



UNSAFE RETURN III

Removals to The Democratic Republic of the Congo

2015–2019

CATHERINE RAMOS



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ABBREVIATIONS

ANR	National Intelligence Agency
APARECO	Alliance of Patriots for the Refoundation of the Congo
BCFP	Bill Clinton Foundation for Peace.
CENCO	National Episcopal Conference of the Congo
COIS	Country of Origin Information Service
CPIN	Country Policy Information Note
CPIT	Country Policy Information Team
DGM	General Directorate of Migration
DRC	Democratic Republic of the Congo
ETD	Emergency Travel Document
FCO	Foreign and Commonwealth Office
FFM	Fact-finding Mission
FOI	Freedom of Information
HO	Home Office
IGC	Intergovernmental Consultation
IAGCI	Independent Advisory Group on Country Information
IOM	International Organization for Migration
MONUSCO	United Nations Organization and Stabilization Mission in the Democratic Republic of the Congo
NGO	Non-governmental Organisation
TOR	Terms of Reference
UNHCR	United Nations High Commission for Refugees
UNJHRO	United Nations Joint Human Rights Office

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PREFACE

On 30 January 2019 the Home Office published an updated Country Policy Information Note (CPIN) Democratic Republic of the Congo: Unsuccessful asylum seekers.¹ Fifty two Congolese nationals had been removed to the DRC, forty six by enforced removal, between 2015 and 2018.

It states that, when contacted by the Country Policy Information Team (CPIT) in March 2018, the *'British Embassy was not able to provide specific information with regard to returnees'*.² The CPIN makes no reference to correspondence between the British Embassy and CPIT about the detention in Kinshasa in 2016 of two returnees nor the 'high profile case' of the alleged imprisonment and torture of an unsuccessful asylum seeker. Regarding the detention of Aristote Monsengo (See Case study 4), Embassy staff wrote *'We believe that {redacted} was detained on arrival in Kinshasa on { } after being flagged on the DRC watch list. Until this is confirmed our assumption is that he remains detained (although { } deny this'*.

November 2016 (Freedom of Information Request 48637).

Mr. Monsengo had been located through a human rights group in Kinshasa and a source in the National Intelligence Agency (ANR). In November 2016 a British Embassy official passed the name of the source to the Chief Administrator of ANR. In February 2019 the death of the source, allegedly by poisoning, was reported to international posts, human rights groups and journalists by the Bill Clinton Foundation for Peace.

The source had, allegedly, been too close to human rights groups and had passed on sensitive information. The source was named. Many emails between the British Embassy and CPIT relating to the arrest of returnees and a 2017 case heard in the UK are marked OFFICIAL – SENSITIVE.

The January 2019 bulletin does not make reference to the 2017 case which was heard by Judge Moore (Anonymity granted). The Home Office/British Embassy account of the safe return of the Appellant to The Democratic Republic of the Congo was dismissed. The Appellant's account of imprisonment and torture in the DRC, documented in Unsafe Return II, was accepted (See Case Study 2).

The 2019 bulletin states at 6.1.2

*'Where specific allegations are made to the UK government that a returnee has experienced ill treatment on or after return, these will be investigated by the Home Office and Foreign office.'*³ Five weeks after the arrest of Aristote Monsengo in 2016 (Case Study 4) investigations had petered out. The UK authorities have not contacted the returnee's family.

1 https://assets.publishing.service.gov.uk/.../DRC_-_CPIN_-_UAS_-_v3.ext_.pdf

2 https://assets.publishing.service.gov.uk/.../DRC_-_CPIN_-_UAS_-_v3.ext_.pdf

3 https://assets.publishing.service.gov.uk/.../DRC_-_CPIN_-_UAS_-_v3.ext_.pdf

SUMMARY

The Home Office states that it does not monitor the post removal experience of returnees to the DRC in order not to put them at risk. I have carried out monitoring of returnees since 2007, including during a research visit to Kinshasa in 2011.

A CPIT official hoped that *'if there were systematic problems on return this would rise to the surface and be brought to post's attention via various avenues'* (FOIR 48637). As this present report demonstrates, over many years such problems have been reported to the HO and the FCO by returnees, their families in the UK, MPs, UK lawyers, Kin Mazière officials, Congolese human rights groups and through Amnesty International partners in the DRC.

When contacted in 2012 by Alex Cunningham MP about an allegation that returnees had been arrested on 8 June 2012, neither the Home Office nor the FCO would assume responsibility for following up the allegation. On 3 August 2012 the British Embassy declined to cooperate with the release from an ANR prison of one of the returnees. Since removals to the DRC resumed in July 2015, families in the UK have claimed that relatives have been imprisoned and ill-treated. According to Freedom of Information Request 48637, the HO/FCO position is that families should contact them directly and not through their MP.

The Home Office maintains that there have been no substantiated allegations of ill treatment of returnees to the DRC. A Congolese NGO, The Bill Clinton Foundation for Peace, issued a press release in October 2016 about the detention in inhuman conditions of Aristote Monsengo. The press release was sent to several diplomatic posts including the British Embassy. An October 2017 returnee was held in Makala prison for almost 12 months in inhuman conditions with other UK returnees. They were accused of being combatants. The men were separated as prison staff could not understand English (Case Study 1). A December 2017 returnee found himself in prison with two men he had known in the UK (Case Study 11).

In a UK Court in 2017 Judge Moore determined that the Appellant was returnee R23/2012 whose post return experience I monitored in my report *Unsafe Return II*.¹ He had been subjected to prolonged imprisonment and ill treatment in the DRC after deportation on a charter flight from UK via Nigeria/Ghana in June 2012. Freedom of Information Request 48637 shows that UK officials appeared to be unaware of the aforementioned determination and continued to maintain on 6 March 2018 the standard response: *'We don't hear from people after they return and while there have been some allegations none have been substantiated'*. (Migration Delivery Officer, Home Office, British High Commission Pretoria).

Unsafe Return III documents the post removal experience of fifteen returnees to the DRC (2015–2018) and updates information on three removals in 2012. It makes reference to email correspondence disclosed in Freedom of Information Request 48637. It considers both the incomplete travel documents issued by the General Directorate of Migration (DGM) which have been used to remove Congolese nationals from UK and the removal of vulnerable adults with mental and physical health conditions.

In March 2017 the Bishop of Durham referred specific cases documented in this report to Baroness Taylor and to the Minister for Immigration, Brandon Lewis, in July 2017. I have referred cases of post deportation arrest, ill treatment and difficulties to the Chief Inspector of Borders.

1 [Justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-II-October-3-14-50.pdf](https://www.justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-II-October-3-14-50.pdf)

In country guidance case BM and others (2015),² the British Embassy evidence of safe return was preferred over the evidence of imprisonment and ill treatment provided by Congolese NGOs. British Embassy and IOM evidence and the Home Office survey on returns from IGC countries, which support the hypothesis of safe return, were determined in this country guidance case to be most persuasive and described as a *'superior body of evidence'* which is *'not tarnished by bias, conjecture or inattention'*.

In 2013 the UK Government maintained both in its response to an allegation letter from the UN Rapporteur for Torture, Professor Juan Mendez, and in a letter from the British Consul (November 2012), which was submitted in the case of BM and others,³ that an allegation of ill treatment by a June 2012 returnee could not be substantiated. In response to a letter dated 5 May 2016 from Keith Vaz MP, then Chair of the Home Affairs Select Committee, Teresa May, then Home Secretary, denied any substantiated evidence of ill treatment.

In 2017, Judge Moore determined:

- » that the British authorities had been aware from an early stage in June 2012 of difficulties for the Appellant (referred to as R23/2012 in Unsafe Return II)
- » that the British Embassy account of the Appellant's safe return was not reliable
- » that the Appellant was taken to the British Embassy by Congolese prison guards
- » that Embassy staff did call family in the UK to tell them that they could not assist the Appellant because he was not a British citizen.

