the country for at least five years.

DUAL CITIZENSHIP: NOT RECOGNIZED.

Exception: Child born abroad, who obtains the citizenship of the country of birth may retain dual citizenship until their 21st birthday. Person then has 12 months to renounce foreign citizenship or Congolese citizenship will be revoked.” [14] (p55)

5.7 According to the same source, loss of citizenship is through the following:

“VOLUNTARY: Voluntary renunciation of Congolese citizenship is permitted by law. Though the Embassy can provide information and assistance, the person seeking to renounce citizenship must return to Congo and present their case to a court of law. Due to this procedure, assume that renunciation is neither automatic nor guaranteed. INVOLUNTARY: The following is grounds for involuntary loss of Congolese citizenship: Person voluntarily acquires a foreign citizenship and is not covered by the dual citizenship exception listed above.” [14] (p55)

See also Section 6B Ethnic Groups Tutsis on the Tutsi nationality issue; and Section 6C Documentation Passports

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Political System

5.8 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004), the DRC is a republic with a president as the head of state. The same source stated “The President of the Republic exercises legislative power by decree, following consultation with the Cabinet; he is the chief of the executive and of the armed forces and has the authority to issue currency; he has the power to appoint and dismiss members of the government, ambassadors, provincial governors, senior army officers, senior civil servants and magistrates.” [1] (p297)

Legislature

5.9 According to Europa 2004, “A new transitional bicameral Parliament was

inaugurated in Kinshasa by President Joseph Kabila on 22 August 2003. The 500-member lower chamber, or National Assembly, comprised a total of 94 members of RCD--Goma, the MLC [Mouvement pour la liberation du Congo (Congo Liberation Movement)], the former government, opposition political parties and civil society, while the RCD--ML was allocated 15 deputies, Mai-Mai militia 10, and the RCD--N five. The 120-member upper chamber or Senate, consisted of 22 representatives of the five main groups, four of the RCD--ML and Mai-Mai, and two of the RCD--N." [1] (p298)

Government

5.10 Joseph Kabila is the President of the DRC and head of the Transitional National Government (TNG), as reported by the Integrated Regional Information Networks (IRIN) on 1 and 3 July 2003. [18g] [18h] The same sources reported that the TNG was set up on 30 June 2003 and comprised the President, four vice-presidents, 36 ministers and 25 deputy ministers, drawn from the previous administration, the pro-government Mai-Mai militia, the rebel forces, the unarmed political opposition and civil society. [18g] [18h] As reported in the USSD Country Background Note October 2003, "This transitional government is slated to last until elections--the first since 1960--are to be held in 2005 or 2006." [3d]

5.11 A full list of the TNG government ministers was published in the IRIN report of 3 July 2003 and further details of the government and other transition institutions as at 19 July 2004 were published by the UN Mission to the Congo Documents (MONUC) Documents Library. [18h] [56c] On 22 July 2004 MONUC reported that the Foreign Minister, Antoine Ghonda Mangalibi, had been dismissed and replaced by Ramazani Baya. [56e] In August 2004 Vice-President Ruberwa and other representatives of the RCD-Goma former rebel group in the TNG suspended their participation but resumed it shortly afterwards. [18ap] [18aq] In May 2004, as reported by IRIN, the TNG named the new appointments of eleven provincial governors. [18ad]

See also Section 4 History Events of 2003

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Political Parties

5.12 As reported in Europa 2004, President Laurent Kabila banned political parties in May 1997. [1] (p267) The same source also reported that "In January 1999 a ban on the formation of political associations was officially ended, and in May 2001 remaining restrictions on the registration and operation of political parties were removed." [1] (p298) The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003), recorded that "On September 29 [2003], the Transitional Government issued a decree authorizing all parties, including former military organizations now operating as political parties, to function legally. Prior to the decree, some parties such as the UDPS [Union pour la Democratie at le Progrès Social (Union for Democracy and Social progress)] and the MLC had refused to register under the previous law on the grounds that the former government was illegitimate." [3b] (p15)

5.13 Information from the British Embassy Kinshasa in February 2003 stated that as a

result of the 2001 relaxation on political parties in 2001, as long as each party had registered and paid the official fee it could legally exist. As a result each political party was no more than a loose collection of like-minded persons, and in all but a handful of cases recorded membership was no more than a few dozen, sometimes less. [22g] The Economist Intelligence Unit (EIU) Country Profile 2003 stated that “There are dozens of small opposition parties, but few of them amount to much and they are frequently the vehicle for individual politicians.” [30] (p16) The same source noted that “In March 2002 Joseph Kabila formed his own political party, Parti pour la réconciliation et le développement (PPRD), largely composed of his father’s cronies and ministers.” [30] (p16)

See also Section 6A Letters of Support from Political Parties

5.14 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 also noted :

“In addition, the territorial problem also plays a vital role in the political arena. The PDSC distinguishes three categories of party on this basis:

1. National parties such as the UDPS, the MPR and the PDSC that are represented throughout the territory of the Congo;
2. Semi-national parties, active in Kinshasa and in one or two other provinces, eg. PALU, UNADEF (present in Kinshasa and in Katanga) FSD (active in Kinshasa and in Low Congo), MNC-L, FONUS;
3. Parties built round a personality such as the MSDD (Lutundula), the MDD, the ANADER (Lutete), the ROM and the ROC.” [24a] (p11)

See also Section 6A Political Activists and Annex B Main Political Organisations

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Judiciary

5.15 Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004) reported that the Minister of Justice is responsible for the organisation and definition of competence of the judiciary. [1] (p299) The same source recorded that “There is a Supreme Court in Kinshasa, and there are also nine Courts of Appeal and 36 County Courts. . . . The Head of State is empowered to appoint and dismiss magistrates.” [1] (p299)

5.16 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) reported that:

“The law provides for an independent judiciary; however, in practice, in government-controlled territory, the judiciary continued to be ineffective and corrupt. The civil judiciary, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional. Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently. The system remained hobbled by major shortages of personnel, supplies, and infrastructure.” [3b] (p6)

5.17 The same source stated that:

“In the areas not under government control, the system of justice essentially remained nonfunctional. Judges and other public servants were not paid their salaries, and corruption was rampant. RCD/G [RCD-Goma] officials and others with influence reportedly used the judicial system to arrest individuals on false charges and to extract money and property from these individuals. There also were reports of indiscriminate military justice in which persons, including children, were executed without a trial (see Sections 1.a. and 5).” [3b] (p7)

5.18 According to USSD 2003, on 24 April 2003 President Kabila closed the Military Order Court (COM) in response to protests by national and international organisations. [3b] (p7)

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Legal Rights/Detention

Legal Rights

5.19 According to the CIA World Factbook 2004 the legal system is based on the Belgian civil law system and tribal law. [13] The same source stated that the DRC has not accepted compulsory International Court of Justice jurisdiction. [13]

5.20 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) reported that:

“The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel at all stages of proceedings; however, these rights were often not respected in practice. Defendants have the right to appeal in all cases except those involving national security, armed robbery, and smuggling, all of which are adjudicated in theory by the Court of State Security, except those cases adjudicated by the special military tribunals, whose jurisdiction is ill-defined. The law provided for court-appointed counsel at state expense in capital cases in all proceedings before the Supreme Court, and in other cases when requested by the court. In practice, the Government often did not respect fully these provisions.” [3b] (p7)

5.21 USSD 2003 also stated:

“Military courts, headed by a military judge and following the military code inherited from Belgium, tried military and civilian defendants as directed by the Government. The courts are required to file charges within 48 hours of the arrest; however, long delays often occurred. The military courts, which were located in all military installations and in most urban areas, have no appeal process. The Government permitted, and in some cases provided, legal counsel; however, lawyers sometimes were not granted free or unmonitored access to defendants. Sentencing guidelines also were inherited from Belgian military law; however, in practice military courts had broad discretion to go outside of those sentencing guidelines. In many cases, trials were open to the public at the discretion of the military judge.” [3b] (p7)

Detention and Arrest

5.22 A report in April 2004 by the United Nations Mission for Congo (MONUC) on Detention in the Prisons and Detention cells of the DRC, based on a series of visits in 2002 and the first 6 months of 2003, stated that:

“The lawfulness of the arrest and detention is often an infringement of the law linked to the serious disfunctions in the police force and in the legal system. It is clear that the fundamental rights of persons arrested are not respected, in particular:

- The period in police detention, which may not exceed forty-eight hours,
- The right for any person arrested to be informed immediately or at the latest within twenty-four hours of the reasons for his/her arrest and of any accusation made against him,
- The right to a just and fair trial within the legal periods.” [56a] (p4)

The MONUC report recommended a number of measures to improve the situation of illegal detention, and to reduce the number of people held in preventive detention and limit its duration. [56a] (p39-44)

5.23 The Amnesty International (AI) Annual Report for 2004, reporting on events in 2003, stated that “Arbitrary detentions remained frequent across the DRC and virtually none of those detained were known to have had their arrest ordered or reviewed by an independent judicial official. Many spent long periods in detention without charge or trial.” [11c] (p4)

5.24 USSD 2003 reported that “The law prohibits arbitrary arrest and detention; however, in government-controlled territory, the security forces arbitrarily arrested and detained persons, including journalists.” [3b] (p6) USSD 2003 also reported that security forces and prison officials often beat and tortured detainees and prisoners while arresting or interrogating them. [3b] (p4) The same source stated that “In areas not under central government control, rebel forces were responsible for a systematic pattern of arbitrary arrests and detentions. Although rebel groups frequently arrested, charged, detained and tried persons in 2003, they operated outside the Government's criminal justice system.” [3b] (p7)

5.25 USSD 2003 also reported that

“Under the law, police officers investigating offenses punishable by more than 6 months imprisonment do not require a warrant for a suspect's arrest. Only a law enforcement officer with "judicial police officer" status and senior officers of the security forces are empowered to authorize arrests. The law requires that detainees be brought within 48 hours before a magistrate, who may authorize provisional detention for varying periods. In practice, these provisions were violated systematically. Police often detained persons without filing charges. When authorities

did press charges, the claims were rarely filed in a timely manner and were often contrived or overly vague. Security forces regularly held alleged suspects in detention for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or legal counsel.” [3b] (p6-7)

5.26 USSD 2003 also stated that “Security forces used the pretext of state security to arbitrarily arrest individuals linked to groups considered a threat by the Government, particularly the opposition political party UDPS [Union pour la Democratie at le Progrès Social (Union for Democracy and Social progress)]. Individuals arrested and detained in the name of state security frequently were held without legal charge, presentation of evidence, access to a lawyer, or due process.” [3b] (p7)

See also Section 5 Prisons and Prison Conditions

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Torture

5.27 The AI 2004 report stated “People suspected of links with opposing armed political groups were targeted for torture and illegal detention. Human rights defenders and journalists engaged in legitimate investigation and criticism were also beaten, threatened and unlawfully detained because of their reporting on the human rights situation.” [11c] (p4)

5.28 According to the same AI report “Torture techniques typically included systematic beatings or whippings of detainees, stabbing with bayonets or electric shocks. Torture was facilitated by the widespread use of private and unofficial detention centres – including underground pits (*cachots souterrains*), freight containers and the homes of security officials – particularly in areas of eastern DRC under the control of armed political groups.” [11c] (p4) The following torture techniques were described as having occurred in RCD-Goma detention, North Kivu Province in January 2003: “They had a hot iron pressed on their backs and heavy weights attached to their testicles, and were suspended upside-down for long periods. A woman detainee reportedly had gunpowder set alight close to her breasts and her thumbnails ripped out. No action was taken against the perpetrators.” [11c] (p4)

Death Penalty

5.29 The AI Report for 2004, reporting on events in 2003, also stated that “On 7 January [2003], 15 people were executed in secret in Kinshasa, the first executions known to have taken place since December 2000 and the first following the government's suspension in September 2002 of a moratorium on the death penalty. . . . The Military Court, which had conducted unfair trials and sentenced to death large numbers of people, including civilians, was abolished by presidential decree in April. Other courts continued to sentence prisoners to death.” [11c] (p5)

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Internal Security

5.30 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) reported as follows:

“In territory under central government control, the Transitional Government's security forces consisted of a national police force and an immigration service, both under the Ministry of Interior; the National Intelligence Agency (ANR) and the Special Group for Presidential Security (GSSP), both reporting directly to the President; and the Armed Forces, which were integrated at headquarters level only by year's end. The Office for the Military Detection of Anti-Patriotic Activities (DEMIAP), the military's intelligence service, was technically disbanded but continued to operate under the new chief of military intelligence, who was the former chief of DEMIAP. The ANR was responsible for internal and external security, including border security matters. The Armed Forces retained some residual police functions. Military police had jurisdiction over armed forces personnel, but also had domestic security responsibilities, including the patrolling of urban areas.” [3b] (p1)

5.31 A Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002 noted that there are a number of security agencies. [24a] (p9) These include DEMIAP (Detection Militaire des Activités Anti-Patrie) (Military Detection of Anti-Patriotic Activities). DEMIAP is formally answerable to the staff of the Congolese armed forces (FAC) It is subdivided into internal and external departments. The internal section has a prison known as Ouagadougou. [24a] (p9)

5.32 According to the same report the ANR was set up in 1997 to replace SNIP (National Service for Intelligence and Protection) and has made efforts to remedy the worst abuses. Most of the ANR's illegal prisons have been closed in recent years, except for those at ANR/Fleuve and ANR/Lemera. This service is subdivided into a Department for Internal Security (ANR/DSI) and a Department for External Security (ANR/DSE), both run by a Director General. In March 2001, Kazadi Nyembwe was appointed general administrator of ANR. [24a] (p9)

5.33 Regarding the GSP (Garde Spéciale Présidentielle), the CEDOCA report stated “This special department consists of President Kabila's Praetorian Guard and was set up to replace the no less infamous Special Presidential Division of former President Mobutu. Starting off with the name GSSP, this Guard has had several name changes.” [24a] (p9)

5.34 The CEDOCA Report also stated that the Congolese National Police (Police Nationale Congolaise) (PNC) was formed on 7 June 1997 to replace the National Guard and the Gendarmerie, and was run by the Police General Inspectorate (l'Inspection Générale de Police). [24a] (p9) The PNC is made up of Communal Police (Police Communale) (PC); Rapid Intervention Police (Police d'Intervention Rapide) (PIR); Internal Police (Police des Polices) (PP); Special Transport Police (Police Speciale de Roulage) (PSR). The uniform of the PNC and the PIR was reported as all blue or all black, and the uniform of the PP and PSR as yellow shirt and blue trousers (often with a yellow line). [24a] (p10)

5.35 CEDOCA also stated that the General Migration department (Direction Générale de Migration) (DGM) was responsible for border control, among other things. It succeeded the former National Immigration Agency (ANI). [24a] (p10)

5.36 CEDOCA also stated that the Special Intervention Forces (Forces d'Intervention Spéciale) (FIS) were formed from part of the GSP and part of the former 50th Brigade, now the 7th Military Region and their headquarters were in the military camp of Kokolo. [24a] (p10)

5.37 USSD 2003 reported that "Security forces were poorly trained, poorly paid, and often undisciplined. Civilian authorities did not maintain effective control of the security forces, and there were frequent instances in which elements of the security forces acted independently of government authority. Members of the security forces committed numerous human rights abuses." [3b] (p1) The same source stated "In territories not under central government control, the police force was ineffective and corrupt, and impunity remained a problem." [3b] (p5)

5.38 The United Nations Mission for Congo (MONUC) reported in July 2004 that they had given assistance with improving police training and setting up an integrated police training centre. [56d]

5.39 In an IRIN report of 16 July 2004 MONUC estimated that they needed to train 6000 police officers by the end of the transitional phase in 2005. The same report stated that "In April, the government of France agreed to train 300 anti-riot police to be based in the DRC capital, Kinshasa." [18a] A further report dated 9 August 2004 from Digitalcongo.net stated that the European Union had agreed to continue to finance training for 1008 Congolese police officers. [36]

5.40 A report by the Secretary General of the United Nations (UN) to the UN Security Council of 16 August 2004 stated that:

"Despite continued difficulties in other aspects of security sector reform, some progress was achieved during the reporting period towards the long-stalled integration of the Congolese police forces, which are estimated to comprise some 70,000 to 80,000 personnel. At the end of June, the Transitional Government appointed the police high command, followed by the appointment in July of provincial police inspectors. A national police seminar, during which the Transitional Government is expected to develop a comprehensive plan for the overall reform and training of the newly integrated police force, commenced on 9 August [2004], with the facilitation of MONUC and interested donors." [54c] (p7)

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Prisons and Prison Conditions

5.41 A report issued by the Refugee Documentation Centre, Ireland, in May 2002 on prisons in the DRC stated that in Kinshasa:

“These places of detention can be classified in the categories set out below:

- Prison cells under the authority of the Courts and Tribunals
- The lock-ups of the Armed Congolese Forces (FAC) and Congolese National Police (PNC)
- The private prisons of certain authorities, both civil and military
- Prisons of the Civil and Military Police Forces” [12] (p3)

5.42 The same report stated:

“Most of the prisons of the police forces, both civil and military, do not rely on the Courts or Tribunals. One should note particularly the prisons run:

- Under dual supervision, of the Military Investigators of Unpatriotic Activities (DEMIAP), for the outlying districts, and for the Central Districts, a military police force.
- Under the supervision of the National Intelligence Agency (ANR), a civil police force reporting to the President of the Republic.
- The camps and garrisons of the police and the Congolese Armed Forces (FAC).
- By the State Security Committee (CSE), an office of the President.” [12] (p8)

5.43 A report in April 2004 by the United Nations Mission for Congo (MONUC) on Detention in the Prisons and Detention cells of the DRC, based on a series of visits in 2002 and the first 6 months of 2003, stated that the conditions of detention in the prisons were unacceptable and there were serious deficiencies in food, hygiene and healthcare. The MONUC report made a series of recommendations. These included a prison monitoring body and measures to stamp out illegal detention, reduce the number of people held in preventive detention and limit its duration, improve the penal system and conditions of detention, give protection to women and minors in jail, and rehabilitate prisons. [56a] (p39-44)

5.44 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated that “The security services, particularly the ANR and the DEMIAP, continued to operate numerous illegal detention facilities, despite the 2001 presidential decree to close all such facilities.” [3b] (p5)

5.45 USSD 2003 also stated “Prison conditions in hundreds of local detention facilities, both legal and illegal, remained harsh and life threatening; however, conditions in some of the larger, centralized prisons improved.” [3b] (p1) The same source stated:

“The penal system continued to suffer from severe shortages of funds and trained personnel; however, the Government continued to make efforts to respond to NGO complaints about prison conditions, particularly at Makala. Health care and medical attention remained inadequate, and widespread infectious diseases were a problem; however, a prison doctor was available. There continued to be fewer reported cases of infectious disease. The government-provided food remained inadequate, and the Government did not provide any food to prisoners at Makala for several weeks during September. Prisoners were dependent on the personal resources of family or friends, and families were allowed to bring food and other necessities to prisoners during

regular visiting hours 3 days a week. Local NGOs reported that in a few cases, family members were forced to pay bribes to bring food to prisoners. Makala remained overcrowded.” [3b] (p4)

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5.46 USSD 2003 also reported:

“Conditions in small detention facilities (legal and illegal) also remained harsh and life threatening and resulted in an undetermined number of deaths, particularly from communicable diseases such as tuberculosis. These facilities were generally intended for short-term pre-trial detentions; however, in practice they were often used for lengthy detentions. Authorities often arbitrarily beat or tortured detainees. There usually were no toilets, mattresses, or medical care and inmates often received insufficient amounts of light, air, and water. . . . Petty corruption was common, and prison guards frequently required bribes from family members and NGOs to visit or provide a detainee with food and other necessities.” [3b] (p4)

5.47 USSD 2003 also stated that “The Government allowed the International Committee of the Red Cross (ICRC) and many NGOs access to all official detention facilities but the ICRC and other NGOs were not allowed access to the illegal detention facilities.” [3b] (p5)

5.48 Regarding areas in the east of the country (not then under government control), USSD 2003 stated that “Prison conditions, particularly in underground prisons, were harsh and life-threatening.” [3b] (p2) USSD 2003 also stated that in some cases, MONUC human rights officers, accompanied by MONUC military escorts, were allowed access to prisons in areas not under government control. The same source also stated:

“Most detention facilities were not designed for detaining persons, and detainees often were kept in overcrowded rooms with little or no light or ventilation. . . . Detainees typically slept on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. . . . Little or no food was provided to detainees, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention. Unlike in previous years, there were no reports that rebel forces released prisoners to their families just in time to die.” [3b] (p5)

5.49 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that it was generally possible to bribe one’s way out of custody, including military custody. However, it would be more difficult to do so in the case of a high security category, especially in the case of the CPRK in Kinshasa. [52] (p93)

5.50 Information from the International Centre for Prison Studies, King’s College London, was that the total prison population, including pre-trial detainees and remand

prisoners was estimated as about 30,000 at January 2004. The same source showed that there were 198 establishments in 2004, and that the main Kinshasa prison had an occupancy rate of 173.2%. [41]

5.51 The International Committee of the Red Cross (ICRC) Annual Report for 2003 stated that they carried out a programme of prison visits which included 59 places of detention and 274 visits. The ICRC also assisted with food, health and hygiene improvements. [33]

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Military Service

5.52 According to a BBC News Online report dated 20 August 2003, an agreement was reached in August 2003 on establishing a unified national armed forces command under the Transitional National Government. The report stated “Under the deal, the various armed groups will be integrated into a power-sharing army after receiving formal military training, while the under-18s will be sent back to their families and into education. It is expected that the whole process of re-organising the army should be in place before general elections expected in two years time. However, correspondents say that continuing fighting in eastern Congo between the uncontrolled Mai-Mai militia and the more structured RCD combatants could pose as threat to the military deal.” [15c]

5.53 According to the same BBC report, and a report by the Integrated Regional Information Networks (IRIN) on 20 August 2003, senior appointments were made in the new armed forces of 31 officers from the former Kinshasa government army, former rebel groups and the Mai-Mai militia. [15c] [18k]

5.54 According to a further IRIN report on 5 September 2003 the leadership was formally inaugurated at a ceremony in which all officers pledged allegiance to the Forces Armée de la République Démocratique du Congo (FARDC), although some debate remained as to what the new force would be called. [18m] IRIN reported in March 2004 that the first battalion of the national unified army had completed training, and, in April 2004, that military training and materiel assistance to the new force was being provided by Belgium. [18t] [18y]

5.55 However, the Secretary General of the United Nations (UN) stated in a report to the UN Security Council on 16 August 2004 that there had been a lack of progress on military integration in the country, and that “Despite the deployment of military regional commanders in the third quarter of 2003 whose task it was to integrate the existing forces into the Forces armées de la République démocratique du Congo (FARDC), the armed forces in the Democratic Republic of the Congo are still far from having been truly integrated.” [54c] (p4)

5.56 The ICRC reported that in 2003 they assisted with awareness of international humanitarian law in the armed forces through training sessions and distribution of handbooks in Lingala, Swahili and French. [33]

Treatment of Deserters and Conscientious Objectors

5.57 War Resisters' International (WRI) in 1998 stated the following:

“Draft evasion and desertion

penalties

Desertion is punishable under chapter I, section III of the Code of Military Justice. Penalties given are described as penal servitude (*servitude pénale*), which may be imprisonment as well as forced labour in a camp.

