



## COI QUERY

<b>Country of Origin</b>	<b>DEMOCRATIC REPUBLIC OF CONGO</b>
<b>Title</b>	<b>Treatment of the Banyamulenge by society and the state in North Kivu and Kinshasa; state protection available</b>
<b>Reference period</b>	July 2020 to 30 August 2023
<b>Topic(s)</b>	1. Overview 2. Treatment by society 3. Treatment by the state 4. State protection
<b>Date of completion</b>	31 August 2023
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## COI QUERY RESPONSE – Democratic Republic of Congo

### Title - Treatment of the Banyamulenge by society and the state in North Kivu and Kinshasa; state protection available

#### 1. Overview

The Banyamulenge are Congolese Tutsi who live in the Kivu provinces along the Rwandan border and speak Kinyarwanda.<sup>1</sup> According to the African Center for Strategic Studies, the Banyamulenge are pejoratively referred to as ‘Rwandophones,’ and are ‘often targeted in sectarian violence’ when tensions with Rwanda are heightened.<sup>2</sup> According to a study on anti-Banyamulenge and anti-Tutsi hate speech in the Democratic Republic of Congo (DRC), the authors indicated that the Banyamulenge are considered as ‘recent Rwandan immigrants’ who were settled in the DRC by the United Nations High Commissioner for Refugees (UNHCR) between the 1950s and 1960s.<sup>3</sup> Similarly, J.B., professor at the University of Kinshasa, interviewed by the Danish Immigration Service (DIS) on 8 August 2022, stated that ‘the Rwandophone community in the DRC is perceived as foreign that has difficulties integrating into Congolese society’.<sup>4</sup>

#### 2. Treatment by society

According to Alice Wairimu Nderitu, the Special Adviser to the UN Secretary-General on the prevention of genocide, ‘public hate speech and incitement to discrimination, hostility or violence are on the increase throughout the country, in particular with regard to Kinyarwanda speakers and the Banyamulenge minority.’<sup>5</sup>

In a study by the UN Joint Human Rights Office (UNJHRO), 31 % of documented cases of hate speech in the DRC from May to December 2020 targeted the Banyamulenge, with 12 % of these cases being attributed to civil society and 6 % to religious groups, the diaspora or armed groups.<sup>6</sup> For example, during an intercommunity forum in March 2020, members of the Babembe community appealed to national and local authorities to recognise the Banyamulenge as ‘refugees’ and have their Congolese citizenship revoked.<sup>7</sup>

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<sup>1</sup> Minority Rights Group International, Banyarwanda, Updated June 2018, [url](#)

<sup>2</sup> African Center for Strategic Studies, Rwanda and the DRC at Risk of War as New M23 Rebellion Emerges: An Explainer, 19 June 2022, [url](#)

<sup>3</sup> Mukwiza Ndahinda, F. and Shyaka Mugabe, A., Streaming Hate: Exploring the Harm of Anti-Banyamulenge and Anti-Tutsi Hate Speech on Congolese Social Media, Journal of Genocide Research, 19 May 2022, [url](#), p.16

<sup>4</sup> Denmark, DIS, Democratic Republic of the Congo; Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 13

<sup>5</sup> Germany, BAMF, Briefing Notes, 6 December 2022, [url](#), p.2

<sup>6</sup> UNJHRO, Report on hate speech and incitement to hostility in the Democratic Republic of the Congo, March 2021, [url](#), paras. 53, 54, 57

<sup>7</sup> UNJHRO, Report on hate speech and incitement to hostility in the Democratic Republic of the Congo, March 2021, [url](#), paras. 53, 54, 57



## Treatment in North Kivu

According to the 2022 US Department of State (USDOS) report, since the second half of 2021, hate speech and incitement to violence against the Banyamulenge community has increased, with media reports indicating that Rwandaphone in North Kivu were denied access to restaurants and shops and that there have been reports of vandalism of businesses owned by this community.<sup>8</sup>

