



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All Migrant Workers
and Members of Their Families**

**Initial report submitted by the Congo under
article 73 of the Convention, due in 2018^{*}, ^{**}**

[Date received: 27 March 2024]

* The present document is being issued without formal editing.

** The present document was submitted pursuant to the simplified reporting procedure. It contains the responses of the State party to the Committee's list of issues prior to reporting ([CMW/C/COG/QPR/1](#)).



I. Introduction

1. In the Republic of the Congo, the promotion and protection of human rights is a major focus of government action. The country's human rights policy is based on respect for universal values and the principles embodied in the Charter of the United Nations of 26 June 1945, the Universal Declaration of Human Rights of 10 December 1948, the African Charter on Human and Peoples' Rights of 26 June 1981, the Congolese Charter of National Unity and the Congolese Charter of Rights and Freedoms of 29 May 1991, and all of the relevant, duly ratified international and national human rights instruments.
2. The commitment of the Congo to the values of peace and social cohesion is proclaimed in the preamble of the Constitution of 25 October 2015. The Constitution affirms the necessity of building a republic based on the principles of equality, fraternity, sharing and solidarity, on the one hand, and ensuring the full development of each and every individual as part of a republic in which non-derogable human rights are respected, on the other. In addition, the Constitution establishes that an integral part of its text is formed by the fundamental principles proclaimed and guaranteed by the Charter of the United Nations of 26 June 1945, the Universal Declaration of Human Rights of 10 December 1948, the African Charter on Human and Peoples' Rights of 26 June 1981, the Congolese Charter of National Unity and the Congolese Charter of Rights and Freedoms of 29 May 1991 and all of the relevant, duly ratified international and national human rights instruments.
3. The Congo is a hospitable country that has welcomed many regular and irregular migrant workers for decades. It is against this backdrop that the Congo has undertaken to answer the questions raised in the list of issues drawn up prior to the submission of its initial report.
4. This report is the outcome of a participatory and inclusive national process. It was drawn up in a consultative manner, with the list of issues circulated to the relevant institutions and administrations and to human rights non-governmental organizations (NGOs) before it was drafted, so as to enable them to respond.
5. The Interministerial Committee for Monitoring Cooperation with International and Regional Mechanisms for the Promotion and Protection of Human Rights met regularly to ensure that all stakeholders were able to make an effective contribution to the process.
6. A validation meeting was held with all the relevant State representatives. Civil society and the National Human Rights Commission were involved in the preparation of the report from the outset.

II. Replies to the issues raised in the list of issues prior to submission of the initial report ([CMW/C/COG/QPR/1](#))

Replies to the issues raised in paragraph 1

7. The Congo has national laws that incorporate the rights of migrant workers and members of their families.
8. These include:
 - The Constitution of 25 October 2015, article 49 of which establishes that “any foreign national who is lawfully settled in the country shall benefit from the same rights and freedoms as nationals, under the conditions determined by treaties and laws, subject to reciprocity”
 - Act No. 12-2023 of 10 May 2023, amending and supplementing certain provisions of Act No. 37-2014, establishing the universal health insurance scheme
 - Act No. 41-2021 of 29 September 2021 on the right of asylum and the status of refugees
 - Act No. 29-2017 of 7 August 2017, amending and supplementing certain provisions of Act No. 23-96 of 6 June 1996 on the conditions of entry, stay and exit for foreigners

- Act No. 37-2014 of 27 June 2014, establishing the universal health insurance scheme
- Act No. 10-2012 of 4 July 2012, establishing the scheme for families and children facing difficulties
- Act No. 4/86 on the Social Security Code, which affords the same protection to migrant workers and nationals
- Act No. 45-75 of 15 March 1975, establishing the Labour Code, supplemented by Act No. 6-96 of 6 March 1996, amending and supplementing certain provisions of the Act

9. In order to guarantee the protection of the rights of all migrant workers and members of their families, the Government has concluded the following multilateral and bilateral conventions:

- The Multilateral Convention of the Inter-African Conference on Social Insurance, ratified by Decree No. 2009-170 of 11 June
- The Air Afrique Staff Convention, signed on 26 February 1990¹
- The bilateral convention between France and the Congo, which was signed on 11 February 1987 and entered into force on 1 June 1988
- The bilateral convention with Rwanda, signed on 23 December 2016

10. Cross-border workers, such as those from the Democratic Republic of the Congo, enjoy the same treatment and benefits as foreign nationals lawfully resident in the Congo. They do not face any discrimination and their labour relations are governed by the Labour Code in force in the Congo.

11. With a view to bringing its legislation into line with the Convention, the Congo has undertaken a reform by adopting Act No. 29-2017 of 7 August 2017, amending and supplementing certain provisions of Act No. 23-96 of 6 June 1996 on the conditions of entry, stay and exit for foreigners.

