



## COI QUERY

<b>Country of Origin</b>	<b>Democratic Republic of the Congo</b>
<b>Title</b>	<b>Statelessness</b>
<b>Reference period</b>	January 2020 – 15 February 2023
<b>Topic(s)</b>	<ol style="list-style-type: none"><li>1. <a href="#">Access to Identification documents (ie. IDs, passports) and basic rights for stateless individuals</a></li><li>2. <a href="#">General situation of stateless people and access to social rights, including education and healthcare</a></li></ol>
<b>Date of completion</b>	15 February 2023
<b>Query Code</b>	Q4-2023
<b>Contributing EU+ COI units (if applicable)</b>	<b>NO, DK</b>

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# COI QUERY RESPONSE – Democratic Republic of the Congo

## Title - Statelessness

### 1. Access to Identification documents (ie. IDs, passports) and basic rights for stateless individuals

Information on statelessness in DRC was scarce among all sources consulted within the limited timeframe for researching and drafting this COI Query Response. Below follows some general information that could be relevant to the topic.

There is no mention in the Constitution of the Democratic Republic of the Congo (DRC) of rights for stateless people, or on any provision for official documentation for stateless people.<sup>1</sup> The Congolese nationality law of 2004 defines as stateless [informal translation] ‘any person that no country considers their national in the application of its legislation’.<sup>2</sup> The same law states that [informal translation] ‘the child born in the Democratic Republic of the Congo from stateless parents... is also Congolese’.<sup>3</sup> The DRC was not party either to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness<sup>4</sup> and as of 14 February 2023, it had not acceded, signed or ratified either Convention.<sup>5</sup>

The nationality law states that Congolese citizenship is [informal translation] ‘either by origin, or can be acquired through naturalization, by choice, through adoption, through marriage, or by birth and residence at the Democratic Republic of the Congo’.<sup>6</sup> In the cases of naturalization and marriages, it needs to first be approved by the National Assembly.<sup>7</sup>

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<sup>1</sup> DRC, Constitution de la République Démocratique du Congo [Constitution of the Democratic Republic of the Congo], 18 February 2006, available at: [url](#)

<sup>2</sup> DRC, Loi N° 04/024 du 12 Novembre 2004 relative à la nationalité Congolaise [Law N° 04/024 of 12 November 2004 about the Congolese nationality], 12 November 2004, available at: [url](#), p. 2

<sup>3</sup> DRC, Loi N° 04/024 du 12 Novembre 2004 relative à la nationalité Congolaise [Law N° 04/024 of 12 November 2004 about the Congolese nationality], 12 November 2004, available at: [url](#), p. 3

<sup>4</sup> UNHCR, Birth registration and statelessness in the Member States of the Southern Africa development community, 23 December 2022, [url](#), p. 6

<sup>5</sup> UN, Status of Treaties, Chapter V, Refugees and Stateless Persons, 3. Convention relating to the Status of Stateless Persons, 28 September 1954, last update 14 February 2023, [url](#); UN, Status of Treaties, Chapter V, Refugees and Stateless Persons, 4. Convention on the Reduction of Statelessness, 30 August 1961, last update 14 February 2023, [url](#)

<sup>6</sup> DRC, Loi N° 04/024 du 12 Novembre 2004 relative à la nationalité Congolaise [Law N° 04/024 of 12 November 2004 about the Congolese nationality], 12 November 2004, available at: [url](#), p. 1

<sup>7</sup> DRC, Loi N° 04/024 du 12 Novembre 2004 relative à la nationalité Congolaise [Law N° 04/024 of 12 November 2004 about the Congolese nationality], 12 November 2004, available at: [url](#), pp. iii-iv