The FCO and the Home Office have not disclosed information in their possession and have passed on unreliable evidence to UK courts, to MPs and the Lords and to interested parties. Unsafe Return II (2013)⁴ had documented the removal and imprisonment of the Appellant. The Home Office dismissed the report as out of date and containing no new information. In fact, Unsafe Return II had given a reliable account of events on 8 June 2012 when, according to the Appellant's testimony, all five returnees had been detained at N'djili airport and imprisoned. The determination in this case throws doubt on the reliability of:

- » Evidence of safe return of five returnees on 8 June 2012, provided by two British Embassy officials to Fact-finding Mission delegates.⁵
- » The British Consul's letter of November 2012
- » Baroness Warsi's answer in the House of Lords denying R23/2012 had been taken to the British Embassy in Kinshasa and denying any Embassy contact with family in the UK
- » UK Government response to the UN Rapporteur for Torture in 2013

2 <https://tribunaldecisions.service.gov.uk/utiac/2015-ukut-293>

3 <https://tribunaldecisions.service.gov.uk/utiac/2015-ukut-293>

4 Justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-II-October-3-14-50.pdf

5 <https://www.refworld.org/docid/538871264.html>

- » The 'standard response' given to MPs and the Home Affairs Select Committee that the Home Office/FCO are not aware of ill treatment
- » Minister for Africa, Mark Simmonds' correspondence with Tom Blenkinsop MP

British Embassy staff have stated that neither DGM nor ANR is under any obligation to inform Embassy officials of the arrest of returnees, who are Congolese nationals. Email correspondence with Country of Origin Information Service (COIS) in relation to R23/2012, the British Consul's letter relating to the arrest of three returnees on 7 July 2012 and British Embassy monitoring of returnees between October and December 2014 demonstrate that the UK authorities have accepted unquestioningly ANR and DGM reassurances that returnees are no longer in detention. Objective evidence indicates that both Congolese services routinely deny individuals are in their detention. FOIR 48637 reveals that these services have not cooperated with the British Embassy.

In 2013 the UN Rapporteur for Torture urged the UK Government to review its policy on returns to the DRC should it become aware of any substantiated evidence of ill treatment of returnees. Despite a UNHCR decision granting refugee status in 2013 to removed asylum seeker RAS 2 (Unsafe Return)⁶, the aforementioned 2017 Court determination and British Embassy knowledge of arrests in 2016, the UK has failed to review its policy and continued removals when the Embassy was unable to monitor returns at the airport.

An allegation which is not being taken into consideration when assessing risk on return is that Congolese people, formerly resident in the UK, have been recruited by the DRC authorities and are now working with DGM in Kinshasa. These are people who have been part of Congolese communities in the UK, who have attended demonstrations, weddings, parties and funerals and who have photographs of such events. According to a source, the new computer system at N'djili airport holds the names of all those who have claimed asylum. A Congolese detainee in a UK Immigration Removal Centre told me that, during his re-documentation interview with the Congolese Immigration official based in London, the official proposed he go back to the DRC to '*work with us*'.

The research in this report demonstrates that there is a risk not only to combatants but also to their relatives who have not had involvement in the activities of the combatants.

Unsafe Return⁷ and Unsafe Return II⁸ were listed as Justice First (JF) evidence in BM and others. In this case Judge McCloskey accepted the JF evidence and described it as '*focused and considered*'. The Home Office failed to include any reference to the JF evidence in the September 2015 Country Information and Guidance Democratic Republic of Congo:⁹ The guidance did include evidence rejected by Judge McCloskey.

6 [Justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-DECEMBER-5TH-2011.pdf](https://www.justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-DECEMBER-5TH-2011.pdf)

7 [Justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-DECEMBER-5TH-2011.pdf](https://www.justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-DECEMBER-5TH-2011.pdf)

8 [Justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-II-October-3-14-50.pdf](https://www.justicefirst.org.uk/wp-content/uploads/UNSAFE-RETURN-II-October-3-14-50.pdf)

9 <https://www.refworld.org/docid/55e8596a4.html>

METHODOLOGY

Freedom of Information request 48637 is referred to throughout this report. Email correspondence between the British Embassy and CPIT disclosed in it makes reference to the Unsafe Return reports and the allegations by returnees of post-return ill treatment. It is suggested that I, as the author of *Unsafe Return*, ‘accept the allegations unquestionably’. A reading of both reports shows that allegations had been triangulated through, for example, Amnesty International and a partner organisation in Congo, Detention Action, Southampton and Winchester visitors group, SOLACE, Consul Fiona Butters, Ruth Kelly MP and Margaret Beckett, former Foreign Secretary, and Jacqueline Hall of the International Organization of Migration (IOM).

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

At a meeting in London facilitated by Bishop Patrick Lynch, I met with the General Secretary of the National Episcopal Conference of Congo (CENCO) and Congolese clergy to discuss risk on return. When asked about the risk to returnees, the General Secretary stated ‘ils disparaissent’ (they disappear).

In 2016, when preparing to carry out fieldwork in the DRC on post deportation for Amnesty Netherlands, Dr. Jill Alpes consulted with me about possible contacts in Kinshasa. She held face-to-face meetings with returnees whose cases are documented in this report. The report, *Deported – Human Rights in the Context of Forced Returns – Summary* (July 2017),¹ for Amnesty International (2017) documents the risks to returnees after removal from Europe.

The Stichting LOS report (2017) *Post-Deportation Risks: A country catalogue of existing references* includes a reference to the Bill Clinton Foundation for Peace press release about the detention in inhuman conditions of Aristote Monsengo.²

1 https://www.amnesty.nl/.../AMN_17_13_Rapport-mensenrechten-en-gedwongen-uitze

2 https://www.frsh.de/.../2017_10_18POST_DEP_RISK_Country_Catalogue_DEF_18

ALLEGATION LETTER TO THE UN RAPPORTEUR FOR TORTURE

AL 06/07/2013 CASE No. GBR2/2012 STATE REPLY: 23/07/2013, 23/07/2013,
23/07/2013, 14/10/2013 AND 14/10/2013

Between late 2012 and early 2013 I sent the names of Unsafe Return returnees who had alleged post deportation, imprisonment and ill treatment in the DRC to Professor Juan Mendez, Special Rapporteur for Torture. He asked the UK Government whether it conducts investigations once torture is alleged'. The UK Government cited '*several investigations*'...

According to the Special Rapporteur:

'The Government claims the result of the investigation shows little credibility in reports of the DRC targeting asylum seekers and they use this conclusion, along with no substantive reports of abuse made to their Embassy in Kinshasa to dismiss these allegations as unfounded.'

The Special Rapporteur responded: '*Should the government encounter credible information indicating that asylum seekers returned to the DRC are subjected to mistreatment, the Special Rapporteur calls on the Government to make corrective action in their return procedures*'.

The UK Government informed the Rapporteur that with regard to an allegation in June 2012 '*made in regard to a Congolese national who was returned from the UK to DRC in the same month. ... The FCO made enquiries in Kinshasa but were not able to substantiate the allegation. The FCO findings are set out in a letter dated 12 November 2012*'. In 2017 Judge Moore determined that the Home Office/FCO had been aware of difficulties from an early stage and that the returnee had been taken to the British Embassy.

Regarding the disappearance of an October 2016 returnee, Country Manager, Team 1 Africa states:

'We believe that [redacted] was detained on arrival in Kinshasa on { } after being flagged on the DRC watch list. Until this is confirmed our assumption is that he remains detained (although [] deny this).'

21 November 2016

The UK Government has taken no corrective action.

POST RETURN DETENTION AND ILL TREATMENT 2015–2019

'In the past we received a steady stream of allegations that simply being a failed asylum seeker is enough to result in detention and further problems. This led to a major court case last year, which went in our favour because of lack of evidence but it is something we want to avoid flaring up again.'

CPIT Legal Strategy Team, 30th November 2016 FOIR 48637

In *BM and others Ms. Lieven for the Secretary of State*, conceded that detention in a DRC prison *'exceeding approximately 1 day would violate the detained person's rights under Article 3 ECHR. We accept this concession as it is clearly warranted by substantial and compelling evidence'*.¹

Of the returnees monitored:

- » 1/18 arrested at airport by ANR and has since disappeared
- » 8/18 returnees allege that they were arrested at N'djili airport
- » 1/18 suffering from schizophrenia was detained on arrival and has been arrested on a further two occasions
- » 1/18 has been unable to access Olanzapine
- » 5/18 suffered prolonged imprisonment and ill treatment
- » 1/18 has witnessed other UK returnees arrested at the airport
- » 1/18 has been arrested for holding false ID card (voter's card)
- » 1/18 was detained for using a mobile phone near Makala prison
- » 2/18 state they were in Makala prison with other UK returnees who were kept apart to prevent them speaking in English, a language the guards/prisoners did not understand
- » 3/18 had families pay large sums of money in order to leave the airport and avoid imprisonment
- » 1/18 paid an airport official to avoid arrest

1 <https://tribunaldecisions.service.gov.uk/utiac/2015-ukut-293>

- » 1/18 family paid money to extract returnee from prison
- » 1/18 was forced to answer charges against him in the DRC of belonging to an Insurrectional Movement

A family in London informed me by telephone of the death of their son from malaria.