12. The Congo has signed several bilateral treaties and agreements to protect the rights of migrant workers and members of their families, such as the bilateral agreement between the Congo and Gabon on cross-border cooperation, signed in May 2023. This agreement establishes the forms of cooperation and free trade between the two States.

13. The Congo has also signed multilateral agreements, including Supplementary Act No. 8 of the Central African Economic and Monetary Community on the free movement of persons, which provides for freedom of movement within the Community, subject to the production of a valid national identity card of a member State or a valid passport.

14. The Congo is also a member of the International Labour Organization (ILO). As such, it has ratified a number of conventions, including:

- The ILO Migration for Employment Convention (Revised), 1949 (No. 97)
- The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

Replies to the issues raised in paragraph 2

15. Article 2 of Act No. 19-2005 of 24 November 2005 provides that “any natural or legal person, whether a national of the Congo or a foreign national, is free to undertake a commercial activity in the Congo, subject to compliance with the laws and regulations in force.” The Government of the Congo has taken measures to facilitate entrepreneurship, including for foreign nationals. Tradespersons’ cards are issued to tradespersons of all nationalities.

16. In the Congo, employers are allowed to freely recruit qualified staff without any restrictions. Members of migrant workers’ families have the right to participate in education,

¹ This convention entered into force in November 1992. Eleven countries are covered by this convention: Côte d’Ivoire, Burkina Faso, Mauritania, Togo, Benin, Chad, the Central African Republic, Mali, Senegal, the Niger and the Congo.

training leading to qualifications and leisure activities. There are no restrictions on their freedom of movement.²

17. The Government of the Congo has adopted policies and strategies relating to the rights of migrant workers and members of their families. Within this framework, the Government has set up the National Committee for Assistance to Refugees, whose work is partly funded by the Office of the United Nations High Commissioner for Refugees (UNHCR), and an immigration office responsible for processing the documents of foreign nationals.

Replies to the issues raised in paragraph 3

18. The government ministry or institution responsible for coordinating the work of the various institutions implementing the Convention is the Ministry of Labour and Social Security.

19. This Ministry is responsible for:

- Developing regulations relating to labour and social security
- Ensuring the organization and operation of labour and social security services
- Organizing and promoting partnership and international cooperation policies in relation to labour and social security
- Keeping statistics on social security up to date
- Organizing, promoting and overseeing social security for public and private sector employees

Replies to the issues raised in paragraph 5

20. The National Human Rights Commission was established under articles 214 and 215 of the Constitution of 25 October 2015 to ensure that the country has a body to monitor the promotion and protection of human rights. The Constitution accords the Commission the status of a constitutional body, thereby guaranteeing its independence and autonomy in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Commission's powers, organization and functioning are laid down in Act No. 30-2018 of 7 August 2018. This law granted the Commission three new powers: to take up matters on its own initiative, to take up matters referred to it by other institutions and to put a stop to human rights violations.

21. In the field of human rights protection, the Commission is empowered to:

- Receive and investigate individual and collective complaints of the violation of fundamental rights and freedoms
- Act on its own initiative to investigate facts and situations relating to human rights violations and monitor the human rights situation
- Carry out unannounced and scheduled visits to places of deprivation of liberty
- Conduct public surveys on the enjoyment of civil, political, social and cultural rights, as well as the accessibility of relevant services for all sections of society

22. The Commission has a staff of 150, organized as follows:

- 60 commissioners
- 80 officials working in the general secretariat
- 5 chiefs of staff
- 5 counsellors

² Act No. 41-2021 of 29 September 2021 on the right of asylum and the status of refugees, art. 23, and Act No. 4-2010 of 14 June 2010 on child protection, art. 27.

23. The Commission received and processed 60 complaints in 2021, 45 in 2022 and 36 in 2023. It has an emergency number – 1515 – and two other working numbers: 242 06 996 18 35 and 242 05 555 07 81.

24. The State has provided the Commission with a headquarters. The State allocates an annual budget to the Commission, which changes each year. This budget currently stands at 1.99 billion CFA francs (CFAF).³

25. The Congo plans to continue reforming the Commission in order to further strengthen its remit and independence.

Replies to the issues raised in paragraph 6

26. In order to promote and disseminate the Convention, and to raise the public's knowledge and understanding of it, the Government, with the support of UNHCR, organizes awareness-raising campaigns on the rights and duties of refugees. Advertisements are published online to provide guidance on how to obtain residency documents, and campaigns are carried out to raise awareness of the procedure for integrating refugees affected by the cessation clause into local communities. These activities have enabled the public to gain a better understanding of the situation and rights of migrants. They have helped to facilitate the integration and acceptance of migrants within communities.

Replies to the issues raised in paragraph 7

27. Initiatives to organize training programmes have also been taken. It is within this framework that the National Human Rights Commission and the Directorate General of Human Rights and Fundamental Freedoms have regularly organized training and capacity-building sessions for law enforcement officers, civil society organizations and other relevant actors. These are complemented by television programmes, including televised discussions, on human rights issues.