Desertion in the country is punishable by 2 months to 10 years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime, during a state of emergency, or during a police operation to maintain public order (art. 410).

If two desert together, this is considered desertion with conspiracy and may be punished by 2 to 20 years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime (art. 411).

Desertion abroad is punishable by 6 months to 10 years' penal servitude in peacetime; up to life-long penal servitude or even the death penalty in wartime (arts. 416-418).

In aggravating circumstances, such as desertion during active service, desertion with the taking of arms or desertion with conspiracy, the punishment may be from 3 to 10 years' penal servitude (art. 417).

Desertion and running over to another armed group is punishable by 10 to 20 years' penal servitude in peacetime, and execution in wartime (art. 419).

Desertion in front of the enemy will be punished by execution. This also applies to civilians who form part of a military unit (arts. 420-422).

practice

No information available.” [9]

5.58 WRI also reported that there was provision for conscription in the 1964 constitution, however this was not enforced under the Mobutu regime. [9] A letter from the British Embassy in Kinshasa in December 2001 stated that there was no compulsory military service scheme and recruitment into the Congolese armed forces was on a voluntary basis only. The same letter stated “Desertion in peacetime and in wartime is dealt with under ordinance-law No 72/060 of 25 September 1972, articles 409-425 of the Code of Military Justice. In peacetime desertion is punishable by 2 months to 10 years penal servitude; up to life-long penal servitude or even the death penalty in wartime, during a state of emergency, or during a police operation to maintain public order (article 10). . . . A soldier has no right to refuse to fight on moral or conscientious grounds. Such an act is considered as desertion or high treason and treated as such.” [22d]

5.59 WRI also noted that the legal basis of conscientious objection was uncertain, however, as conscription was not enforced it was unlikely that the provision had been used. [9]

See also Section 6B Child Soldiers

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Medical Services

5.60 Medical services have been severely disrupted and degraded by the effects of years of war and economic collapse, and the extent has become more apparent in some areas in the wake of some disengagement between the belligerents, according to the Economist Intelligence Unit (EIU) 2003 Country Profile Report. [30] (p23-24) The National Health Plan 2004 of the DRC Ministry of Health stated “The destruction of the economic and social infrastructures has resulted in an increase in the rate of unemployment, the pauperisation of the population and has substantially reduced access to basic social services including health services.” [28]

5.61 The United Nations Children’s Fund (UNICEF) noted in 2003 that “Many have been killed in fighting, but a far greater number have died of disease and starvation. As homes, hospitals and schools have been destroyed, families and communities trying to escape the fighting found themselves without food, water, shelter or other basic services. Children are by far the most vulnerable. Hundreds of thousands of them have died due to malnutrition and other preventable diseases.” [59a] In an update of May 2004 UNICEF also said “Since the establishment of the transitional government in June 2003, stability has generally improved across the country. However, pockets of conflict and violence continue to rage in zones in eastern DRC as well as along the former frontline in Katanga.” [59b]

See also Section 6C Security Situation; Section 6C Internally Displaced Persons; Section 6C Humanitarian Aid/International Assistance

5.62 According to 2002 data from the World Health Organisation (WHO) life expectancy averaged 43.5 years, including an expected 15 years loss of life due to ill health. Public expenditure on health was very low. [16a] [16b]

5.63 According to information on the website of the national Ministry of Health, the country’s eleven provinces are subdivided into health zones. The National Health Plan 2004 characterised three areas of the country - east, central and west. The western area, including Kinshasa, was described as being in a development phase and having a stable population, functional structures and essential facilities. [28]

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5.64 According to a Swiss Federal Office for Refugees report dated September 2001:

“There are various types of medical facilities in Kinshasa which are:

- the public hospitals, such as the Kinshasa General Hospital (HGK, formerly the Mama Yemo Hospital) or the Ngaliema Clinic
- the private hospitals and clinics
- the company hospitals and dispensaries
- the hospitals and dispensaries run by churches or the non-governmental organisations.” [10] (p8)

5.65 The Swiss report also stated “Public health facilities are in a poor state. Doctors are underpaid. . . . That said, the Democratic Republic of Congo still has good specialists but these doctors lack good facilities.” The same source noted “Without modern or sophisticated equipment, Congolese doctors often act purposefully and effectively. Having a great deal of experience in dealing with the most widespread local diseases, they provide quality treatment, without much in the way of resources.” [10] (p8)

5.66 The same report stated:

“The most disadvantaged Kinois [inhabitants of Kinshasa] cannot pay the sums necessary for treatment and are excluded from the public health system, which has resulted in the resurgence of diseases that had almost disappeared (especially malaria). These poorest patients can sometimes have the benefit of being taken care of at low cost, or even free of charge, by the health care facilities run by the religious communities (the Catholic Church and the Church of Christ in the Congo in particular) or by non-governmental organisations. The Salvation Army has, for example, a Health Department that administers several health establishments throughout the country, in particular in Bas-Congo (19 structures), in the Eastern Province, in Eastern Kasai and in Kinshasa. In the capital, it has nine medical establishments, among which there is a hospital and a surgery centre, an ophthalmic clinic and a maternity centre (the Bomoi Maternity Centre in Ndjili which deals with about 3,000 births a year). According to Dr Nku, Head of the Health Department, the aim of the Salvation Army - which employs 250 people in the health sector (including four full-time doctors, five part-time doctors, two dental surgeons and 155 nurses) - is to provide quality treatment at the lowest rates. Thus, according to their own estimates, the Salvation Army in Kinshasa takes care of more than 200,000 patients a year, 3,000 of which are suffering from tuberculosis and 1,500 from diabetes.” [10] (p8)

5.67 The same Swiss report also noted that “A wide range of medical treatment is available in Kinshasa. There are few diseases (even chronic ones) or operations that cannot be dealt with in the country as long as the patient has the financial means.” [10] (p9)

5.68 According to information obtained from the British Embassy in Kinshasa in January 2001: “The general hospital of Kinshasa has a medical structure to care for diabetics, about 100 cases per month. There are also medical centres, such as the Salvation Army, the University Clinic of Kinshasa, Ngaliema Clinic and approximately 24 centres scattered. . . . Insulin is available at about 1500 FC or about US\$8.33. The interior of the country is less well equipped.” [22b]

5.69 The WHO Tuberculosis (TB) Control Country Profile Report 2004 noted that

decentralised control and weak access to the under-developed primary health care system was a serious obstacle to improving TB control in the country. However, the report also stated:

“Case notifications are relatively high among young adults, a pattern that is characteristic of countries in which a high proportion of TB patients are infected with HIV (24% in DRC). Seventy per cent of the population had access, in principle to DOTS [Directly Observed Treatment Short Course] by the end of 2002. . . . These figures are surprisingly high, given that DR Congo has an underdeveloped primary health care system, and contact with the health services is often difficult, especially in the eastern provinces. Treatment success was 77% in the 2001 cohort, with a default rate over 10%.” [16c]

5.70 Aid agencies have also initiated preventive vaccination campaigns, particularly for children. These include polio and measles. [18i] [29]

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HIV/AIDS

5.71 In a report to the United Nations (UN) Security Council on 25 March 2004 the UN Secretary General stated “Estimates are that the pandemic affects between 1.3 and 6.0 per cent of the population, with the Katanga region being hit the hardest. However, there are no available estimates for the eastern part of the Democratic Republic of the Congo, which was badly affected by rape during the conflict.” [54b]

5.72 The UNAIDS country information report in 2003 indicated that a national integrated HIV/AIDS, malaria and TB plan had been drawn up. It stated “The UN have elaborated a HIV/AIDS integrated workplan of about \$19M (16 millions already available). Key challenges: peace and security, adoption by all partners of a reference document for programmatic action, large funding gaps, increase access to HIV/AIDS services.” [61a] The UNAIDS National Response brief also reported that there was a national policy, including areas of rebel activity, a high level of political commitment and that HIV/AIDS activities had been included for the first time in the national budget. The same source stated that a number of sectors were involved including non government organisations (NGOs). [61a]

5.73 UNAIDS Epidemics Update 2003 also stated that “HIV prevalence in pregnant women has remained at low levels in Kinshasa (Democratic Republic of the Congo). More recent data from other urban and rural sites from the government-controlled parts of the Democratic Republic of the Congo suggest that HIV prevalence in 2003 may, in fact, be at 5% or less across large parts of the Republic, with the exception of Katanga province in the south-east, which shares a border with Zambia and where there is a prevalence of 6%, and possibly the eastern parts of the country where surveillance activities were delayed in 2003.” [61b] (p11)

5.74 The 2004 Epidemiological Fact Sheet by the World Health Organisation and UNAIDS/UNICEF estimated a total of 1,100,000 adults and children with HIV/AIDS at

end-2003. [62] (p1) The Fact Sheet also reported that there were an estimated 2500 adults with advanced HIV infection receiving anti-retroviral (ARV) therapy and 16,000 adults needing treatment in 2003. [62] (p6)

5.75 According to the ICRC annual report 2003 the government's national programme against AIDS reported that one in five people in certain areas were infected with HIV. [33] The EIU Country Profile of April 2003 also stated that "It is almost impossible to arrive at accurate figures for the extent of current infection rates given coverage problems for the country's vast territory." The same report stated "Current public health strategies for combating the incidence of HIV/AIDS are based on the promotion of simple preventative methods including condoms and public awareness. NGOs, both foreign and local, have been involved in public health programmes dealing with HIV/AIDS. . . . HIV and AIDS still remain taboo subjects and those infected are frequently ostracised." [30] (p23)

5.76 In March 2004, the World Bank announced a US\$102 million grant to support the national strategic plan for HIV/AIDS. [17c]

5.77 The US Agency for International Development (USAID) Country Profile July 2003 stated that:

"USAID allocated \$3.5 million to HIV/AIDS prevention and care activities in DR Congo in 2002, and spending is expected to total \$4 million in 2003. Concurrent with an anticipated increase in resources, USAID will step up its HIV/AIDS prevention and surveillance activities during the next five years. The Mission will focus on enhancing care and community support activities, increasing political and social commitment to HIV/AIDS, and reducing the stigma of persons living with the disease." [38]

5.78 Commenting in November 2003 on a government multi-sector plan to fight AIDS in four eastern provinces (Kasai-Orientale, Katanga, South Kivu and Orientale, the UNAIDS country coordinator for the DRC, called the project a 'major initiative', according to an IRIN report of 5 November 2003. He also stated that the programme would focus on efforts to prevent mother-to-child transmission of the disease and the use of anti-retrovirals for its treatment. He added that in the previous year the programme had succeeded in reaching between 10 percent and 40 percent of transfusion centre operations, thereby preventing the contamination of some 7,000 people with HIV. [18o]

5.79 IRIN also reported in October 2003 that Médecins sans frontières (MSF) had begun providing free treatment with anti-retroviral drugs in Bukavu and intended to open another clinic in Kinshasa. [18n] According to a further IRIN report dated 14 April 2004, the DRC Government authorised the University of North Carolina (USA) to set up an office at the Kinshasa Referral Hospital, to improve public health care in the country. Under the agreement between the Government and the University of North Carolina, the university will carry out research into and assist in the effort to combat HIV/AIDS and also train medical staff. [18x]

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Mental Health

5.80 According to the World Health Organisation (WHO) in 2001, mental health policies, programme and legislation were present. Also, treatment was present in the primary health care system. However, no specific budget had been allocated for mental health. The following therapeutic drugs were generally available at the primary health care level: Carbamazepine, Phenobarbital, Phenytoinsodium, Amitriptyline, Chlorpromazine, Diazepam, Haloperidol, Levodopa. [16d]

5.81 A Swiss Federal Office for Refugees report dated September 2001 stated that:

“The most widespread mental illnesses in the Democratic Republic of Congo are states of agitation of infectious origin (especially the neuropsychiatric consequences of these diseases), schizophrenia and illnesses connected with drug addiction. Mental diseases can generally be taken care of in Kinshasa. This is particularly the case with depression, war traumas, post-traumatic stress syndrome (PTSD) and schizophrenia. Competent doctors practice on the spot and medicines are normally available. In the capital, there are about 22 psychiatrists. According to the Director of the CNPP, all the medicines figuring on the list of the World Health Organisation are available in Kinshasa except preparations with a heroine [sic] base.” [10] (p10)

5.82 The same Swiss report stated:

“For essentially cultural reasons, the Congolese do not as a rule consult specialists in the field of psychiatry. If a person shows mood or personality disorder problems, his relations will firstly believe that he is the victim of a spell and that someone is trying to harm the family. The first reaction is to practice sorcery or prayer to “overcome the spell”. It is only as a last recourse that the Congolese will consult a psychiatrist.” [10] (p10)

5.83 The same report continued:

“In this field, public facilities are rare and those that exist are dilapidated. This is especially the case with the principal psychiatric unit in Kinshasa, the Neuro-Pscho-Pathological Centre (CNPP) of Mount Amba. . . . At the present time, the hospital provides the initial consultation, diagnosis and therapy free of charge. The rest is chargeable to the patients and their families (specific treatments, medicines, food, bed linen, etc). Hospitalisation tax varies from 1,000 FC (US\$3.50) to 6,000 FC (US\$20), according to the patient's financial means. Besides the CNPP, Professor Kinsala directs his own private psychiatric clinic - the House of Rest and Post-Treatment in Lemba-Righini.” [10] (p10)

5.84 The Swiss report also noted:

“In Kinshasa, there is also a small centre specialising in neuropsychiatry, the Kakuambi Centre. Some other hospitals, clinics and medical centres (such as the Dr. Lelo Medical Centre) offer, along with general medicine, some beds for psychiatric and psychological treatment. The CNPP in Kinkole (Bas-Congo), for its part, has

been transformed into a general hospital.” [10] (p10)

People with Disabilities

5.85 USSD 2003 stated that:

“The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special schools, many staffed with missionaries, that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities. Persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes, or in some cases paying customs duties.” [3b] (p20)

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Educational System

5.86 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004) primary education begins at age 6 and ends at age 12 and secondary education begins at age 12 and ends at age 18. The country has 4 universities, situated in Kinshasa, Kinshasa/Limeté, Kisangani and Lumbumbashi. [1] (p304)

5.87 The US State Department Report on Human Rights Practices for 2003 (USSD 2003) issued in February 2004 noted:

“Primary school education was not compulsory, free, or universal. In public schools, parents formally were required to pay a small fee, but parents often informally were expected to pay teachers' salaries. Extremely poor economic circumstances often hampered parents' ability to afford these added expenses and many children were not able to attend school. Most schools functioned only in areas where parents had formed cooperatives. . . . Parents under severe economic hardship no longer could afford to educate both their sons and their daughters, resulting in the withdrawal of many girls from school.” [3b] (p20-21)

5.88 Data published by the United Nations Children's Fund (UNICEF) indicated that the net primary school attendance for 1996-2002 was 51 per cent. [59a] According to the Economist Intelligence Unit (EIU) April 2003 Country Profile Report on the DRC, “Although education was officially nationalised in 1972, the Catholic Church remains responsible for an estimated 80% of primary schools and 60% of secondary schools, largely because of the collapse of the state sector. Despite the uptake from “the private sector”, fewer children are attending school.” [30] (p27) UNICEF also reported that the total adult literacy rate in 2000 was 61% [59a]

5.89 An IRIN report of 18 March 2004 noted that the African Development Fund had approved a US\$7.74 million educational grant. The report stated the money would cover

training, equipment, tools and teaching materials under the country's Education Sector Support Project. The report also stated "The grant marks the resumption of ADB's activities in the education sector in DRC, suspended since 1996." [18u]

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6. HUMAN RIGHTS

6.A Human Rights Issues

General

6.1 In a report of 27 May 2003 to the UN (United Nations) Security Council, the UN Secretary-General stated that agreements had been reached on a package of agreements that constituted a comprehensive programme for the restoration of peace and national sovereignty during a transition period of two years. He also noted that "The signing of the Final Act marks a new and important chapter in the process of national reconciliation and peace in the Democratic Republic of the Congo and indeed in the history of the African continent." [54a] (p1)

See also Section 4 Events of 2003 and Section 5 Political System

6.2 In a further report on 16 August 2004 the Secretary-General stated:

"The reporting period [March to August 2004] witnessed a series of events that represented the most serious challenge to date to the 13-month-old transition in the Democratic Republic of the Congo. Those events took place after months of deadlock on outstanding key issues, including the establishment of the Supreme Defence Council, the promulgation of the defence and armed forces law, the adoption of the nationality and amnesty laws and the post-transitional constitution. Without any assurance of what to expect from the post-transitional phase, the atmosphere of mistrust among the parties has grown and the lack of political will of some influential players to implement the transitional agenda remains a serious hindrance to progress." [54c] (p1)

See also Section 4 History Events of 2004 and Section 6C Security Situation

6.3 The International Crisis Group (ICG), in a report of 7 July 2004 noted that "The Congo is in transition from a country ravaged by a major war to what is intended to become a reunified polity legitimised by democratic elections." [39a] In a further comment in August 2004 the ICG urged a strong response from the international community to provide adequate political and military support to the effort to establish peace and security in the Congo. [39b] The country profile by the Foreign and Commonwealth Office (FCO) of August 2004 stated "The continued existence of the transitional government is fragile. . . . However, the transitional government is remains [sic] the only viable route towards long-term peace in the DRC." [22h]

6.4 The Amnesty International (AI) Report for 2004, reporting on events in 2003, stated:

“In practice, [however,] the Democratic Republic of the Congo (DRC) remained under the fragmented control of different armed forces. Conflict and grave human rights abuses continued in eastern DRC. Abuses in the east included mass unlawful killings of civilians, rape and the extensive use of child soldiers. Torture, arbitrary arrests and illegal detentions persisted throughout the country. Death sentences continued to be passed and executions resumed. By the end of 2003 around 3.4 million people remained internally displaced, in many cases in areas inaccessible to humanitarian assistance.” [11c] (p1)

See also Section 5 Legal Rights/Detention; Section 5 Death Penalty; Section 6B Women; Section 6B Child Soldiers; Section 6C Security Situation; Section 6C Internally displaced Persons

6.5 Human Rights Watch (HRW) commented in January 2004, “In order for the government to hold legitimate elections in 2005, it must immediately rebuild a functioning administration and effectively guarantee civil and political rights. . . . The new authorities profess commitment to human rights ideals, but both local and national officials have harassed, arbitrarily arrested, or beaten journalists, civil society activists, and ordinary citizens in the last year.” [5d]

6.6 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) reported that:

“In areas under central government control, the Government's human rights record remained poor; although there were some improvements, serious problems remained. Citizens did not have the right to change their government peacefully. Security forces committed unlawful killings, torture, beatings, acts of rape, extortion, and other abuses, largely with impunity. . . . The Government supplied and coordinated operations with Mai Mai and other militia groups, who committed numerous, serious abuses, including killings, rape, torture, the kidnapping of civilians, and the recruitment of children as combatants. The Government restricted freedoms of speech, the press, and assembly; it restricted freedoms of association and movement but did so less often than in the previous year.” [3b] (p1-2)

6.7 USSD 2003 also reported:

“The human rights record in areas not under central government control remained extremely poor, and rebel authorities continued to commit numerous, serious abuses, particularly in the east, including North and South Kivu and the Ituri district of Orientale province. The rebel groups severely restricted political freedom and did not tolerate political opposition or civil society activity that was critical of their rule. Rebel forces, Mai-Mai forces, Hutu militia, and other armed groups committed numerous, serious abuses with impunity against civilians, including deliberate large-scale killings, the burning of villages, disappearances, torture, rape, dismemberment, mutilation, looting, extortion, and robbery.” [3b] (p2)

See also Section 5 Government; Section 5 Legal Rights/Detention; Section 6A Freedom of Speech and the Media; Section 6A Freedom of Association and Assembly; Section 6A Freedom of Movement; Section 6B Women; Section 6B Children; Section 6C Security Situation

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Freedom of Speech and the Media

6.8 The US State Department Report on Human Rights Practices in 2003 (USSD 2003), issued on 25 February 2004, reported that:

“The law provides for freedom of speech and of the press; however, the Government restricted these rights in practice. During the year, there were approximately 50 reported abuses where members of the media were detained, threatened, or abused by government officials. Few journalists were formally charged or tried in court.” [3b] (p12)

Newspapers

6.9 According to a Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002:

“Currently, there are 165 published titles but only about twenty newspapers appear regularly and only eight newspapers are published daily. . . . No newspaper is the government’s mouthpiece, although the papers can be divided into categories of pro-government and pro-opposition. Some papers enjoy government support. The press in the DRC enjoys, relatively speaking, a lot of freedom and is first and foremost an “opinion press” and not an “information press”. Some newspapers and journalists take this task particularly to heart and sometimes write very cutting articles about one person or another. This is why some observers say that the problem with the press lies partly in the attitude of the journalists themselves, given that they do not always correctly apply ethical and moral prescriptions. Generally, we can confirm that Joseph Kabila is proving to be less repressive towards journalists than was his late father.” [24a] (p18-19)