The returnee is not included in the case studies.



PROBLEMS FACED BY RETURNEES

- » Flagged up on the DRC watch list
- » Disappearance
- » Destitution and hunger as no family in Kinshasa
- » Malaria and typhoid. No yellow fever certificate/vaccination
- » Medication for schizophrenia, HIV and post-traumatic stress disorder is ceased abruptly with no recourse to medication in Kinshasa
- » Heightened repression and insecurity in the DRC
- » Lack of ID to present at checkpoints on street or to seek work
- » Returnees are in hiding
- » Incomplete safe conduct documents places returnee at risk of further interrogation
- » National languages not known
- » Belongings stolen at Nairobi airport and at N'djili airport
- » \$50 given to returnees taken by DGM officers
- » No assistance from United Nations Joint Human Rights Office, British Embassy or IOM as the returnees are not within their mandate
- » Arrest on street due to lack of documentation/false documents
- » Money from UK families via Western Union cannot be accessed directly due to lack of ID and fear of going outside
- » Returnees are threatened with exposure to the DRC authorities as a spy/ combatant, if they do not hand over items sent to them from the UK
- » Psychological problems exacerbated by worries about their children in the UK and fears about personal safety
- » Communication by phone is difficult because phones cannot be charged, because places of hiding are outside of network coverage

TRAVEL DOCUMENTS

The FCO funded a DfID project to strengthen the capacity of the General Directorate of Migration (DGM) by providing training on document examination, passenger profiling and impostor training.¹ It ran from 12 September 2016 to 31 March 2017. It was funded by the FCO. During this time incomplete safe conducts were being used and have been used since by the Home Office to carry out removals from the UK to the DRC.

Concerns were raised about the safe conducts being used by the UK with international human rights groups such as Amnesty International and by the Bill Clinton Foundation for Peace. Two Congolese barristers attached to the International Criminal Court and a former diplomat have seen safe conducts and have stated that these are not the appropriate documents for removal from the UK. Safe conducts are used for states which have a shared border with the DRC.

Since removals resumed in 2015, the travel documents that I have seen are safe conduct documents not Tenant-lieu/Laissez passer. In October 2015 constituents of James Berry MP and I contacted his office about the removal of Adamo Kizey on a travel document with another man's photograph. Mr. Kizey spent 24 hours in Nairobi airport. He had been denied onward passage to Kinshasa. Through the British High Commission in Nairobi further documents were sent from the UK. James Berry's staff told me that nobody could see travel documents, not even MPs (Case Study 8)

Obtaining a travel document had been a barrier to the removal of returnees who had been in the UK since childhood, at least one of them brought up in care here. There have been attempted removals to the DRC of people who have lived in the UK most of their lives but had been born in other European countries. In January 2019 there was an attempted removal to the DRC of a man who had been born in France.

In the 22 October 2014 Policy Bulletin (Annexe C, D, F) the Congolese immigration official based in London and the Director of Chancellery explain the process to establish Congolese nationality.² Travel documents are granted when this has been established. On arrival at N'djili airport anyone not accepted as Congolese will not be allowed to enter the DRC and will be returned to the UK. This process is not being observed in practice.

The British Consul has stated in evidence presented in the case of P & R that, on 8 July 2012, three returnees had been admitted into the DRC with travel documents which lacked photographic ID (Case Study 7). Though available in July 2012, the Consul's monitoring was not included in the Fact-finding Mission report of November 2012.

Several safe conducts appear to have had a photograph attached, thereby partially obscuring information. Safe conduct documents used between October 2015 and October 2018 gave an incorrect birth date/no birth date, and lacked gender, civil status and address in Kinshasa. In early 2017 I was emailed a safe conduct which did include

1 <https://devtracker.dfid.gov.uk/projects/GB-GOV-3-PAF-ZAK-160002>

2 <https://www.refworld.org/pdfid/544a19fe4.pdf>

the birth date of the returnee. In 2015/2016 safe conducts were valid for six months. Safe conducts used in 2017/18 were valid for three months.

Previously, *Tenant lieu – Laissez passer*, issued by the Congolese Ministry of Foreign Affairs and signed by the DRC Ambassador to London, Bernabé Kikaya Bin Karubi, have been used as travel documents (See Appendix 1). During my research in the DRC in 2011 I filmed the *tenant lieu* signed by the Ambassador and used to remove RAS 17 (Unsafe Return).

With regard to safe conducts used since 2015, a former DRC diplomat has stated:

‘Deuxièmement le service du Ministère de l’Intérieur comme la DGM n’ont pas la compétence d’établir un document de voyage pour un compatriote se trouvant à l’extérieur sans passer par le Ministère de Affaires Etrangères à travers ses Ambassades.

Ensuite la valeur juridique d’un sauf conduit ne peut pas aller au delà des frontières artificielles. Ainsi le sauf conduit est un document transfrontalier utilisé en accord avec les États ou pays ayant une frontière commune avec la RDC (Rwanda, Uganda, Burundi, Zambia, Tanzanie, Congo-Brazzaville, Soudan, République Centre Africaine, Angola) pour faciliter la circulation des citoyens entre leurs États respectifs.’

Secondly, departments of the Interior Ministry like the General Directorate of Migration do not have the competence to issue a travel document for a compatriot who is abroad, without going through the Ministry of Foreign Affairs and its Embassies. Therefore, the legal status of a safe conduct does not extend outside artificial borders. The safe conduct is a cross border document used in agreement with the states or countries which share a common border with the DRC (Rwanda, Uganda, Burundi, Zambia, Tanzania, Congo-Brazzaville, Sudan, Central African Republic, Angola) to facilitate the circulation of citizens between their respective states.

During a removal in November 2017 I expressed concerns about the travel document being used, the escort told me that he knew all about the problems with travel documents and had alerted the Home Office a couple of weeks earlier about the wrong photograph being used on a returnee’s travel document. Shortly after a lawyer at Migrant Law Partnership told me that there had been an attempted removal of a client on a travel document with the wrong photograph.

Whilst in Kinshasa in February 2016 Dr. Jill Alpes met with Adamo Kizey (Case Study 8). She contacted Tom Southerden at Amnesty-UK and advised that incomplete travel documents would lead to *‘prolonged interrogations in the Bureaux du Contencieux where British Embassy officials or escorts do not have access’*.



CHARTER FLIGHTS

In November 2016 the British Embassy acknowledged that two returnees had been detained. According to FOIR 48637, enforced removals continued: one removal by charter flight and six further removals up to December 2016. Charter flights to the DRC have been via Nigeria and Ghana. FOI 41566 gives the number of enforced removals by charter flight for each financial year since 2010/2011. There is no mention of a charter flight in 2016 and inaccurate data is recorded.

2010 – 2011 Five enforced returns to the DRC.

2011/2012 One enforced return.

2012/2013 No enforced returns.

Five men were returned on a charter flight in June 2012 and three in July 2012. The Fact-finding Mission report (2012) at 4.12 refers to returnees removed from the UK in May 2012.¹ Ten were detained by DGM until money was paid.

1 <https://www.refworld.org/docid/538871264.html>

UNJHRO

'Are there other sources – UNJHRO and IOM for example – who might have an informed view?' FOIR 48637

The above comment in an email to the British Embassy was made in relation to the arrest of Aristote Monsengo in October 2016. Returnees removed from the UK do not fall within the mandate of the United Nations Joint Human Rights Office (UNJHRO). It does not monitor returns from Europe and has been unable to monitor specific arrivals when asked to do so. A member of staff indicated to me that they do not investigate hypothetical human rights violations but will intervene if informed that violations have happened. In October/November 2016 the British Embassy/HO were continuing to refer to UNJHRO as an informed source. The absence of information is taken as indicating safe return.