The report of the Group of Experts on the Democratic Republic of the Congo of the UN Security Council indicated that ethnic tensions against the Banyamulenge have been escalating with the resurgence of the Mouvement du 23 mars (M23), ‘an armed group operating in North Kivu province of DR, with alleged backing from the Rwandan government’.<sup>9</sup> The M23 has reportedly used the narrative of ‘protecting Tutsi and Banyamulenge communities in eastern Democratic Republic of the Congo from extermination’ to justify territorial expansion in North Kivu.<sup>10</sup> According to the same source, this narrative ‘created a dangerously fertile ground for the fearmongering, hateful discourse and violent reprisals, including killings’ against the Rwandophone population by political actors, civil society, local populists, activists, and members of the Congolese diaspora.<sup>11</sup> The xenophobic discourse commonly portrayed Rwandophones, specifically Tutsis and Banyamulenge, as ‘alien ethnic groups who should return to Rwanda’.<sup>12</sup> With the upcoming elections in December 2023, these hostilities have turned into demands to exclude Rwandophones from the voter registration process.<sup>13</sup>

Some of the incidents involving the Banyamulenge, as reported by sources, include:

- Reuters reported that in Goma and Kinshasa there were ‘numerous cases of intimidation’ to prevent or deter Banyamulenge from registering to vote.<sup>14</sup> The UN Security Council report indicated that on 22 February 2023, members of the Banyamulenge community were harassed and some were injured while waiting to register at the Biyahi voting center in Goma.<sup>15</sup>
- On 6 and 7 February 2023, demonstrations took place in Goma to protest the perceived inaction of an East African military force (EAC) and the United Nations Organization

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<sup>8</sup> USDOS, Country Report on Human Rights Practices for 2022 - Democratic Republic of the Congo, 20 March 2023, [url](#), pp. 37-38

<sup>9</sup> ACLED, Actor Profile: The March 23 Movement, 23 March 2023, [url](#); For more information on the Mouvement du 23 mars see: BBC News Afrique, Rebelles du M23 en RD Congo : qui sont-ils et que veulent-ils ?, updated 2 June 2022, [url](#)

<sup>10</sup> UN Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 13 June 2023, [url](#), paras. 98-102

<sup>11</sup> UN Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 13 June 2023, [url](#), paras. 98-102

<sup>12</sup> UN Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 13 June 2023, [url](#), paras. 98-102

<sup>13</sup> UN Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 13 June 2023, [url](#), paras. 98-102

<sup>14</sup> Reuters, Congolese Tutsis describe violent campaign to stop them voting, 7 March 2023, [url](#)

<sup>15</sup> UN Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 13 June 2023, [url](#), Annex 55



- Stabilization Mission in the DR Congo (MONUSCO) against the M23 rebel insurgency.<sup>16</sup> During the protests, Rwandophones were subjected to harassment and threats.<sup>17</sup>
- According to the Dutch Magazine Clingendael Spectator, 'individuals identified as Rwandans or specifically Tutsi have been killed by the mob, suspected of being "natural" allies of the M23'.<sup>18</sup> Demonstrators also vandalised several properties and churches used or owned by Rwandophones.<sup>19</sup>
  - In January 2021, a Banyamulenge woman was killed by a militiaman in Mudugudu, a village in North Kivu, and 'the killing was ethnic-driven'.<sup>20</sup>

## Treatment in Kinshasa

Information on the treatment of the Banyamulenge in Kinshasa was scarce among the sources consulted by the EUAA within the time constraints of this query.

The Danish Immigration Service (DIS) report cited an international humanitarian organization as indicating that 'anyone perceived associated with Rwanda would face harsh discrimination in all parts of society' in Kinshasa as ethnic or religious background in the city can play 'potential risk factors'.<sup>21</sup> According to professor J.B., coordinator of a research project on displaced population in Kinshasa, North and South Kivu, in Kinshasa 'it seems that these groups [Banyamulenge] simply have problems of integration and face real problems of adaptation'.<sup>22</sup>

## 3. Treatment by the state

According to the study on anti-Banyamulenge and anti-Tutsi hate speech in the DRC, hate speech and conspiracy theories against Banyamulenge 'have expanded their reach and permeated Congolese mainstream politics'.<sup>23</sup> According to a UNJHRO report on hate speech in the DRC, politicians represent the higher percentage (43 %) of individuals engaging in such acts against the Tutsi community.<sup>24</sup> Hate speech and conspiracy theories against the

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<sup>16</sup> VoA, DRC Protests EAC "Inaction", 6 February 2023, [url](#); Opinion Info, Goma: Trois morts et plusieurs blessés enregistrés lors d'une manifestation anti force régionale EAC, ce lundi , [url](#)

<sup>17</sup> France 24, RD Congo : une journée "ville morte" vire aux pillages à Goma, 7 February 2023, [url](#)

