

ANNEX 1

Public

Registry Report on Proof of Identity Documents Available in the DRC

The purpose of this Report is to provide information about the various documents available in the Democratic Republic of the Congo (DRC) that may assist in establishing a person's identity, in the context of victims' applications to participate in the proceedings which must be supported by a proof of identity and/or proof of kinship.

The Court's experience so far has shown that applicants from the DRC are not always able to provide official documents, or they are sometimes of poor quality. This report therefore includes information concerning a wider range of documents likely to be available to victim applicants in the DRC in practice, and not only official documents. Information is also included about difficulties that applicants might encounter in obtaining or providing the documents discussed.

This information was gathered by the Victims' Participation and Reparations Section (VPRS) in 2007 and updated in 2013. In addition to researching legal and academic sources, VPRS consulted its local contacts in the DRC, including individuals and organisations that assist applicants to complete their applications to participate (intermediaries), as well as other local and international actors in Ituri and Kinshasa. The report also draws on the Court's experience with respect to the documents attached to applications to participate in judicial proceedings related to the DRC situation which have been received to date, as well as the experience of the VPRS staff based at the Court's Kinshasa field office. Examples of almost all the documents mentioned have been received by the VPRS, and samples are included in the Catalogue annexed to this Report.

I- Types of document available

1) Documents accepted by the authorities as proof of identity for the purpose of issuing a voting card

The law establishing the voting card as a provisional identification document for Congolese citizens was adopted in 2004 for the registration of voters in view of the 2006 elections (hereafter the "2004 Law").¹ The Independent Electoral Commission (CEI) was given responsibility for issuing the cards. This law provides that to obtain a voting card, applicants had to be able to prove their identity and age. There were two ways of doing this: by written proof, or testimonial evidence. A number of documents could be accepted as proof.² However in recognition of the near total lack of written proof of

¹ Preamble of Law No. 04/027 of 24 December 2004 on the registration and identification of voters in the Democratic Republic of the Congo, paragraph 10: "[TRANSLATION] Moreover, the voting card may initially be used as an identification card. Its issuance and delivery will offer a double incentive to citizens to sign up for identification and registration: obtain an official document which can be used to vote in elections and which can also be used prove the identity of the holder".

² Article 10, paragraph 1 of the 2004 Law:

identity held by the Congolese population, an alternative system of obtaining a voting card on the basis of testimonial evidence was written into the legislation.³ This provision came under criticism from observers who argued that the system of granting voting cards was open to fraud.

With the exception of a Congolese pension booklet and a testimony of five witnesses already registered on the electoral roll at the same Registration Centre (no sample available), samples of all the documents listed in the 2004 Law are contained in the Annex of the Report.

a) National identity card

The national identity card used to be available to Congolese citizens. However, the majority of Congolese do not have such a card, and currently, the voting card (discussed below) serves as an identity card in the DRC.⁴ In 1986, an order established a new identity card, replacing the card created in 1973, which was no longer valid.⁵ Not enough cards were produced and only a small number of inhabitants in certain districts of the capital, Kinshasa, received cards. In 1997, these identity cards were rejected by the new government; however no new identity document has since been introduced to replace the old one. The subsequent war and its impact, particularly in terms of pillaging, arson, and mass displacement of populations, have also contributed to keeping the number of those who hold the old Congolese national identity cards low. A sample of this document is provided in the Annex to this Report.

b) Certificate of nationality or attestation in lieu

The certificate of nationality (often replaced by the attestation in lieu thereof issued by the Ministry of Justice) is the only legal proof of Congolese nationality. Only a small

“[TRANSLATION] Any of the following documents shall be taken in consideration as proof of the age and identity of a voter:

- Certificate of nationality or attestation in lieu thereof;
- Citizen’s identity card;
- National passport;
- Secure national driver’s licence
- Congolese pension booklet issued by the National Social Insurance Institute or by any other legally recognised Congolese institution in lieu thereof;
- Student identity card;
- Employee identity card.”

³ Article 10, paragraph 2 of the 2004 law: “[TRANSLATION] In the absence of any of the above documents, the testimony of five witnesses already registered on the electoral roll at the same Registration Centre who have resided for at least five years in the electoral district covered by the Registration Centre shall be taken into consideration.”

⁴ Law No. 04/027 of 24 December 2004 on the registration and identification of voters in the Democratic Republic of the Congo (hereinafter “2004 Law on Voter Identification”) recognises the card as one of the documents that may be used to provide proof of the identity and age of a voter.