Replies to the issues raised in paragraph 8

28. Cooperation agreements, frameworks for exchange and dialogue and annual work plans have been signed with civil society organizations working in the field of human rights and agencies of the United Nations system in the Congo.

29. Where multilateral relations are concerned, the Government collaborates with all the agencies of the United Nations system in the Congo, and civil society organizations are involved. The Consultative Council of Civil Society and Non-Governmental Organizations was established under the Constitution of 25 October 2015. This body is regularly consulted about all human rights issues.

30. The Interministerial Commission for Drafting and Monitoring Reports for the Treaty Bodies, the Consultative Council of Civil Society and Non-Governmental Organizations and all other stakeholders were involved in drafting and authorizing the replies to the list of issues.

Replies to the issues raised in paragraph 10

31. To date, the Convention has not been applied by public officials in the administration. Similarly, it has never been invoked directly before the courts.

32. The judicial and administrative bodies competent to examine and decide on complaints from migrant workers and members of their families, including those in an irregular situation, are the courts and tribunals of the single court system in the Congo.

33. Pursuant to Act No. 1/84 of 20 January 1984 on the reorganization of legal aid, the Government, wishing to give all citizens access to justice, undertook to provide State assistance to any person facing significant costs who is unable to afford a lawyer. The aforementioned Act provides for legal aid offices to be set up for each court. However, no instruments have been put in place to that end since the law was promulgated. This has prevented a legal aid scheme from being implemented. At present, the technical services of

³ Finance Act, 2024 fiscal year.

the Ministry of Justice, Human Rights and the Promotion of Indigenous Peoples are examining the implementing regulations for this Act.

34. Any redress, including compensation, granted to the victims of violations of rights covered by the Convention are based on Congolese positive law.

35. In the Congo, migrant workers, like all citizens, have the right to take legal action before the national courts to defend their rights if they are violated.

Replies to the issues raised in paragraph 11

36. As part of the fight against the coronavirus disease (COVID-19) pandemic, the Government has taken a number of measures in connection with the declaration of a public health emergency:

(a) Epidemiological surveillance and the surveillance of entry points:

(i) Samples are taken from volunteers, travellers and contacts.

(ii) Passengers at entry points (air, land, river and sea borders) are systematically screened on an ongoing basis. Rapid response teams are deployed on an ongoing basis to actively identify cases in health-care facilities and in the community in Brazzaville and Pointe-Noire.

(b) Screening:

(i) Travellers, volunteers and patients who are ending their treatment are tested on an ongoing basis (monitoring).

(ii) A community-based biological response project is being implemented with the support of the World Health Organization.

(c) Prevention and control of infections, social mobilization and sharing information on risks:

(i) Billboards are still being leased to encourage the public to receive vaccination shots.

(d) Safety:

(i) Compliance with protective measures is monitored.

(ii) Entry and exit points in Brazzaville and Pointe-Noire are maintained.

(iii) Treatment centres, the Operations Centre for the Public Health Emergency,⁴ the Central Expanded Programme on Immunization⁵ and the unit for managing products and materials used to combat COVID-19 are secured.

(iv) Operations to provide emergency assistance and health care are carried out by the civil security services.

37. Following the outbreak of the first few cases of COVID-19, the Government decided to confine the population, permitting only members of certain professions, including those working in health care, the food industry and other essential services, to carry out their work. These measures were eased a few months later with the resumption of work at times arranged by employers, the free movement of personal vehicles and urban public transport, on the condition that the wearing of masks was made mandatory and limits were placed on the number of passengers.

38. Migrant workers and members of their families were subject to the same restrictive measures.

⁴ A space for coordinating public health measures with a view to establishing national multisectoral mechanisms for preventing, detecting and responding to health threats.

⁵ Expanded Programme on Immunization.

39. Access to health services in the Congo is guaranteed by the Constitution. There is no discrimination against migrant workers and their families. Appropriate health care was provided for all persons, including migrants.

40. With regard to the provision of health care for infected prisoners, article 89 of Act No. 20-2022 of 10 April 2022 on the Prison Code establishes that “the prison administration shall provide health care for prisoners. The right to health care is guaranteed for all categories of prisoners.”

41. Article 92 of the Act establishes that “medical services shall be provided to prisoners at the prison infirmary or, if necessary, in any other health facility.”

42. It was under this legal provision that a convicted person held at the Brazzaville Correctional Facility during the COVID-19 period was initially taken in at the Pierre Moubengo Central Army Hospital before being medically evacuated to Europe.

43. In order to be able to provide immediate care and deal with any eventuality, the Government opened health units in the country’s prisons.

44. With a view to combating infections in prisons and providing health care to inmates affected by certain ailments, and in view of the extreme vulnerability of this group of people, who live in a closed and sometimes overcrowded and insufficiently ventilated environment, the Government has worked closely with programmes such as the Tuberculosis and HIV/AIDS Control Plan for several years.

