Request for Information
Return of Rejected Asylum Seekers to DR Congo

Request by the United Kingdom

Comp_DRC_Return_Rejected_Asylum_Seekers
Request

- Requesting State: United Kingdom
- Focal point: [redacted]

Background information
The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Mendez, has written to the UK government asking for a response to allegations made to him that eight Congolese nationals, whose asylum claims had been rejected in UK and who subsequently returned to the DRC, faced ill-treatment on or after their return.

While the UK government is aware of allegations of ill-treatment on return of rejected Congolese nationals who sought asylum in the UK, it has not found these allegations to have been substantiated. However, before responding to the Special Rapporteur it would be helpful to know the practice and experiences of other IGC participating states.

Questions
1. Do you return (by force or voluntarily) rejected (failed) asylum seekers (FAS) to the DRC?
2. If you do not, why not?
3. If you do, how many FAS have been returned to the DRC since March 2012:
   a. by force?
   b. voluntarily?
4. Have you received any allegations of returnees being subject to problems on return?
5. If so, what problems (in particular incidents of harassment, ill-treatment, arrest and detention)?
6. Have any of these allegations been substantiated?
7. Do you have representatives who oversee returnees through N'Djili airport in Kinshasa (from arrival to departure from the airport)?
8. Do you monitor returnees once they return to DRC?
9. Can we publicly disclose all or part of the above information?

Use of Information
We would like to make any information provided public if possible. Responses will be used to inform a written reply by the UK government to the UN Special Rapporteur and possibly as background information for use in considering asylum applications. However, we’d welcome information even if it is not disclosable and which we will put to internal use only.
Answers to Question 1
Do you return (by force or voluntarily) rejected (failed) asylum seekers (FAS) to the DRC?

Australia

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

Belgium

Yes.

Finland

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

Germany

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

Netherlands

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

Norway

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

Sweden

Yes.

United States

U.S. Immigration and Customs Enforcement (ICE) executes removal orders to many countries, including the DRC. Foreign nationals who receive removal orders unsuccessfully pursued a protection claim in the United States prior to their removal.
### Answers to Question 2
If you do not, why not?

<table>
<thead>
<tr>
<th>Country</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Australia</strong></td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Belgium</strong></td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Finland</strong></td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Germany</strong></td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>See answer to question 1.</td>
</tr>
<tr>
<td><strong>Norway</strong></td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Sweden</strong></td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>United States</strong></td>
<td>Not applicable because ICE does not track these data.</td>
</tr>
</tbody>
</table>
Answers to Question 3
If you do, how many FAS have been returned to the DRC since March 2012:
   by force?
   voluntarily?

**Australia**

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

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

**Belgium**

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

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

**Finland**

a. by force?
One (1).

b. voluntarily?
One (1).

**Germany**

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

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

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

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

**Norway**

a. **by force?**
In total for January 2012 – June 2013, there were 27 forced returns from Norway to DRC.

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

**Sweden**

a. **by force?**
2

b. **voluntarily?**
2

**United States**

Not applicable because ICE does not track FAS information for removed aliens.
Answers to Question 4
Have you received any allegations of returnees being subject to problems on return?

Australia

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

Belgium

Yes.

Finland

No. The Finnish Immigration service does not monitor the situation of individual asylum seekers after return. However up to date COI is used to assess how failed asylum seekers are treated upon return.

Germany

See answer 6.

Netherlands

No.

Norway

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

Sweden

No, not to our knowledge.

United States

Unknown at this time.
**Answers to Question 5**
If so, what problems (in particular incidents of harassment, ill-treatment, arrest and detention)?

<table>
<thead>
<tr>
<th>Country</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Australia</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Belgium</strong></td>
<td>All of the above.</td>
</tr>
<tr>
<td><strong>Finland</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Germany</strong></td>
<td>See answer 6.</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Norway</strong></td>
<td>See answer to question 4.</td>
</tr>
<tr>
<td><strong>Sweden</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>United States</strong></td>
<td>Unknown at this time.</td>
</tr>
</tbody>
</table>
### Answers to Question 6

**Have any of these allegations been substantiated?**

<table>
<thead>
<tr>
<th>Country</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Australia</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Belgium</strong></td>
<td>None --&gt; all have been controlled by our immigration liaison officer in Kinshasa: This means the Immigration liaison officer in Kinshasa has investigated the allegations and found there is no truth in them.</td>
</tr>
<tr>
<td><strong>Finland</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Germany</strong></td>
<td>Answer to questions 4 to 6: No. However, it cannot be ruled-out that returnees have been subject to harassment governmental agencies upon entry; however, all persons entering the country risk to be treated in this way.</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Norway</strong></td>
<td>See answer to question 4.</td>
</tr>
<tr>
<td><strong>Sweden</strong></td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>United States</strong></td>
<td>Unknown at this time.</td>
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</tbody>
</table>
**Answers to Question 7**

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

<table>
<thead>
<tr>
<th>Country</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Australia</strong></td>
<td>If the client is escorted either by an immigration official or a contracted security officer, they may accompany the client on arrival at the destination airport. However, the immigration officials or a contracted security officers accompanying the client must abide by any directions given on arrival by officers at the destination airport. If the client was an unescorted removal, no Australian officials would oversee their arrival at the destination airport.</td>
</tr>
<tr>
<td><strong>Belgium</strong></td>
<td>Yes, but only for special flights or on request in individual cases.</td>
</tr>
<tr>
<td><strong>Finland</strong></td>
<td>No.</td>
</tr>
<tr>
<td><strong>Germany</strong></td>
<td>See answer 8.</td>
</tr>
<tr>
<td><strong>Netherlands</strong></td>
<td>No. The involvement of the R&amp;DS and/or the Royal Netherlands Military Constabulary ends when the forced returnee is handed over to the receiving authorities. The IOM often oversees returnees through the airport of destination in case of voluntary return, depending on the wishes of the returnee.</td>
</tr>
<tr>
<td><strong>Norway</strong></td>
<td>Norway does not have any representatives present in Kinshasa that oversee returnees. IOM might be and are expect to be present at the airport.</td>
</tr>
<tr>
<td><strong>Sweden</strong></td>
<td>No.</td>
</tr>
<tr>
<td><strong>United States</strong></td>
<td>No, ICE does not have a representative who oversees returnees upon arrival at the N’djili airport in Kinshasa.</td>
</tr>
</tbody>
</table>
**Answers to Question 8**

**Do you monitor returnees once they return to DRC?**

**Australia**

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

**Belgium**

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

**Finland**

No.

**Germany**

Answer to questions 7 and 8:

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

In the framework of the REAG programme funded by the Federal Government and the Länder voluntary returnees may obtain travel costs (reimbursement of costs of travel by plane, rail or bus, fuel costs amounting to 250,- Euros per car) and travel assistance of up to 200,- Euros per adult/youth, 100,- Euros for children under twelve. There are no specific or other reintegration projects.
### Netherlands

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

### Norway

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

### Sweden

No.

### United States

No, ICE does not monitor removed aliens following their arrival into the DRC.
Answers to Question 9
Can we publicly disclose all or part of the above information?

Australia
This information can be released.

Belgium
Yes.

Finland
Yes.

Germany
Yes.

Netherlands
Yes.

Norway
Yes.

Sweden
Yes, all.

United States
Yes. Neither the ICE Privacy Office nor the ICE Office of the Principal Legal Advisor (including the Government Information Law Division) has any objection to disclosing this limited information.