Both USDOS and a 2020 European University Institute (EUI) report on citizenship law in the DRC underlined the complexity of the naturalization process in the DRC.<sup>8</sup> Having the country's nationality does 'not automatically result in the rights of citizenship, which are attainable only after an individual has met further specific conditions'. For example, to have voting rights an individual needs to both be a national and above a certain age.<sup>9</sup> USDOS further reported that for 2021 the administrative practices to acquire nationality through marriage, adoption and naturalization, 'were increasingly political and put more persons at risk of statelessness'.<sup>10</sup> The DRC authorities do not issue identification cards for citizens<sup>11</sup>, with passports or voter cards serving as identifying documents.<sup>12</sup> The Immigration and Refugee Board of Canada (IRB) noted that, according to oral sources they consulted, 'voter cards can be used as identity documents'.<sup>13</sup> It has to be noted that Transparency International reported in 2019 that the bribery rate at the DRC to obtain IDs was at 70 %.<sup>14</sup> USDOS further added that 'most citizens did not have a passport, and only citizens aged 18 and older are eligible for a voter registration card. The lack of identification documents could hinder the ability to register at university, obtain a passport, or gain certain employment'.<sup>15</sup>

The IRB noted that, according to a publication posted on the site of the DRC embassy in Canada, one of the conditions to submit an application for a Congolese passport from Canada, was for the applicant to have Congolese nationality.<sup>16</sup> According to the US embassy in the DRC, as of December 2021, the fee for issuing a passport for the first time was \$ 165.<sup>17</sup>

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<sup>8</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#); Kamunga, F., Report on Citizenship Law: Democratic Republic of Congo, EUI, January 2022, [url](#), p. 1

<sup>9</sup> Kamunga, F., Report on Citizenship Law: Democratic Republic of Congo, EUI, January 2022, [url](#), p. 1

<sup>10</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#)

<sup>11</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#); Canada, IRB, Democratic Republic of Congo: Whether a document called a Certificate of Lost Documents [attestation de perte de pièces] is accepted as a means of identification; if so, the date that this measure came into force; information on the certificate, including whether lost identity documents are indicated on it; whether the document contains stamps or seals from the National Intelligence Agency (Agence nationale des renseignements, ANR) and the Migration Branch (Direction générale de migration, DGM); procedure to obtain document (2006-Novembre 2013), 23 December 2013, [url](#)

<sup>12</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#)

<sup>13</sup> Canada, IRB (Immigration and Refugee Board of Canada), Democratic Republic of the Congo: Prevalence and availability of fraudulent identity, administrative and legal documents (2020–March 2022), 23 March 2022, [url](#)

<sup>14</sup> TI, Global Corruption Barometer Africa 2019. Citizens' views and experiences of corruption, 2019, [url](#), p. 32

<sup>15</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#)

<sup>16</sup> DRC (Democratic Republic of the Congo), Embassy of the Democratic Republic of the Congo in Ottawa, n.d., available at: [url](#)

<sup>17</sup> USA, U.S. Embassy in the Democratic Republic of the Congo, Passport Fee to Increase on December 27, 2021, 22 December 2021, [url](#)



## 2. General situation of stateless people and access to social rights, including education and healthcare

USDOS reported that the DRC has a ‘population of de facto stateless residents and persons at risk of statelessness’. In these categories are included individuals of Sudanese origin living in the Northeast, Mbororo pastoralists in the far North, long-term migrants, forced returnees from Angola, former Angolan refugees, mixed-race persons who are denied naturalization and Congolese citizens without civil documentation. The source further reported that individuals without documentation were frequently refused identity documents, political rights and employment. Citizenship was reportedly often denied to individuals whose names were not spelled according to local custom as well as to persons with lighter-colored skin, while individuals without id cards were on some occasions arrested reportedly arbitrarily by the state security forces.<sup>18</sup> No national statistics on stateless persons for the DRC were available according to USDOS and to the 2019 UNHCR Forced Displacement in 2019 Report<sup>19</sup>

The Banyarwanda in Eastern DRC are one of the main ethnic groups in the DRC who have a ‘doubtful status’ according to the UNHCR.<sup>20</sup> Minority Rights Group reported that they were “[...] widely viewed as ‘foreigners’ by other ethnic groups”, that they have been facing questions of land use and ownership, as well as citizenship, since they face contested nationality.<sup>21</sup> The source further noted that while it was difficult to estimate the number of stateless persons as the majority of the people in the DRC do not have documents, ‘several hundred thousand Banyarwanda face systematic difficulties in gaining recognition as Congolese’.<sup>22</sup> A 2022 report by the Danish Immigration Service (DIS) noted that, according to an international humanitarian organization at the DRC interviewed, ‘[...] any person belonging to the Banyarwanda ethnic groups (Banyamulenge, Banyarwanda) as well as Hutus and Tutsis are at risk of being discriminated against and harassed’.<sup>23</sup>

Although information on access to basic services, such as healthcare, education, and housing, for stateless people specifically was scarce among all sources consulted, the following information might be relevant for the purpose of this COI Query Response.