In November 2015 a Congolese lawyer attended the UN Mission in Congo with Adamo Kizey *'précisément au département de droit de l'homme, arrivé a la réception ayant eu un entretien avec le Protocole chargé de ces questions, il nous répondra que des pareilles cas ne relèvent pas de la compétence de leur département, il nous dira que cette matière relève exclusivement de la direction générale de migration.*

(...specifically, the human rights section, having arrived at the reception, having had an interview with the officer responsible for these matters, he told us that such matters do not fall within the mandate of their department, he told us that this matter should only be dealt with by the General Directorate of Migration).

On 25 November 2015 they went to the British Embassy and were *'reçu par Madame Alice, sujet britannique diplomate de son état, cette dernière refusa avec insistance à ce qu'Adamo accède aux installations de l'ambassade de Grande Bretagne avec comme motif que ce dernier n'étant pas un sujet britannique.'*

(Received by Madam Alice, a British subject and diplomat, she insistently refused Adamo access to the Embassy of Great Britain, giving as a reason that he was not a British subject).



IOM

The determination in the case of BM and others refers to an interview on 20 November 2014 with the IOM Chef de Mission in Kinshasa documented by the British Embassy.¹ *'The Chef de Mission confirmed that IOM has no evidence of the ill-treating of any returning DRC national with whom IOM interacts as a result of providing reintegration assistance'*.

This is not accurate. In 2009 a British family was in contact with Jacqueline Hall of IOM about the arrest, imprisonment and theft of reintegration money of a returnee (RAS 11 Unsafe Return) who had lived with the family². Either IOM had been present at the airport and did not report that a voluntary returnee had not passed through N'djili airport safely or IOM was not monitoring the return. Ms. Hall liaised with the family in the UK and the returnee was allowed access to IOM Kinshasa and he was paid his reintegration money. A second case was also documented in Unsafe Return. In 2013 IOM acknowledged to Refugee Action that RAS 15, a young woman with a toddler, had not accessed her IOM money in 2010. IOM had insisted to me that she had accessed her money. When this was followed up by Refugee Action, it was finally admitted that she had gone to IOM once, eleven months before my phone call, but she had not returned. Apparently, there had been no follow up by IOM. Almost eleven months after her return IOM staff tried to locate the returnee but were not successful.

Returnees without a return package do not fall within the mandate of IOM. Escorts tell returnees that a charity will meet them at the airport and give assistance. During more than one removal escorts have told me that this charity is IOM.

1 <https://tribunaldecisions.service.gov.uk/utiac/2015-ukut-293>

2 Justicefirst.org.uk/wp-content/.../UNSAFE-RETURN-DECEMBER-5TH-2011.pdf

HOME OFFICE POSITION ON RETURNS – 2018

In March 2018 the Country Policy and Information Team (CPIT) requested a statement on returns from the British Embassy (FOIR 48637).

Something like:

'We are aware that a number of rejected asylum seekers have been returned to the DRC from the UK voluntarily and by force since June 2015 [this is when the DRC court case was published].

We are not aware of substantiated evidence that returnees from the UK (or other European states) are ill-treated on or immediately after arrival, although we do not monitor the treatment of returns on or after arrival...'

The Consul replied:

'We are not aware of substantiated evidenceafter arrival – that's true, but it's my understanding that there have been unsubstantiated claims, and I'm not clear that those claims have been investigated by HMG. I thus wonder whether those claims should be investigated further or at least alluded to in order to avoid the sentence being misleading.'

Given the determination by Judge Moore in 2017 that a returnee had suffered prolonged detention and ill treatment post removal, neither the Home Office nor the FCO could maintain the position that they were unaware of ill treatment.

CPIT requested a statement about ill treatment, not arrest. FOIR 48637 confirms that the Home Office and the FCO are aware of the arrest and imprisonment of returnees removed from the UK in 2015 and 2016. On 16th November 2016 the Country Manager Team 1 (Africa) stated: *'This is the second arrest and detention of one of our returnees'*. Yet, on 30th November 2016 there was a request from CPIT, Legal Strategy Team, for a disclosable note from 'you/post',

'something along the lines that we have sent back x returns since summer 2015 but are not aware of substantiated [sic] of difficulties on return, having followed up any allegations and discussed with local sources etc. (We'll see what else we can get from our own sources). We'd put this in our updated published policy note on FAS/FNOs. It would provide a public facing assessment of returns

Following the allegations of ill treatment in Unsafe Return (2011), a Fact-finding Mission was sent to Kinshasa in June 2012. Unlike other interlocutors, the Congolese authorities were provided *'with abbreviated versions of the TORs and written questions which did not cover the treatment of returnees'*.¹

1 <https://www.refworld.org/docid/538871264.html>

In the Policy Bulletin of 22 October 2014, the Congolese Director of Chancellery stated that there were no 'recorded' detentions of returnees.² The imprisonment of R23/2012, denied by the Chief Administrator of ANR, may not have been recorded but Judge Moore determined in 2017 that it had happened.

In October 2016 the family of Aristote Monsengo in the UK contacted their son's lawyer, Dr. Hani Zubeidi, and reported his disappearance following arrival at N'djili airport (Case Study 4). On 21 November 2016, the Country Manager Team 1 Africa emailed that: *'We believe that [redacted] was detained on arrival in Kinshasa on { } after being flagged on the DRC watch list. Until this is confirmed our assumption is that he remains detained (although { } deny this'* (FOI 48637).

British Embassy official, Therese Tshimanga confirmed in an email to colleagues that DGM were refusing to cooperate about the arrest of this returnee, Aristote Monsengo, who remains missing to date. The British Embassy appeared to have no way of investigating allegations of detention and 'further problems'. In the case of Aristote Monsengo, by 23 November 2016, the Embassy had instructed Ms. Tshimanga to cease contact with the President of the Bill Clinton Foundation for Peace (BCFP).

'I suspect that [redacted] did not contact [] any further on instruction from us to halt communications with him and as a result we have no further information at this stage.

I am concerned both for the individual and our ability to continue to return people if this or other allegations are not fully explored and found to be wanting.'

The Consul/Political also acknowledged the lack of investigation: *'I know at least one case was raised by the HMA [redacted] but for one or two others brought to our attention, detail has been lacking and any further investigation has petered out. The fact is that returns from Europe continue, and occasionally, allegations of ill-treatment on arrival'.*

A source informed the BCFP that *'a lot of people deported from Europe, USA etc are { } in the ANR.... some people {...} they used to take them in the night to unknown destination'*. Also, from another source that *'il y a beaucoup des gens expulsés de l'Europe, de la Grande Bretagne'*. (there are many people expelled from Europe and Great Britain).

2 <https://www.refworld.org/pdfid/544a19fe4.pdf>

CONTACT WITH MPs 2015–2018

James Berry, Keir Starmer, Richard Burden, Jacob Rees-Mogg, Alex Cunningham, John McDonnell, Kate Osamor are some of the MPs contacted by returnees' family and friends between 2015 and 2018. MPs contacted the Home Office and the FCO. In November 2016 Richard Burden MP asked a named day question following the disappearance of Aristote Monsengo, the son of a constituent.

He asked the Secretary of State for Foreign and Commonwealth Affairs what discussions he has had with authorities in the Democratic Republic of Congo on the reported detention of Aristote Monsengo; and if he would make a statement.

According to FOI 48637, the original response was to be:

'The FCO is aware of the case of {redacted}, who was returned from the UK to the Democratic Republic of the Congo on [redacted] 2016 following the rejection of his asylum claim. [redacted] had previously been convicted [redacted] [redacted]. It went on 'Your colleague provided more details which I included as background for the minister.'

However, it was agreed to amend this 'fairly frank response' to a standard response:

'We are aware of the case of Mr. Monsengo; however we do not comment on individual cases.' Tobias Ellwood, Parliamentary Under Secretary of State for Foreign and Commonwealth Affairs.