45. Each year, prison directors thus take part in a training seminar on combating these pandemics, organized by the Plan’s coordinators.

46. Aside from tuberculosis and HIV/AIDS, other infections and epidemics are present in the prisons, including scabies, influenza, oedemas and many others.

47. In order to combat these illnesses, health professionals often disinfect and spray prison cells.

48. If necessary, pest control operations can be carried out, as they were during the COVID-19 pandemic. Hygiene measures, such as cleaning toilets and washing and ironing clothes, are also strictly observed.

Replies to the issues raised in paragraph 12

49. Article 49 of the Constitution of 25 October 2015 establishes that any foreign national who is lawfully settled in the country has the same rights and freedoms as nationals.

50. The Civil Code and the Labour Code enhance the protection afforded to migrants by allowing them to find employment matching their employment profile.

51. Under the Family Code, children born in the Congo to migrant parents may be registered, obtain a birth certificate and subsequently apply for Congolese nationality. For security reasons, restrictions are in place for jobs with reserved functions, including jobs in the army and the defence sector and jobs that involve marketing certain products. Irregular migrants can regularize their situation. The Congo does not detain persons for entering the country in an irregular manner; it gives people in an irregular situation the opportunity to regularize their situation. For instance, former Rwandan refugees whose refugee status has been withdrawn have generally not regularized their situation, but they have not been expelled.

Replies to the issues raised in paragraph 13

52. The Government has taken measures to combat human trafficking and the exploitation of foreigners. It ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Convention on Cooperation and Mutual Legal Assistance between the States of the Economic Community of Central African States. It adopted Act No. 22-2019 of 17 June 2019 on combating trafficking in persons and Act No. 4-2010 of 14 June 2010 on child protection.

Replies to the issues raised in paragraph 14

53. A working group on child protection has been set up in the Congo in order to combat trafficking in children. The Constitution of 25 October 2015 guarantees that foreigners are granted rights and protection in accordance with the international legal instruments to which the Congo has voluntarily subscribed. The Criminal Code prohibits all forms of sexual abuse, without distinction.

54. A few cases of abuse of certain migrants engaged in domestic work have been identified, related to their remuneration. In such cases, legal and technical assistance has been provided by the relevant government departments, NGOs and UNHCR. Complaints were lodged with the courts, proceedings were initiated and the perpetrators of these offences were convicted in accordance with the laws and regulations in force.

55. Following the conviction of human traffickers during criminal hearings held in Pointe-Noire and Brazzaville in 2020, efforts have continued along these lines. A number of cases are under investigation by the Pointe-Noire *Tribunal de grande instance* (court of major jurisdiction). Other cases, where investigations have been completed, are pending consideration at the next session of criminal hearings.

Replies to the issues raised in paragraph 15

56. As part of the implementation of the legal framework on combating trafficking in persons, actors in the criminal justice system have received training with support from technical and financial partners such as the United Nations Office on Drugs and Crime (UNODC) and the Embassy of the United States of America in the Congo. More than 20 judges and prosecutors have received training about trafficking in persons and child sexual exploitation.

57. To improve the protection of victims of trafficking, a legal framework guaranteeing such protection must first be established.

58. To that end, Title III of Act No. 22-2019 of 17 June 2019 on combating trafficking in persons is devoted to aspects relating to the prevention of trafficking in persons and the identification, protection and assistance of victims and witnesses. The Act requires certain authorities, such as criminal investigation officers, public prosecutors, investigating judges and juvenile judges, to provide victims with information on the nature of the protection available to them (art. 32).

59. Furthermore, juvenile judges, who play a key role in ensuring care for children, are often involved in decisions on protective measures. They can issue placement orders for children. They work closely with the services of the Department for Legal Protection of Children and the Ministry of Social Affairs.

60. The mechanisms for the protection and care of victims of trafficking provided by the Act, including the National Commission to Combat Trafficking in Persons, are currently being put in place.

61. Criminal hearings have been held regularly since 2018, with an average of one criminal session per year.

62. In the area of sex tourism, the Criminal Code prohibits prostitution and procuring. These practices are also prohibited under the Act on combating trafficking in persons. This legal instrument was strengthened by the Mouebarra Act,⁶ which punishes all forms of violence against women.

63. Awareness-raising activities and capacity-building workshops on the rights and duties of migrants have been organized with support from UNHCR, the International Organization for Migration (IOM) and NGOs working on mixed migration issues. These NGOs include the Agence d'assistance aux réfugiés au Congo (Agency for the Assistance of Refugees in the Congo), the Observatoire congolais de lutte contre l'apatridie (Congolese Anti-Statelessness Observatory), the Observatoire Congolais des Droits de l'Homme (Congolese

⁶ Act No. 19-2022 of 4 May 2022, the Mouebarra Act, on combating violence against women.

Human Rights Observatory) and the Réseau des Intervenants sur le Phénomène des Enfants en Rupture (Network of Stakeholders Working to Address the Phenomenon of Marginalized Children).

