



# **European Migration Network**

## Ad-Hoc Query on returns of the unsuccessful asylum seekers from Democratic Republic of Congo

Requested by SK EMN NCP on 1st October 2009

Compilation produced on 18th November 2009

Responses from [Austria](#), [Belgium](#), [Estonia](#), [Finland](#), [Germany](#), [Hungary](#), [Italy](#), [Latvia](#), [Lithuania](#), [Netherlands](#), [Poland](#), [Portugal](#), [Spain](#), [Sweden](#), [United Kingdom](#) (15 in Total)


### WIDER DISSEMINATION

*Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

#### **1. Background Information**






The Migration Office of the Slovak Republic is looking for information on the current policy in the EU MS regarding the returns of the asylum seekers from Democratic Republic of Congo whose asylum application has been rejected. The NCP would appreciate your reply by 8 October 2009.

#### **2. Responses**

		<b>Wider Dissemination?</b>	<i>What is the practice and did it change in the last period (during years 2008 and 2009) in your Member State regarding the returns of the asylum seekers from Democratic Republic of Congo whose asylum application has been rejected? If any changes have occurred what were the reasons?</i>
	<b>Austria</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not










**SK EMN Ad-Hoc Query: returns of unsuccessful asylum seekers from DRC**

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			disseminated further.
	<b>Belgium</b>	<b>Yes</b>	There is no change in the Belgian return policy of unsuccessful asylum seekers from DR Congo. A forced return is always possible, but Belgium aims more at encouraging voluntary return. The option of voluntary return will always be presented, in case he/se does not want to accept it, a forced return can be organised.
	<b>Estonia</b>	<b>Yes</b>	In Estonia, all the asylum applications are assessed individually also. The number of asylum seekers from Democratic Republic of Congo has been very low - only 2 applicants. At the moment one of the applications is being processed in the first instance (the decision has not been made yet) and the other is in the appeal process.
	<b>Finland</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	<b>Germany</b>	<b>Yes</b>	There are no significant changes with respect to decision-making in the asylum procedure and repatriation of asylum seekers of the Democratic Republic of Congo to report in the reference period 2008 and 2009 (97 expulsions of nationals of DRC in 2008, 59 expulsions in the first half of 2009 – separate statistics on return of rejected asylum seekers do not exist). Each asylum application is considered on its own merits.
	<b>Hungary</b>	<b>Yes</b>	<p>In 2008 Hungary did not receive any asylum applicant from the Democratic Republic of Congo (DRC). However due to the entering into force of the new Asylum Act on 1<sup>st</sup> January 2008, according to this new law, the refugee authority had to review the legal status of the exiles to whom a residence permit was granted on humanitarian grounds according to the Act on the Entry and Stay of Foreign Nationals (so called person authorized to stay status) within eighteen months of the time of this Act entering into force. The new act stipulates that within the framework of the aforesaid review the refugee authority shall ex officio conduct proceedings for recognition of refugee status or subsidiary protection status. Therefore the status of 11 Congolese (from DRC) persons authorized to stay – who were granted this status before 2008 – was reviewed in 2008. As the result of these review procedures 1 person was recognized as refugee, 2 persons as beneficiary of subsidiary protection, 4 persons as authorized to stay and in the case of 3 persons the asylum procedure was ceased because these persons obtained residence permit on other grounds in Hungary. In case of 1 person the refugee authority brought a totally negative decision and obliged this person to leave the territory of Hungary.</p> <p>In 2009 till August 7 Congolese (from DRC) submitted asylum application in Hungary. On the basis of these applications the refugee authority conducted 4 asylum procedures, because there was a 4-member-family among the applicants. The refugee authority brought 3 decisions on the merit: 1 on the recognition as beneficiary of subsidiary protection, 1 on the establishment that the non-refoulement principle applies (on the basis of which the immigration authority recognizes the person concerned as a person authorized to stay), and 1 on rejection. As these statistics show the refugee authority examined every application of the Congolese (from DRC) individually on a case by case basis.</p> <p>Concerning the examination of the non-refoulement principle, the authority also applied an individualized examination in the course of which the authority established that from which part of DRC the Congolese person concerned was from and that to which part of DRC could the person be sent back and also that whether there was a possibility for this person to resettle on another part of DRC which can be considered safe. According to the opinion of the refugee authority a Congolese (from DRC) who comes from Kinshasa, or whose living is provided there, and on reasonable grounds it can be required from this person to go and resettle in Kinshasa, can be sent back there. In the cases of those Congolese (from DRC) coming from other parts of the country always an examination on a case by case basis is needed. The refugee authority considers solely the North and South Kiwu territory of DRC unsafe.</p>