Investigations into the reported detention are described as having petered out by 25th November 2016 by the Deputy Ambassador, who states, *'Unless ... we corroborate them with a third party source e.g. [] or [] family in the UK, I'm not sure there's much to be gained by pursuing investigations further at this end'.*

The CPIT Legal Strategy team emailed that family *'appear (or we assume) to be using MPs/(redacted) to lobby us but we can't be sure. It seems to me it is for them to make the case to us directly'.*

At a time of pre-electoral heightened tension and repression in the DRC, when the Home Office knew of the recent arrest and detention of two returnees, one of whom had been flagged up on the DRC watch list, the Legal Strategy Team believed that *'on the facts we have, it is reasonable to go ahead'* with further returns (FOIR 48637). On 2 December 2016, a refused asylum seeker, determined to be low profile by the Home Office, was removed on his passport. He was arrested by ANR at N'djili airport (Case Study 5).

This 'specific' case was described as a *'high profile case which John McDonnell and Keir Starmer have written to the Home Secretary about. This was about the alleged torture of a Failed Asylum seeker we returned to DRC'.* The Bishop of Durham, Paul Butler, raised the case in July 2017 with Immigration Minister, Brandon Lewis, and Baroness Taylor during a meeting to discuss the post deportation problems of returnees to the DRC. Details had been *'included as background for the minister'.* It was decided that, if the Bishop asked

about *'specific cases'*, the response should be *'we're unable to comment'* and that he should be provided with a policy line which had been used to respond to a PQ on returns to the DRC.

UNRELIABLE MONITORING

In October 2015 I answered a call from a Congolese mobile number belonging to British Embassy official, Alice Motion. She was outside N'djili airport with a returnee removed on an invalid safe conduct with incorrect photographic ID. Ms. Motion insisted that it was a photo of the returnee on a safe conduct which had been re-issued. A DRC lawyer present at N'djili airport later met with the returnee and stated, *'Ce n'est pas son visage'*. (It is not his face) (Case Study 8). He emailed me a copy of the travel document and a photograph of the returnee. Contrary to what Ms. Motion had said, the document carried the wrong photograph. Ms. Motion informed me that she had carried out the monitoring of safe returns between October and December 2014, information submitted in country guidance case BM and others. This is referred to in FOIR 48637:

'Our position has allowed us to return DRC nationals since July 2015 and is largely based on a bit of case law issued in June 2015 which is in turn underpinned by country information, most of which was gathered by your predecessor, [redacted] at the end of 2014. However, this information is looking a little dated and there is not much else in the public domain about the situation for returnees.'

Following arrests in 2016, monitoring at the airport was again discussed. *'The one thing that arose when we last discussed was the possibility of someone from the Embassy being at the airport on arrival given this allegation and conditions generally. But that looked practically difficult for the Embassy and I suppose raises the question of why do this now?'* Freedom of Information 48637

Concerns were raised in correspondence about whether it was the right time to remove a lot of people to the DRC. The British Embassy was unable to monitor returns to N'djili airport at times of increased repression of opponents and peaceful protestors.

During the 2016–2018 pre-election periods Embassy staff and dependents were moved from Kinshasa. International troops were stationed in Brazzaville in December 2018 to evacuate foreign nationals from Kinshasa, if necessary. The Home Office/FCO thought it safe to remove people to the DRC. A removal on 24 December 2018 was stopped by legal representatives. In January 2019 there was a second attempted removal to the DRC.



CASE STUDIES

'It is slightly unfortunate we missed this and returned them.'

FOIR 48637

Before publication of the 2019 CPIN the Country Policy Information Team (CPIT) had requested information which could be *'reasonably broad, covering returns, monitoring, awareness of allegations but not verified etc. I can suggest a form of words, if that would help but of course it needs to be based on your experience. This would reassure us and decision makers, and bolster our position in the courts'*. (FOIR 48673). The case studies below demonstrate that a wider and more thorough approach to information gathering is required.

For the watch list referred to by the British Embassy (FOIR 48637) to include the names of the children of Congolese nationals who have been resident in the UK for over 20 years, the DRC authorities must be monitoring activities in the UK. Under Congolese law those who commit offences outside the country can also be arrested in the DRC for the same offence.

CASE STUDY 1

PROLONGED IMPRISONMENT AND ILL TREATMENT IN MAKALA PRISON OCTOBER 2017–2018

The returnee was removed to the DRC on 17 October 2017. His father was a well-known combatant in London.

The safe conduct was incomplete and had an incorrect name and date of birth. The data on the top left has been altered by hand. The returnee was arrested on arrival on 18 October 2017, the date stamped on the safe conduct. He was kept in a holding place before his transfer to prison, where he was detained in solitary confinement for a year. The Congolese NGO which came into contact with him in prison on 26 July 2018 arranged for a solicitor to accompany him to court in Kinshasa/Kalamu where he was granted conditional bail on 5 October 2018. Conditions of bail included not leaving Kinshasa and answering bail each Monday and Friday. When he failed to answer bail, a search warrant was issued for him. The accusation against him was participation in insurrectional movements. He had been in prison since his arrival at N'djili airport. The NGO stated that he had been held in degrading conditions and had suffered torture.

CASE STUDY 2

R23/2012 – POST REMOVAL ARREST AND TORTURE (2012)

As documented in Unsafe Return II, R23/2012 was removed on 7 June 2012 with four other returnees. He was arrested at N'djili airport and imprisoned and tortured for over six months. He escaped from the DRC and returned to the UK. He won his case in 2017 to revoke a second deportation order against him and he was granted asylum.

Shortly after his arrival in the DRC, British Embassy officials were interviewed as part of a Fact-finding Mission led by Amanda Wood (COIS) and Neil Roberts (British High Commission, Nairobi). The officials described how they oversaw the safe passage of five returnees through the immigration process at N'djili airport on 8 June 2012. The five returnees had been given 100 dollars each as they had not provided an address for the Embassy to arrange onward transport.³ The United Nations Joint Human Rights Office had informed the Home Office/FCO delegates in July 2012 that the General Administrator of ANR had confirmed the arrest and deportation of a second June 2012 returnee. This information was not included in the November 2012 Fact-finding Mission report.

In 2017, in a UK Court, Judge Moore determined that the FFM version of events was not reliable and that R23/2012 (Unsafe Return II) had been arrested, detained and tortured for several months post removal. During a phone call on 8 June 2012 the Appellant informed Detention Action that the five returnees were not being allowed to leave N'djili airport. I called him back.

8 June phone call to R23/2012

It is Catherine. I rang for your number for the NGO.

– I'm in prison.

How many of you?

– Five. We were handed over by Immigration to DRC Immigration. We were handed over to soldiers. We were told we were going to be taken to another office. We were taken to prison.

Which?

I don't know.

Although, the FCO denied having had any contact with R23/2012 in Kinshasa or with his family in the UK, Judge Moore determined that he had been taken by prison guards to the British Embassy and the family had been contacted by the Embassy. Baroness Warsi's response to Lord Roberts of Llandudno, in the House of Lords was, therefore, unreliable and misleading.

'No returnee was brought to the Embassy on 3 August 2012. We are not aware of any Embassy staff being contacted by any of the returnees' families in the United Kingdom – and no Embassy staff have sought to make such contact.'

Evidence submitted in the case of P & R from the British Consul was also unreliable. She stated that, in relation to an allegation of ill treatment by a June 2012 returnee, *'The FCO made enquiries in Kinshasa but were not able to substantiate the allegation'*.

3 <https://www.refworld.org/docid/538871264.html>

Rob Whiteman and Sarah Rapson, when Director of UK Visas and Immigration, stated respectively that none of the returnees were detained and an allegation of ill treatment made to the Embassy could not be substantiated.

A British Embassy official who oversaw the alleged safe passage through the immigration process of the five returnees states in the FFM report that a phone call had been made to DGM to check the returnees were alright.¹ S/he does not explain why s/he would do this if the five men had been allowed to leave N'djili airport.

According to the Home Office and the FCO 100 dollars were given to each returnee when they disembarked at N'djili airport.

The 2017 determination raised concerns about the lack of travel documents for returnees and determined that the Home Office knew of problems from an early stage.