64. A child protection network exists at the national level. It is led by the Government with support from a number of organizations (the United Nations Children's Fund (UNICEF), UNHCR, the Red Cross, the Observatoire congolais de lutte contre l'apatridie and the Réseau des Intervenants sur le Phénomène des Enfants en Rupture).

65. The national legal framework has been strengthened by the law addressing the promotion and protection of children's rights.⁷

66. In the Congo, each *tribunal de grande instance* has a juvenile judge who is responsible for ruling on matters concerning children. The Department for Legal Protection of Children has also been set up; its responsibilities include enforcing child protection laws and conducting studies to help develop laws on the prevention of juvenile delinquency and on child protection.

67. An alert system is in place to help manage operations. This system brings together all actors involved in child protection. Its objective is to identify, assist and protect children who are at risk or in conflict with the law. Similarly, there is an operational partnership with private structures, such as orphanages, that assist with the placement of children in institutional care. NGOs such as the Réseau des Intervenants sur le Phénomène des Enfants en Rupture, the Association des Professionnels de la Protection de l'Enfant (Association of Child Protection Professionals) and the Observatoire congolais de lutte contre l'apatridie work closely with the Government to identify and refer cases.

68. At the local level, the Government has set up social service offices, which are operational units whose tasks include identifying and supporting at-risk children (unaccompanied children, separated children, out-of-school children, etc.).

69. As part of the implementation of the Act on child protection, a draft decree has been drawn up to establish the types of work and categories of businesses where children are prohibited and the age up to which such prohibitions are applicable.

70. Businesses also receive inspection visits from a team of labour inspectors.

Replies to the issues raised in paragraph 16

71. The Government has received no official complaints of acts of arbitrary detention, rape or abuse of authority committed by members of the police forces during the mass expulsion of migrants from the Democratic Republic of the Congo. As a result, no steps have been taken to investigate such allegations.

Replies to the issues raised in paragraph 17

72. In the Congo, migrant workers and members of their families who are investigated, arrested, detained or facing expulsion for immigration-related offences have the right to have access to legal counsel of their own choosing, at their own expense. The law places no restrictions on lawyers' access to their clients and to all the information pertaining to the client's case. It provides for free legal aid for indigent migrant workers.⁸

73. In order to give effect in law and in practice to the obligation contained in article 16 (7) of the Convention to allow detained migrant workers and members of their families to communicate with the consular and diplomatic authorities of their State of origin, the judiciary informs those authorities of the detention of the individuals concerned and the reasons for their detention, notifies the individuals of their right to correspond and meets with their representatives and makes arrangements with them for their legal representation.

⁷ Act No. 4-2010 of 14 June 2010 on child protection.

⁸ Act No. 1/84 of 20 January 1984 on the reorganization of legal aid.

Replies to the issues raised in paragraph 18

74. In accordance with Act No. 51-83 of 21 April 1983 on the Code of Civil, Commercial, Administrative and Financial Procedure and Act No. 19-99 of 15 August 1999 amending and supplementing certain provisions of Act No. 22-92 of 20 August 1992 on the organization of the judiciary, a migrant worker may challenge an expulsion order before the administrative division of the Supreme Court.

75. Before applying for the annulment of an expulsion order, migrant workers have a two-month period within which they may submit an application to the administrative authority that issued the order or a higher authority in order to have that order revoked. At the specific request of the migrant worker, the Supreme Court may, in exceptional cases, suspend the implementation of the order if the grounds for appeal appear strong and the harm suffered by the migrant worker is irreparable.

Replies to the issues raised in paragraph 19

76. Embassies have legal departments that are responsible for providing guidance when migrant workers have suffered abuse and for monitoring their cases. Such abuse was reported in China during the COVID-19 pandemic, when Congolese students and workers were assaulted⁹ or expelled from their accommodation. These cases were swiftly reported to the Congolese Embassy in China and then carefully managed so as to restore the rights of the Congolese students and workers concerned. Once cases have been brought to an embassy's attention, the embassy's staff visit the places where their compatriots are being held in order to ensure that their most basic rights are respected.

77. The same situation occurred at the start of the crisis in Ukraine, when a number of Congolese nationals were abused and left to fend for themselves. Accredited ambassadors in countries close to Ukraine were able to reach the Congolese nationals in difficulty and provide them with assistance.

78. Migrant workers and members of their families in the Congo have effective access to the protection and assistance of the consular or diplomatic authorities of their State of origin, in particular in cases of abuse, arrest, detention or expulsion. The Embassy of Libya, for instance, has provided assistance to detained Libyan citizens.

Replies to the issues raised in paragraph 20

79. The Congo has set up a national structure known as the National Committee for Assistance to Refugees, the objective of which is to guarantee the protection of refugees. A formal partnership has been established with UNHCR through a host State agreement.