<sup>18</sup> Clingendael Spectator (The), Anti-Tutsi Hate Speech Refuels Conflict in Eastern DR Congo, 24 August 2022, [url](#)

<sup>19</sup> UN Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 13 June 2023, [url](#), para 103; France 24, RD Congo : une journée "ville morte" vire aux pillages à Goma, 7 February 2023, [url](#)

<sup>20</sup> ACCORD, Democratic Republic of the Congo: The Situation of the Banyamulenge (2020 to March 2022) April 2022, available at: [url](#), p. 37

<sup>21</sup> Denmark, DIS, Democratic Republic of the Congo; Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), pp. 13-14

<sup>22</sup> Denmark, DIS, Democratic Republic of the Congo; Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 49

<sup>23</sup> Mukwiza Ndahinda, F. and Shyaka Mugabe, A., Streaming Hate: Exploring the Harm of Anti-Banyamulenge and Anti-Tutsi Hate Speech on Congolese Social Media, Journal of Genocide Research, 19 May 2022, [url](#), p. 22

<sup>24</sup> UNJHRO, Report on hate speech and incitement to hostility in the Democratic Republic of the Congo, March 2021, [url](#), paras. 55



Banyamulenge influence local governments, particularly in rural areas.<sup>25</sup> According to Human Rights Watch, the raise in hate speech and stigmatization of Rwandophone communities is ‘sometimes linked to government officials’.<sup>26</sup>

The Group of Experts of the UN Security Council indicated that Banyamulenge in North Kivu reported being told by members of the Armed Forces of the Democratic Republic of the Congo (FARDC) that they were not Congolese citizens because of their language and physical features.<sup>27</sup> They were also accused of supporting armed groups such as the M23 and contributing to the Rwandan infiltration within the Congolese political, administrative and security apparatus.<sup>28</sup> In May and June 2022, Banyamulenge soldiers and officers of the FARDC were arrested and detained in Goma by Congolese authorities, with several of them being ‘physically mistreated during their arrest and/or subsequent detention’ but later released due to lack of evidence.<sup>29</sup>

A Tutsi lawyer residing in Goma interviewed by The Humanitarian explained that after the mass protests of February 2022, the Banyamulenge ‘were forced to hide at home for several days’, and that a number of individuals were arrested and interrogated only because they were Tutsi or spoke Kinyarwanda.<sup>30</sup> Media reported that in June 2022, a Rwandophone lieutenant colonel of the Congolese army was ‘brutalized’ by the population and police officers in Kisangani, a city in the northeast.<sup>31</sup>

Information on the treatment of the Banyamulenge by the state in Kinshasa was not found among the sources consulted by the EUAA within the time constraints of this query.

#### 4. State protection

Article 1 of Ordinance-law No. 25-131 of 25 March 1960, on the suppression of manifestations of racism or religious intolerance, provides the following:

‘The placing of graffiti on walls or in other places, the wearing of emblems, and gestures, words or writings liable to cause, maintain or exacerbate tension between races, ethnic groups or faiths shall be punishable by a prison term of between one month and one year or a fine not exceeding 3,000 zaires, or both.’<sup>32</sup>

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<sup>25</sup> Clingendael Spectator (The), Anti-Tutsi Hate Speech Refuels Conflict in Eastern DR Congo, 24 August 2022, [url](#)

<sup>26</sup> Aljazeera, Civilians in peril as tensions in DR Congo escalate: HRW, 3 June 2022, [url](#)

<sup>27</sup> UN Security Council, Midterm report of the Group of Experts on the Democratic Republic of the Congo, 16 December 2022, [url](#), para. 75

<sup>28</sup> UN Security Council, Midterm report of the Group of Experts on the Democratic Republic of the Congo, 16 December 2022, [url](#), para. 75

<sup>29</sup> UN Security Council, Midterm report of the Group of Experts on the Democratic Republic of the Congo, 16 December 2022, [url](#), annex 56

<sup>30</sup> Humanitarian (The), The humanitarian fallout of DR Congo’s M23 rebellion, 22 July 2023, [url](#)

<sup>31</sup> Africanews, DRC: Authorities decide to fight "the hunt" for Rwandophones, 16 June 2022, [url](#); VoA, Tension RDC-Rwanda: Kinshasa tente de réprimer les dérives xénophobes, 16 June 2022, [url](#)