CASE STUDY 3

DERICK MBIKAYI – R24/2012 IMPRISONED IN 2012 IN KINSHASA

I have been in touch with this returnee, R24/2012 (Unsafe Return II) since 2012 and with his family since 2013. He was also removed on 7 June 2012 and imprisoned in Kinshasa. He is named as a returnee in a UNJHRO email. He also maintains that he did not receive 100 dollars at N'djili airport on 8 June 2012 and that all five returnees were imprisoned. His mother in the UK told me in a face-to-face meeting that there was no contact from her son after his arrival at N'djili airport.

He was locked in a room at the airport with the other four returnees. The men were interrogated and accused of being combatants. He was imprisoned and interrogated. He feared for his life. After a period of imprisonment he was put into a van by guards and left abandoned. He had no family in the DRC. He was taken in and, as he had no ID, he stayed inside for fear of arrest. When I called him in November 2012, he was very apprehensive and he changed his phone number. Through a mutual acquaintance who had been in a UK detention centre with him, I met the mother of Derick Mbikayi in 2013. I re-established contact with her son.

An ID was secured for him under a different name. He does not feel safe.

CASE STUDY 4

POST RETURN ARREST AND DISAPPEARANCE (2016)

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

1 <https://www.refworld.org/docid/538871264.html>

UK was unable to receive further information about their son. On 15th November 2016, an email reveals that DGM was not cooperating with the Embassy over this arrest.

Hi Mr. Adu

Following our phone conversation, we are trying to monitor all Congolese returnees from the UK and we will like you to provide us with information if available of who has been detained by ANR or other government agencies. Just to recall that your contact from ANR (redacted) has referred me to DGM, and the latter is not cooperating about this case.

We need to find out the reason why Mosengo has been arrested as this has been more than 48 hours.

XX and XX,

Mr. Emmanuel Adu is the head of the Bill Clinton foundation and has alerted us about the arrest of Aristote Mosengo. He is in regular contact with a few Congolese returnees.

Regards,
Migration and Projects Officer
British Embassy DRC

Mr. Monsengo's father informed Dr. Hani Zubeidi, his son's lawyer in the UK, that Immigration officials at N'djili airport had advised that the family go to the airport to prevent his son's arrest by ANR, which would be *'bad for him'*. His son had no family in the DRC. My research has shown that some returnees were not sent to prison from the airport if they were met and a bribe paid. As many returnees had been in the UK since childhood, they had nobody to meet them. Ransoms between \$500–\$1,000 have been demanded for release from the airport. Security services have later turned up at the address given by the returnee, searching for them.

I understand that Aristote Monsengo was transferred from the first prison. In a newspaper article in the Référence Plus in January 2017, he was described as missing. Correspondence shows that the HO/FCO discussed corroborating evidence with the family in the UK but, to date, they have not contacted them.

Aristote was an offender and a member of APARECO. According to FOIR 48637 there was nothing in his asylum file to suggest he might be at risk if returned, yet the British Embassy states that he was *'flagged up on the DRC watch list'*. CPIT state that colleagues in casework had looked into AM's files and were not able to *'identify anything that stands out which may have brought [] to the interest to the Congolese'*. Country guidance case BM and others had determined that being a member per se of APARECO or being an offender would not place a returnee at risk. Information for BM and others was provided by an Embassy official who had provided inaccurate information over the phone to me in relation to Adamo Kizey (Case Study 8). She had monitored arrivals on six cases and did not see the safe departure from the airport in all cases.

By November 2016 Embassy official, Therese Tshimanga, had ceased contact with the BCFP *'on instruction from us to halt communication with him and as a result we have no further information at this stage'*. (FOIR 48637).

CASE STUDY 5

POST RETURN ARREST AND TORTURE OF REFUSED ASYLUM SEEKER DN

'I travelled to Kinshasa to find D. This proved very difficult due to the mortal danger to him, the inaccessibility of the place where he is hiding and my disability.'

Father of DN.

In a Rule 35 report by a doctor in Dungavel Immigration Removal Centre DN was flagged up as a victim of torture. When transferred from Dungavel to Colnbrook, DN was again identified as a victim of torture in a medico-legal report by Dr. Charmian Goldwyn.

DN had left the DRC on his own passport which was about to expire in early 2017. Despite the disappearance of Aristote Monsengo in October 2016, *'given the political climate'*, no MDA in post and an extremely stretched Embassy *'on essential staff only'* this asylum seeker was removed to the DRC on 2 December 2016. During his asylum case, it had been determined he was low profile and of no interest to DRC authorities.

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

DN made no contact with his family. The Bill Clinton Foundation for Peace informed me that an Immigration officer had reported that DN had been taken to ANR for in-depth interrogation. DN was tortured and required medical treatment. Some time after his extraction from prison, he was rushed into hospital for emergency treatment to remove poisons from his system. He underwent a gastric lavage and a barium enema.

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

Family in the UK have written to MP, Keir Starmer, about the arrest and torture of DN.

CASE STUDY 6

DETENTION AFTER ARRIVAL AT N'DJILI AIRPORT

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

In a statement he wrote that, at Nairobi airport, the escorts asked him if he wanted to call the Embassy in Kinshasa. He spoke to a woman. She confirmed that she worked in the

British Embassy and would meet him to guarantee his safety. She also told him that the Embassy worked with a charity for the safety of deported Congolese. He states that he asked the Congolese officers to check his travel document. They told him there was no point. During his interview at the airport he asked about the woman from the Embassy. He was told there was nobody who worked for the Embassy there. The Congolese officers had incorrect information on file about him.

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

CASE STUDY 7

6/7 JULY 2012 REMOVAL ON TRAVEL DOCUMENTS WITH NO PHOTO ID

'If the IO (Immigration Officer) is not satisfied that the papers are genuine or that the identity of the person matches the papers, they will not allow them to enter DRC and the person will be returned to the UK.'

Director of Chancellery DRC Country Policy Bulletin 24 October 2014²

The determination in BM and others refers to the *'unremarkable'* events on 7 July 2012 at N'djili airport, as described by the British Consul in a letter of November 2012.³ She alleges that three returnees were taken to ANR because identification could not be completed at the airport due to the lack of photographic ID on travel documents.

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

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

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

The British Consul relied on ANR assurances by phone that the three returnees had been released on the same day of arrival. It is well documented that ANR deny that people are being held in detention. She emphasised that the men picked up their luggage and

2 <https://www.refworld.org/pdfid/544a19fe4.pdf>

3 <https://www.refworld.org/pdfid/544a19fe4.pdf>

were transferred with it to ANR. A relative of one returnee told me that he had nothing, no wallet, no suitcase. The Consul makes no mention of the men being given 100 dollars each at the airport. Sarah Rapson, Head of UK Visas and Immigration, mentioned the payment in correspondence some years later.

The Consul's information about these three cases of detention in July were not included in the Fact-finding Mission Report of November 2012. The FFM report did include information provided in September 2012 by the Belgian authorities, which supported the hypothesis of safe return.

CASE STUDY 8

INVALID SAFE CONDUCT DOC (2015) FOIR 48637

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

The escorts contacted the Home Office and caseworker. I contacted family MP, James Berry. His staff stated that the Home Office and British High Commission in Nairobi were satisfied that the photo was of the returnee. The returnee was initially refused onward flight from Nairobi to Kinshasa on the document and was held for 24 hours at Nairobi airport. Escorts told me that the UK authorities were going to send photocopies of an old passport and that IOM would meet AK and assist him. When I said that IOM would not assist him, I was asked if I could contact a charity in Kinshasa, as 'we need a solution'. The following day AK was put on a flight to Kinshasa. He was refused entry at N'djili airport initially.

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

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

In October 2015 Dr. Hani Zubeidi sent a letter of complaint, a copy of the travel document and statements about this case to the Home Office. A reply (CMS Ref: 131-100666) was received on 18 November 2015 stating that the returnee '*has come into contact with a lot of personnel in the detention estate and they have all confirmed the photograph of your client reflected what was printed on his ETD*'. I raised this case with Keith Vaz, then Chair of the Home Affairs Select Committee. On 5th May 2016 he wrote

to the then Home Secretary, Theresa May, who replied that, without details, the Home Office could not investigate.

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

His arrest is referred to in FOI 48637 in November 2016.

CASE STUDY 9

IMPRISONMENT OF RETURNEES WITH MENTAL HEALTH PROBLEMS

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

The patient record shows registration at Heathrow Immigration Removal Centre on 20 February 2018. It indicates a mental health problem and that the patient started taking Olanzapine in prison. He reported that he was under the care of a mental health team. Staff advise that a psychiatrist and MHT review asap.