6.10 USSD 2003 also stated:

“The Press Law criminalizes media offenses such as criticism of authorities; it also regulates the newspaper industry and requires publishers to deposit copies of their publications with the Ministry of Communication and Press after publication. Authorities generally charged journalists who were arrested by security services with “endangering the State” or “insulting the military” through the publication or broadcast of political news or news of the war. In a few instances, charges were brought under the Press Law, which NGOs have criticized and asked the Government to revise.” [3b] (p12)

6.11 USSD 2003 further reported:

“According to the Government, 104 newspapers completed the mandatory licensing process and were authorized to publish in the country. Approximately 48 publications appeared regularly in Kinshasa; 8 were dailies and the others were published less frequently. There also was an active private press in Lubumbashi, and some private newspapers were published in other provincial cities. Many private news publications relied on external financing, often from political parties and individual politicians. News publications tended to emphasize editorial commentary and analysis rather than factual descriptions of events; many were highly critical of the Government. There was no official newspaper; however, the Government published the Daily Bulletin, which included decrees and official statements.” [3b] (p12)

6.12 USSD 2003 also reported that “In areas not under government control, rebel groups continued to severely restrict freedom of speech and of the press; however, some independent media organizations, primarily the Catholic Church-sponsored news agency MISNA and MONUC-operated Radio Okapi, were allowed to operate. Rebel authorities controlled most local radio stations.” [3b] (p13)

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Journalists

6.13 A number of reports from human rights organisations, including Human Rights Watch (HRW), the Committee to Protect Journalists (CPJ), Reporters sans Frontières (RSF) [Reporters without Borders] have drawn attention to cases of harassment of journalists by the authorities. [5b] [7a] [7b] [19b] In July 2003 HRW noted that “The recent signing of a peace accord and creation of a transitional national government in the Democratic Republic of Congo has done little to alleviate attacks on human rights activists, journalists, and members of civil society.” [5b]

6.14 According to a Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002, “As far as attacks on press freedom are concerned, professional associations such as “Journaliste en Danger” specialising in the position of the press in the DRC, keep a record of almost all interrogations, arrests, incidents of censure, etc.” [24a] (p19) The Reporters sans Frontières (RSF) [Reporters without Borders] report for 2004, commenting on events in 2003, stated:

“Press freedom is gradually gaining ground in some of the cities, but the situation was still worrying in the north and east of the country. A journalist was tortured and an AFP stringer was probably executed. Fewer journalists were arrested, threatened or physically attacked in 2003 in Kinshasa and the cities of the south (Lubumbashi, Matadi and Mbuji-Mayi). For the first time in many years, no journalist was in prison for doing his job at the end of 2003. However, this progress was overshadowed by repeated press freedom violations in the north and east of the country.” [7b]

6.15 CPJ stated in its report for 2003:

“Congolese journalists have little protection from harassment, government-orchestrated or otherwise. They seldom have legal recourse, partly because of the high cost of legal representation, and partly because the judicial system is subject to influence from powerful local figures who are often the ones harassing journalists, according to local sources. Some local human rights organizations and press freedom groups, such as the Kinshasa-based Journaliste en Danger (JED), actively denounce abuses throughout the country. While JED has had some degree of success in raising awareness of the challenges faced by journalists, researchers at the organization say that court cases opened on behalf of local journalists are rarely resolved, and most often the perpetrators of harassment go unpunished. Attacks against the press are often orchestrated by powerful local figures, including private citizens, members of the government, and military and former rebel officials. The most common forms of harassment are arbitrary arrests, physical aggression, and intimidation; local sources say that police officers and members of the military are often paid to arrest and detain journalists.” [19a] (p1)

6.16 According to the same source, “Conditions for Congolese media professionals vary throughout the country. Because the transition government has not extended its authority throughout the DRC, media workers continue to be at the mercy of local officials who operate with impunity.” [19a] (p2) CPJ also stated:

“The most sensitive topics journalists can cover are government corruption, shifting alliances within the new transition government, and foreign sponsors of ex-rebel factions that continue to maintain economic networks and military links. The latter includes alleged Rwandan military support for the rebel Congolese Rally for Democracy (RCD) in the eastern region of Goma, and the financial and military support that senior Ugandan military officials have provided to local militias in the northeastern Ituri region to safeguard their economic interests in the DRC.” [19a] (p2)

6.17 CPJ also stated:

“A December report from JED noted there had been some improvement in press freedom conditions in the DRC during 2003, with the average duration of imprisonment for press offenses decreasing. For the first time in years, no journalists were in prison for their work in the DRC at year’s end. JED attributes the improvements to the stabilizing security situation after the peace accords, as well as an increased sense of accountability on the part of officials in the new government. In December [2003], JED launched a national campaign to decriminalize press offenses.” [19a] (p3)

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Radio Television and the Internet

6.18 USSD 2003 reported that:

“Due to limited literacy and the high costs of newspapers and television, radio remained the most important medium of public information. During the year, the

number of private radio stations in Kinshasa increased from 18 to 25, of which 2 were state-owned and 23 were private or religious. The number of television stations increased from 16 to 22, of which 2 were state-owned and 20 were private or religious. Opposition parties were unable to gain access to state-owned radio, although state radio and television gave extensive coverage to the activities of ex-rebels and opposition figures participating in transition institutions. Private radio was markedly less critical of the Government than private newspapers. The Government threatened to shut down radio stations that had not paid their licensing fees; however, some stations did not pay the fee, and the Government took no action against them. MONUC's nationwide radio station, Radio Okapi, continued to broadcast national and local news and provide information on MONUC's mandate, activities, and demobilization and disarmament programs.” [3b] (p12)

See also Section 6C Armée de Victoire (Army of Victory Church)

6.19 USSD 2003 stated that “The Government did not restrict access to the Internet during the year; however, because of high costs, the Internet was not used widely.” [3b] (p12)

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Newspaper Articles

6.20 The CPJ report for 2003 also stated that “However, limited financial resources hamper news gathering. Because journalists in the DRC remain severely underpaid, it is difficult for them to remain independent, and local sources say that many journalists are susceptible to bribes. According to JED, most local journalists have no contracts with their employers and often work on a project basis, so taking bribes is sometimes the only way journalists can support themselves.” [19a] (p3)

6.21 The RSF 2003 annual report stated that “In the course of the year [2002], several press and journalists' associations deplored the insults, defamation, unfounded rumour and inaccurate reporting that too often appeared in the Congolese press.” [7a]

6.22 According to a Fact-Finding Mission Report on the DRC by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA) dated October 2002:

“The relatively high price, that is 300FC (nearly US\$1) [of a newspaper] is an obstacle for many Congolese. Consequently, no Kinshasa newspaper has a circulation of more than 2,500. The poor economic circumstances and the small circulation also prevent the papers from generating sufficient advertising revenue. This precarious financial situation affects firstly the quality of the writing. To minimise salary costs, the papers often employ students or trainees. Similarly, the papers cannot call on experts to write specialised articles. The journalists' low or non-existent pay often exposes them to a “*thank you for the arrangements*” situation. Politicians as well as other figures, therefore, can pay “to alter the editorial lines”. A number of observers confirm quite frankly that some articles are bought. Dishonest people sometimes pay journalists to write an article. So, in this sort of article you may

read that Mr X or Mrs Y has disappeared without a trace and that there are fears for his/her life. It is very difficult to discover these lies because when an attempt is made to check the facts, these articles prove to be “authentic” and actually published. . . . People with sufficient experience in this area still manage to decode these articles. The message is often all too clear and the tone overly moving.” [24a] (p19)

6.23 According to information obtained from the British Embassy in Kinshasa in February 2003, only a few newspapers are regularly, daily or weekly, published in the DRC. Most newspapers published in the DRC are published on an irregular basis. Some are only published a few times a year. None of these newspapers have effective editorial control although the managing editor, who usually is the owner, may attempt to keep any reports more or less consistent with his views. The regular newspapers employ one or two full-time journalists and rely heavily on contributions from part-time journalists and the general public. Even the most serious newspapers consistently fail to check any facts submitted by journalists/contributors. The result is that genuine newspaper reports are often factually wrong.” [22g]

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Freedom of Religion

6.24 According to the US State Department (USSD) 2003 Religious Freedom Report on the DRC, “Although there was no constitution in effect during the period covered by this report, the Government generally respected freedom of religion in practice, provided that worshipers neither disturbed public order nor contradicted commonly held morals. There were reports of abuses by rebel troops in territories not controlled by the Government.” [3c] (p1) The same source noted that “There is no state religion.” [3c] (p1) According to the 2003 US Department of State Report on Human Rights Practices (USSD 2003), published on 25 February 2004 “In areas not under government control, respect for religious freedom continued to be poor.” [3b] (p14)

6.25 The USSD 2003 Religious Freedom report also stated “There was a generally amicable relationship among religions in society. However, there continued to be credible reports that a significant number of children were accused of witchcraft and abandoned by their families.” [3c] (p1)

Legal Framework

6.26 According to the same USSD report:

“The establishment and operation of religious institutions is provided for and regulated through a statutory order on Regulation of Non-Profit Associations and Public Utility Institutions. Requirements for the establishment of a religious organization are simple and are generally not subject to abuse. Exemption from taxation is among the benefits granted to religious organizations. A 1971 law regulating religious organizations grants civil servants the power to recognise, suspend recognition of, or dissolve religious groups. There have been no reports of the Government suspending or dissolving a religious group since 1990, when the

Government suspended its recognition of Jehovah's Witnesses; that suspension subsequently was reversed by a court. Although the law restricts the process of recognition, officially recognized religions are free to establish places of worship and train clergy. The Government requires practicing religious groups to be registered; however, in practice unregistered religious groups operate unhindered.” [3c] (p1-2)

6.27 According to the same source, “Although the Government requires foreign religious groups to obtain the approval of the President through the Minister of Justice, foreign religious groups generally operate without restriction once they receive approval from the Government.” [3c] (p2)

Religious Groups

6.28 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004) “Many of the country’s inhabitants follow traditional beliefs, which are mostly animistic. A large proportion of the population is Christian, predominantly Roman Catholic, and there are small Muslim, Jewish and Greek Orthodox communities.” [1] (p299)

6.29 The USSD 2003 Religious Freedom Report on the DRC stated:

“The country has a total area of 905,000 square miles, and its population is approximately 52 million. Approximately 55 percent of the population is Roman Catholic, 25 percent is Protestant, and 2.5 percent is Muslim. The remainder largely practice traditional indigenous religions. There are no statistics available on the percentage of atheists. Minority religious groups include, among others, Jehovah's Witnesses and the Church of Jesus Christ of Latter-day Saints (Mormons). There are no reliable data on active participation in religious services. Ethnic and political differences generally are not linked to religious differences.” [3c] (p1)

6.30 The same report noted that:

“The Government promoted interfaith understanding by supporting and consulting with the country's five major religious groups (Catholic, Protestant, Orthodox, Muslim, and Kimbanguist). The Consortium of Traditional Religious Leaders serves as a forum for religious leaders to gather and discuss issues of concern, and it advises and counsels the Government while presenting a common moral and religious front.” [3c] (p2)

See also Section 6C Bundu dia Kongo and Section 6C Armée de Victoire (Army of Victory Church)

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Freedom of Association and Assembly

6.31 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004) “In January 1999 a ban on the formation of political associations was officially ended, and in May 2001 remaining restrictions on the registration and

operation of political parties were removed.” [1] (p298) According to the 2003 US Department of State Report on Human Rights Practices (USSD 2003), published on 25 February 2004, citizens did not have the right to change their government peacefully in free democratic elections in 2003. The Government, nevertheless, allowed political parties to exist in 2003 and legally registered political parties were allowed to engage in political activities. [3b] (p17)

6.32 USSD 2003 also noted:

“The Transitional Constitution provides for freedom of association; however, in practice, the Government sometimes restricted this right. On September 29 [2003], the Transitional Government issued a decree authorizing all parties, including former military organizations now operating as political parties, to function legally. Prior to the decree, some parties such as the UDPS [Union pour la Democratie at le Progrès Social (Union for Democracy and Social progress)] and the MLC [Mouvement pour la liberation du Congo (Congo Liberation Movement)] had refused to register under the previous law on the grounds that the former government was illegitimate. The former Government treated the UDPS as an illegal organization for part of the year, and frequently arrested or dispersed young UDPS supporters deemed to be violent who attempted to hold public functions. Political parties and civil society groups were highly active during the year in preparation for and participation in the Transitional Government. During the year, government authorities generally did not harass political parties, with the exception of the UDPS.” [3b] (p16)

6.33 USSD 2003 also stated:

“Government security services often dispersed unregistered protests, marches, or meetings. . . . During the year, police occasionally arrested peaceful demonstrators. . . . Security forces forcibly dispersed political party press conferences and rallies on several occasions, usually on the grounds that the party had not registered with the Ministry of the Interior, in accordance with the law on political activity, or that demonstration organizers had not notified city authorities of the event. The Government required political parties to apply for permits to hold press conferences; according to local NGOs, such permits frequently were denied.” [3b] (p16)

6.34 USSD 2003 reported that:

“The Transitional Constitution provides for freedom of peaceful assembly; however, the Transitional Government restricted this right in practice. The Government considered the right to assemble to be subordinate to the maintenance of “public order,” and continued to require all organizers to inform the local city government before holding a public event. According to the law, organizers automatically have permission to hold an event unless the city government denies permission in writing within 5 days of receiving the original notification. Some NGOs reported that in practice, the city administration sometimes denied permission for an event, mostly on the grounds of preserving public order, after the 5-day period by backdating the correspondence.” [3b] (p16)

6.35 According to the same source “In areas not under central government control, rebel forces and foreign troops continued to restrict severely freedom of assembly and association.” [3b] (p16)

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Political Activists

6.36 Human Rights Watch (HRW) in a report of January 2004 stated “The new authorities profess commitment to human rights ideals but both local and national officials have harassed, arbitrarily arrested, or beaten journalists, civil society activists, and ordinary citizens in the last year.” [5d]

6.37 USSD 2003 also stated “The Government arrested, detained, beat, harassed, and intimidated journalists, opposition politicians, and individuals critical of the Government or President Kabila's political party, the People's Party for Reconstruction and Development (PPRD).” [3b] (p11)

6.38 USSD 2003 also reported that:

“Security forces forcibly dispersed political party press conferences and rallies on several occasions, usually on the grounds that the party had not registered with the Ministry of the Interior, in accordance with the law on political activity, or that demonstration organizers had not notified city authorities of the event. The Government required political parties to apply for permits to hold press conferences; according to local NGOs, such permits frequently were denied.” [3b] (p14-15)

See also Section 5 Political System and Annex B Political Organisations

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Employment Rights

Trade Unions

6.39 The 2004 annual survey of violations of trade union rights by the International Confederation of Trade Unionists (ICFTU) commenting on events in 2003, stated:

“The legislation grants all categories of workers, with the exception of magistrates and military personnel, the right to organise. No prior authorisation is required to set up a trade union. The right to strike is recognised, although unions must have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. The law prohibits employers from retaliating against strikers. The right to bargain collectively is also recognised. In the public sector, however, the government sets wages by decree and the unions can only act in an advisory capacity. During the year, the government held meetings with the unions to discuss revising the Labour Code to bring it into line with international norms.” [40]

6.40 According to the 2003 US Department of State Report on Human Rights Practices (USSD 2003) published on 25 February 2004:

“The law permits all workers, except magistrates and military personnel, to form without prior authorization and to join trade unions; workers formed unions in practice. The National Union of Congolese Workers (UNTC) remained the largest labor federation. The country's other large confederations were the Democratic Confederation of Labor (CDT) and the Congo Trade Union Confederation (CSC). Although very few workers were members of unions, there also were almost 100 other independent unions, which were registered with the Labor Ministry. Some of the independent unions were affiliated with political parties or associated with a single industry or geographic area; however, they also participated in larger confederations, such as the UNTC, which had more diverse membership. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized.” [3b] (p26)

6.41 The ICFTU report noted that “In practice, the civil war and the collapse of the formal economy mean that there is very little respect for trade union rights. Employers ignore labour regulations and the government does not have the resources to enforce them. Soaring inflation and the constant depreciation of the Congolese Franc render any pay rises agreed through collective bargaining meaningless.” [40]

6.42 USSD 2003 also stated:

“The collapse of the formal economy, which was exacerbated by the civil war, resulted in a decline in the influence of trade unions, a tendency of employers to ignore existing labor regulations, and a decrease in wages as jobs increasingly became scarce. The Labor Code prohibits discrimination against unions, although this regulation was not enforced effectively by the Ministry of Labor. . . . Unlike in the previous year, there were no reports that police forcibly dispersed labor marches.” [3b] (p26)

6.43 USSD 2003 also stated “that in areas outside government control, employment issues were not addressed and most people in these areas resorted to informal economic activity, humanitarian aid and scavenging in forests to survive. [3b] (p26)

See also Section 3 Economy and Section 6C Security Situation

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Collective Bargaining

6.44 USSD 2003 reported that “The law provides for the right to bargain collectively; however, collective bargaining was not used in practice. While collective bargaining still existed in theory, continuing inflation encouraged a return to the use of pay rates individually arranged between employers and employees. In the public sector, the Government set wages by decree; public sector unions acted only in an informal advisory capacity.” [3b] (p27) The same source noted that “In areas under government control, civil servants salaries' were current by year's end, although arrears had not been addressed.” [3b] (p27)

Strikes

6.45 USSD 2003 also reported that “The law recognizes the right to strike; however, legal strikes rarely occurred because the law requires unions to have prior consent and to adhere to lengthy mandatory arbitration and appeal procedures.” [3b] (p27)

Equal Employment Rights

6.46 USSD 2003 also noted that women constituted the majority of primary agricultural labourers and small-scale traders, and commonly received less pay than men for comparable work. [3b] (p20)

Child Labour

6.47 According to USSD 2003

“Child labor was a problem throughout the country, and the employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. The legal minimum age for full-time employment without parental consent is 18 years. Employers legally may hire minors between the ages of 14 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day. Larger enterprises did not exploit child labor. Neither the Ministry of Labor, which was responsible for enforcement, nor labor unions effectively enforced child labor laws. There continued to be reports that forced child labor occurred.” [3b] (p28)

6.48 USSD 2003 also stated “The Government participated in an international program to prevent children from becoming child soldiers and to combat child labor.” [3b] (p23)

See also Section 6B Children

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People Trafficking

6.49 According to the US State Department 2004 Report on Victims of Trafficking and Violence released in June 2004, “Democratic Republic of the Congo (D.R.C.) is a source country for women and children trafficked for the purposes of sexual exploitation and forced labor, including soldiering. Uncontrolled armed groups continue to abduct and forcibly recruit Congolese men, women, and children to serve as laborers, porters, domestics, combatants, and sex slaves.” The same report stated “The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so in those areas of the country under government control.” [3e] (p52)

6.50 The same USSD report stated “No law specifically prohibits trafficking in persons,

although Congolese laws prohibiting slavery, rape, and child prostitution could be used to prosecute traffickers. . . . The reunified government has not investigated or prosecuted any cases against traffickers. The country's criminal justice system— police, courts, and prisons—is decimated following years of war. The justice system must be rebuilt and rule of law improved before trafficking cases can be adequately addressed.” [3e] (p52)

6.51 According to the US State Department 2003 Human Rights Report (USSD 2003), published on 25 February 2004, “There were reports that government officials participated in or facilitated trafficking in humans. For example, in May, Vice President Jean-Pierre Bemba was sentenced in abstentia [sic] by a Belgian court to 1 year in prison for “people trafficking.”” [3b] (p26)

6.52 USSD 2003 also stated:

“The Government had few programs in place to prevent trafficking. The Ministry of Family Affairs and Labor implemented an action plan against sexual exploitation in conjunction with an international organization. In addition, the Government coordinated with other countries on trafficking issues and has attended some regional meetings on trafficking in persons; however, government efforts to combat trafficking were limited by a lack of resources and information, and because much of the country's trafficking problem occurred in areas controlled by rebel groups. The Government has not effectively investigated or prosecuted trafficking cases. The Government had few resources for training; however, it permitted training of officials by foreign governments and NGOs. The Government had no funding available for protection services. Victims were not prosecuted.” [3b] (p29)

6.53 According to the same source “The Government repeatedly has severely criticized the abduction of women and children by armed groups in areas of the country not under government control. In May 2002, the Government filed a case against Rwanda in the World Court, accusing Rwandan soldiers of killing, raping, and kidnapping civilians in the country.” [3b] (p29)

See also Section 6B Women and Section 6B Children

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Freedom of Movement

6.54 The US State Department 2003 Human Rights Report (USSD 2003) reported that:

“The law provides for freedom of movement; however, the Government at times restricted this right in areas under its control. There were fewer reports of such restrictions during the year. Resolutions adopted as part of the Inter-Congolese Dialogue process in 2001 and the Transition Constitution affirmed the right to free movement of persons and goods in the country, and the Government generally honored this stated commitment during the year. Unlike in previous years, it was not necessary to obtain a routine written document from the Ministry of Interior for travel

within government-controlled territory. Movement between areas under central government control and areas not under central government control continued to be hazardous and sometimes impossible, except by U.N. flights and U.N.-accompanied river convoys. Commercial flights between former government-controlled territory and former rebel-held areas resumed after the Transitional Government took office.” [3b] (p17)

6.55 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004) the road network is inadequate for a country the size of the DRC. Of the estimated 145,000 km of roads, only 2,500 km are surfaced. Most of the road network is in a very poor condition. Telecommunications facilities in the DRC are operated by the Office Congolais des Postes et des Telecommunications, and are among the worst in Africa. International lines, apart from those to Brussels and Paris, are erratic. [1] (p284-286) The Country Profile of August 2004 by the Foreign and Commonwealth Office noted that “The Congo River has been opened to commercial traffic (from Kinshasa to Kisangani, about 1,000 miles).” [22h] (p3)

6.56 USSD 2003 also reported that:

“In Kinshasa, the practice of police and soldiers erecting roadblocks for nighttime security checks and to protect government installations continued with less frequency than in previous years. In general, military police manning the roadblocks were better organized and more professional than in previous years, and there were fewer instances in which taxibus drivers and passengers were harassed or forced to pay bribes. However, underpaid traffic police continued to routinely harass citizens and demand bribes in the course of pulling vehicles over for ostensible traffic violations.” [3b] (p17)