⁵ Order No. 86-099 of 22 March 1986 amending Order No. 73-004 of 5 January 1973 on identity cards.

minority of Congolese nationals have this document, which they generally obtain for the purpose of applying to practise a profession such as law, magistracy or the office public curator, or to obtain a passport. This document is difficult to obtain, especially due to the cumbersome administrative procedure involved. A sample of an attestation in lieu of Certificate of nationality is provided in the Annex to this Report.

c) Passport

A passport, which allows Congolese citizens to travel abroad, is held by only a tiny minority of the population. With 71% of the population of the DRC living below the poverty line, that is, on less than one dollar a day,⁶ the majority of Congolese people do not travel abroad. Passports are also very expensive and hard to come by, since they are only issued in Kinshasa. As a result of a measure introduced in 2012 by the DRC Ministry of Foreign Affairs, the total cost of obtaining a passport amounts to \$125, making it unaffordable for most people.⁷ A sample of this document is provided in the Annex to this Report.

d) Driver's licence

Driver's licences are held by very few Congolese, especially as the majority of the population have no use for them. A new biometric drivers licence has been created that can be obtained by people who apply for a new driver's licence. However, the old driver's licence is still valid, and is more common. Moreover, although the price of obtaining a driver's licence has been reduced, it can still cost between \$58 and \$90.⁸ A sample of this document is provided in the Annex to this Report.

e) Pension booklet

The pension booklet is a document issued by the *Institut national de sécurité sociale* (National Social Insurance Institute), or any other legally recognised Congolese institution, to workers who have duly paid their contributions during their working life. The booklet allows a worker to claim his or her pension benefits upon retirement. It can only be issued to retirees recognised by the State; that is, those who worked in the formal employment sector, which is a very tiny proportion of the population. The VPRS is not in possession of a sample of this document so no sample is included in the Annex to this Report.

⁶ UNDP, 30 January 2013, available at <http://www.cd.undp.org/programme.aspx?theme=2&composante=6>

⁷ Topcongo.be, 'Le Prix du Passeport Congolaise révu à la Baisse', 6 January 2012, available at: http://topcongo.be/site/index.php?option=com_content&view=article&id=455:le-prix-du-passeport-congolais-revu-a-la-baisse&catid=79&Itemid=467

⁸ Radiokapi.net, 'RDC : le Gouvernement réduit de 20% le prix du permis de conduire', 22 October 2012, available at: <http://radiokapi.net/societe/2012/10/22/rdc-le-gouvernement-reduit-de-20-le-prix-du-permis-de-conduire/>

f) *Student/pupil identity cards*

Pupil and student identity cards are issued to fee-paying pupils and students by schools, universities and other higher education institutions for the duration of the academic or school year. However, not all Congolese children and young people attend school and not all those who do attend school have such a card. A study commissioned by the DRC Ministry of Primary, Secondary and Vocational Education and supported by UNICEF and the Department for International Development of the United Kingdom shows that 'more than one in four children aged 5-17 is missing out on the fundamental right to education' in the DRC.⁹ At the university and secondary school levels many drop out after primary school for socio-economic reasons. Furthermore, in schools in rural areas, printing this type of document is difficult due to the lack of electricity and appropriate equipment. According to VPRS intermediaries in eastern DRC, the majority of children living in rural areas do not have official school documents. However, it may be possible to provide a school report (see below). A sample of these documents is provided in the Annex to this Report.

g) *Employee identity cards*

The employee identity card is issued mainly to public servants and to employees of some private firms and of international and non-governmental organisations. This document is only held by a tiny portion of the Congolese population, who work in the formal sector.¹⁰ A sample of these documents is provided in the Annex to this Report.

2) Other Identity documents issued by Congolese national or local authorities

h) *Voting card*

The voting card, which entitles Congolese citizens to vote, is the valid provisional identification document used in the DRC. This card was introduced in view of the 2006 elections and is issued on the basis of a number of pieces of supporting information. Of all forms of identity cards in the DRC, the voting card is the most common.

In the 2011 elections, the identity cards used for the elections in 2006 were not replaced. Only those that had come of voting age after 2006, or had lost their cards, were issued

⁹ UNICEF Newline, "To school, not to the mines: Investing in primary education in the Democratic Republic of the Congo", 21 March 2013, available at: http://www.unicef.org/infobycountry/drcongo_68298.html

¹⁰ According to data from the Ministry of Labour, the number of employees in the formal sector was 848,500, i.e. 4% of the population in 1999 with very little change since then. "Programme-cadre d'urgence de création d'emploi et de revenus en RDC", Ministère du Travail et de la prévoyance sociale, 2003.

with new ones.¹¹ According to the Independent National Electoral Commission of the DRC, approximately 50% of the population is registered to vote.¹² The VPRS's contacts in Ituri estimate that around half of the adult population in Ituri have a voting card. Certain categories of individuals are not eligible to obtain a voting card. For instance, members of the armed forces, the police, minors, those who have lost their civil rights as a result of a criminal conviction, those incapacitated by reason of mental illness and persons located outside the national territory are not eligible to obtain the card.¹³ Not all adults eligible to obtain a voting card actually registered, even though it is mandatory for all Congolese nationals of voting age. The VPRS is informed that the reasons for this may include the fact that many registration centres are too far from rural areas and very difficult to reach, bearing in mind the long distances, lack of transport and lack of security.