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

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

According to DRC Policy Bulletin 22 October 2014 (Annexe H)⁴ Congolese Immigration officers had been concerned by the behaviour of a returnee on 16 October 2014. They asked if the returnee had been sedated. A British Embassy official who was at the airport called the Country Manager, Returns Directorate, in the Home Office, who confirmed that the returnee had had a mental health assessment before removal but had been found to be *feigning* mental illness to avoid deportation. This case of monitoring appears to have been excluded from another Home Office document.

CASE STUDY 10

REMOVAL ON INCOMPLETE SAFE CONDUCT DOCUMENT

The returnee was removed on 15 November 2016 at a time when the British Embassy was investigating the arrest of an October 2016 returnee and when the British Embassy was in touch with the General Administrator of ANR.

I had spoken to him in the IRC prior to his removal. He was advised in the IRC that he should apply for asylum before 15.00 on the day before removal, a Sunday. A refusal was

4 <https://www.refworld.org/pdfid/544a19fe4.pdf>

issued before 18.00 hours on the Sunday and he was removed at 06.55 the following morning. He was removed on an incomplete safe conduct. The attached photo ID obscured information.

The returnee's partner had raised concerns about his mental health with staff at The Verne and at Colnbrook Immigration Removal Centre. Colnbrook staff said they would get back to her by 13/1/2017. To date they have not. Like several offenders monitored in this report, he had been signing and complying with probation before being detained.

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

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

His partner in the UK has raised the case with her MP Jacob Rees-Mogg.

CASE STUDY 11

IMPRISONMENT AND ILL TREATMENT

In an email to his UK lawyer the returnee described his imprisonment.

'I was incarcerated for four weeksI was subject to daily beating due to the fact that I can't speak the country language and I was accused of being a foreign rebel of some sort. I was held at Makala prison I wasn't being fed all my belongings were taken from me.

I fear for my safety on a daily basis.'

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

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

Currently, he has a place to sleep. His mother sends him money for food. He is not recognised in the DRC and it is not possible to complete the necessary paperwork for ID. This is corroborated by a Congolese barrister who states returnees who have been out of

the country for a long time will be unable to satisfy the requirements in law to acquire a voter's card.

In the UK the returnee had been taking medication for PTSD. Like other returnees he suffered difficulties due to the sudden withdrawal of PTSD medication.

CASE STUDY 12

BRIBE DEMANDED AT AIRPORT TO AVOID IMPRISONMENT

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

He was interviewed and asked why he had been sent back. He was threatened with prison until his situation was 'sorted out', unless he paid money. The DRC Ambassador Bernabé Ben Karubi had written in a letter to Lord Avebury that returnees who were offenders would be detained until their situation had been clarified by the justice system. 200 dollars were sent from the UK to a person in the DRC who went to the airport to secure release. The returnee had no ID and was unable to go out. Contact in 2019 has not been possible.

CASE STUDY 13

MONEY PAID TO AVOID IMPRISONMENT WITH OTHER RETURNEES

The returnee was raised in care from the age of eleven (Barnet Social Services). The date of arrival in the DRC, 12 November 2017, is stamped on the incomplete safe conduct. His photo is attached and obscures the information on the top right-hand side of the document. His partner said that they were in contact with a lawyer who advised the returnee to shout out and claim asylum at the airport. He did so but this was ignored. I spoke to the returnee in November 2017. He alleges returnees were sedated and he found speaking difficult. See Country Policy Bulletin 22 October 2014 – Annexe H.⁵ At N'djili airport other returnees were arrested. He avoided arrest as an official said he would pretend that he knew him, if he paid money. The official took him home where he stayed for about two weeks. He had to leave the address as the security forces turned up looking for him. He went to another family in December 2017. There is nobody he can trust.

Returnee 13 told me that officers were filming as they disembarked from the plane. He saw his photograph in an office at N'djili airport along with tens of others. He recognised the face of his friend who was still in the UK. He told me not to tell his friend so as not to frighten him. I decided to tell his friend the following Monday morning so that he could immediately contact his UK lawyer. At N'djili airport the returnee had exchanged phone numbers with one of the returnees who was taken to prison. They agreed to contact each other when he was released but he has not heard from him.

Like others, the returnee was very worried about his son in the UK. Children are distressed when speaking to their fathers on the phone. Keeping in touch by modern technology in the DRC is not easy for returnees with no fixed abode and no income.

5 <https://www.refworld.org/pdfid/544a19fe4.pdf>

There is the difficulty of network and no electricity to charge phones. At times of great insecurity in the country, for example, after the election on 30 December 2018, all Internet/SMS were shut down. The returnee has expressed his fear at seeing people killed and how he fears for his own safety. The returnee is now 'in the middle of nowhere'. He has been beaten up many times. He has been robbed. He does not know the system and has no ID. He is scared to speak because he stands out because of his lack of language. He has had malaria.

In February 2019 the returnee's partner told me that he is ill and needs money for medication. She said that men are often criticised for abandoning their families. The returnee was a man who had been in a relationship from the age of fifteen, who was there for his family and the wider family. She said he had done wrong but had served his sentence. Their son, now ten, asks where his father is and when he is coming back. She has not been able to contact him recently. I have not been able to contact him in February 2019. The family contacted Joan Ryan MP.

CASE STUDY 14

MONEY PAID FOR RELEASE FROM AIRPORT

A letter to this returnee, dated 2/10/2016, from Immigration Enforcement – Morton Hall Team, was addressed to Mr. Nexu. A notice of deportation arrangements (5/10/2016) gives Nexu as one of the returnee's names. The Immigration Factual Summary shows this is not one of his names. NEXUS is a Home Office operation.

When the returnee was detained for removal, his sister called the police station to speak to him. She was told there was nobody with her brother's name, only a man with a name that sounded like Nixon to her.

At N'djili airport over 1,000 dollars was demanded for release from the airport. Family in the UK sent 500 dollars to secure release.

CASE STUDY 15

MONEY PAID FOR RELEASE FROM AIRPORT

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

I was told that the returnee was at N'djili airport with DGM. He had been given a phone to call the friend in the DRC who had confirmed to DGM that they would collect him. Money would have to be paid before he would be allowed to leave.

CASE STUDY 16

LACK OF DOCUMENTATION AND HOMELESSNESS

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

The returnee was described as 'dirty' and 'crazy' by a human rights defender who met

him in Kinshasa. He was homeless and had nowhere to stay and had slept on the street. Communication with his family was difficult and his children would cry when speaking to him. In early 2017 the returnee sounded very distressed.

'Returnees without family in Kinshasa, they become mentally affected, with no one to care for them, no support, so become mentally ill, some just die.' RENADHOC – UK Fact-finding Mission Report 2012.⁶

In 2017 the returnee was arrested outside Makala prison when I was speaking to him on the phone. I immediately contacted the Bill Clinton Foundation for Peace and Amnesty International. A BCFP human rights defender was in Makala prison and looked for the returnee but did not find him. The returnee had been taken inside the prison as it is forbidden to use a mobile in the vicinity of Makala prison. The returnee handed over a mobile phone in order to get out of Makala.

In 2019 it was not possible to make contact with him. His father confirmed that his son's mobile had been stolen.

CASE STUDY 17

Maintaining contact with this returnee has proved difficult. He has had repeated bouts of malaria. He has no family in the DRC

CASE STUDY 18

FEMALE ASYLUM SEEKER REMOVED ON HER OWN PASSPORT 2018

The returnee is a female who arrived in the UK on a visa. She claimed asylum in the UK when her family was targeted in the DRC. She claimed her family were supporting democratic change in the DRC in late 2016 when they were taken away by security agents. Neighbours told her they had been arrested. Their phone rings out. Their home was ransacked by state agents.

She was detained in Yarls Wood Immigration Removal Centre before removal. She was removed on her own passport on 26 May 2018. Post return she has nowhere to live and no way to support herself. Mental and physical health issues are going untreated. At one point I asked the returnee if she was safe, she told me, *'Je ne suis pas en sécurité. Je dors là. A l'église.'* (I am not safe. I sleep there. In the church). Friends did take her in and it is believed she is with those friends at the present time. Her family is still missing.