80. Information brochures have been designed on the rights and duties of refugees. A working group on protection, which brings together all State and non-State actors working on refugee issues, has also been set up.

81. A field office of IOM addresses the cases of migrants who are not refugees.

82. The Congo has ratified the 1951 Convention relating to the Status of Refugees, which expressly advocates respect for refugees' rights. At the national level, in 2020, the Congo adopted the Act on the right of asylum and the status of refugees, which contains relevant provisions on refugees' rights.

83. Refugees and other migrants may contact the competent bodies to receive assistance. They may also request support from the immigration service.

84. Article 22 of Act No. 41-2021 of 29 September 2021 on the right of asylum and the status of refugees establishes the principle of non-discrimination between nationals and migrants.

⁹ See the note verbale on the situation from the Congolese Ambassador to China.

85. With regard to good practices, the Congo made formal commitments at the Global Forum on Migration and Development. Commitments were made in areas such as the facilitation of access to employment and access to arable land.

Replies to the issues raised in paragraph 22

86. There are no restrictions on the right to health in the Congo. Public health coverage is available to both nationals and migrants. Vaccination policies cover the children of both nationals and foreigners. The cost of health care does not differ depending on whether an individual is a national or a migrant.

87. However, in areas with a high concentration of refugees,¹⁰ UNHCR and its partners have set up a refugee assistance programme that provides refugees with free health care. Nationals and other migrants are unfortunately unable to access such care.

Replies to the issues raised in paragraph 23

88. The Government has taken the necessary steps to ensure that all children in the Congo, including those of migrants, attend school. In this connection, article 29 of the Constitution establishes that education is compulsory for all children in the Congo up to the age of 16 years. There are no restrictions on access to education for children of migrant workers.

89. Article 27 of Act No. 4-2010 of 14 June 2010 on child protection provides that:

“All children living in the territory of the Republic of the Congo have the right, irrespective of their origin, nationality, sex, creed or level of wealth, to an education that allows for the full development of their intellectual, artistic, moral and physical capacities, in addition to their civic and professional training. They shall be entitled to receive a free primary and secondary education in a public school. It is compulsory for children to be enrolled in primary education from the age of 6 years.”

90. However, conditions diverge somewhat at the higher education level, as enrolment fees vary depending on whether the student is a national or a foreigner.

Replies to the issues raised in paragraph 24

91. The Government of the Congo has taken steps to facilitate the registration, free of charge, of all children born in the country.¹¹ There are no restrictions on birth registration. All children born in the Congo, including those of migrants, are entitled to a birth certificate. Congolese nationality law¹² allows these children to obtain Congolese nationality upon reaching the age of majority and also gives them the option of retaining their original nationality.

92. The Government has adopted a national policy for the reform and modernization of civil registration.¹³ The policy seeks to ensure that all births are registered and sets a target of zero children without a birth certificate. In 2018, the Government launched a census focusing on civil status, the objective of which is to identify all children born in the Congo who have not been registered.

93. In addition, the Congo has ratified the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which define the mechanisms and means for reducing the risk of statelessness and facilitating the acquisition of identity documents by individuals who would otherwise be stateless. These provisions benefit all children, including those of foreign migrants in the Departments of Likouala (Bétou and Bongoumba) and Pool (Ngabé).

94. In application of the recommendations of the Conference of African Ministers responsible for Civil Registration, including those made in Lusaka in 2019, civil registration

¹⁰ Refugees living in the Likouala Department (Bétou and Bongoumba) benefit from free health care provided by UNHCR through its partners.

¹¹ Congolese Family Code of 1984.

¹² Act No. 35-61 of 1961 on the Congolese Nationality Code.

¹³ National Policy to Reform and Modernize Civil Registration.

services have, since 2020, been expanded to all public and private health facilities under Joint Order No. 14888/MID/MSPFID of 13 November 2020. The Order was issued by the ministers responsible for the interior and for health, on the establishment, powers and organization of ancillary civil registration centres in health facilities. To that end, assistant civil registration officials will soon be assigned to the public health facilities.

95. Additional measures adopted have included:

- Decree No. 2019-199 of 12 July 2019 on special measures for granting civil status documents to Indigenous Peoples
- Decree No. 2021-169 of 29 April 2021 on the establishment, powers, organization and functioning of the national civil registration coordinating committee
- Decree No. 2022-308 of 13 June 2022 on the national policy to reform and modernize civil registration (2022–2026)
- The implementation of the “Mokanda ya mbotama”, or “Birth certificate”, project

96. To prevent cases of statelessness, a census focusing on civil status has been carried out in the Congo every year since 2018, in all the main civil registration centres, in order to ascertain the number of children and adults born in the country who do not have birth certificates.

97. A draft bill has been introduced to put in place a special procedure for reporting and registering births. The Supreme Court has already issued a favourable opinion on the draft, which is now in the approval process.