6.57 Also, according to the same source, “Unlike in the previous year, the Government did not require exit visas for all foreign travel. Noncitizens, including missionaries, reportedly were required to obtain exit permits before leaving the country for employment purposes. The Government allowed opposition members and journalists to leave the country; however, there were reports that journalists had difficulty in obtaining visas and permits to travel abroad.” [3b] (p17)

6.58 USSD 2003 also reported that “In areas not under government control, freedom of movement was severely restricted during the year, partially as a result of fighting between rebel forces, Ugandan troops, Mai Mai, and Hutu militias. Rebel soldiers frequently prevented travel and harassed travelers. Several cities were cut off from the surrounding countryside by soldiers and armed groups, who controlled all road and river access into and out of the cities.” [3b] (p18)

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6.B Human Rights - Specific Groups

Ethnic Groups

6.59 According to the World Directory of Minorities, issued in 1997 by Minority Rights Group International, there are over two hundred ethnic groups. [8] (p523-526) According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004), and the CIA Factbook 2004 the four largest tribes - Mongo, Luba, Kongo (all Bantu), and the Mangbetu-Azande (Hamitic) - make up about 45% of the population [1] (p261) [13]

6.60 According to demographic information from Ethnologue over 200 languages are spoken by these ethnic groups. [6] Ethnologue provides maps showing the main locations for Congolese ethnic groups and languages. [6]

6.61 Europa 2004 stated that "The extreme linguistic variety of the DRC is maintained to some extent by the ability of the people to speak several languages, by the existence of 'intermediary' languages' (a Kongo dialect, a Luba dialect, Swahili and Lingala, and by the use of French." [1] (261)

6.62 Ethnologue provided the following information:

- Lingala is widely used in Kinshasa, Bandundu, Equateur, and Orientale provinces, except the southeast of Orientale; and is also spoken in the Central African Republic and the Republic of Congo;
- Tshiluba or Lubu-Kasai is used in Kasai Occidental and Kasai Oriental provinces;
- Kongo or Kikongo is used mainly in the Bas-Congo Province and scattered communities along the Congo River from Brazzaville to its mouth, and is also spoken in Angola, and the Republic of Congo;
- Congo Swahili is prevalent in Katanga, Nord-Kivu, Sud-Kivu, and Maniema provinces and the southeastern part of the Orientale Province. There are other varieties of Swahili in East Africa. [6]

6.63 The US State Department 2003 Human Rights Report published on 25 February 2004 (USSD 2003) reported that:

"There were at least 200 separate ethnic groups, which generally were concentrated regionally and spoke distinct primary languages. There was no majority ethnic group; some of the largest ethnic groups were the Luba, Kongo, and Anamongo. Four indigenous languages, Kiswahili, Lingala, Kikongo, and Tshiluba, had official status. French was the language of government, commerce, and education. Societal discrimination on the basis of ethnicity was practiced widely by members of virtually all ethnic groups and was evident in private hiring and buying patterns and in patterns of de facto ethnic segregation in some cities; however, intermarriage across major ethnic and regional divides was common in large cities." [3b] (p25)

6.64 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that, particularly in the east, members of mixed marriages between different ethnic groups such as the Hema, Lendu or Banyamulenge may be rejected by each of their communities, and that a family of mixed ethnicity could be at risk. The same source stated that in general the offspring belong to the ethnic groups of their fathers. [52] (p117)

6.65 USSD 2003 reported that:

“President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals (both inside and outside the Government) from Katanga province. Katangans in the Armed Forces were more likely both to be promoted and to be paid than persons from other regions. The leadership of former rebel groups also was geographically and ethnically diverse. However, a significant amount of influence in the MLC [Mouvement pour la Liberation du Congo] continued to be held by members from the Equateur province, and in the RCD/G [RCD-Goma] leadership by Tutsis. A significant number of ethnic groups were represented in the Transition Government.” [3b] (p26)

See also Section 6C Security Situation

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Tutsis

6.66 According to the World Directory of Minorities:

“When colonial boundaries were drawn in the late nineteenth century many Banyarwanda (Hutus, Tutsis and Twa, who all speak Kinyarwanda) found themselves on the Zaire side of the Rwandan border, in Kivu province. More Banyarwanda subsequently crossed from Rwanda to work on Belgian colonial farms. In the late 1950s (and subsequently) Tutsi refugees fleeing persecution in Rwanda also crossed to Zaire; Banyarwanda came to comprise around half the population of north Kivu, yet were widely viewed as ‘foreigners’ by other ethnic groups. The waves of immigration intensified competition over land. . . . Although at independence anyone who had lived in the country for ten years was entitled to citizenship, the law was amended in 1981; only those who could trace their ancestry within the country to 1885 were now eligible. The change was primarily aimed at Banyarwanda. From 1991 the change acquired much greater significance when registration began in anticipation of elections. Conflict escalated in 1992-3 into a virtual civil war, with raids and counter-raids between Banyarwanda and other groups. ” [8] (p524)

6.67 The report by the International Crisis Group of July 2004 also explained that “The Banyamulenge are the Congolese Tutsi community in South Kivu.” [39a] The Banyamulenge people in the east of the country have been subjected to displacement and human rights abuses, including in the Bukavu area in mid-2004. [5e]

See also Section 6C Security Situation Bukavu

6.68 The US State Department 2003 Human Rights Report (USSD 2003) published on 25 February 2004, reported that:

“The Government did not recognize the citizenship claims of some longtime residents whose ancestors immigrated to the country, including the Banyamulenge Tutsis from

Rwanda. However, in ICD negotiations in Sun City in 2002, the Government and most other parties agreed to take a more inclusive approach to the Banyamulenge; however, by year's end, citizenship had not been granted to them. Citizenship and nationality questions were scheduled to be addressed by the Transition Government.” [3b] (p1)

6.69 Human Rights Watch (HRW) stated in a report dated January 2004:

“The government must also establish a definition of citizenship that assures the rights of all Congolese, including the Rwandophone peoples of eastern DRC. Congolese who are linguistically or culturally linked to Rwanda include groups, like the Banyamulenge, who at one time assisted Rwandan troops occupying the area. The resulting hostility of other Congolese toward the Banyamulenge has complicated the already sensitive question of the rights of Rwandophones, including their rights to land (generally said to be controlled by other Congolese groups) and their right to participate in political process.” [5d]

6.70 An information response by the Canadian Immigration and Refugee Board of 9 June 2004 referred to comments from a Congolese lawyer and human rights activist who stated that “Law 81-002 of 29 June 1981, regarding the termination of Zairian citizenship for the Banyarwanda in the RDC, is still in effect. However, all Congolese politicians agree on the need to modify it. This is why the signatories to the inclusive peace accord, adopted in April 2003 in Sun City, Africa, entrusted the national assembly with conducting an in-depth study on Congolese citizenship and with drafting a new law on this issue. As yet, no one has voted on this law.” [43n]

See also Section 5 Citizenship

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6.71 According to a Fact-Finding Mission Report dated October 2002 by the Documentation and Research Service, Refugee and Nationality Commission of Belgium (CEDOCA), in August and September 1998 an undetermined number of people who were not Tutsis, but had their stereotypical physical appearance, were subjected to indiscriminate human right abuses in Kinshasa, simply because they were perceived as being Tutsis, in reaction to the conflict between the DRC and Rwanda. The report stated “The Tutsis are in fact recognised by their great height, their pointed noses and their oval faces.” [24a] (p21)

6.72 According to the same report:

“People of Tutsi origin or who were presumed to be of Tutsi origin were arrested and a number of them were burnt alive or shot. In order to excuse themselves, the pogrom participants argued that the Congolese authorities played a significant role in stirring up anti-Tutsi hatred. During this period, a certain number of ministers in fact served as official spokesmen to designate the enemy by popular condemnation by labelling them as vermin which should be exterminated at any price.” [24a] (p21-22)

6.73 The Belgian report of 2002 also noted that since 1998, the Government had allowed international agencies to resettle thousands of Tutsis in other countries. The same report stated “As is often the case in the Democratic Republic of Congo, the situation is in fact very volatile in relation to the Tutsis in Kinshasa.” [24a] (p21-22)

6.74 The US State Department (USSD) Human Rights Report for 2002 reported that:

“Since the start of the war in 1998, ethnic Tutsis have been subjected to serious abuses, both in the capital and elsewhere, by government security forces and by some citizens for perceived or potential disloyalty to the regime; however, these abuses decreased significantly during the year. Human rights groups have complained that discrimination against persons perceived to be of Tutsi ethnicity and their supporters was a problem.” [3a] (p21)

6.75 The security situation for the Tutsis improved during 2003 according to the USSD report for that year which reported that:

“Unlike in previous years, ethnic Tutsis were not subjected to serious abuses by government security forces or citizens. A cooperative effort between the Ministry of the Interior, ICRC, and international donors had supported a center in Kinshasa for Tutsis at risk since 1998; however, with the threat of abuses greatly diminished, the National Institute for Social Security (INSS) Center was closed on 30 June.” [3b] (p23)

6.76 According to a country report dated January 2004 by the Ministry of Foreign Affairs of the Netherlands:

“The camp on the premises of the INSS (National Social Security Institute) in Kinshasa, which had housed several hundred Tutsis since 1998, was closed in the summer of 2003 by the Ministry of Human Rights because the local population had become more tolerant towards the Tutsi. The International Committee of the Red Cross helped find solutions for the ex-inhabitants of this camp. Approximately 100 persons have obtained a visa for Canada, and approximately 80 persons have travelled to the east of the Democratic Republic of Congo (this was coordinated by the Office of the United Nations High Commissioner for Human Rights). The remaining ex-inhabitants have remained in Kinshasa and joined society. The Red Cross helped them in this for six months.” [42] (p20)

See also Section 6C Security Situation

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Women

6.77 The US State Department 2003 Human Rights Report (USSD 2003) published on 25 February 2004 stated that the Transitional Constitution prohibited discrimination based on ethnicity, sex, or religious affiliation, however, the Government was unable to enforce these prohibitions effectively, and societal discrimination remained an obstacle to the advancement of women. [3b] (p21) The same report also stated “There were no official restrictions on the participation of women or minorities in politics. Six of 36

cabinet ministers and 2 of 24 vice ministers were women, and women held 42 of the 614 seats in Parliament, including 5 of the 120 Senators.” [3a] (p20)

6.78 USSD 2003 also stated that the law discriminated against women in many areas of life and women were relegated to a secondary role in society and employment. [3b] (p22)

6.79 USSD 2003 reported that the law required women to obtain their husband’s permission before engaging in routine legal transactions. Although widows were legally allowed to inherit their husband’s property, control their own property and receive a property settlement following a divorce, in practice, women were often denied these rights. Divorced women were often denied custody of their children in divorce cases but retained the right to visit them. [3b] (p20)

6.80 USSD 2003 stated that polygamy was illegal but was practiced and father/child relationships resulting from polygamous relationships were legally recognised but only the first wife had legal recognition. [3b] (p22)

6.81 USSD 2003 also reported “The law does not prohibit prostitution except in cases involving children under the age of 14; prostitution, including child prostitution, was a problem and increased during the year due to poor economic conditions. There continued to be reports of women pressured to engage in prostitution by their families out of economic necessity. There was no information available on the extent of prostitution in the country.” [3b] (p22)

6.82 An information response by the Canadian Immigration and Refugee Board (IRB) of 17 July 2003 about forced marriages stated that “In the RDC, there are at least 300 tribes in which most women are victims of negative customs and traditions that drive them to commit suicide or leave the country.” The same source referred to a system of forced marriages called ‘Kityul’. It also referred to an initiative by President Kabila to increase the birth registration rate which is currently at 34%, and said that this could assist the problem of girls being forced to marry before they are of legal age in the absence of proof of their date of birth. [43e]

6.83 A further information response from IRB dated 14 April 2004 about forced marriages stated that marriages between members of the same family are common. It also stated that customary marriages, like civil marriages, are recognized by Congolese law and consequently, the Democratic Republic of Congo (RDC) does not interfere with the customs of the various ethnic groups, unless there is a complaint. The same report stated that marriage is the Congolese society’s fundamental institution and that “Preferential marriages and lineage exogamy between clans are practised, and the notion of incest is a social concept, not a genetic one. Rules are very precise because marriage is an exchange of women between groups, an alliance, a means of social cohesion, and often a political tool. Being single is inconceivable.” [43m]

6.84 In another IRB information response dated 8 April 2004 about marriage in the absence of one of the spouses, it was stated that customary or civil marriages by proxy are common and a friend or family member can stand in for one of the spouses who is absent. The proxy might be a family member, such as a brother, uncle or male cousin

for the groom, or a sister, aunt or female cousin for the bride. Religious marriages, however, always require the physical presence of both spouses. [431]

6.85 USSD 2003 also stated:

“Domestic violence against women, including rape, was common throughout the country; however, there were no known government or NGO statistics on the extent of this violence. Assault and rape are crimes, but police rarely intervened in domestic disputes and rapists were rarely prosecuted. There were no laws prohibiting spousal abuse or assault. It was commonplace for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject. Girls who had been raped often found it difficult to get married; married women who were raped were often abandoned by their husbands.” [3b] (p19-20)

6.86 USSD 2003 also reported that “Rape and violence against women and children were severe problems and occurred with impunity.” [3b] (p23) The Amnesty International (AI) annual report in 2004 reporting on events in 2003 stated:

“Sexual violence against women of all ages, including very young girls, was used as a weapon of war by most of the forces involved in the conflict [in the DRC]. In many cases rape was followed by the deliberate wounding or killing of the victim. Thousands of women and girls were abducted and forced to remain with armed groups as sexual slaves. The prevalence of HIV/AIDS among combatants added to the trauma and social stigma faced by these women, who feared being ostracized by their families or communities. Medical and psychological treatment appropriate to the needs of the victims was rare. Leaders of armed groups have taken few meaningful steps to protect women and girls against rape by their fighters, and few of those responsible have been brought to justice.” [11c]

See also Section 6A Human Rights Issues and Section 6C Security Situation

6.87 USSD 2003 also reported that “There were a number of active and effective women's groups in both the government-controlled and rebel-controlled areas of the country.” [3b] (p23)

6.88 USSD 2003 also stated that:

“The law did not prohibit the practice of FGM (female genital mutilation). FGM was not widespread but was practiced on young girls among isolated groups in the north. A 2002 presidential decree created the National Committee to Fight Harmful Traditional Practices/Female Genital Mutilation. The Committee developed a network of community leaders, women representatives and health professionals dedicated to prevention and treatment of FGM; however, the Committee lacked adequate resources for prevention and treatment.” [3b] (p22)

Children

6.89 According to the CIA World Factbook 2004 the legal age for voting is 18 years. [13] According to a report by the United Nations (UN) Committee on the Rights of the Child in August 2000 the age of 18 is the start of civil and political majority; the age of majority for penal purposes is set at 16; and the age of majority for purposes of marriage or sexual majority is 14 years of age. [58] (p28)

6.90 The US State Department 2003 Human Rights Report (USSD 2003) published on 25 February 2004 stated that between 25,000 and 50,000 child refugees, war orphans and 'child sorcerers' roamed the streets throughout the entire country, although some of those who were not orphans returned to their families at day's end. USSD 2003 said that "Unsupervised and poor, many engaged in street crime, begging and prostitution." [3b] (p23) The report also stated that "Soldiers and police subjected street children in Kinshasa to harassment." [3b] (p23) USSD 2003 also reported that "Rape and violence against women and children were severe problems and occurred with impunity." [3b] (p23)

See also Section 6A Human Rights Issues and Section 6C Security Situation

6.91 Information from the United Nations Children's Fund (UNICEF) was that the national under-five mortality rate was 205 per 1000 live births in 2002, and that there was severe malnourishment among children as a result of conflicts in the country. [59a] [59b]

See also Section 5 Medical Services; Section 6C Security Situation

6.92 USSD 2003 also stated that "Child labor, the use of child soldiers by the Armed Forces, child prostitution, and trafficking remained problems." [3b] (p2)

See Section 6B Employment Rights Child Labour; Section 6B People Trafficking;

Child Soldiers

6.93 USSD 2003 stated that:

"The Armed Forces continued to have child soldiers in their ranks despite commitments to demobilization. By August [2003], only 280 child soldiers had been released, out of a total 1,500 children scheduled for demobilization from 2001. There were no reports that the Government actively recruited children; however, according to Amnesty International, there were numerous reports that it provided military support to armed groups such as the Mai Mai and the RCD-ML, which continued to recruit and use child soldiers." [3b] (p23)

6.94 Human rights groups including Amnesty International (AI) and Human Rights Watch (HRW) have criticised the use of child soldiers by all sides in the conflicts. The AI

2004 report, commenting on events in 2003, stated:

“All armed forces in the DRC used children as soldiers. In the east, armed political groups actively recruited children, who reportedly constituted more than 40 per cent of their armed forces in some instances. Child soldiers, boys and girls, sometimes as young as seven, were typically subjected to ill-treatment during their training; in some camps, children died from the harsh conditions. They were often sent into combat or used as sex slaves. . . . None of the commitments to demobilize children given by the various armed forces proved genuine, and little effort was made to support reintegration of former child soldiers into civilian life. In the east, the small numbers of children who were officially demobilized were at constant risk of re-recruitment. During visits to the DRC, AI delegates heard testimony from former child soldiers of the torture, ill-treatment and other abuse of child soldiers by combatants.” [11c]

6.95 A HRW report to the UN in January 2003 also referred to this issue, stating that the government recruited child soldiers and “All armed opposition groups continued to recruit and use children in violation of international obligations, leading some observers to describe fighting forces as ‘armies of children’.” [5c] The US Committee for Refugees (USCR) World Survey 2004, reporting on events in 2003 stated “Recruitment of child soldiers by all sides continued unabated.” [53]

6.96 The 1379 report of November 2002 by the Coalition to Stop the Use of Child Soldiers also reported that former child soldiers had been put on trial, and that some of the suspects arrested in connection with the killing of President Laurent Kabila in January 2001 were young and had been recruited as children. [44]

6.97 The disarmament of armed groups was agreed under the Lusaka Accord and the UN Mission to the Congo (MONUC) was charged in October 2001 to assist with the process. [1] (p271-2) A report by the UN Integrated Regional Information Networks (IRIN) of 27 February 2004 stated that “About 900 children affiliated with armed groups or used as combatants have been demobilised by BUNADER [the DRC agency responsible]. . . . At the same time, an estimated 1,000 other children have been demobilised by armed groups themselves, with the aid of NGOs. . . . BUNADER estimates that there are at least 15,000 child soldiers to be demobilised nationwide. Due to a lack of financial means, demobilised child soldiers have often been re-recruited by armed groups who then try to place them beyond the reach of any programme aimed at their demobilisation and reintegration.” [18s]

6.98 USSD 2003 also stated:

“The Government participated in an international program to prevent children from becoming child soldiers and to combat child labor. The Government continued to collaborate with UNICEF to demobilize child soldiers in the military. During the year, the Government held workshops to facilitate the reintegration of former child soldiers into their home communities as part of its ongoing demobilization program enforced by the National Bureau for Demobilization and Reintegration.” [3b] (p23)

6.99 The UN Secretary General in a report to the UN Security Council in August 2004 described some measures being taken on disarmament:

“Pending the implementation of the national disarmament, demobilization and reintegration programme, in response to an urgent need generated by the assembling of Mayi-Mayi [Mai Mai] soldiers in the provinces of Maniema and North and South Kivu, a joint MONUC/UNDP/Government of the Democratic Republic of the Congo disarmament, demobilization and reintegration operation was carried out in April and May 2004. Some 535 combatants were disarmed and subsequently 498 were registered in Kindu. A network of local non-governmental organizations has distributed food assistance and conducted awareness-raising sessions focusing on peace and reconciliation and the United Nations Children’s Fund (UNICEF) has provided support for the children associated with those forces.” [54c] (p6)

6.100 A report by IRIN dated 30 December 2003 stated that the government of the DRC, with the help of UNICEF had introduced official demobilisation certificates for child soldiers. In the report, UNICEF stated that the certificates were part of an interim programme to help demobilised child soldiers pending a national programme which would include adults and children. [18q] Also in December 2003, IRIN reported that the US Department of Labor had launched a multimillion dollar project to end the recruitment and support the rehabilitation of child soldiers in the Great Lakes region. [18p] The 2003 Annual Report of the International Committee of the Red Cross (ICRC) stated “The ICRC registered more than 600 child soldiers in the year, reuniting some 170 of them (including 130 in the east) with their families in cooperation with the National Office for Demobilization and Reintegration, UNICEF and the International Labour Organization and NGOs.” [33] (p2)

See also Section 6C Security Situation; Section 6C Disarmament of Armed Groups; Section 6C Assassination of President Laurent Kabila

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Childcare

6.101 According to a report by the United Nations (UN) Committee on the Rights of the Child in August 2000:

“A child who is a minor is placed under parental authority. In the absence of both parents it is placed under the guardianship of the family (family council); if it has no family, or the parents have been deprived of parental authority (art. 239), guardianship is assumed by the State. . . . Unfortunately, the economic crisis which the Congo is undergoing is not of a nature to encourage family solidarity for the genuine acceptance of responsibility for the care of orphan [sic] and abandoned children. The guardianship of the State is often purely theoretical.” [58] (p25)

Homosexuals

6.102 The 1998 survey by the International Gay and Lesbian Association reported that the Pink Book had stated that parts of the Penal Code concerning 'crimes against family life' could be used to punish homosexual acts. This included laws governing assaults against a person, with a penalty of 6 months to 5 years' imprisonment; rape, with a penalty of 5 to 40 years' imprisonment; and assaults on minors, as a 'break of public morals' with a penalty of a fine and 3 months to 5 years' imprisonment. [45]

6.103 According to information from the British Embassy in Kinshasa in August 2001, homosexual activity was not illegal and police arrests were usually made when the person concerned had acted without due regard to propriety or against public morals. However, everyone, regardless of his or her sexual persuasion was bound by the Penal Code. There was no discrimination between male or female homosexuals. [22c]