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

6 <https://www.refworld.org/docid/538871264.html>

ADDITIONAL CASES

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

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

At a meeting with a family in London I was informed of the death of a relative at the hands of the state soon after his arrival.

DRC ELECTION 30 DECEMBER 2018

The election set to take place on 23 December 2018 was deferred for one week, until 30 December 2018. In the days following the election the Internet/SMS/ media were shutdown. Felix Tshisekedi was declared the elected President.

The Catholic National Episcopal Conference of Congo (CENCO) announced that this was not a true result, that Martin Fayulu had been elected. The Catholic Church had had 40,000 observers in place. Leaked information from the Independent National Electoral Commission (CENI) indicated that Felix Tshisekedi did not win the election. Republican Guards tried to prevent Martin Fayulu from presenting his appeal against the result to the Constitutional Court.

On 25 February 2019, at the Great Catholic Conferences held in Brussels, Cardinal Monsengwo denounced the election results as '*la continuation du regime de Kabila sous d'autres formes*' (the continuation of the Kabila regime in another guise) and the '*corruption erigée en système de gouvernance*' (corruption established as a system of governance). In this way '*Kabila s'est permis de rester fermement en place en fabriquant des résultats électoraux non conformes à la vérité des urnes*' (Kabila has been allowed to remain firmly in place through the fabrication of election results which did not correspond to the true vote)¹. The result has been widely criticised by analysts. Christopher Smith, Republican member of the US House of Representatives Committee on Foreign Affairs, declared on 21 January 2019 that the US should impose sanctions against those involved in the electoral fraud and visas refused.²

According to Thierry Vircoulon of the Institut français des relations internationales (French Institute of International Relations) the election of Tshisekedi gives the impression of being the result of '*tractations politiques en coulisses*' (political deals behind the scenes), not the vote cast.³

Mtre. Léonard Molupo Kapita, Co-Founder of the Parti Democratique et Socialiste Congolais (PDSCO) - Congolese Democratic Socialist Party – an academic and author and former elected deputy, stated during a teleconference in February 2019 that Felix Tshisekedi cannot form a government. He has between 20 – 30 elected deputies. Joseph Kabila's camp with over 330 elected deputies will form the government and '*gardent toutes les institutions*' (they retain all the institutions). Joseph Kabila still occupies the Presidential Palace. M. Molupo Kapita stated that to return UDPS members back to Congo would be to send them back to danger. He stressed that '*la situation n'a pas changé [] Renvoyer les petits, pas connus, envoyer à la mort, tout court, tout court.*' '*C'est les sacrifier, envoyer à la mort.*' (the situation has not changed { } To send back the little ones, the unknown ones is quite plainly, quite plainly to send them back to death.' 'It is to sacrifice them, to send them to death.'

1 <https://www.cathobel.be/2019/.../rd-congo-pour-le-cardinal-monse>

2 <https://youtube.be/-CuPGv4hpLA>

3 www.rtbef.be

RECOMMENDATIONS

On 29 March 2018 CPIT staff wrote *'I'd hope though that if there were systematic problems on return this would rise to the surface and be brought to post's attention via various avenues.'* (FOI 48637)

Problems have been rising to the surface for over a decade via various avenues and continue to do so. However, the British Embassy continues to rely on UNJHRO and IOM as *'informed'* sources even though both have repeatedly stated that these issues do not fall within their mandate and they do not monitor returnees. Amnesty International and Human Rights Watch do not monitor returnees. Their absence of information is taken as indicating absence of risk. Returnees who tried to report problems to the British Embassy were refused access and turned away in August 2012 and October 2015. In the UK families have reported their sons' imprisonment to British MPs who have written to the Home Secretary and the FCO with little follow up.

It is recommended that:

- » Independent monitoring of the removal process and post deportation experience of returnees be set up
- » A contact point be established in the UK where problems can be reported by returnees and families
- » Information on post return arrest and disappearances held by the British Embassy, Home Office and Foreign and Commonwealth Office be disclosed
- » Families who have reported the arrest of their sons/husbands to MPs be heard by the Home Affairs Select Committee
- » There be transparency about the procurement of safe conducts by the Home Office and the DGM secondee in London
- » Lawyers and MPs have sight of travel documents
- » FCO activity in the DRC through the British Embassy should not place Congolese human right activists and their sources at risk
- » International NGOs investigate thoroughly the allegations of arrest and ill treatment of returnees from the UK and Europe.

APPENDIX I

 **Ambassade de la République Démocratique du Congo
près le Royaume-Uni**

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LAISSEZ-PASSER TENANT LIEU DE TITRE DE VOYAGE



DELIVRE A :
PROFESSION :
LIEU & DATE NAISSANCE :
SEXE :
NATIONALITE :
ADRESSE (CONGO) :

ETAT CIVIL :

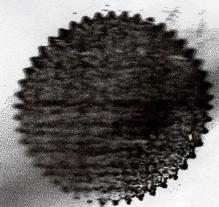
SIGNALEMENT

CHEVEUX : NOIRS
YEUX : BRUNS
VISAGE : OVALE
SIGNES PARTICULIERS : NEANT

LE PRESENT LAISSEZ-PASSER VALABLE POUR 3 MOIS A DATER DE SA SIGNATURE, EST DELIVRE SUIVANT LE MESSAGE N° 131.4/163/027/98 DU 5/3/98 DU MINISTRE DES AFFAIRES ETRANGERES, ET CONFORMEMENT AUX ARRANGEMENTS CONVENUS ENTRE LA REPUBLIQUE DEMOCRATIQUE DU CONGO ET LE ROYAUME-UNI DE GRANDE BRETAGNE ET DE L'IRLANDE DU NORD AU COURS DES POURPARLERS TENUS A LONDRES LE 5 SEPTEMBRE 2003 EN VUE DE FACILITER LE RAPATRIEMENT DE LA PERSONNE CI-HAUT PRENOMMEE.

FAIT A LONDRES, LE 29 AVRIL 2011


BARNABE KIKAYA BIN KARUBI
Ambassadeur



7

TRAVEL DOCUMENTS SIGNED BY AMBASSADOR

APPENDIX 2

République Démocratique du Congo
Ministère de l'Intérieur et Sécurité

N° 06 /DGM/DG/ *ABP* /015

Kinshasa, le 30 JUIL 2015


DIRECTION GÉNÉRALE DE MIGRATION

Le Cabinet du Directeur Général

WRONG PHOTO

**SAUF CONDUIT POUR RETOUR
EN REPUBLIQUE DEMOCRATIQUE DU CONGO**

VALABLE POUR SIX MOIS ET NON RENOUELABLE

RENSEIGNEMENTS

Noms	: A NAME
Profession	: -
Date de naissance	: -
Sexe	: -
Nationalité	: Congolaise/RDC
Etat-Civil	: -
Adresse en RDC	: -
Motif	: RETOUR
Routing	: LONDRES
Moyen de transport	: AVION

Fait à Kinshasa, le 30 JUIL 2015

DJOKO BAKI KONGOLO
Directeur du Cabinet
Ministère de l'Intérieur et Sécurité
Direction Générale de Migration





BIOGRAPHY CATHERINE RAMOS

Catherine Ramos is a director of Yorkshire Returnees Company and Justice First.

She holds a BA Hons degree in Spanish and Latin American studies from the University of Newcastle upon Tyne. She was a lecturer at Teesside University and the University of Durham. She is a member of the Chartered Institute of Linguists and an interpreter on the National Register.

She is the author of *Unsafe Return* and *Unsafe Return II* both of which have been scrutinised in UK courts. In a 2017 case the integrity of *Unsafe Return II* was not challenged by the Home Office.

In 2016 at a meeting convened in Brussels by Claude Moraes MEP, Chair of the Civil Liberties and Justice and Home Affairs Committee and Jude Kirton-Darling MEP she spoke about the use of incomplete travel documents and treatment of returnees following removal to the DRC.

In 2013 she gave evidence on the ill treatment of returnees to the DRC during the inquiry by the Home Affairs Select Committee into the asylum system.

She has monitored the post return experience of returnees to the DRC since 2007 and continues to maintain contact with many of the returnees and/or their families.