In some instances, the date of birth indicated in the card may not be accurate. Reportedly, this may be for a number of reasons, including that a minor may have given wrong information about his/her age in order to obtain a voting card.¹⁴ Moreover, the VPRS has noted that some individuals simply do not know their exact age or date of birth. A sample of a voting card and of a *fiche d'identification de l'électeur* (voter's Identification form) are provided in the Annex to this Report.

i) A laissez-passer

In absence of a passport, a *laissez-passer* is sufficient to travel to some neighbouring countries, such as Kenya or Uganda. A sample of this document is provided in the Annex to this Report.

j) Civil Status Acts

In the DRC the civil status registry system is not very well developed and it is rare, particularly in rural areas, for births, marriages and deaths to be officially declared and to be recorded in civil status registers. In rural areas such as Ituri, marriage certificates are not provided in the case of civil marriages. It is not common for people to declare

¹¹ According to the Independent National Election Commission of the DRC, there was an increase of 24.6% in the number of registered voters between the 2006 and 2011 elections: : "Le fichier électoral en RDC est significativement gonflé", 16 November 2011, available at: <http://www.biepd.org/site/accessoires/soutien/fichierelectrdc.pdf>

¹² See above, and also <http://www.ceni.gouv.cd/>

¹³ Article 8 of the 2004 Law: "[TRANSLATION] To qualify for registration on the electoral roll, a person must be:

- A Congolese national;
- Aged 18 years or over on the date of closure of identification and registration procedures;
- On the territory of the DRC at the time of identification and registration;
- Entitled to exercise his or her civil and political rights"

¹⁴ <http://radiokapi.net/actualite/2011/06/17/rfe-fraude-et-inscription-des-mineurs-au-katanga-la-ceni-promet-des-sanctions/#more-95041>; also see <http://observers.france24.com/fr/content/20110615-rdc-congo-elections-presidentielle-legislatives-enrolement-cni-electeur-carte-enfants-fraude>.

their children's births; consequently, parents are rarely in possession of a birth certificate.¹⁵ The same is true for deaths, which are not usually brought to the attention of any authority which might otherwise provide an attestation of death. The family registration booklet is also not widely used and available in the DRC. In 2010, UNICEF launched a campaign in the DRC to allow parents to register new born children free of charge within 30 days of the birth of the child. However, this is only a very recent development so is not expected to affect many applicants. Samples of a death certificate, birth certificate, marriage certificate, family registration booklet, attestation of orphanage, attestation of widowhood, attestation of *succession* and *prise en charge*, attestation on land's ownership and attestation of residence are provided in the Annex to this Report.

k) Certificate/attestation of loss of documents

In the DRC, it is possible to obtain an attestation of loss of official documents from the authority that issued the original. For the old identity card, as for other civil status documents, this requires going to the office of the civil status registrar. In the case of the voting card, an attestation of loss is issued by the Independent Electoral Commission. A fee is generally charged for these procedures. A sample of an attestation in lieu of identity document and attestation of *carence* are provided in the Annex to this Report.

l) Documents issued in rehabilitation centres for children associated with armed groups

Rehabilitation centres for children associated with armed groups prepare certain documents certified by a national authority (political, military authority), for the purpose of recording information about the child, such as the child's identity, age, family, village of origin, and armed groups with which the child was involved. Such documents include attestations of demobilisation from an armed group. A sample of this document is provided in the Annex to this Report.

m) Letter from local authority

It is a common practice in the DRC for those not in possession of identification documents to ask the chief of a village, community or camp to draw up a document certifying the identity, age and origin of an applicant. Such documents are usually handwritten and sometimes difficult to read. A sample of a typed form of *confirmation d'identité* is provided in the Annex to this Report.

n) Other documents of which a sample is available and provided in the Annex to this Report

¹⁵ However, if the parents have a document proving the child's identity, they can use this to obtain an attestation of birth from a civil status registrar. A fee has to be paid for this procedure.

- *Fiche d'Identification (recensement), Ministère de l'Administration du Territoire et de la Décentralisation* (Census Identification Form, Ministry of Territorial Administration and Decentralization)
- *Jugement de reconnaissance d'enfants sous-tutelle, Autorités judiciaires et administratives locales* (Judgment recognizing guardianship of children, issued by local judicial and administrative authorities)
- *Attestations de décès/lien de parenté/de logement/témoignage, Fiche de parcelle délivrées par un responsable local* (Certificates of death / kinship / housing / testimony or proof of land ownership, issued by a local official).

o) Other documents of which no sample is available

- **Tax notice/receipt**

Since very few Congolese people pay taxes, this type of document is rare in the DRC. Generally speaking, it is businesses in large urban centres that are subject to tax, and not the majority of the population living below the poverty line, especially in rural areas.