6.104 The same source stated that traditionally, homosexuality was regarded as a crime against nature and homosexuals could be punished in accordance with local tradition. This might have included being ostracised or segregated. Latterly, however, covert or open homosexuality did not generally result in public condemnation or police harassment. [22c]

6.105 A country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) also noted that:

"The Congolese Criminal Code does not contain any article dealing with homosexuality or makes it a criminal offence. Some international organisations for the defence of homosexuals state that articles 167, 168, 170 and 172 of the Zaire Criminal Code, "Section II: Indecent Assault, Rape" and "Section III: Offences Against Common Decency" *could* be used by the authorities to punish homosexuality. However, information obtained from organisations in defence of human rights in Kinshasa includes no indication of these suppositions. It is, however, an established fact that homosexuality is taboo in DRC. Merely raising the subject makes some interviewees feel embarrassed." [24a] (p27)

6.106 The same report stated that the observers questioned on the subject did not know of any cases of Congolese being persecuted by the authorities because of their sexual orientation. They did not know of the existence of an organisation for the defence of homosexual rights. The report referred to comments from two local human rights groups, CODHO (Committee of Human Rights Observers), and VSV (La Voix des Sans Voix) that homosexuals are rejected by society and homosexuality cannot be displayed in public; however homosexuals could manage to live as they wish in Kinshasa if they remained discreet. The report also stated that there were a number of clubs in Kinshasa where homosexuals meet. [24a] (p27)

Persons Associated with the Mobutu Regime

6.107 An information response by the Canadian Immigration and Refugee Board (IRB) dated 3 April 2003 about the treatment of former diplomats and other individuals perceived as sympathisers with the former President stated that:

“According to Le Potentiel, many exiled high officials have returned to the country (1 Nov. 2002). The same Congolese newspaper added that "Mobutists" are now present everywhere, including in government positions (Le Potentiel 28 Mar. 2003). Referring to "people who were linked to former President Mobutu and the MPR [Mouvement Populaire de la Revolution - Mobutist political party]," a November 2002 report stated that "persecution may result from either having held a very senior visible position in the party, the government or the security forces, or from overt opposition to the current government." (ACCORD/UNHCR 28 Nov. 2002).” [43a]

6.108 Two further IRB reports dated 2 March 2004 and 26 March 2004 indicated that there was no particular adverse treatment of members of the Ngbandi tribe, or the Mbunza ethnic group, or persons from the Equateur province [associated with the former President Mobutu], based on interviews with the president of the Congolese human rights group ASADHO, and a journalist specialising in the Great Lakes region. The sources explained that the transition institutions (government, parliament, senate, army and others) comprise individuals from various ethnic groups including the Ngbandi and Mbunza, like those of other tribes in Equateur. [43i] [43j]

6.109 Another IRB response dated 10 April 2003 reported that the Congolese human rights group Journaliste en Danger was not aware of any ordinary Congolese citizen who had been prevented by the Congolese authorities from renewing a passport issued during the Mobutu regime. On the contrary the authorities had encouraged people to replace their old Zairian passports for the new Congolese ones. [43b]

See also Section 6C Documentation - Passports

6.110 A country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) reported that after Laurent Kabila ousted Mobutu in May 1997 many high-ranking officials of the former Mobutu regime were arrested and imprisoned in the CPRK Prison in Kinshasa. Others managed to avoid being arrested by leaving the country. The report stated that the security situation improved for persons closely associated with the Mobutu regime when Joseph Kabila came to power in January 2001, and even more so, after the Sun City Peace Accord was signed in April 2002. A large number of persons closely associated with the Mobutu regime had now returned to the DRC. [24a] (p23)

6.111 The CEDOCA Report also stated that distant relatives of Mobutu living in Kinshasa had not encountered any problems through being associated with Mobutu, and also that negotiations took place in 2002 between Kinshasa and Rabat to repatriate the remains of Mobutu. According to the report, persons who were closely associated with the MPR during the Mobutu regime were not at risk of persecution by the security forces and could therefore return to the country if they were abroad. The report

concluded that “If Mobutu’s followers are not suspected of collaboration with the rebels, they are no longer persecuted. Affiliation to Mobutu’s former MPR [political party] does not involve the risk of political persecution.” [24a] (p23)

6.112 According to a CNN Online news report dated 23 November 2003, close relatives of Mobutu returned to the DRC from exile in 2003. Manda Mobutu, the son of the former president, returned to the DRC in November 2003 from exile in France, with his sister, Yanga, to prepare his political party for the elections due to take place in 2005. Manda's half-brother, Nzanga Mobutu, returned to the DRC from exile in August 2003. [23] According to a news report by ‘The Independent’ (UK newspaper) dated 28 November 2003, the Mobutu sons returned to the DRC with President Joseph Kabila's blessing, and Leon Kengo wa Dondo, a former prime minister under the Mobutu regime and other persons associated with the Mobutu regime had also returned to the DRC. [20]

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Former Soldiers of Mobutu Regime including FAZ

6.113 An information response dated 26 March 2004 by the IRB about the treatment of a person whose family members had served in the army under former President Mobutu stated that:

“The President of the African Association for the Defence of Human Rights (Association africaine de défense des droits de l'homme, ASADHO) said during a 25 March 2004 telephone interview that his organization is not aware of any particular treatment that would be imposed on a person merely because members of his or her family had served in the former army, under the Mobutu regime. He added that most members of the Zairean Armed Forces (Forces armées zaïroises, formerly FAZ) are currently serving in the Congolese Armed Forces (Forces armées congolaises, FAC) (ASADHO 25 Mar. 2004).” [43k]

6.114 According to a country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) the security situation in the DRC for former soldiers of the FAZ has improved since Joseph Kabila became president in January 2001. According to the CEDOCA report, in 2002, many former FAZ soldiers were serving in the current Congolese army. In 2002, all the key positions in the Forces Armée Congolais (FAC) high command were occupied by former FAZ soldiers and an estimated 20,000 to 25,000 former FAZ soldiers were living in Kinshasa. The same report concluded “When ex-FAZ members are not suspected of collaboration with the rebels, they are no longer persecuted.” [24a] (p23-24)

6.115 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that the rank of a soldier might not always mean what it did in better established armies. It was stated that a low-ranking soldier may politically have more power than a top general, by virtue of his ethnic group and connections to influential persons. [52] (p100)

6.116 According to a report dated 4 May 2004 from the United Nations (UN) Integrated Regional Information Networks (IRIN) an agreement had just been reached between the DRC and the neighbouring Republic of Congo to repatriate former combatants in both countries. IRIN stated that:

“Similarly, the RoC [Republic of Congo] has, since 1997, been home to some 4,000 soldiers of the defunct Special Presidential Division of the late DRC president, Mobutu Sese Seko, and of his Zairean Armed Forces, or FAZ. The presence of these former soldiers has caused both Congos to trade mutual accusations of supporting coup makers, despite the existence of a non-aggression pact. In March, authorities in Kinshasa accused Brazzaville, and the ex-FAZ, of taking part in the 28 March [2004] attack on military targets in the DRC capital, Kinshasa. . . . In 2002, both Congos signed an agreement with the International Organisation for Migration for the repatriation of the ex-FAZ and former soldiers seeking refuge in RoC but nothing concrete has been achieved.” [18aa]

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6.C Human Rights - Other Issues

Security Situation

Eastern DRC

6.117 The DRC has been involved in a major civil war in recent years. There has been fighting in the eastern area of the country involving the forces of rebel groups and those of other African countries, including Rwanda and Uganda. The provinces of North and South Kivu, Maniema, Equateur and the Ituri district of Orientale have been badly affected. [1] (p268-269) [3a] [3b] [5e] [11c] [39c] The concern of the international community has been expressed in peacekeeping efforts by the United Nations (UN) through the UN Mission to the Congo (MONUC) and the efforts of governments and international aid and human rights organisations. [16a] [18r] [29] [33] [56c] [57a] [57c] [59a] [17a] [17b] [18ae] [34]

6.118 The fighting has had a devastating effect on the population, especially in the east, where the infrastructure of transport, commerce, medical and social support was already extremely poor. The International Rescue Committee stated in June 2004 “More people have died as a result of the war in the Democratic Republic of Congo (DRC) than in any other conflict since World War II.” [50] (p1) Grave human rights abuses have been carried out in the conflict: AI stated in the Annual Report 2004 referring to events in 2003, “Abuses in the east included mass unlawful killings of civilians, rape and the extensive use of child soldiers.” [11c] (p1) The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated that in 2003, “Rebel forces, Mai-Mai forces, Hutu militia, and other armed groups committed numerous, serious abuses with impunity against civilians, including deliberate large-scale killings, the burning of villages, disappearances, torture, rape, dismemberment, mutilation, looting, extortion, and robbery.” [3b] (p3)

6.119 The UN Secretary-General reported to the Security Council on 27 May 2003 that the agreement to set up a transitional administration marked a new and important chapter in the process of mutual reconciliation and peace in the DRC. [54a] However, the control of the transitional government and progress towards a fully unified civil and military structure remains slow, according to a further UN report of August 2004 and reports by AI, Human Rights Watch (HRW) and the International Crisis Group (ICG). [5d] [11c] [39a] [39c] [54c] (p1)

See also Section 3 Economy; Section 4 History; Section 5 Legal Rights/Detention; Section 5 Prisons and Prison Conditions; Section 5 Military Service; Section 5 Medical Services; Section 5 Educational System; Section 6A Human Rights General; Section 6B Employment Rights; Section 6B Ethnic Groups Tutsis; Section 6B Women; Section 6B Child Soldiers; Section 6C Internally Displaced People; Section 6C Humanitarian Aid/International Assistance

Armed Groups

6.120 According to USSD 2003:

“Rebel factions backed by the governments of Rwanda and Uganda, ethnic militias, and other armed groups continued to operate in more than half of the country during the year. There were continued, unconfirmed reports that Rwanda Defense Force (RDF) military advisors remained integrated with the Congolese Rally for Democracy (RCD/G) [RCD-Goma] and Union of Congolese Patriots (UPC) forces. Approximately 5,000 Uganda People's Defense Forces (UPDF) troops remained in Ituri until early May. The largest rebel groups were the Rwandan-backed RCD/G [RCD-Goma], the Movement for the Liberation of Congo (MLC), and the Congolese Rally for Democracy based in Beni-Butembo (RCD/ML). The RCD/National (RCD/N), which was backed by the MLC, continued to operate.” [3b] (p2)

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Disarmament of Armed Groups

6.121 According to Europa Regional Surveys of the World: Africa South of the Sahara 2004 (Europa 2004) a disarmament and repatriation programme was instigated in December 2001 under the aegis of MONUC. [1] (p271) Some progress was made in July 2002 with the signing of an agreement between the DRC and Rwanda in which the DRC promised to arrest and disarm the Interahamwe militia in the DRC, while the Rwandan Government was to withdraw its troops from the country. Zimbabwean troops also left the country by the end of the year. In mid-August [2002] the DRC and Uganda reached an accord providing for the normalization of relations between the two countries, and the full withdrawal of Ugandan troops in the DRC. [1] (p272)

See also Section 4 History

6.122 According to a report by the UN Integrated Regional Information Networks (IRIN) dated 27 February 2004, MONUC had encountered hostility, suspicion and lack of cooperation in the disarmament and repatriation process. However, recent figures had shown a significant increase in the process since October 2003. Nevertheless,

obstacles remained, particularly with regard to Hutu Rwandan militants. [18s] Another IRIN report dated 18 March 2004 stated that a total of 9775 Rwanda, Ugandan and Burundian combatants and their dependents had been repatriated through the MONUC programme. [18v] IRIN also reported on 23 April 2004 on a UN programme to disarm, demobilise and reintegrate some 130,000 former combatants in the east of the country. [18z]

See also Section 6B Child Soldiers

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Ituri

6.123 A Special Report by IRIN dated 18 December 2002 explained the background to the conflict in the Ituri area of Orientale province near the border with Uganda. The report stated that “The tensions in Ituri resulted from several factors, including historical land ownership and tensions between the Hema and Lendu communities, and have been fanned by military, commercial and political forces.” [18c] (p1) The report noted that civilians bore the brunt of the killings, mutilation, rape, plunder and arson that occurred from mid-2002, including the assault by a Hema faction, led by Thomas Lubanga, on the town of Bunia in August 2002. [18c] (p2)

6.124 The USSD 2003 reported:

“In the Ituri district of Province Orientale, numerous tribally-based armed groups continued to fight for control of territory and resources during the year: The Lendu and Ngiti-dominated Front for the National Integration/Patriotic Force of Resistance in Ituri (FNI/FRPI), led by Floribert Njabu; the Hema-dominated UPC, led by Tomas Lubanga and supported by the governments of Uganda and Rwanda; the Hema-dominated Party for the Safeguarding of the Congo (PUSIC), which split from the UPC early in the year and was led by Chief Kawa Mandra; the mixed People’s Army of Congo (FAPC), led by General Jerome Bakonde; and the Alur and Lugbara-dominated Popular Force for Democracy in Congo (FPDC) led by Thomas Unen Chen. In addition, there were numerous loosely affiliated Lendu militia groups.” [3b] (p2)

6.125 A report by HRW in July 2003 also described and analysed the conflict. [5a] It estimated that at least 5000 civilians had died between July 2002 and March 2003, (in addition to the 50,000 estimated to have died there since 1999), and that more than 50,000 people had been displaced from their homes. [5a] (p1) The report noted the involvement of the RCD-ML and other armed groups, and also of Rwanda and Uganda, in the situation. [5a] (p5-12,15-16)

6.126 HRW also reported that Ituri was home to 18 different ethnic groups, with the Hema/Gegere and Lendu/Ngiti forming about 40 per cent of the inhabitants. The other major groups were the Bira, the Alur, the Lugbara, the Nyali, the Ndo-Okebo and the Lese. With ethnic identity of growing importance, a new group had emerged, the ‘non-originares’ (outsiders), who were not born in Ituri. [5a] (p1,14) HRW reported that the Hema were divided into two sub-groups – the Gegere known as the Hema from the north, who speak Kilendu, and the Hema, also known as the Hema from the south, who speak

Kihema. There were increasing divisions between these two groups. The Lendu ethnic group was also divided into sub-groups - Lendu who originate from the northern areas of Ituri and the Ngiti who come from the south. The Hema were pastoralists and the Lendu were agriculturalists. [5a] (p1,14,18)

6.127 HRW also reported how the main local armed groups were supported by national rebel movements, including the RCD-ML and RCD-Goma, and, at different stages by the Rwandan and Ugandan Governments. [5a] The Report detailed attacks on the civilian population in 2002 at various locations, including Bunia, Mabanga, Songolo and Mongwalu. [5a] (p19-38) The attacks in the Ituri region allegedly included war crimes, crimes against humanity and other violations of international humanitarian and human rights law on a massive scale. Assailants had reportedly massacred unarmed civilians in such attacks, and had mutilated corpses and practiced cannibalism. The attacks reportedly included rape and other forms of sexual violence, as well as arbitrary arrest and unlawful detention and the use of systematic torture. [5a] (p8, 39-46)

6.128 A report by the International Crisis Group (ICG) in August 2004 updated the situation and noted that UN troops first deployed to the region in May 2003 had been unable to take control, although a further MONUC deployment had been more successful from 1 September 2003. [39c] (p1,3) The report stated that the Hema-Lendu conflict was largely over and the violence was mainly within groups and alliances. [39c] (p8) The ICG, and a report by IRIN dated 17 May 2004 noted that the Transitional National Government had reached an agreement with the chiefs of the seven armed groups in May 2004. [18ac] [39c] (p10-11) IRIN reported that "The militia leaders at the Kinshasa meeting were from PUSIC; the Union des patriotes congolais faction led by Thomas Lubanga; the UPC faction of Floribert Kisembo; the Front des nationalistes intégrationnistes; the Union des congolais pour la démocratie-Forces armées du peuple congolais; Forces de résistance patriotique en Ituri; and Forces populaires pour la démocratie au Congo." [18ac]

6.129 The ICG also noted that a number of NGOs were operating in the region, mainly at Bunia. [39c] (p14) In further reports of 16 July 2004 and 17 August 2004 IRIN reported that MONUC had trained 350 police officers for Ituri, and that despite the bouts of inter-militia fighting in July 2004, there were signs that the situation was improving. [18a] [18ao]

6.130 A report from IRIN dated 24 June 2004 stated that the chief prosecutor of the International Criminal Court would open an investigation into alleged war crimes committed in the DRC since 1 July 2002. The report stated that the initial focus of the enquiry would be in Ituri. [18a]

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Bukavu

6.131 The UN Secretary-General reported to the UN Security Council on 16 August 2004 on the situation that arose in May and June 2004 in the eastern town of Bukavu, South Kivu province. He stated that the roots of the crisis could be traced to February-March 2004, when tensions rose between the Deputy Military Regional Commander, Colonel Jules Mutebutsi (formerly of the Rassemblement congolais pour la démocratie-

Goma (RCD-Goma)) and the Military Regional Commander for South Kivu, Brigadier-General Prosper Nabyolwa (of the former government component). Although suspended by the Transitional National Government Colonel Mutebutsi was allowed to remain in Bukavu and retained control over several hundred troops. [54c] (p8)

6.132 The UN Secretary General also reported:

“Festering tensions over the unresolved problem erupted on 26 May, when clashes took place between troops loyal to the new acting Military Regional Commander, General Mabe, and those of Colonel Mutebutsi. . . . The tensions in Bukavu took on a new dimension when, over the weekend of 29 and 30 May, “General” Laurent Nkunda, another renegade dissident ex-RCD-Goma officer, who had refused to go to Kinshasa to be sworn into the FARDC [Forces Armée de la République Démocratique du Congo] pending his appointment as Military Regional Commander in the third quarter of 2003, began moving towards Bukavu from North Kivu under the pretext of preventing a genocide against the Banyamulenge population. . . . As Nkunda’s troops advanced towards Bukavu on 1 June, FARDC elements abandoned the buffer zone and, on 2 June, the forces belonging to Nkunda and Mutebutsi took over Bukavu. Widespread abuse and looting followed. By that time, most FARDC troops had fled the city or sought refuge in the MONUC compound. . . . What appeared initially as an act of insubordination and mutiny by two renegade officers quickly escalated into a fierce military confrontation, with a perceived ethnic overtone, alleged foreign interference and potentially heavy political consequences.” [54c] (p8)

6.133 The same report stated that “Violent demonstrations were staged against MONUC [United Nations Mission for Congo] and United Nations agencies in Kinshasa, Lubumbashi, Kalemie, Mbandaka, Kisangani, Beni and Kindu, resulting in the destruction of over \$1 million worth of equipment and property.” [54c] (p9) BBC News Online reported on 3 June 2004 that there were anti-UN demonstrations in Kinshasa, Kisangani, Kindu and Bukavu, in protest at the capture of Bukavu. The two reports of that date stated that UN troops had fired tear gas against the crowd in Kinshasa, and that three people had been killed apparently while looting the UN premises in Kinshasa. [15e] [15f]

6.134 IRIN reported on 5 May 2004 that about 25,000 people had been displaced by the fighting, and, on 14 June 2004, that there had been a sharp drop in activities by aid agencies due to insecurity in the area. [18ab] [18ag] However, IRIN reported on 22 June 2004 that some 20,000 government troops had been deployed to the east, and, in a further report of 25 June 2004, that humanitarian agencies were slowly returning. [18ah] [18ak] Africa Research Bulletin for August 2004 reported that about 160 ethnic Tutsis who had fled from the fighting were murdered in the refugee camp at Gatumba, Burundi on 13 August 2004. [2d]

6.135 The report in August 2004 by the UN Secretary General stated that “Following numerous broken promises, General Nkunda’s troops withdrew northwards on 6 June, while Colonel Mutebutsi’s troops withdrew south towards Kamanyola on 8 June. The following morning, the FARDC, whose strength had been augmented through reinforcements from the western part of the Democratic Republic of the Congo, was

able to re-enter Bukavu and regain control of the border points with Rwanda.” [54c] (p10)

6.136 The UN report also stated:

“All sides, including FARDC troops as they entered Bukavu on 9 June, looted and abused civilians and, in some instances, raped women and girls. Between 8 and 21 June, MONUC investigated allegations of attacks on Banyamulenge in Bukavu. MONUC determined that, while the attacks did not appear to have been planned or ordered, between 26 May and 1 June, FARDC elements had perpetrated four deliberate killings and nine cases of injury of Banyamulenge civilians. It was also determined that the FARDC had unlawfully killed six Banyamulenge FARDC officers in Walungu on 3 June; the circumstances of the killings are as yet unclear.” [54c] (p10)

6.137 The UN report continued that:

“MONUC was prevented from interviewing Banyamulenge refugees in Cyangugu, Rwanda, with regard to another 12 reported killings and alleged abuses of Banyamulenge civilians in Bukavu. In addition, the MONUC investigations determined that the FARDC had deliberately killed two unarmed civilians in Bukavu who were not Banyamulenge. MONUC investigations also determined that Nkunda’s and Mutebutsi’s troops had been responsible for dozens of cases of rape and had deliberately killed at least nine civilians while in Bukavu, which was under their control between 2 and 5 June. . . . On 11 June, about 40 presidential guards attempted a coup d’état, accusing the Transitional Government of incompetence. Following exchanges of fire in central Kinshasa, the group’s leader escaped and has apparently remained at large ever since. . . . Fighting has erupted in the Ruzizi plains following the withdrawal of Mutebutsi’s troops south of Bukavu. On 21 June, Colonel Mutebutsi, along with some 300 troops, crossed into Rwanda.” [54c] (p11)

See also Section 6C Attempted Coup of 11 June 2004

6.138 HRW and AI also reported on the situation. HRW in a Briefing Paper dated 12 June 2004 detailed a number of events said to have occurred on 27 and 28 May 2004 where Banyamulenge people had been killed by FARDC soldiers, and cases of human rights abuses and sexual violence committed by the forces of Generals Nkunda and Mutebutsi. The HRW report stated that “Human Rights Watch researchers have documented war crimes and other human rights abuses including summary executions, of which some were committed on an ethnic basis, rape, and looting by all the fighting groups since May 26, 2004 as well as in the previous months.” [5e] AI also condemned serious rights abuses in a press release dated 3 June 2004, which also detailed a number of abuses committed by soldiers against civilians. [11d] In June 2004 MONUC reported that it had investigated the alleged massacres of Banyamulenge people in Bukavu and had reached the same conclusion as HRW, namely that there had been no attempt to commit genocide. [56f]

6.139 A special report by IRIN dated 6 August 2004 on war and peace in the Kivus also referred to violent rapes and abuses by soldiers during the fighting around Bukavu. [18an] A local NGO, Heritiers de la Justice, published a report in July 2004 by a women’s

network that described many cases of violations of human rights and sexual violence. [51a] The same NGO also stated that it published a report on 3 August 2004 detailing killings and systematic violence in Bukavu. [51b]

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Internally Displaced Persons

6.140 According to the Global IDP Project country profile of February 2004 there has been a sharp increase in the numbers of internally displaced people since the mid-1990s, reaching 3.4 million people remaining displaced by 2003 as the fighting among militias intensified following the withdrawal of most foreign troops. [49] (p1) The report cited several areas in the east of the country where fighting had taken place since the inauguration of the Transitional National Government in June 2003. It stated “The humanitarian situation in eastern DRC remains desperate, as millions lack access to basic infrastructure (health centres, schools and roads), potable water, food, seeds, tools, clothes and straw to build houses.” [49] (p2)

6.141 The same report stated also “Despite this bleak picture, there have been some positive developments for the displaced. Levels of fighting have reduced substantially following the withdrawal of foreign troops, the establishment of the transitional government, and the integration of former rebel groups into it. With the peace process taking hold, access to many IDPs in remote areas has improved over the past months.” [49] (p2)

6.142 The US Committee for Refugees World (USCR) Survey 2004, commenting on events in 2003, also reported the continuing displacement of people, mainly in the east of the country (85% according to UN estimates), and stated also:

“As in previous years, relatively few displaced Congolese lived in camps. The overwhelming majority moved into the homes of family, friends, or strangers, or survived on their own in forests or remote villages. Uprooted families often congregated at small towns that had little food or shelter to share because of pervasive deprivation gripping the general population. Continued violence and poor security prevented international humanitarian agencies from reaching hundreds of thousands of displaced people during the year.” [53]

6.143 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) reported that:

“As of November [2003], the OCHA estimated that there were 3.4 million IDPs in the country, which represents an increase of approximately 700,000 IDPs from December 2002. According to U.N. estimates, the majority of IDPs were reportedly in the eastern portion of the country, mostly concentrated in the Ituri area. In November [2003], the OCHA reported that there were between 500,000 and 600,000 IDPs in the Ituri region. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs, and many were forced to relocate numerous times to escape fighting (see Section 1.g.). For example, in rural areas of North and South Kivu, 80 percent of families had been displaced repeatedly since the start of the war.”