In the 2019 Global Corruption Barometer for Africa, the DRC had the highest overall rate (80 %) when it came to bribing in order to receive a service from five key public services (police, health care, schools, ID documents and utilities) in the previous year. The source noted that the DRC was one of the poorest countries globally and described the public

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<sup>18</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#)

<sup>19</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#); UNHCR, Global Trends. Forced Displacement in 2019, 18 June 2020, [url](#)

<sup>20</sup> UNHCR, Citizenship and Statelessness in the Member States of the Southern African Development Community, December 2020, [url](#), p. 4

<sup>21</sup> Minority Rights Group, Banyarwanda, updated June 2018, [url](#)

<sup>22</sup> Minority Rights Group, Banyarwanda, updated June 2018, [url](#)

<sup>23</sup> Denmark, DIS, Democratic Republic of the Congo Socioeconomic conditions in Kinshasa, October 2022, [url](#), p. 13



services as ‘weak, underfunded and poorly run, making anti-corruption efforts severely challenging’.<sup>24</sup>

The cost of education is described as the most significant issue in DRC with regards to access to education. As of 2019/20 some school fees were eliminated; however, this only applied to certain categories of school fees.<sup>25</sup> According to a USDOS report covering the period of 2021, the government was not able to provide free primary education consistently in all provinces, with public schools generally expecting parents to contribute to teachers’ salaries.<sup>26</sup> While the quality of education was described by the World Bank as ‘extremely poor’.<sup>27</sup>

A 2015 World Health Organization (WHO) described the healthcare system at the DRC as ‘characterized by the inefficient use of international as well as domestic resources (state budget and household contributions)’. The government contributed a very small percentage (11 %) to the total health expenditures, while households and multilateral aid contributed the most.<sup>28</sup> The source also described the healthcare system as ‘dysfunctional’ due to the ‘collapse of the state and the economy after three decades of non-governance’.<sup>29</sup> The World Bank added that healthcare in the DRC was significantly affected by the ongoing humanitarian crises in the world, and amplified by recurrent disease outbreaks such as COVID-19, cholera, measles and Ebola.<sup>30</sup> According to local doctors consulted by EASO on 2020, all consultations, diagnostic services and treatments require payment in all types of health facilities - except related to HIV/AIDS and tuberculosis - with fees being normally lower in public health facilities than in private.<sup>31</sup>

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<sup>24</sup> TI, Global Corruption Barometer Africa 2019. Citizens’ views and experiences of corruption, 2019, [url](#), p. 15

<sup>25</sup> GPE, Prospective evaluation of GPE’s country-level

support to education. Democratic Republic of the Congo Second Annual Report. Final Y2 Report, March 2020, [url](#)

<sup>26</sup> USDOS, Country Reports on Human Rights Practices for 2021 – Democratic Republic of the Congo, 12 April 2022, [url](#)

<sup>27</sup> World Bank (the), The World Bank in DRC, last updated 11 October 2022, [url](#)

<sup>28</sup> Kalambay, H. and van Lerberghe, W., Improving Health System Efficiency, Democratic Republic of the Congo. Improving aid coordination in the health sector, WHO, September 2015, [url](#), pp. 7, 9

<sup>29</sup> Kalambay, H. and van Lerberghe, W., Improving Health System Efficiency, Democratic Republic of the Congo. Improving aid coordination in the health sector, WHO, September 2015, [url](#), p. 7

<sup>30</sup> World Bank (the), The World Bank in DRC, last updated 11 October 2022, [url](#)

<sup>31</sup> EASO, Democratic Republic of Congo (DRC) Medical Country of Origin Information Report, August 2021, [url](#), p. 21

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