3. Others documents containing information of identification

p) Other documents issued by rehabilitation centres for children associated with armed groups

Rehabilitation centres for children associated with armed groups prepare (in coordination with the relevant national authority) certain documents for the purpose of recording information about the child, such as the child's identity, age, family, village of origin, and armed groups with which the child was involved. Such documents include verification forms, documentation form, certificates of family reunification, and family search forms. Samples of these documents are provided in the Annex to this Report.

q) Documents issued by medical bodies

These are files recording medical or psychological treatment (consultation charts, medical reports from a doctor, hospital or health centre, X-rays, prescriptions/bills for drugs). Such documents are now generally available in the DRC, but during times of conflict they were not always issued to those receiving treatment, usually for practical reasons. Even when such documents exist, they are often kept by the health centre or hospital. There is no strict central supervision of the hospitals in the DRC. A sample of this type of document is provided in the Annex to this Report.

r) Documents issued by religious, political or other institutions

- **Baptism card**
The baptism booklet (or baptism card) is a document issued only by the Catholic Church. All baptised children receive a baptism card, which is generally retained carefully because it is used for every new sacrament, especially marriage. A sample of this document is provided in the Annex to this Report.
- **Church membership cards**
Some churches, such as the Protestant and Catholic Churches, issue cards to their members. Some of them provide information on the civil status of the holder in addition to the holder's identity. A sample of this type of document is provided in the Annex to this Report.
- **Association and political party membership cards**
Some not-for-profit associations and political parties issue membership cards. These cards do not always contain detailed information. A sample of an association affiliation document is provided in the Annex to this Report.

s) **Other documents in relation to scholarship or professional activities (and not included in Part 1 of the Report)**

Schools may issue documents such as school reports and end-of-course certificates, which indicate the name and age of the holder. Employers may issue documents such as Function Assignment, Mission Order or commission membership. These cards do not always contain detailed information concerning the holder. Samples of these documents are provided in the Annex to this Report.

t) **Other documents for which a sample is available and provided in the Annex to this Report**

- *Carte d'identité de réfugié délivrée à un ressortissant de la RDC par un Etat tiers*, (Refugee identity card issued to a DRC national by a third State)
- *Déclaration de témoins* (Declaration of a witnesses), certified by a local official
- *Quittance, auteur inconnu* (Receipt from unidentified recipient)
- *Certificat d'immatriculation d'un véhicule* (Certificate of registration of vehicle; issuing authority illegible)

u) **Other documents for which no sample is available**

- **Card issued by a humanitarian agency or camp registration card**
This is a card issued by United Nations agencies and other intergovernmental and non-governmental organisations to refugees and displaced persons living in camps under their responsibility, in order to manage the assistance provided to them. Possession of such cards is not widespread in the DRC, and people affected are more likely to hold a camp registration card. A camp registration card is a card issued for identification purposes by United Nations agencies, as well as

other intergovernmental and non-governmental organisations, to refugees and displaced persons living in camps under their responsibility. According to those consulted, most persons who have stayed in camps in the DRC have been issued with such cards, and although this card should be returned upon leaving the camp, many still hold the card after repatriation.

- **Wills**

Generally speaking, written wills, whether authenticated before a notary or state official or not,¹⁶ are very uncommon in the DRC, particularly in rural areas.

II- General observations on the difficulties encountered by the Congolese population in providing documents

In addition to the limitations in the availability of certain documents already noted, Congolese citizens may face additional difficulties in providing copies of such documents to the Court. These include administrative, historical and social, geographical and material factors.

Administrative obstacles can be significant. These include the cumbersome nature and complexity of the processes for obtaining documents, corruption amongst civil servants, lack of resources on the part of the administration and the prohibitive cost of obtaining some documents.

Historical and social factors are also relevant. In general, the DRC does not have a culture of written documentation in the sense that many, especially those living in remote territories in rural areas, do not see the use for such documents in their daily lives. Conflicts, particularly in the East of the country, have undermined the administrative system and in some cases led to the loss or destruction of documents. The geographical size of the DRC is also significant in that the great distances that have to be covered, coupled with the lack of transport and security problems, complicate all these procedures.

Lastly, material and resource limitations also affect the ability of applicants to submit documents. As indicated above, poverty levels are high, and local intermediaries that assist them also have very limited or no financial resources. Paying to obtain a document, to travel to the place where the document may be obtained, or to photocopy it, can be an insurmountable obstacle. Furthermore, outside major urban areas, it is difficult to find places to make photocopies, especially in eastern DRC.

¹⁶ Articles 766-771 of the Code de la famille provide for both possibilities.