Refugee Movement with Neighbouring Countries

6.144 USSD 2003 stated that:

“Refugees were accepted into the country from Angola and the Republic of the Congo during the year. According to the U.N. Office for the Coordination of Humanitarian Affairs (OCHA), by August 2003, approximately 286,770 refugees from neighboring countries, including Angola (144,684), Sudan (69,486), Burundi (19,392), Uganda (18,925), the Republic of the Congo (6,988), and Rwanda (27,136) resided in the country.” [3b] (p16)

6.145 The USCR 2004 Survey, commenting on events in 2003, stated “More than 241,000 refugees from neighboring countries were in Congo-Kinshasa at year’s end, including 124,000 from Angola, 75,000 from Sudan, 20,000 from Uganda, 20,000 from Burundi, 1,000 from Congo-Brazzaville, 1,000 from Rwanda, and several hundred from Central African Republic. An additional 25,000 Rwandans whose status could not be determined amid Congo-Kinshasa’s war lived in Congo-Kinshasa in refugee-like circumstances.” [53] (p1)

6.146 Regarding Congolese refugees outside the country the USCR 2004 Survey detailed the displacement effects of fighting in the east across neighbouring borders and stated:

“Significant numbers of Congolese refugees lived in 13 African countries, including some 150,000 in Tanzania, 80,000 in Congo-Brazzaville, 60,000 in Zambia, 41,000 in Burundi, 35,000 in Rwanda, 13,000 in Angola, 12,000 in Uganda, 10,000 in Central African Republic, 9,000 in South Africa, 5,000 in Zimbabwe, 4,000 in Cameroon, 4,000 in Mozambique, 3,000 in Malawi, and 1,000 each in Benin and Namibia. Nearly 11,000 Congolese were asylum seekers in Western countries. [53]

Humanitarian Aid/International Assistance

6.147 Many international aid organisations and Christian missionary groups operate in the country to provide medical and other relief services. [57a] These include United Nations (UN) and European Union (EU) agencies, the International Committee of the Red Cross, World Health Organisation and Médecins sans Frontières (MSF). [16a] [18r] [29] [33] [57a] [57c] [59a] Also, international agencies, including the World Bank, the African Development Bank, and various countries, have provided funds for improvements to the economy and social and health services. [17a] [17b] [18ae] [34]

Treatment of Non Government Organisations

6.148 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated:

“The Government cooperated with international governmental organisations and NGOs, and permitted international humanitarian and human rights NGOs access to conflict areas. A number of U.N. representatives and international NGOs visited the country during the year [2003]. International NGOs published several reports on [the] human rights and humanitarian situation in the country, with a focus on the Ituri region of Orientale province. Amnesty International (AI), HRW [Human Rights Watch], Refugees International, and Doctors without Borders published major reports on the human rights and humanitarian situation in Ituri. AI and Watchlist on Children and Armed Conflict published major reports on the impact of ongoing violence in the east on children, with a focus on child soldiers.” [3b] (p20)

6.149 The 2004 report by Amnesty International (AI) covering events in 2003 stated that there had been a number of visits during the year to various parts of the country by AI delegates. These included a visit by the AI Secretary General in October 2003 to meet senior government and UN officials, survivors of human rights abuses, human rights activists and international humanitarian agencies. [11c]

6.150 USSD 2003 also stated “In areas under government control, numerous domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. . . . The Government's Human Rights Ministry worked with NGOs during 2003 and was responsive to their concerns. [3b] (p20)

6.151 USSD 2003 also stated “The main domestic human rights organisations operating in the country included the Committee from [sic] Human Rights Now; the Voice of the Voiceless; Groupe Jeremie; the Committee of Human Rights Observers (CODHO); Toges Noires; and ASADHO [Association Africaine de Defence des Droits de l'Homme].” [3b] (p21)

6.152 The same source stated that in 2003 in areas not under government control there were fewer domestic and international groups and those that did operate were subjected to frequent harassment and abuse. [3b] (p21) USSD 2003 also reported that international NGOs active in areas not under government control, in 2003, included the International Committee of the Red Cross and the International Human Rights Law Group, and that international humanitarian and human rights NGOs were allowed access to conflict areas in 2003 by the various armed groups active in those areas. [3b] (p21)

6.153 USSD 2003 stated also that:

“Domestic human rights organizations operating in areas outside government control included the Heirs of Justice and Solidarity Exchange for Integral Development (SEDI), the Christian Network of Human Rights and Civic Education Organisations (RODHECIC), in South Kivu; Promotion and Support for Women's Initiatives (PAIF), in the Kivus; Action for the Relaunch of the Congo (ARC); and Lotus Group, Friends of Nelson Mandela and Justice and Liberation, in Kisangani.” [3b] (p21)

Human Rights Activists

6.154 USSD 2003 stated that there were no reports in 2003 that the security forces harassed Congolese NGO workers in areas under government control, unlike in 2002. [3b] (p20) However, USSD 2003 also reported that in areas outside government control NGO workers were frequently arrested, harassed, tortured and abused by rebel groups and militias in order to obstruct their reporting of human rights abuses. [3b] (p20)

6.155 However, a report by HRW on 24 July 2003 documented cases of arrest, beating, and intimidation of human rights activists, journalists, and members of civil society. [5b]

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Official Documents

6.156 According to information obtained from the British Embassy in Kinshasa in February 2003, official documents issued in the DRC can be easily forged and genuine documents can be easily obtained by bribing the relevant official. Due to the prevalence of corruption, poor administrative records and the lack of a standard format for many official documents, it is very difficult to ascertain whether official documents issued in the DRC are genuine. [22g]

6.157 According to a country fact finding report of 2002 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA), genuine official documents can easily be obtained by bribery, and so even if a document has been proven to be genuine, the information contained in it may be false. The documents most frequently falsified are travel documents, generally used to travel to Europe and sold by the producers of these forged documents for a large sum of money. [24a] (p48)

Birth, Marriage and Death Certificates

6.158 According to information obtained from the British Embassy in Kinshasa in March 2002, it is very difficult to ascertain whether birth, marriage and death certificates are genuine, as there is no national registry office where copies of birth, marriage, and death certificates are kept. Local authorities issue these documents but do not keep copies for their records. [22e] According to further information from the same source in February 2003, it is a legal requirement to register births, marriages and deaths. [22g] An information response by the Canadian Immigration and Refugee Board (IRB) of 17 July 2003 referred to an initiative by President Kabila to increase the birth registration rate, which was currently at 34%. [43e]

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National Identity Cards

6.159 According to information obtained from the British Embassy in Kinshasa in February 2003, Congolese citizens are required by law to possess valid identification

documents and to carry these documents at all times. National identity cards were issued during the Mobutu regime. After 1997, when the Mobutu regime ended, these identity cards ceased to be officially recognised although they were never formally abrogated. Since 1997, there has been no new law or regulation specifying the official format for identity cards. The only extant decree is that of the Mobutu regime. [22g]

6.160 The information from the British embassy also advised that in practice, old Zairean identity cards tend to be confiscated by the authorities when produced but no replacements are offered. There is no central issuing authority for identity cards. Each Commune or local authority is responsible for producing and issuing identity cards to its residents. These identity cards are produced in different formats as there is no government regulation about the format for these cards. [22g].

6.161 An information response by the Canadian Immigration and Refugee Board (IRB) dated 2 September 2003 advised about the meaning of the notations 'Avis favorable A.N.R.' ('Approved A.N.R.') and 'Avis favorable D.G.M.' ('Approved D.G.M.') stamped on the back of cards serving as proof of loss of identity papers, issued by the authorities of the city of Kinshasa. According to information from the editor-in-chief of Le Phare, a Congolese newspaper, "Since the fall of Mobutu in 1997, there have been no national identity cards in the RDC, so commune authorities (mayors) issue proofs of loss of identity papers. The security services [including the ANR and DGM] have contacts in all commune offices, whose job is to ensure that the people requesting these identity documents are indeed Congolese and not foreign intruders. This is the meaning that should be given to "Avis favorable" ("Approved")." [43f]

Driving Licences

6.162 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that:

"The current Congolese driving license is very sophisticated in comparison to other African countries, where normally it is simply a piece of paper. It is a plastic card, a little larger than a credit card. It has a light purple color and bears the holder's photo. Since one does not find such a card in other African countries it can be recognized as the Congolese driving license straight away. While this type of license is rather new, the driving license office already existed under Mobutu. The company which produces the driving licence cards is also working with the UN Mission in the Congo, producing their badges. The new driving license, introduced after the fall of Mobutu, features a bar code and a lion." [52] (p127-128)

Passports

6.163 An IRB information response dated 10 April 2003 advised that the DRC government had issued a new style of passport from 31 May 2000 and that previous versions of both DRC and Zaire/DRC passports were no longer valid from that date. [43b]

See also Section 5 Citizenship and Nationality

Arrest, Search and Bail Warrants

6.164 According to information obtained from the British Embassy in Kinshasa in February 2003, arrest and search warrants are issued by prosecuting magistrates. Bail warrants are issued by court judges to whom the request for bail was submitted. In the case of search warrants, the subject of the search has to sign the form. In each case, the subject of the warrant is shown the warrant but is not given it. [22g]

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Letters of Support from Opposition Political Parties

6.165 According to information obtained from the British Embassy in Kinshasa in February 2003, there is no standard practice or format regarding letters of support produced by opposition political parties. The vast majority of political parties have a small membership and are no more than a loose collection of like-minded persons, with no formal organisational structure. In these circumstances, it is easy for members of these political parties to obtain letters of support signed by anyone generally recognised as an official of the party. [22g]

See also Section 5 Political Parties

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Bundu dia Kongo

6.166 A report by the United Nations (UN) Integrated Regional Information Networks (IRIN) dated 26 July 2002 stated that the Bundu dia Kongo (BDK) (Kingdom of Kongo) was a nationalist politico-religious group centred in the Bas-Congo province (west of Kinshasa) which has campaigned for the independence of the Bas-Congo region from the rest of the DRC. According to the report “Bundu dia Kongo adherents have protested in the past against the late DRC leader, Mobutu Sese Seko, and his successor, Laurent-Desire Kabila. The protests have occasionally ended in the deaths of the group's adherents, who have themselves sometimes been armed.” [18b]

6.167 The same IRIN report stated:

“Bundu dia Kongo demands that its adherents renounce western and eastern religions, and has sometimes pushed them into committing acts of violence. It seeks the restoration of the ancient Kongo kingdom within its pre-colonial boundaries, which encompassed parts of today's Angola, the Republic of Congo and Gabon. The centre of the kingdom was located in Bas-Congo Province and in neighbouring Bandundu Province of modern-day DRC.” [18b]

6.168 An information response by the Canadian Immigration and Refugee Board (IRB) dated 15 October 2003 also stated:

“According to Yabili [Web site], [translation]
The Bundu dia Kongo (Bdk) doctrine, which is compiled in the "Kongo Dieto," [described by source [24b] (p 15) below as an information sheet printed in Kinshasa, whose frequency varies as required] is a hodge-podge of ideas. It covers religion, philosophy, pure science, history, geography and politics. It is tailored to the Bakongo, the chosen people of the worldwide Black race. They are convinced that the RDC is composed not of a single people, but of a heterogeneous group of diverse and sometimes contrasting cultures. This is why they demand an ethnic-based federalism, which has nothing to do with separatism (6 Apr. 2003).” [43h]

6.169 A report of December 2003 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA) described the sect in detail, including its creation, philosophy, structure, leadership, the conditions and training for new members, its emblem, membership cards and statutes, as well as the events of July 2002 and subsequently. [24b]

6.170 The CEDOCA report stated that the basic philosophy of the organisation was to promote the positive aspects of the Kongo ancestral traditions. The BDK was founded on three "pillars", which were science, religion and politics. The Management Committee, as of 2003, was a Chief Executive, Ne Muanda Nsemi, an Administrative Director, Malozi ma Mpanza, a Secretary (name not known) and a Treasurer, Nzaki Bazola. Its HQ office in 2003 was in Kinshasa. [24b] (p7)

6.171 The CEDOCA report also advised that the organisational structure of the BDK consisted of:

“The ZIKUA (plural = mazikua) prayer cell or centre for spreading Kongo culture. These zikua are found in a village or in one area of a town.

3 zikua make:

In towns: a **VULA**.

In communes: a **ZUNGA**.

In the towns of Matadi and Kinshasa: a **MBANZA**.

In districts, they are called **KIMBUKU**

At each level there is someone in charge called a NFUMU (leader in Kikongo) who is supported by 3 assistants, one for each pillar of the movement.” [24b] (p8)

6.172 The CEDOCA Report also stated that:

“Someone who wants to become a member of BDK must undergo 9 months of training. After this training, the member must take an oath (called Kimbangi in Kikongo). Only after taking the oath is he really a member. Members pay a subscription every month. This collection is in line with zikua. There is also a tithing system. According to the statutes of the association (see Chapter 11), there are two categories of membership (article 06):

- Actual Members
- Sympathising Members

Any member of the Sub-Saharan African population can become a member of Bundu Dia Kongo by submitting a membership request to the Management Committee (article 07). Members of the organisation are free to leave at any time by sending their resignation to the Management Committee.” [24b] (p14)

6.173 According to the same CEDOCA report:

“The membership card is yellow with BDK and the party emblem on it, then it says KALATI KIA KESA which actually means membership card in Kikongo. The card is written in Kikongo (there are none in French). The card includes a photo of the member. NB: no cards have been issued since the events of July 2002. In fact during the events of July 2002, the majority of the schools and zikua were looted by soldiers. As a result, membership cards were found lying about and were then used by certain people who sold them to false members. This is why BDK decided to develop a new design (but it has not yet been issued). Under the circumstances, Ne Muanda Nsemi has written to various asylum authorities to warn them that false members of BDK might produce genuine membership cards. In parallel to this membership card there is a subscription card which is blue. This card is like the first one, but includes the words KIMBANGI KIA KESA = proof of payment .” [24b] (p18-19)

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Arrests of July 2002 and Subsequent Events

6.174 The US State Department (USSD) International Religious Freedom Report 2003 published on 18 December 2003 stated:

“The Government banned the group "Bundu dia Kongo" on the basis of its separatist political beliefs. On July 15, 2002, 45 of the leaders of the group in 7 localities were arrested and imprisoned. Of the 45, 4 subsequently died in prison of "illness." On April 24 [2003], the remaining 41 were released. Although the group has both religious and political beliefs, the group was banned and members were jailed for their political beliefs.” [3c] (p2)

6.175 The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated:

“On April 24 [2003], following protests by national and international organizations, President Kabila closed the COM [Military Order Court] by presidential decree. In addition, the President granted amnesty for political crimes, crimes of opinion, and for members of political-religious movements, including UDPS [Union pour la Democratie at le Progrès Social (Union for Democracy and Social progress)] members and Bundu dia Kongo followers, and 70 prisoners were released. Many persons had their sentences commuted.” [3b] (p7)

6.176 An IRB response dated 15 October 2003 stated “Three other sources stated that four to ten people were allegedly killed and several others wounded in July 2000 [sic] confrontations between the security forces of the Democratic Republic of Congo (RDC) and Bundu dia Kongo members in the province of Bas-Congo (West), in Lozi (350 km from Kinshasa) and Moanda (Agence France-Presse 22 July 2002; Country Reports 2002 31 Mar. 2003; IRIN 26 July 2002).” [43h]

6.177 The CEDOCA report of December 2003 described the events of July 2002 and subsequent imprisonment in detail. [24b]

6.178 The CEDOCA report stated that on 22 July 2002, in Kinzao-Mvute, about a hundred BDK members, wishing to commemorate the 40th anniversary of the creation of Bas-Congo Province, started to walk from their old temple to a new one, which was about 1 km away. On the way, they were stopped by the security forces and prevented from continuing their journey. Some of the members were arrested and badly beaten by the security forces. Also, on 22 July 2002, a meeting held in a temple in Tshela by BDK members was disrupted by units of the Congolese armed forces. Soldiers surrounded the temple and asked the 55 men, women and children in the temple to go outside and climb into military vehicles located outside the temple. As soon as all the BDK members had left the temple, it was burnt down. [24b] (p38-39)

6.179 The CEDOCA report continued that members were taken to the premises of the Bas-Fleuve district Commissioner. Once the leaders of the group were identified - Ne Mbambi Mbumba and Ne Nandi Kandi - soldiers searched their homes to ascertain whether these individuals had arms caches. None were found. After their homes were searched, both of these men were subsequently threatened and attacked by the soldiers. All 55 members of the group were interrogated by the security forces, but by 26 July 2002 all had been released from the Tshela central prison, apart from Ne Mbambi Mbumba and Ne Nandi Kandi. [24b] (p38-39)

6.180 The CEDOCA report also stated that many BDK members were arrested during the events of July 2002 in the Bas-Congo Province. Of these, only 40 people were transferred to the CPRK prison in Kinshasa to await being put on trial. All the others arrested, which included all the women, were released from detention within two weeks, by paying for their release or by bribing a police officer or by escaping. The trial of BDK members took place at the Court of State Security. The trial began on 12 December 2002 but was postponed. The Court of State Security had not convicted or acquitted any of the BDK members who were in the CPRK by the time President Kabila granted an amnesty to them in April 2003. [24b] (p42, 45)

6.181 The CEDOCA report clarified that the leader of the BDK was Ne Muanda Nsemi and that he was not among those arrested in July 2002, and that his only arrest was in February 2000 when he was released after 3 weeks under a presidential amnesty. The report stated that:

“There is some confusion between Ne Muanda Nsemi and Bernard Mizele Nsemi partly because they come from the same area and also because their names are similar in part. They are in fact two different people belonging to 2 different

organisations. There are no links between their respective organisations. The movement led by Bernard Mizele Nsemi, the so-called Roi Kongo (King of the Kongo) that is “Royaume Kongo” (“Kongo Kingdom”) was dissolved by Decree of the Court for Military Order in 1998.” [24b] (p11-12)

However, an information response by the IRB dated 9 June 2003 referred to Bernard Mizele Nsemi as the leader of the Bundu dia Kongo, based on a report in Le Phare newspaper. [43c]

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Armée de Victoire (Army of Victory Church)

6.182 According to a report of December 2003 by the Belgian General Commission for Refugees and Stateless Persons (CEDOCA), the Church is the main branch of the World Mission for Message of Life (Mission Mondiale Message de Vie) (MMMV) organisation, which was founded by Archbishop Fernando Kutino in 1984. The MMMV has five main areas of activities involving:

- The Army of Victory Church
- Evangelisation work both in the DRC and abroad
- The Victory School (école de la victoire) (religious training)
- Community work
- Radio and Television [station] Message de Vie (RTMV), which is MMMV's radio/television station [24c] (p6, 9)

6.183 The CEDOCA report stated that the Church was founded in 1989 and had its headquarters in Kinshasa. It had between 10,000 and 15,000 supporters in 2003. Membership cards were issued to the Church's members. The Church had seven parishes and 26 ‘prayer units’. The leader of the Church was Archbishop Fernando Kutino, who was assisted by 14 bishops. There were 12 church elders who had a spiritual function, deacons, who dealt with the practical management needs of the Church, and church shepherds who were responsible for the prayer units. [24c] (p7,10-13)