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	<b>Italy</b>	<b>Yes</b>	In Italy, given that data for 2009 refers to the end of July, it's possible to perceive a light decrease in number of asylum applicants from DR of Congo occurred during the last 2 years. In fact, in 2008, there were 51 asylum applicants of which 14 negative decisions. At July 2009, the applications were 16, of which 7 negative decisions.
	<b>Latvia</b>	<b>Yes</b>	In practice Latvia haven't such case.
	<b>Lithuania</b>	<b>Yes</b>	The practice has not changed. In 2008-2009 there were 4 asylum applications. One asylum applicant received a temporary protection; one asylum application is still pending. As it concerns the other 2, return decisions were taken against them. As these two rejected asylum applicants do not have necessary travel documents, and it is not possible to obtain them, the return procedure is suspended. If the suspension lasts a year, these two rejected asylum seekers will receive temporary residence permits, valid for a year.
	<b>Netherlands</b>	<b>Yes</b>	In the Netherlands, the Repatriation and Departure Service (R&DS) of the Ministry of Justice is responsible for the return of asylum seekers who are no longer entitled to residence, reside illegally and are obliged to leave the country. The current policy with regard to rejected Congolese asylum seekers is that they can return to DRC. The main principle of the Dutch return policy applies also to rejected Congolese asylum seekers: the responsibility for the departure from The Netherlands rests with the alien him or herself. The authorities encourage aliens who are not permitted to stay in The Netherlands to leave the country independently and voluntary return assistance is offered to the rejected asylum seeker. However, if the rejected asylum seeker is unwilling to cooperate, the R&DS can force him/her to return to DRC. In this connection, an order such as the detention of aliens for the purpose of removal, may be given. The R&DS has made working agreements with the embassy of DRC in Brussels regarding the issuance of Laissez Passers. If there is an indication that a rejected asylum seeker is a Congolese national, he/she will be presented in person to the representation of DRC at the embassy. If the Congolese nationality of the presented person is confirmed by the representation, a Laissez Passer will be issued by the representation. The Congolese representation issues Laissez Passers for voluntary as well as forced return. As far as unaccompanied minor asylum seekers (UAM's) are concerned: the Dutch government sponsors an orphanage for UAM's in DRC. As a result, adequate shelter for Congolese minors is provided and therefore they can be (voluntary or forcibly) returned to DRC.
	<b>Poland</b>	<b>Yes</b>	Each application is assessed individually. The number of asylum seekers from the DRC is very low (2007: 5 negative decisions, 2 expulsions; 2008: 3 negative decisions, 2 expulsions; January, 1 – September, 30 2009: 1 negative decision, 0 expulsions).
	<b>Portugal</b>	<b>Yes</b>	All applications for asylum from citizens of Democratic Republic of Congo are assessed individually. However in Portugal the number of asylum seekers from DRC is very low. Nevertheless if an asylum application is rejected to a citizen of Democratic Republic of Congo, this citizen will be notified by SEF to voluntarily abandon national territory within the settled period, from 10 to 20 days.
	<b>Slovak Republic</b>	<b>Yes</b>	All applications for asylum from citizens of Democratic Republic of Congo are assessed individually. However the number of asylum seekers from DRC is very low.
	<b>Spain</b>	<b>Yes</b>	There are not available data on the return of asylum seekers from Democratic Republic of Congo whose asylum application has been rejected. In general, all rejected asylum seekers have to leave the country within 15 days of notification
	<b>Sweden</b>	<b>Yes</b>	The Swedish practice on returns to the Democratic Republic of Congo has not changed during the mentioned period. All applications are assessed individually. During 2008, we received 60 asylum applications and during 2009 (up till 30.09.2009), we have received 54 asylum applications from citizens of the Democratic Republic of Congo. We have 34 pending return cases registered at the Migration Board.

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	<b>United Kingdom</b>	<b>Yes</b>	<p><b>Democratic Republic of Congo (DRC): Return of Failed Asylum Seekers (2007 to 2009)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> On 23 August 2007, the UK Border Agency undertook not to enforce the return of failed asylum seekers to the DRC. This decision was made because of a legal challenge made to UK's Asylum and Immigration Tribunal (AIT) on the safety of return to the DRC for all failed asylum seekers.</li> <li><input type="checkbox"/> In December 2007, the AIT concluded that returnees to the DRC are not at risk of persecution or ill-treatment on return to the DRC simply because they are failed asylum seekers and we resumed enforced returns. In April 2008 permission was granted to the appellant to appeal the AIT decision to the UK's Court of Appeal; consequently we again deferred all enforced removals of failed asylum seekers to the DRC pending the outcome of the Court of Appeal case.</li> <li><input type="checkbox"/> On 3 December 2008 the Court of Appeal upheld the AIT's Determination and we resumed enforced returns of failed asylum seekers to the DRC. Given the Xmas period the first return took place on 15 January 2009.</li> <li><input type="checkbox"/> We continue to enforce the return of failed asylum seekers to the DRC.</li> </ul>
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