98. In addition, the Congo has been working to set up a national digital identity system since 2021, with support from the African Development Bank. The feasibility studies and impact assessments were all completed in 2021. Information on the matter has been provided to the main stakeholders working in the country on issues relating to identity and identification.

99. Other measures have also been taken, including:

- The regular provision of registers and other supplies to civil registration centres, with support from UNHCR
- The organization of workshops for the authorities and concerned stakeholders to raise awareness of the fact that, by law, the delivery of original birth certificates, birth registration, requests for judgments for purposes of late birth registration and page initialling and page number notations are free of charge
- The reopening of main and ancillary centres and the opening of new centres to overcome barriers related to distance and accessibility
- Removal of the condition that costs related to the mother’s stay in the maternity clinic must be paid before the birth certificate can be issued
- The gradual opening of ancillary civil registration centres in maternity clinics
- The recruitment and training of a sufficient number of public officials
- The gradual implementation by the Congolese Information Systems Agency of the Comprehensive Civil Status Registration System, with a view to making the existing civil registration system more modern, integrated and efficient and allowing for effective civil registration and the collection of high-quality statistics, in line with international rules and standards

Replies to the issues raised in paragraph 25

100. In the Congo, there are no provisions prohibiting migrant workers from freely disposing of their property and assets. For example, when refugees are repatriated, the tripartite agreement defines and provides for the transfer of their goods to their country of origin. For refugees, such goods are exempt from all customs duties. For other categories, there are no discriminatory restrictions either, provided the carriers prove their right to ownership of the property.

Replies to the issues raised in paragraph 26

101. The Congo has no pre-departure programmes for Congolese nationals planning to emigrate.

Replies to the issues raised in paragraph 27

102. The right to form associations is recognized by the Congolese Constitution of 25 October 2015 for migrant workers and members of their families,¹⁴ in accordance with article 40 of the Convention and parts I and II of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). However, a number of restrictions are in place to limit the scope of action of these associations, which must not engage in subversive activities or perform acts contrary to the aims and principles of the United Nations. The associations must not be transformed into political parties with the purpose of carrying out activities from Congolese territory. The restriction is imposed only on the types of activities carried out.

Replies to the issues raised in paragraph 28

103. The Congo is engaged in a revision process aimed at amending its legislation and otherwise facilitating the exercise by Congolese migrant workers and members of their families residing abroad of the rights to participate in public affairs, to vote and to be elected to public office in the country.

Replies to the issues raised in paragraph 32

104. The Congo has ratified international treaties and regional agreements which, in addition to the Constitution, provide a solid legal framework for child protection. The legislative framework consists mainly of Act No. 4-2010 of 14 June 2010 on child protection, which includes provisions for street children and children without a fixed domicile.¹⁵

105. After ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Congo set about harmonizing its legislation on child victims of trafficking by adopting Act No. 4-2010 of 14 June 2010 on child protection and Act No. 22-2019 of 17 June 2019 on combating trafficking in persons.

106. It should also be noted that article 9 of Act No. 5-2011 of 25 February 2011, on the promotion and protection of Indigenous Peoples, prohibits any exploitation of Indigenous children.

107. The child protection system has been strengthened with the adoption of legislation defining the role and responsibilities of care structures such as orphanages¹⁶ and of the Directorate General of Social Affairs.¹⁷

Replies to the issues raised in paragraph 33

108. The Government has taken measures to protect migrant children against trafficking and to facilitate their access to justice. Congolese courts have heard three cases involving children trafficked from Benin. In rulings handed down by the Pointe-Noire and Brazzaville Criminal Courts in 2018 and 2020, nine people – seven women and two men – were convicted.

Replies to the issues raised in paragraph 34

109. The Congolese law governing conditions of entry and residence in the country and exit from it does not prevent illegal immigrants from regularizing their situation. There is a

¹⁴ Constitution of 25 October 2015, art. 27.

¹⁵ Act No. 4-2010 of 14 June 2010 on child protection, art. 13.

¹⁶ Decree No. 2011-341 setting the conditions and procedures for the creation and opening of private childcare and child accommodation facilities.

¹⁷ Decree No. 2010-606 of 21 September 2020 defined the remit and organization of the Directorate General of Social Affairs.

deadline for regularization. Once their situation has been regularized, they receive their biometric residence permits, in accordance with the law and the implementing decree.¹⁸

110. As far as refugees are concerned, the Government, through the National Committee for Assistance to Refugees, issues refugee cards to people who have obtained refugee status (refugee status determination (RSD) or prima facie status). These refugee cards serve as identity documents and are recognized by government agencies. Refugees can use the cards to carry out banking transactions and move around freely. Asylum-seekers are issued with a provisional residence permit, which is renewable until a decision is reached on their asylum applications. Like refugee cards, the provisional residence permits also serve as residence documents for this category.¹⁹

111. Article 49 of the Constitution of 25 October 2015 establishes that “any foreign national who is lawfully settled in the country shall benefit from the same rights and freedoms as nationals, under the conditions determined by treaties and laws, subject to reciprocity”.