<sup>32</sup> DRC, Ordonnance-loi n° 25-131 du 25 mars 1960 relative à la répression des manifestations de racisme ou d'intolérance religieuse, 1960, [url](#)



Article 1 of Ordinance-law No. 66-342 of 7 June 1966 on the prohibition of racism and tribalism, provides the following:

‘Anyone who through the use of words, gestures, writing, images or emblems or any other means displays racial, ethnic, tribal or regional aversion or hatred, or commits an act such as to promote such aversion or hatred, shall be punished by a fine of 50 to 100,000 zaires. If the offence was committed by a government official in the discharge of his or her functions, imprisonment shall be for a minimum term of six months. If the offence resulted in disruption of the authorities, serious disturbance, a secessionist movement or rebellion, the guilty party shall be punished by life imprisonment.’<sup>33</sup>

Article 6 of Organic Law No. 11/001 of 10 January 2011 on the composition, attribution and functioning of the High Council for Audio-visual and Communication (CSAC), indicates the following [informal translation]:

‘It is prohibited the apology of crime, the incitement to violence, the depravation of morals, xenophobia, tribal, ethnic, racial or religious hatred, as well as any other form of discrimination through the media’.<sup>34</sup>

Article 59 of this law provides administrative sanctions on media companies ‘in case of violations of the rules of ethics and deontology’.<sup>35</sup>

However, according to the UNJHRO, ‘the CSAC has budgetary and structural constraints that greatly limit its capacity to carry out its responsibilities.’<sup>36</sup>

Information on the implementation of the above-mentioned laws was scarce among the sources consulted by EUAA and within the time constraints of this query.

The German Federal Office for Migration and Refugees (BAMF) indicated in a January 2023 briefing note that, according to the media, Congolese president Félix Tshisekedi promised to protect Rwandan-speaking representatives of the Congolese Tutsi and Hutu communities after increased tensions with Rwanda following the conflict in North Kivu between the Congolese armed forces and the M23.<sup>37</sup> Africanews reported that, after demonstrations against Rwanda and the M23 in Goma, Communication Minister Patrick Muyaya indicated that President Félix Tshisekedi instructed the Interior Minister and the police chief to take all "necessary measures to avoid stigmatisation and manhunting" against Rwaphones in the

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<sup>33</sup> DRC, Ordonnance-loi n° 66-342 du 7 juin 1966 portant répression du racisme et du tribalisme, 1966, [url](#)

<sup>34</sup> DRC, Loi organique n° 11/001 du 10 janvier 2011 portant composition, attribution et fonctionnement du Conseil Supérieur de l’Audiovisuel et de la Communication, 2011, [url](#)

<sup>35</sup> DRC, Loi organique n° 11/001 du 10 janvier 2011 portant composition, attribution et fonctionnement du Conseil Supérieur de l’Audiovisuel et de la Communication, 2011, [url](#)

Please consult the full article 59 for more information on these sanctions.

<sup>36</sup> UNJHRO, Report on hate speech and incitement to hostility in the Democratic Republic of the Congo, March 2021, [url](#), para. 45

<sup>37</sup> Germany, BAMF, Briefing Notes Summary; Democratic Republic of the Congo – July to December 2022, 1 January 2023, available at: [url](#), p. 16



city.<sup>38</sup> The UNJHRO report indicated that, although public authorities regularly condemn hate speech and incitement to hostility, ‘beyond these declarations, the Congolese authorities are struggling to take concrete action’.<sup>39</sup> Delphin R. Ntanyoma, visiting researcher at the University of Leeds/United Kingdom and expert in Micro-level Analysis of Violent Conflict in South and North Kivu, explained by email to Armed Conflict Location and Event Data Project (ACLED) on 7 April 2022 that the Banyamulenge families living in Goma face many challenges of being assisted by the Congolese government ‘because of the complexity of humanitarian governance’.<sup>40</sup>

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<sup>38</sup> Africanews, DRC: Authorities decide to fight "the hunt" for Rwandophones, 16 June 2022, [url](#)

<sup>39</sup> UNJHRO, Report on hate speech and incitement to hostility in the Democratic Republic of the Congo, March 2021, [url](#), paras 66-70

<sup>40</sup> Austria, ACCORD , Democratic Republic of the Congo: The Situation of the Banyamulenge (2020 to March 2022) April 2022, [url](#), p. 37



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