6.184 The CEDOCA report also stated that the Church's emblem was a circle with a sword and a cross forming the ‘A’ for ‘Army’ and the ‘V’ for ‘Victory’ and a flame in the middle. The swords symbolised the word of God fighting against the forces of evil. The flame represented the fire that is the holy spirit. RTMV was located at the same place as the headquarters of MMMV and its function was to educate and instruct people about the MMMV and its message. [24c] (p13)

6.185 The CEDOCA report also stated that, on 30 May 2003, Archbishop Kutino launched a political/religious movement called Sauvons Congo (Save the Congo). It was created as a means to express people's frustrations over the failure of politicians to establish a democratic system of government and improve conditions for the Congolese people. Leaders of the movement denounced the problems that affect Congolese society such as corruption and human rights abuses. Government officials viewed the movement with suspicion and some criticised it severely. [24c] (p18-19, 21)

Events of June 2003 and Subsequently

6.186 HRW stated in a report of January 2004 “National police raided the offices of a church-run radio and television station Radiotelevision Message de vie (RTMV), which broadcasts primarily religious programming, on June 10, 2003, physically threatening the director Fernando Kutino and journalists present at the time and confiscating their broadcast equipment and transmitters.” [5d] The CEDOCA report stated that on 10 June 2003 police officers in plain clothes raided the Church's premises where the radio station was based. The police officers assaulted Archbishop Kutino, who was having a meeting with members of the Sauvons Congo movement and took away some of the people who had been at the meeting, including Kutino. [24c] (p20-25) The CEDOCA report reported differing sources about whether anyone was arrested, stating that Le Phare and other newspapers reported that arrests had taken place, however interviewees, including church members, and local human rights groups ASADHO and VSV, did not mention any arrests. [24c] (p21,26)

6.187 According to the 2004 Annual Report by Reporters Without Borders, commenting on events in 2003, broadcasting resumed in December 2003. The report stated:

“Radio-Télévision Message de Vie (RTMV), a Kinshasa-based radio station run by the Victory Army Church of protestant pastor Fernando Kutino, stopped broadcasting on 10 June after being ransacked by unidentified assailants. Acting on the pretext of restoring order, the police occupied the station's transmitter, located 10 km from the studios. Police were also permanently posted outside the studios and the church, while Rev. Kutino went into hiding. The church was finally able to resume broadcasting on 14 December.” [7b]

6.188 According to a report from International Freedom of Exchange (IFEX), RTMV resumed broadcasting on 14 December 2003. The report stated that it had been prohibited from operating by the governor of Kinshasa on the grounds that it did not have the legal status necessary to do so. The document confirming that status was delivered to the church on 5 December by the justice minister. [63] Further information from CEDOCA in February 2004 confirmed that the RTMV had obtained the legal status required for its operations on 5 December 2003. The report stated “This had the consequence of not only the Church's activities being taken up again but also those of the RTMV, the radio-television network which was also closed on 10th June 2003. . . . On 14th December 2003 reopening took place in the presence of [Vice-President] Jean-Pierre Bemba.” [24d]

University Demonstrations in December 2001

6.189 According to a report by Amnesty International (AI) dated 8 January 2002:

“Amnesty International is [also] concerned about the severe ill-treatment of many

students of the University of Kinshasa (UNIKIN) who were arrested by the police on 14 December [2001] following a student demonstration. More than 400 students were reportedly detained at the police headquarters known as the *Inspection de police de Kinshasa* (IPK). Many were subjected to beatings and whippings with military belts (*cordelettes*) and forced to use earth and sand as toothpaste until their gums bled. They were also made to walk around the paved courtyard of the IPK on their knees. Almost all the students were released the following day, although courses at UNIKIN remain suspended and many of the students have not been allowed to return to their accommodation on the campus. Eight students, who are accused of being ringleaders of the demonstration, remain in custody.

Tensions first mounted at UNIKIN on 12 December when police clashed with students demonstrating to demand a lowering of tuition fees. A police officer was reportedly seriously injured during clashes the following day. Amnesty International has not been able to confirm claims by the authorities that three police officers were killed during the disturbances.

In a separate demonstration by students at the University of Lubumbashi (UNILU), the police injured as many as seven students, at least one of whom was shot, in the capital of the southeastern province of Katanga. The students were protesting against newly introduced or increased accommodation and tuition fees.” [11a] (p1-2)

6.190 According to a press release dated 16 December 2001 by the Congolese human rights group La Voix des Sans Voix (VSV), students at the University of Kinshasa (UNIKIN) began a peaceful march on 12 December 2001, as a protest about increases in student fees. The Secretary General of the Education Authority, Professor Makolo Muswaswa, intervened by asking the students to stop the march and invited them to negotiations between the student committee and other partners. The students disowned the student committee, accusing them of corruption, when the committee attempted to calm the demonstrators. The students continued their march and clashed with police in the process. [32]

6.191 The VSV press release further stated that on 13 December 2001, the students blocked the main access roads to UNIKIN. The Minister for National Education, Professor Kutumisa Kiota, and his equivalent at the Ministry of Interior, Mira Ndjoku, accompanied by other senior figures, went to UNIKIN to try and negotiate with the students. The authorities were met by the students in a UNIKIN lecture theatre where the students presented their demands. The delegation from the authorities then invited the students to present their proposals to the Government. The students became more angry as they had not received an immediate answer to their demands. Some of the students then attacked the government ministers. The police then intervened to protect the ministers. Several police officers were injured in the violent clashes with the students. The Government alleged that three police officers were killed by the students. [32]

6.192 According to a Reuters news report dated 14 December 2001, about the Kinshasa events “It was the second violent confrontation this week over the cost of tuition in the Central African country.” The report referred to events on 8 December 2001 when, “Police shot at protesting students in the eastern city of Lubumbashi last weekend, seriously wounding at least three people, the government said. Student groups claim two people were killed in Lubumbashi.” The report also stated that a

concession over the cost of tuition fees was made to the students of both universities by the Government after the demonstrations. [21]

6.193 According to an article dated 22 February 2002 by Le Phare, a Kinshasa newspaper, eight of the students were kept in detention on 14 December 2001. The names of the students were Basile Muyeye Mukoj, Martin Tshibuabua Kasonga, Fernand Katanku Muange, Adelard Mbomba Lopenda, Serge Mayamba Masaka, Sylvain Kitumba Muambila, Papy Niango Iziamey and Rolly Mbo Motema. These eight students were reportedly transferred to the CPRK prison on 22 December 2001, after the Prosecution Service before the Court of Appeal in Matete accused them of ‘murder, possession of war weapons and rebellion’. An investigation carried out by the Prosecution Service, however, found that there was no substance to the charges made against the eight detained students. As a consequence, the eight students were released on 21 February 2002. [31a]

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Assassination of Laurent Kabila on 16 January 2001

6.194 According to a report by Amnesty International (AI) in December 2002 arrests began immediately after the assassination occurred on 16 January 2001, and mainly took place between January and March 2001. They included presidential bodyguards, members of the armed forces, members of the security services and at least 45 civilians. [11b] (p1-2) According to a BBC News Online report dated 1 March 2001, the arrests included Colonel Eddy Kapend Irung a presidential aide. [15a]

Commission of Inquiry

6.195 AI noted “The Commission of Inquiry, consisting of members of the Congolese security services as well as Angolan, Namibian and Zimbabwean army officers, was set up on 7 February 2001. It made public its findings on 23 May. Many observers considered that the Commission did little to elucidate the true circumstances of the assassination of President Kabila.” [11b] (p10) A contemporary BBC News Online Report of 23 May 2001 also stated that the commission of inquiry into the killings blamed Uganda and Rwanda, and RCD-Goma. [15b] The report stated that “However, the BBC correspondent in Kinshasa said the inquiry gave no details and is little better than a whitewash.” [15b]

6.196 AI also reported that the Commission of Inquiry set up by the Government apparently enjoyed unlimited powers to detain suspects without charge or trial. It alleged that one of the president’s own bodyguards, Lieutenant Rachidi Muzele, fired the shots which killed him. Muzele had also died from gunshot wounds immediately after the assassination. AI noted that the Commission’s assertion that the RCD-Goma rebel group was responsible for planning the assassination with the support of the Rwandan and Ugandan governments was vigorously denied by all three parties. [11b] (p2)

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Detention of Suspects

6.197 AI reported that the assassination suspects were kept in Wing 1 of the CPRK prison in Kinshasa. Initially, the defendants were held incommunicado. They were kept under constant armed guard by a contingent of soldiers of the Zimbabwe Defence Forces which was permanently stationed in the CPRK. [11b] (p3)

6.198 According to a report on prisons in the DRC published by the Irish Refugee Documentation Centre in May 2002, Wing 1 of the CPRK was completely isolated from the other wings by a main entrance, which was separated from the entrances to the other wings by a metal fence. Prisoners in Wing 1 were prohibited from leaving the wing outside visiting hours. Cutlery, canned foods, bottles, hard dried fruits and sharp metallic objects were not allowed on the wing. In case of illness, the inmates were cared for in the CPRK medical centre and, if need be, were taken to a hospital under a heavy guard of Zimbabwean soldiers. Before they left the hospital, prisoners were handcuffed, their hands and feet were tied and their faces were covered. [12] (p4-5)

6.199 Visitors who were allowed access into Wing 1 on the only visiting day were split into groups of ten and were only allowed contact with the person they were visiting after a thorough search. Visitors were only allowed a half-hour chat. Relatives of the prisoners were allowed to leave food on any non-visiting day but were not allowed more than 10 minutes contact with the prisoner. Lawyers were prohibited from entering the wing. [12] (p4-5)

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Trial of the Accused

6.200 According to the AI report the trial of a large number of people accused in connection with the assassination began on 15 March 2002. [11b] (p3) AI noted that the majority of those on trial came from eastern DRC, in particular the provinces of North Kivu and South Kivu. [11b] (p2) The trial was conducted before the Military Order Court in a room at the CPRK normally reserved for prison visits. Almost all of the defendants were charged with capital crimes including the assassination of the head of state, treason and plotting against the regime. [11b] (p3) The chief public prosecutor at the trial (Colonel Charles Alamba Mongako) called for the death penalty for more than one hundred of the accused and sentences ranging from two to fifteen years imprisonment for the rest. [11b] (p1,6)

6.201 AI also stated that initially, independent journalists, human rights activists and other members of the public were allowed to attend hearings of the court. The Military Order Court, however, announced that from 2 May 2002 onwards, court sessions would be held in private. This was the case until 16 September 2002, when the Military Order Court allowed the public access to the court hearings again. [11b] (p3-4)

6.202 The same AI report also stated that when the trial began, there was a total of some 119 defendants but this number subsequently grew to 135 as further suspects were arrested or added to the charge sheet in the course of the trial. Some defendants

were tried in their absence, including Major Janvier Bora Kamwanya Uzima, who escaped from the GLM detention centre in February 2001. Laurent Kabila's alleged assassin, the late Lieutenant Muzele, was also listed as one of the accused. The Government announced in September 2002 that the moratorium on the death penalty, which had nominally been in place for three years, had been lifted. This would allow the Military Order Court to sentence any of the 135 accused with the death penalty if it wished to do so. In October 2002, the prosecution wound up its case by requesting the death penalty against 115 of the 135 accused. [11b] (p4)

6.203 AI also reported that a number of female defendants were tried solely because they were related to some of the suspects. These women included Anne-Marie Masumbuko Mwali and Rosette Kamwanya Beya, who were arrested in March 2001 and who were both married to a former member of the Congolese armed forces, Major Janvier Bora Kamwanya Uzima. Major Bora had himself been arrested on 20 January 2001 and detained at an unofficial detention centre known as the GLM but managed to escape from the GLM and fled the country in February 2001. Anne-Marie Masumbuko Mwali was reportedly detained in an unofficial detention centre before her transfer to the CPRK Prison in Kinshasa. Honorine Fonokoko, the wife of Laurent Kabila's alleged assassin, Lieutenant Muzele, was also put on trial. [11b] (p2-3)

6.204 AI stated in a report of December 2002, just before the end of the trial, that in spite of a four-month investigation carried out in early 2001 by a specially established Commission of Inquiry and a lengthy trial, the exact circumstances of former President Kabila's assassination remain contentious. [11b] (p1) AI also expressed concern at the conduct of the trial and noted that "The public prosecutor has called for the death penalty for 115 of the 135 accused, just days after the government announced an end to a moratorium on executions which had nominally been in place for 3 years. If found guilty, the defendants will have no right of appeal against their sentences, even if they are sentenced to death." [11b] (p1)

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6.205 According to the Africa Research Bulletin (ARB) for January 2003 and a report by the United Nations Integrated Regional Information Networks (IRIN) report dated 28 January 2003, on 7 January 2003, the Military Court sentenced the persons suspected of being involved in the assassination of Laurent Kabila. These initial reports stated that between twenty six people and thirty people were sentenced to death, and between forty one and forty five were acquitted. [2a] [18d] IRIN stated that twenty seven others were sentenced to life in prison, and the remainder received sentences ranging from two to twenty years of imprisonment. [18d] IRIN also stated that twenty of those sentenced to death were in prison in the DRC at the time they were sentenced, while others tried in absentia, were outside the country. [18d]

6.206 The ARB report for January 2003 stated that "Those condemned included Colonel Eddy Kapend, Kabila's former aide-de-camp. Kapend was identified as the ringleader of the killers. However, the court acquitted Fono Onokoko, the wife of Rashidi Mizele, Kabila's bodyguard, who, prosecutors said, shot Kabila dead on January 16th [2001]." [2a]

6.207 The names of those convicted at the trial were published by the Congolese human rights group ASADHO in March 2003. [46] (p13) An information response by the Canadian Immigration and Refugee Board (IRB) of 4 September 2003 also provided a source for the list of names of those tried and their sentences and stated that “Thirty of the 135 people accused were sentenced to death and 27 to imprisonment for life, while terms of imprisonment ranging from 2 to 20 years were given to nearly 20 of the accused, and 50 or so others were acquitted (ibid.; ASADHO Mar. 2003; Le Phare 18 Jan. 2003).” [43g]

6.208 The ARB report for January 2003 also stated that “Most of the condemned were members of the military. Amnesty International and other human rights groups expressed concern for their fate after the military prosecutor, in his closing submission, demanded the death penalty for 115 of the detainees. The rights bodies also expressed concern at the detention of people arrested because of their relationship with the accused.” [2a]

Post-Trial Situation

6.209 According to the IRIN report of 28 January 2003 after the sentences were passed, security was tightened at the CPRK Prison, where those of the accused who had been sentenced to imprisonment or death were kept. The wives of the men who were sentenced to death were not allowed to visit their husbands and were prevented from bringing them food and medicines. According to the Director of the CPRK, Dido Kitungwa, the security measures were taken to prevent those of the accused sentenced to death from escaping but he also stated that family members would be allowed to visit them at some point in the future. [18d]

6.210 According to another IRIN report dated 18 August 2003, 95 of the persons convicted for the assassination of Laurent Kabila, who were in prison, began a hunger strike in August 2003 to demand that a general amnesty be extended to them and to protest about prison conditions. The Government stated that the amnesty declared by President Joseph Kabila on 15 March 2003 was only intended to allow members of the rebel forces to take part in the Transitional National Government institutions and did not apply to anyone alleged to have been associated with the Laurent Kabila assassination. [18j]

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Attempted Coup of 28 March 2004

6.211 The Africa Research Bulletin (ARB) for March 2004, reporting several news sources, stated that: “Kinshasa awoke to gunfire on March 28th when forces thought to be loyal to Mobutu Sese Seko, the former dictator, launched a coup attempt against the government of President Joseph Kabila. Press and Information Minister Vital Kamerhe said that insurgents had attacked four military camps in Kinshasa early in the morning.” [2b] The ARB also reported that “The alleged coup plotters simultaneously attacked Colonel Tshatshi military barracks located within the Unité Africaine district, home to the

presidential offices, the Kokolo camp logistic base in a residential area, the Gombe naval base and the Ndolo air base.” [2b] The ARB for March 2004 also reported that the attempted coup was dubbed Operation Pentecost by the perpetrators. [2b] The ARB for June 2004 also stated that the group was called the Army of Heaven. [2c]

6.212 According to a report by the United Nations Integrated Regional Information Networks (IRIN) on 29 March 2004, the Interior Minister stated that the government remained united and in complete control. The report stated “He was speaking in Kinshasa as loyal army officers paraded 17 captured attackers before reporters. Diplomats in Kinshasa said the attackers were most likely remnants of the defunct Zairean Armed Forces, once loyal to the late President Mobutu Sese Seko.” [18w]

6.213 On 24 June 2004 a further report from IRIN stated that:

“A government commission, formed to investigate the failed coup, said ex-military officers from the army of the late president, Mobutu Sese Seko, funded the operation.” The report stated that the commission had identified thirteen ringleaders behind the coup attempt, many of whom were military and ex-presidential guards. The IRIN report also stated that “A spokesman for the commission said 72 people were in Kinshasa's central prison awaiting trial on charges related to the failed March coup.” [18ai]

6.214 In a further news report from l’Avenir newspaper distributed on 24 June 2004 the names of the main participants cited by the commission were identified. [35] The same source identified a former member of the DSP (Special Presidential Division) under Mobutu as the financial power behind the putsch. [35]

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Attempted Coup of 11 June 2004

6.215 The ARB for June 2004, quoting several news sources, stated that on 11 June 2004 Kinshasa was again struck by artillery and gunfire shortly after midnight in another coup attempt. The same ARB source reported that the coup bid was quickly put down. [2c] A report from the United Nations Integrated Regional Information Networks (IRIN) on 11 June 2004 stated that Kinshasa was calm. [18af]

6.216 The ARB for June 2004 also stated “The coup leader, Major Eric Lenge, the commander of a battalion of the Special Group of the Presidential Security Group (GSSP), announced in a radio broadcast that his forces had “neutralised” the transitional government. . . . Electric power was cut off by the dissidents, but a few hours later they retreated into a military camp and then disappeared.” [2c]

6.217 A report from AFP news agency on 15 June 2004 referred to a statement by the authorities that eight more suspects had been arrested, bringing the total to twenty. The date of the arrests was not given. The report said, “According to the statement, the would-be putschists fled to Bas-Congo province, southwest of the capital, after their coup bid failed.” [37] On 17 June 2004 Le Phare newspaper reported that six suspected

members of the coup had been arrested on 14 June near Kimpangu village, after heavy fighting. The same source reported that on 16 June three rebels were on the Cecomaf road, and that fewer than ten of the rebel group remained at large. [31b]

6.218 ARB for June 2004 also stated “According to local sources, part of the motivation of the coup perpetrators, as during the March mutiny, was the government’s failure to pay salary arrears to the troops. But diplomatic sources said there was a political agenda behind the coup and they accuse Katangese hardliners of having masterminded it.” [2c]

6.219 On 21 June 2004 a South Africa news agency reported that the DRC Information Minister had announced that the army chief of staff, had been dismissed. The report stated “Information Minister Vital Kamerhe gave no specific reason for the firing of Admiral Liwanga Mata [Matae], beyond saying that it was in line with the government’s probe into the attempt.” and “Lenge, in his communique on state radio during the attempt, had mentioned Mata [Matae] by name, saying the army chief of staff had been aware of his plans.” [48]

6.220 A radio report from Radio Candip, Bunia, on 21 June also reported “As you heard at the beginning of this radio bulletin, a shake up has taken place in the presidential guard and the DRC [Democratic Republic of Congo] national army. The head of state has dismissed officers of his inner circle, including Mr Kifua Adamasi [phonetic], who is accused of playing a major role in the 11 June putsch [coup] to topple President Joseph Kabila staged by Maj [Major] Eric Lenge. The head of state also made some changes in the army. Adm [Admiral] Liwanga Mata-Nyamunyobo, chief of staff of the FARDC [Democratic Republic of Congo Armed Forces], has been replaced by Gen [General] Kispea [Kisempia] Tunji Langi [phonetic].” [47]

See also Section 6C Security Situation Bukavu

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Treatment of Failed Asylum Seekers Returned to the DRC

6.221 The British ambassador to the DRC, stated in a letter of November 2002 that he had not seen any evidence since becoming the ambassador to the DRC in 2000, to indicate that returned failed asylum seekers were persecuted on arrival in Kinshasa. He also stated that the French, Belgian and Dutch governments regularly returned failed Congolese asylum seekers to the DRC. Failed asylum seekers required valid travel documents acceptable to the DRC immigration authorities before they could be returned to the DRC. [22f]

6.222 The Belgian and Dutch governments stated that they have also not seen any evidence to indicate that returned failed asylum seekers are persecuted. A letter from the Belgian Embassy in London of July 2003 stated that the Belgian Government enforced the return of failed Congolese asylum seekers to the DRC. Both the Belgian Embassy in Kinshasa and the Belgian Immigration Department monitored the treatment of returned failed asylum seekers to the DRC from Belgium and had not seen any evidence to indicate that returned failed asylum seekers were at risk of persecution. [25]

6.223 A letter from the Dutch Embassy in London of July 2003 stated that the Dutch Government also enforced the return of failed Congolese asylum seekers to the DRC, and that the Dutch Embassy in Kinshasa had not seen any evidence to indicate that returned failed asylum seekers were at risk of persecution. The Dutch Government, however, did not monitor the treatment of returned failed asylum seekers to the DRC as a matter of policy. [26]

6.224 Further information about the attitude of other European countries was set out in a country report of January 2004 by the Netherlands Ministry of Foreign Affairs as follows:

“4.3 Policy of other countries

United Kingdom

All applications for asylum from Congolese are dealt with on an individual basis. Asylum is generally granted to Tutsis, but not to persons of mixed origin. In principle, failed Congolese asylum seekers are returned to the DRC.

Belgium

Most applications for asylum from Congolese are dealt with in the usual way. There is a freeze on taking decisions on applications by persons giving their place of origin as Ituri. In principle, failed Congolese asylum seekers are returned to the DRC.

Germany

Applications for asylum from Congolese nationals are assessed individually. Congolese asylum seekers who have exhausted all legal remedies are returned to Kinshasa.

Denmark

All applications for asylum from Congolese are assessed individually. Congolese asylum seekers who have exhausted all legal remedies are de facto deported.

