



## **Ad-Hoc Query on Forced Return to the Democratic Republic of Congo (DRC)**

**Requested by IE EMN NCP on 16 March 2015**

**Compilation produced on 20 May 2015**

**Responses from Austria, Belgium, Croatia, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (22 in Total)**

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### **1. Background Information**

The Irish Naturalisation and Immigration Service is keen to ascertain other Member States' attitudes to forced return to the Democratic Republic of Congo.

We would like to ask the following questions:

1. Does your Member State currently carry out forced returns to the Democratic Republic of Congo (DRC)? [YES/NO]

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2. What are the main reasons for your Member State not carrying out forced returns to the DRC? E.g. policy issues, other factors mitigating against return to the DRC etc.

We would very much appreciate your responses by **13 April 2015**.

## **2. Responses**

		<b>Wider Dissemination?</b>	
	<b>Austria</b>	<b>Yes</b>	1. In 2014 Austria had neither voluntary returns nor forced returns/deportations to the DRC. 2. n/a Source: Federal Ministry of Interior
	<b>Belgium</b>	<b>Yes</b>	1. Yes 2. This can be a variety of reasons, but this has mostly to do with practical and logistical aspects such as costs, capacity issues in the detention centres, identification problem. There are no policy reasons to not forcibly return to DRC as it is ensured that human rights conventions, including those on international protection, are respected before carrying out forced returns.
	<b>Croatia</b>	<b>Yes</b>	1. Croatia currently does not carry out forced returns of foreigners to DRC. 2. A negligible number of illegal migrants from DRC (During 2014, a total of 5 foreigners who stated to be DRC citizens have been found crossing the state border illegally, of which 4 sought asylum. Three of them voluntarily left the Reception Centre for Asylum Seekers, while the procedure is still on-going for the fourth foreigner. The fifth one was readmitted to Serbia). Source: Ministry of the Interior
	<b>Czech Republic</b>	<b>Yes</b>	1. We have not monitored cases of forced returns to the Democratic Republic of Congo in recent years. 2. See above.
	<b>Finland</b>	<b>Yes</b>	1. Yes, Finland carries out forced returns to the DRC, although it happens rarely. 2. No particular factors mentioned, if the person does not have the necessary grounds to stay in Finland.

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	<b>France</b>	<b>Yes</b>	1. France has never stopped forced returns to the DRC and continues to use commercial flights to Kinshasa. In 2014, 26 forced returns were organized (55 in 2013)  2. N/A
	<b>Germany</b>	<b>Yes</b>	1. Yes, Germany carries out forced returns to DRC  2. n.a.
	<b>Greece</b>	<b>Yes</b>	1. No  2. We cannot carry out forced returns to DRC, because the representatives of the embassy do not cooperate and they claim that third country nationals come from the Republic de Congo.
	<b>Hungary</b>	<b>Yes</b>	1. Hungary currently does not carry out forced returns to the Democratic Republic of the Congo. The last forced return operation to DRC was carried out in February 2014 via air.  2. In general, the Office of Immigration and Nationality deals with very few cases involving DRC nationals, nevertheless, it examines the question of non-refoulement in particular in each and every case. In addition, the OIN experienced challenges regarding the identification and documentation of DRC nationals
	<b>Ireland</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Latvia</b>	<b>Yes</b>	1. Yes, Latvia carries out forced returns to DRC. The last case of forced return to DRC was in 2012.  2. There are no problems suspending or preventing from forced returns to DCR identified in Latvia. The experience of Latvia in the field of forced returns to DCR can be declared as successful.
	<b>Lithuania</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Luxembourg</b>	<b>Yes</b>	1. Yes. In 2014, Luxembourg made 1 forced return to the DRC in an organized joint flight organized by FRONTEX.  2. However, different reasons may exist which make it more difficult for Luxembourg to carry out forced returns to the DRC:

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			<p>a) Logistical problems (there are no direct flights, so the accompanying escorts have to make transfers in other airports), the cost of removal (the removal of a single individual is not cost effective).</p> <p>b) The First instance Administrative Court has already reversed a removal order, after having reversed the decision of the Ministry refusing the international protection application, considering that the application was well founded and that the applicant must benefit from the refugee status.</p>
	<b>Malta</b>	<b>Yes</b>	<p>1. Does your Member State currently carry out forced returns to the Democratic Republic of Congo (DRC)? <b>[NO]</b></p> <p>2. What are the main reasons for your [Member] State not carrying out forced returns to the DRC? E.g. policy issues, other factors mitigating against return to the DRC etc. MT has not yet managed to get the required documentation of the migrants claiming to be from DRC.</p>
	<b>Netherlands</b>	<b>Yes</b>	<p>1. The Netherlands limitedly carry out forced returns to the Democratic Republic of Congo.</p> <p>2. The persons who return by force commonly are in the possession of a valid original travel document. For those without a travel document it is difficult to obtain a travel document. A complicating factor is the fact that these persons are often not willing to cooperate with the Dutch authorities nor the Congolese authorities by providing information on their identity that is necessary to arrange their departure. The Congolese authorities find it difficult to determine the nationality (and identity) of persons who are unwilling to leave The Netherlands.</p>
	<b>Portugal</b>	<b>Yes</b>	<p>1. Yes, Portugal carries out forced returns to DRC.</p> <p>2. The main reason is because Portugal does not experience often this situation.</p>
	<b>Slovak Republic</b>	<b>Yes</b>	<p>1. Yes.</p> <p>2. N/A.</p>
	<b>Slovenia</b>	<b>Yes</b>	We haven't had cases of return to DRC Congo for several years. Return is applicable only in cases of voluntary return with assistance of IOM, carried out within AVR Programme.
	<b>Spain</b>	<b>Yes</b>	1. Yes
	<b>Sweden</b>	<b>Yes</b>	1. In 2014 The Swedish Police carried a total of 4 returns to DRC in 2014, three escorted returns and one voluntarily.

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	<b>United Kingdom</b>	<b>Yes</b>	<p>1. Yes. Each case is considered on its individual merits. Where a Congolese national is found not have to have a right to remain, they are expected to leave the UK. If they do not elect to do so, we may enforce their removal.</p> <p>The Home Office's position on returns to the DRC is set out in the Country Policy Bulletin: Democratic Republic of Congo, 2/2014, released in October 2014. The Bulletin is available at:  <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366714/DRC_PolicyBulletin_14_10_22_final.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366714/DRC_PolicyBulletin_14_10_22_final.pdf</a></p> <p>2. Individuals may raise legal challenges on various grounds which may delay or prevent removal.</p> <p>N.B. We are awaiting the outcome of a country guidance case heard by the Upper Tribunal (UT) of the Immigration and Asylum Chamber in March 2015 which considered, amongst other things, the safety of return of failed asylum seekers (FAS) and foreign national offenders (FNO) to the DRC. Existing caselaw on safety of return to the DRC, which is that FAS are not at risk per se, remains law until the UT promulgates its decision.</p> <p>The Home Office's position continues to be that there is not substantiated evidence that FAS or FNOs are at risk of ill-treatment on return. Background and consideration of relevant caselaw and country information on safety of return is in the Country Policy Bulletin of October 2014.</p>
	<b>Norway</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. N/A</p>

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