112. Act No. 29-2017 of 7 August 2017, amending and supplementing certain provisions of Act No. 23-96 of 6 June 1996 on the conditions of entry, stay and exit for foreigners in the Congo, has similar provisions.

113. The legislative framework consists mainly of Act No. 4-2010 of 14 June 2010 on child protection, which in article 13 includes provisions for street children and children without a fixed domicile. With regard to child victims of trafficking in particular, after ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Congo undertook to comply with it through Act No. 4-2010 of 14 June 2010, in particular articles 60 and 115, and Act No. 22-2019 of 17 June 2019 on combating trafficking in persons, which prohibit and punish the trafficking and sale of children and all forms of exploitation of children.

Replies to the issues raised in paragraph 35

- Act No. 19-2022 of 4 May 2022, the Mouebara Act, on combating violence against women
- Act No. 9-2022 of 11 March 2022 on preventing and combating corruption and related offences
- Act No. 88-2022 of 30 December 2022 on public-private partnership contracts
- Act No. 41-2021 of 29 September 2021 on the right of asylum and the status of refugees
- Act No. 27-2020 of 5 June 2020 on cybercrime
- Act No. 43-2021 of 19 October 2021 on social welfare guidelines
- Act No. 6-2019 of 5 March 2019 on urban planning and habitat
- Act No. 22-2019 of 17 June 2019 on combating trafficking in persons
- Act No. 3-2019 of 7 February 2019 establishing the High Authority to Combat Corruption
- Act No. 22-2019 of 24 May 2019 on the establishment, powers, composition and functioning of the National Commission for Transparency and Accountability in Public Financial Management
- The law on protecting and assisting internally displaced persons, which is pending enactment
- The implementing decrees for Act No. 5-2010 on the promotion and protection of Indigenous Peoples

¹⁸ Law establishing the conditions of entry and residence in the Congo.

¹⁹ Act No. 41-2021 of 29 September 2021 on the right of asylum and the status of refugees.

- Decree No. 2023-25 of 23 January 2023 on the creation, organization, composition and functioning of the Children’s Parliament of the Congo
 - Decree No. 2019-204 of 12 July 2019 on special measures to facilitate access to education for Indigenous children and to literacy for adults
 - Decree No. 2022-237 of 4 May 2022 on the establishment, powers and organization of the National Programme to Combat Violence against Women
 - The decree on the powers and functioning of the National Commission to Combat Trafficking in Persons, which is pending adoption by the Government
 - The National Commission for Transparency and Accountability in Public Finance Management, which is responsible inter alia for ensuring the strict application of the Code on Transparency and Accountability in Public Finance Management and for informing the authorities of any violations; for collecting and disseminating information on best practices in this area; and for requesting all expert opinions for the validation of information relating to public revenue and expenditure
 - The High Authority to Combat Corruption, which is responsible for preventing and combating corruption, misappropriation of public funds, fraud and related offences
 - The Children’s Parliament of the Congo, which serves as a forum for democratic expression, a venue for civic education and a channel for children to participate in decision-making processes on issues concerning them
 - The comprehensive early childhood development policy and action plan for 2022–2026, the cost of which is estimated at CFAF 41.675 trillion
 - The Action Plan for Improving Indigenous Peoples’ Quality of Life for the period 2022–2025, which has an estimated cost of CFAF 7.041 billion
 - The National Policy for Social Action and its 2023–2026 Action Plan, which have an estimated cost of CFAF 231.8413 billion
 - The National Health Development Plan for 2022–2026, which has an estimated cost of CFAF 1.153048 trillion
 - The National Strategy to Combat Gender-based Violence and the related Action Plan for Implementation for 2021–2025, which have a cost of CFAF 16.5 trillion
 - The Education Sector Strategy for the period 2022–2030, which has a cost of CFAF 622.608 billion
 - The National Policy to Reform and Modernize Civil Registration in the Congo
 - The Convention relating to the Status of Stateless Persons of 1954, on 5 August 2020
 - The 1961 Convention on the Reduction of Statelessness, on 5 August 2020
 - The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 13 October 2020
 - The ILO conventions on weekly rest, employment policy, invalidity, old-age and survivors’ benefits, medical care and sickness benefits, minimum wage fixing, workers’ representatives and paid educational leave, on 30 December 2022
 - The ILO conventions on night work clauses, working conditions in hotels and restaurants, protection of workers’ claims in the event of their employer’s insolvency and safety and health in agriculture, on 4 May 2022
114. The Congo is in the process of ratifying other conventions, including:
- The International Convention for the Protection of All Persons from Enforced Disappearance
 - The Convention on the Prevention and Punishment of the Crime of Genocide
 - The United Nations Convention against Transnational Organized Crime
 - The ILO Domestic Workers Convention, 2011 (No. 189)
 - The ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)

- The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
 - The regional Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children
 - The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, 2000
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