Switzerland

Asylum is granted to Tutsis in some cases. Tutsis and persons who were in close contact with the Mobutu government are not deported. Congolese asylum seekers who have exhausted all legal remedies are deported to Kinshasa.” [42] (p22)

6.225 UNHCR stated in a position paper sent to the Home Office in July 2004 that they are not opposed to the return of failed asylum seekers provided that they have been found in fair procedures not to have international protection needs; and subject to the caveats that some areas remain unsafe and that States need to ascertain carefully the nationality of rejected asylum seekers, as well as their areas of origin, profile and political or military affiliation, before they are considered for return to the DRC. [60]

6.226 During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, the subject of the involuntary return of unsuccessful asylum seekers was discussed at some length. It was stated that caution should be exercised and a case-by-case approach was necessary in dealing with these individuals. [52] (p122-127)

ANNEXES

ANNEX A

Chronology of Events

1960 The country gained independence from Belgium on 30 June 1960 as the Republic of the Congo. Later that year, Colonel Mobutu, as Army Chief of Staff, suspended political institutions and assumed control of the country.

1964 The country was renamed the Democratic Republic of the Congo.

1965 Mobutu again intervened following the political deadlock which ensued from elections. He assumed full executive powers and declared himself the President of the 'Second Republic'. The legislature was suspended and a five-year ban on party politics was imposed. During this period, power was progressively concentrated in the office of the President. By 1970, no senior politicians remained as potential rivals to Mobutu.

1970 Presidential and legislative elections were held. Mobutu, as sole candidate, was elected President, and members of a national legislative council were elected from a list of candidates presented by Mobutu's political party, the Mouvement Populaire de la Revolution (MPR). The government, legislature and judiciary became institutions of the MPR and all citizens automatically became party members. In 1971, the country was renamed the Republic of Zaire as part of the campaign for African authenticity.

1977 An invasion of Shaba province by former Katangese rebels from Angola was repulsed with assistance from France and Morocco (the First Shaba War). Mobutu created the post of first state commissioner (equivalent to prime minister) and announced a legislative election for 1980. He was then re-elected unopposed for a further term of office.

1984 Mobutu was again re-elected without opposition and continued with political and financial policies to reinforce his personal position.

1990 Mobutu announced various political changes, including the inauguration of the Third Republic, and a Transitional Government although he retained his hold on power. Legislation permitting the operation of political parties and free trade unions was enacted, and a special commission to draft a new constitution by April 1991 was announced.

1991 The announcement of a timetable for the restoration of multi-party politics led to the proliferation of political parties.

1996 In August, Mobutu left the country for cancer treatment in Switzerland. The hiatus created by his absence and ill-health proved to be a decisive factor in bringing his rule to an end. What appeared at first to be a regional movement to protect Tutsis soon gathered momentum and emerged as a national rebellion aiming to overthrow the Mobutu regime. The rebels were joined by dissidents of diverse ethnic origin to form the

Alliance des Forces Democratiques pour la Liberation du Congo-Zaire (AFDL), led by Laurent-Desire Kabila. Despite attempts by the government to control the situation, the rebel forces continued to make progress in taking over a large area of the east, including the towns of Goma and Bukavu, by the end of the year.

1997 On 16 May President Mobutu left Kinshasa with his entourage as AFDL forces approached Kinshasa. On 17 May, AFDL troops entered Kinshasa and Kabila declared himself President of the Democratic Republic of the Congo. Kabila also issued a constitutional decree to remain in force until the adoption of a new constitution which allowed him legislative and executive power and control over the armed forces and treasury. A government was formed which, while dominated by AFDL members, also included UDPS and other party members. In August, a military court was established by decree.

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1998 In April, the government banned the country's main human rights group AZADHO and took action against other groups. The draft constitution was submitted to the president.

In May, a decree provided for the establishment of a 300-member constituent and legislative assembly to carry out a number of functions, including the preparation of a draft constitutional bill. Restrictions of previous good character and association with the Mobutu regime were placed on membership.

In August, reports were received of an organised rebellion from the east of the country which was aiming to topple the regime. The rebels, calling themselves the Rassemblement Congolais pour la Democratie (RCD), were assisted by Rwanda and Uganda who were angered by Kabila's failure to contain attacks on their territory by insurgents based in eastern DRC. The rebels captured a number of eastern towns and made a flight to the west to take other assets. They reached the outskirts of Kinshasa by late August but then received a number of military setbacks from government forces who were by then being aided by Zimbabwe, Angola and Namibia, and subsequently by Chad.

The rebels continued to make progress in the east and captured more than one-third of the country by the end of the year.

In October, another rebel group, the Movement for the Liberation of Congo (MLC) joined the fighting in northern DRC.

Later in the year and in early 1999, reports of mass movements of refugees displaced by the war and of atrocities committed by both sides were issued. Kinshasa remained generally calm, although suffering the economic effects of the war. Diplomatic efforts to end the fighting were inconclusive.

1999 In January, government decrees lifted the ban on public political activity and announced arrangements for registering new political parties. These were widely criticised for being too restrictive.

A peace accord was signed in Lusaka by the governments of the DRC and other countries involved on 10 July and shortly afterwards by the MLC rebel group and the RCD factions.

Despite the ceasefire agreement, violations of the ceasefire by both the government forces and the rebel groups were reported.

2000 In January, the UN decided to send 5,037 troops to the DRC to support the work of the 500 ceasefire monitors.

Violations of the ceasefire agreement by both the Government forces and the rebel groups continued to be reported. A new ceasefire agreement in April failed to bring lasting peace. There was serious fighting between Ugandan and Rwandan forces in Kisangani.

2001 On 16 January, President Laurent Kabila was assassinated in Kinshasa. His son - Joseph Kabila - was sworn in as the new President of the DRC.

In May, a law was passed allowing registered political parties to engage in political activity legally subject to certain conditions.

In October, the Government, opposition political parties, armed groups and members of civil society met in Addis Ababa to start the Inter-Congolese Dialogue (ICD).

In December, violent clashes took place between university students and the police in Lubumbashi and Kinshasa.

2002 On 17 January, on the DRC's joint border with Rwanda and Uganda, the Nyirangongo volcano erupted causing severe destruction in Goma and the surrounding area.

In February, the Inter-Congolese Dialogue resumed in Sun City in South Africa, which led to a peace deal in April between the Government and most of the rebel forces, although RCD-Goma did not sign up to the agreement.

On 15 March, the trial of the 135 persons suspected of involvement in the assassination of Laurent Kabila began.

On 30 July, a peace agreement was signed in South Africa by Congolese President Kabila and Rwandan President Kagame. Under the terms of the peace agreement, the DRC Government promised to disarm and arrest thousands of Hutu rebels and send them to Rwanda within 30 days. In return, the Rwandan Government would withdraw 30,000 of its troops who were based in eastern DRC within 15 days. The whole withdrawal process was intended to be completed within 45 days. The Hutu rebels did not recognise the agreement as they claimed they were not consulted.

In September 2002, the Government announced that the moratorium on the death penalty, which had nominally been in place for three years, had been lifted.

By the end of the year, most of the foreign troops based in the DRC had left the country.

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2003 On 7 January, the Military Court sentenced the persons suspected of being involved in the assassination of Laurent Kabila.

In April the Military Court was abolished.

On 2 April, delegates from all parties to the conflict in the DRC signed a power-sharing peace deal in Sun City, South Africa. The DRC Government, rebel movements, opposition political parties and representatives of civil society agreed to set up a Transitional National Government to oversee democratic elections due to take place in 2005.

By June, all Ugandan soldiers had left the DRC.

On 30 June the new Transitional National Government was set up and comprised the President, four vice-presidents, 36 ministers and 25 deputy ministers from the previous

administration, the Mai-Mai militia, the rebel forces, the unarmed political opposition and civil society. Joseph Kabila remained the President of the DRC while the Transitional National Government was in operation.

On 22 August a new National Assembly and Senate of the Transitional National Government was opened in Kinshasa by President Joseph Kabila, with members drawn from the various parties to the national power-sharing accord.

In August an agreement was reached on establishing a unified armed forces command.

2004 On 28 March 2004, an attempted coup was reported to have taken place in Kinshasa, allegedly by former soldiers of Mobutu's army. [2b]

In May the President appointed governors and their deputies to the eleven provinces to form part of the Transitional national Government. [18ad]

In May and June fighting broke out in the Bukavu area. There were reports of human rights abuses against the population. [54c] (p8)

On 28 June another attempted coup in Kinshasa was reported which was also quelled within a short time. [2c]

In June the chief prosecutor of the International Criminal Court announced an ICC investigation into alleged war crimes committed in the DRC since 1 July 2002, with the initial focus of the enquiry in Ituri. [18a]

Source: [1] unless otherwise stated

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ANNEX B

Political Organisations

See also Section 5 Political System and Political Parties and Section 6 Freedom of Association and Assembly

Alliance des forces democratiques pour la liberation du Congo-Zaire (AFDL)

The AFDL was the ruling political party of former president Laurent Kabila on coming to power. Its membership was mainly made up of Tutsis. It comprised four political groups, all from eastern DRC: the Popular Revolution Party (founded by Kabila), the People's Democratic Alliance, the Revolutionary Movement for the Liberalisation of Zaire and the National Council for Resistance for Democracy. In April 1999, Laurent Kabila dissolved the AFDL in favour of village committees to devolve power to the people. [1] (p269,298)

Forces Novatrices pour l'union et la Solidarite (Forces for Union and Solidarity)

(FONUS) Office in Kinshasa; advocates political pluralism; President Joseph Olenghankoy; Secretary General John Kwet [1] (p298)

Forces Pour le Salut du Congo (Force for the Salvation of Congo) (FSC)

Formed in June 2000 by former supporters of former President Mobutu. Leader Jerome Tshisimbi. [1] (p298)

Mouvement congolais pour la démocratie (Congolese Movement for Democracy) (MCD) <http://perso.club-internet.fr/mukuna/mcd.html> Office in Kinshasa; supports the aims of the late Patrice Lumumba; Sec-Gen Jean-Pierre Makuna wa Katenda. [1] (p298)

Mouvement pour la liberation du Congo (Congo Liberation Movement) (MLC) Ugandan-supported rebel movement; operated in Equateur province from 1998; Leader Jean-Pierre Bemba, now vice-president in the Transitional National Government. [1] (p298) The MLC was legalised by the decree of September 2003 authorising all parties to function legally. The USSD 2003 report stated that the UDPS [Union pour la Democratie at le Progrès Social (Union for Democracy and Social progress)] and the MLC had refused to register under the previous law legalising political parties on the grounds that the former government was illegitimate. [3b] (p13)

See also Annex C Prominent People

Mouvement national congolaise (National Congolese Lumumbist Movement) (MNC) Leader Francois Lumumba [1] (p262)

Mouvement Populaire de la Revolution (Popular Revolutionary Movement) (MPR) Formed in 1966 by former President Mobutu; sole legal political party until November 1990; Sec Gen - Kithima Bin Ramazani. Leader (vacant) [1] (p298) [4] (p114)

An information response by the Canadian Immigration and Refugee Board (IRB) of 10 June 2003 about the existence of the MPR rénové/Salongo stated:

“Nonetheless, one source indicated that there are three factions of the Popular Movement of the Revolution (MPR): the MPR-Fait Privé, headed by Catherine Nzuzi wa Mbombo; the MPR/Vunduwawe, under the leadership of Félix Vunduwawe; and the MPR/Mananga, led by Mananga Dintoka Mpholo (CIA World Factbook 2002 19 Mar. 2003). Two other published sources, however, noted the existence of only two factions of the MPR, that is, Catherine Nzuzi wa Mbombo's MPR-Fait Privé and another simply called the MPR, headed by Félix Vunduwawe (Le Phare et Le Communicateur 9 Sept. 2002; Le Palmarès 15 Apr. 2003).” [43d]

Catherine Nzuzi wa Mbombo was named as the Minister of Humanitarian Affairs in the Transitional National Government appointed in June 2003. [18g]

Parti démocrate et social chrétien (Democratic and Christian Socialist Party) (PDSC) Founded in 1990; President André Bo-Boliko; Secretary-General Tuyaba Lewula. [1] (p298) Affiliate of the Christian Democrat International. [4] (p114)

Parti lumumbiste unifié (Unified Lumumbist Party) (PALU) Leader Antoine Gizenga [1] (p286) [13]

Parti du Peuple pour la Reconstruction et le Developpement (People's Party for Reconstruction and Development) (PPRD) <http://www.pprd.com/> Formed March 2002 by President Joseph Kabila. [1] (p298)

See also Section 5 Political Parties

Rassemblement congolais pour la démocratie - Goma (Congolese Rally for Democracy (RCD-Goma/RCD-G)) <http://www.congo.co.za/> Leader Azarias Ruberwa, Vice-President in the Transitional National Government. [1] (p298)

Rassemblement congolais pour la démocratie - Mouvement de Libération (Congolese Rally for Democracy - Liberation Movement) (RCD-ML) also known as RCD-Kisangani <http://www.congorcd.org/> Broke away from main RCD in 1999; supported by Uganda. Leader Ernest Wamba dia Wamba [1] (p298)

Union pour la Démocratie et le Progrès Social (Union for Democracy and Social Progress) (UDPS) <http://www.udps.org/UDPS.html> Formed in 1982. [3b] (p5,6,7,13,16) [4] (p114-115)
Leader - Etienne Tshisekedi Wa Mulumba

See also Annex C Prominent People

The UDPS was formed in the early 1980s as an opposition party within Zaire to counter the arbitrary rule of the Mobutu regime. The UDPS has been banned on a number of occasions. [4] (p114-115) [3b] (p5,6,7,13,16)

The UDPS denounced the Inter-Congolese Dialogue in 2002 and formed a political alliance with the RCD-Goma to oppose it. [1] (p271) [18a] According to Europa 2004 they also refused to take part in the Transitional National Government formed in June 2003. [1] (p272) However, according to a report of 5 August 2004 by the Canadian Immigration and Refugee Board (IRB), Tshisekedi's supporters believed that he was cheated out of the position of vice-president. The same report referred to a statement by the UDPS president that although the UDPS is not part of the transitional government, the organisation is fully participating in the transition process. [43o] The US State Department Report on Human Rights Practices in 2003 published on 25 February 2004 (USSD 2003) stated that the UDPS was legalised by the decree of September 2003 authorising all parties to function legally. The report stated that the UDPS and the MLC had refused to register under the previous law on the grounds that the former government was illegitimate. [3b] (p13) USSD 2003 reported that the amnesty announced by President Kabila for political crimes, crimes of opinion, and for members of political-religious movements, included UDPS members. [3b] (p7) USSD 2003 also reported however that UDPS members were the particular focus of arbitrary arrests and violence by the security forces when taking part in meetings and demonstrations. [3b] (p13)

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ANNEX C

Prominent People

Jean-Pierre Bemba

Leader of the Movement for the Liberation of Congo (MLC). Son of business magnate Bemba Saolona. In June 2003, Bemba became one of the Vice-Presidents in the

Transitional National Government. During the course of a country of origin information seminar in June 2002, sponsored by UNHCR and the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), which was addressed by representatives from Amnesty International and UNHCR, it was stated that Bemba had links to persons from the former Mobutu regime. [52] (p101)

Emile Ilunga

Leader of RCD-Goma rebel faction until November 2000, when he was deposed. A long-time political activist from Katanga.

Joseph Kabila

Son of former DRC president Laurent Kabila and current President of the DRC. He was appointed as the President of the DRC in January 2001 after the assassination of his father. In June 2003, he became the head of the new Transitional National Government.

Laurent Desire Kabila

Former president of the DRC. He became the leader of AFDL forces which toppled the Mobutu regime in May 1997. He declared himself the President of the DRC in May 1997 and remained the president until his assassination in January 2001.

Colonel Eddy Kapend

Former head of the former president's special presidential staff and aide-de-camp to the late Laurent Kabila. He was arrested as a key suspect by the security forces after former president Laurent Kabila was assassinated in January 2001. Kapend was formally charged in March 2002 with conspiracy and the murder of the late Laurent Kabila. In January 2003, Kapend was sentenced to death by the Military Order Court.

Fernando Kutino

Archbishop Fernando Kutino founded the World Mission for Message of Life (MMMV), religious organisation in 1984. He is also the leader of the Army of Church Victory, which is the main branch of the MMMV, and the Sauvons Congo (Save the Congo) movement. After the 10 June 2003 raid of the Army of Church Victory by the police, Kutino fled the country and applied for asylum in France.

See also Section 6C Armée de Victoire (Army of Victory Church)

Patrice Lumumba

First Prime Minister after independence was granted in 1960. He was murdered in February 1961. The current Lumumbiste party (PALU) supports federalist views.

Catherine Nzuzi wa Mbombo

Leader of one faction of the MPR political party and appointed as Minister of Solidarity and Humanitarian Affairs in June 2003 in the Transitional National Government.

See also Annex B Political Organisations

Joseph-Desire Mobutu (Mobutu Sese Seko Kuku Ngbendu Wa Za Banga after 1971)

Took control of the country in 1965, changed the name of the country from the Congo to Zaire, and remained President of Zaire until 1997. When the AFDL forces of Laurent Kabila were about to take control of Kinshasa Mobutu and his family left for Morocco where he died in September 1997.

See also Section 4 History

Abdoulaye Yerodia Ndombasi

Appointed one of the vice-presidents of the new Transitional National Government in June 2003. Associate of Laurent Kabila and often takes anti-Rwanda view.

Arthur Z'Ahidi Ngoma

Appointed one of the vice-presidents of the new Transitional National Government in June 2003. Represents the political opposition.

Azarias Ruberwa

Appointed as one of the vice-presidents of the new Transitional National Government in June 2003. Current leader of the RCD-Goma former rebel group. A Banyamulenge from South Kivu.

Etienne Wa Mulumba Tshisekedi

UDPS founder member and current leader. Mr Tshisekedi has been prominent in opposition politics since the 1980s and was Prime Minister on three occasions during the Mobutu regime. After the assassination of Laurent Kabila in January 2001, he refused to recognise the new president, Joseph Kabila, as the legitimate president of the country.

According to a BBC News Online report dated 29 September 2003, Tshisekedi returned to the DRC in September 2003 after two years of self-imposed exile in South Africa. Tens of thousands of his supporters greeted him when he arrived at Kinshasa Airport. He stated that he intended to start work to prepare for the presidential and parliamentary elections, due to take place in 2005, but he and the UDPS did not have any interest in the transitional administration. [15d]

See also Annex B Political Organisations

Ernest Wamba Dia Wamba

Chairman of the RCD from the start of the rebellion in August 1998. He was later ousted by the Goma-based faction of the RCD led by Emile Ilunga and became the head of RCD-ML.

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ANNEX D

Glossary

ANR

National Intelligence Agency (Agence Nationale de Renseignements). One of the Government's security forces. The ANR shares responsibility for internal and external security with the CNS, including border security matters.

APC

Patriotic Army of the Congo (Armée Populaire Congolaise). Armed militia group, dominated by the Lendu ethnic group. Formed in 2002 as a faction of the RCD-ML. Active in the Ituri area.

ASADHO

Formerly AZADHO. Association Africaine de Defence des Droits de l'Homme or African Association for Defence of Human Rights. One of the DRC's main human rights organisations.

Banyamulenge (Congolese Tutsis)

Congolese Tutsis of Rwandan origin. Established long-term residents of South Kivu but not officially recognised as Congolese nationals by the Government. Formed the basis of the AFDL group which brought Laurent Kabila to power. The RCD rebel group is dominated by Tutsis.

Banyarwanda

Collective name for Congolese people of Rwandan origin, either Hutu, Tutsi or Twa. Those in DRC living mainly in North Kivu but without equal nationality and land ownership rights, a situation which led to violent ethnic conflicts, especially after the influx of Rwandese Hutu refugees in 1994, when thousands were massacred.

CODHO

Comité des Observateurs des Droits de l'Homme or Committee of Human Rights Observers. One of the DRC's main human rights organisations.

Committee for State Security

Replaced the National Security Council. As of June 2002, acts as a co-ordinating body for national security rather than a security force.

DEMIAP

Military Detection of Anti-Patriotic Activities (Detection Militaire des Activités Anti-Patrie) One of the Government's security forces.

DGM

Director General of Migration (Direction Generale de Migration) Government security force with immigration control responsibilities.

DSP

Special Presidential Division. One of the security forces of the former Mobutu regime.

FAC

Forces Armées Congolaises (Congolesse armed forces of the present regime)

FAZ

Forces Armées Zairoises (Zaire armed forces of the former Mobutu regime)

FDLR

Democratic Liberation Forces of Rwanda (Forces Democratiques de Liberation du Rwanda)

GSSP or GSP

Special Group for Presidential Security (Garde Speciale Présidentielle) One of the security forces of the present regime. Responsible for presidential security.

Interahamwe

Rwandan Hutu militia groups who lived in refugee camps in Kivu. Responsible for most of the massacres which took place in Rwanda during the 1994 genocide and involved in the ethnic clashes in Kivu. Controlled many of the refugee camps in the Kivus. Dispersed with the camps but many groups are still in eastern DRC. They have been allied with government forces and have also operated independently.

Kadogos

Swahili word for "little ones". This term is used by Congolesse people to describe child soldiers in the army.

La Voix des Sans Voix

Voice of the Voiceless, one of the DRC's main human rights organisations.

Mai-Mai or Mayi Mayi

Militia based in North Kivu, drawing support from local tribes and opposed to Rwandan occupation. They are allied with government forces but operate independently.

MONUC

United Nations Mission for Congo, set up in August 1999.

PIR

Rapid Intervention Forces (Police d'Intervention Rapide)

RDF

Rwandan army - Rwandan Defence Force (Forces Armée Rwandaise), formerly the RPA (Rwandan Patriotic Army)

RPF or FPR

Rwandan Patriotic Front (Front Patriotique Rwandais). Tutsi-dominated movement which forced out the Hutu regime in Rwanda following the 1994 genocide.

SARM

Service for Action and Military Information (Service d'Action et de Renseignements Militaires). SARM was the military security agency of the former Mobutu regime.

SNIP

Service for National Intelligence and Protection (Service National d'Intelligence et de Protection). SNIP was the civilian security agency of the former Mobutu regime.

UPDF

Uganda Peoples Defence Forces. Ugandan army.

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