

Immigration and Refugee Board of Canada

[Home](#)

> [Research Program](#)

> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

11 January 2016

COG105397.FE

Republic of the Congo: Resident status, including the requirements and procedure for renewing residency, particularly for citizens of the Democratic Republic of the Congo; whether a person may lose their resident status and the requirements and procedure to re-acquire such status; residents' rights (2014-2015)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Temporary Residence

Act No. 23-96 of 6 June 1996 on the Conditions for the Entry, Residence and Exit of Foreigners (*Loi no 23-96 du 6 juin 1996 fixant les conditions d'entrée, de séjour et de sortie des étrangers*), enacted on 6 June 1996, defines the term 'immigrant,' as well as the various resident statuses in the following way:

[translation]

Article 5: An immigrant is a foreigner or stateless person admitted into the Republic of the Congo to reside for a period of more than three (3) months.

Article 6: A temporary resident is a foreigner or stateless person bearing a resident card valid for a maximum of one year.

A temporary resident must leave the national territory when their resident card expires, unless they obtain a renewal or are issued an ordinary resident card.

Article 7: An ordinary resident is a foreigner or stateless person bearing a resident card valid for a maximum of three (3) years.

An ordinary resident must leave the national territory when their resident card expires, unless they obtain a renewal or are issued a privileged resident card.

Article 8: A privileged resident is a foreigner or stateless person bearing a resident card valid for a maximum of five (5) years.

A privileged resident card is fully renewable in compliance with the provisions of articles 9 and 29 [see below] of the Act.

Article 9: To obtain the privileged resident card, the foreigner or stateless person must:

- establish uninterrupted residence of at least ten (10) years in the Republic of the Congo;
- be less than 35 years old upon entry into the Republic of the Congo. This age may be increased by three (3) years by a minor child accompanying the foreigner. This age may be increased by five years if the foreigner is married to an individual of Congolese nationality who retained their

original nationality, or if they are the mother or father of a legally-recognized Congolese child (Republic of the Congo 1996, Art. 69).

Information on the renewal conditions for temporary resident and ordinary resident statuses could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Obtaining and Renewing the Resident Card

Article 18 of Act No. 23-96 of 6 June 1996 on the Conditions for the Entry, Residence and Exit of Foreigners states the following:

[translation]

A foreigner who is 16 years of age or older, who entered the Republic of the Congo legally and is authorized to reside there, must apply for a resident card within eight days following their entry or they may be escorted back to the border (*ibid.*, Art. 18).

Article 29 of the Act provides the list of documents that must be presented to obtain an initial resident card:

[translation]

To obtain a resident card, a foreigner must provide a file that includes:

- A valid passport or document in lieu, with an entry visa, if the foreign national is from a country with which the Republic of the Congo has not signed a particular immigration agreement;
- A judicial record extract issued less than three months prior by the judicial authority of the place of birth;
- An international vaccination record;
- A receipt for the payment of the repatriation bond for nationals from countries other than those in the Central African Customs and Economic Union [1] and the Republic of Zaire [2].
- An employment contract signed by the Ministry of Labour of the Republic of the Congo, if the foreigner is paid;
- A certificate of enrolment in a school or university in the Republic of the Congo if the foreigner is a student;
- A certificate of incumbency issued by a religious leader of the Republic of the Congo, if the foreigner is a minister of religion; or a certificate of incumbency or membership issued by the highest Congolese authority of a duly authorized initiatory order, if the foreigner is a follower;
- A trade licence, if the foreigner is self-employed;
- A certificate of accommodation, if the foreigner lives with a third party;
- Four identity photographs of the face;
- Tax stamps required depending on the category of card requested;
- Approval from the Minister of Communication for press correspondents;
- An invitation or authorization to teach and/or conduct research sent from or issued by an authorized Congolese institution or organization, if the foreigner is an academic and/or researcher (*ibid.*, Art. 29).

The Act stipulates that [translation] "to obtain the resident card, foreigners who have a Congolese spouse and do not have Congolese nationality must present the supporting civil registration documents and a receipt of payment of the repatriation bond, for those to which it is deemed applicable" (*ibid.*, Art. 30).

The Central African Information Agency (Agence d'information d'Afrique centrale, ADIAC), a news agency based in Brazzaville, states that the immigration act [translation] "is not clear. That is why the term temporary resident certificate (Certificat de [r]ésidence [t]emporel, CRT) was not part of the vocabulary" (ADIAC 10 May 2014). According to the same source, the CRT is the [translation] "only document that may guarantee the right of residency in the Congo" (*ibid.*). ADIAC states that to obtain a CRT, an individual [translation] "requires a valid passport, a consular card, two photographs and one hundred and six thousand CFA francs [CFA francs, about C\$249]" (*ibid.*).

Further information on the CRT could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Act No. 23-96 of 6 June 1996 states that [translation] "applications for resident cards must be submitted to the Department of Immigration and Emigration or to the national police or national gendarmerie stations, at the immigration unit" (Republic of the Congo 1996, Art. 32). According to ADIAC, the application for a resident card must be submitted [translation] "either directly to the immigration office in Brazzaville, or to the immigration service in the department where the applicant resides" (ADIAC 10 May 2014).

An application for a resident card may only be made by the applicant, as stated in in Article 47 of the Act:

[translation]

In compliance with the provisions of Article 18 of the Act, only foreigners interested in obtaining the resident card or temporary residence may complete the application and the necessary formalities with the competent services. Any representation or delegation of power is prohibited and subject to the sanctions set out in articles 44 [on fake or forged resident cards] and 45 [on civil registration misrepresentation] of the Act (Republic of the Congo 1996, Art. 47).

With respect to renewing the resident card, Article 31 of the Act states that [translation] "the documents required for renewing the resident card are the same as those for obtaining the card. However, the renewal of the resident card is subject to a police or gendarmerie investigation" (ibid., Art. 31).

3. Residents' Rights

According to Act No. 23-96 of 6 June 1996, the employment rights of residents are the following:

[translation]

Foreign nationals may only hold employment or exercise an activity in the Republic of the Congo if they have satisfied the immigration conditions set out in the provisions of title II of the Act [conditions on entry into the country]. Without prejudice to the provisions of the Labour Code, foreign workers must possess an employment contract and may only exercise the profession indicated on the contract (Republic of the Congo 1996, Art. 22).

Further information on residents' rights could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. End of Stay and Loss of Resident Status

Article 23 of Act No. 23-96 of 6 June 1996 defines the end of stay conditions for residents who have an employment contract in the Republic of the Congo as follows:

[translation]

A foreigner who entered the Congo after signing an employment contract may stay until the contract expires, subject to the foreigner's compliance with the legislation in effect.

The foreign worker may extend their stay if they have proof of another professional activity likely to guarantee their freedom, dignity and independence (ibid., Art. 23).

In addition, articles 24 and 25 of the law state the following:

[translation]

Article 24: Any foreign worker found breaching the above provisions [articles 22 and 23] must be escorted to the border without prejudice to possible legal proceedings that may be exercised against them.

Any deportation decision made by the national gendarmerie or the national police authority must be approved by the administrative tribunal or, failing that, by the court of first instance in the applicable constituency.

Article 25: The anticipated termination of the employment contract leads to the invalidation of all the travel documents and the repatriation of the incumbent within two months. However, if the foreigner obtains employment in the category of their profession during that period, after their repatriation, they will be subject to the same conditions of entry and stay in the national territory as for the previous contract.

The provisions of the previous paragraph do not apply if the foreigner becomes an employee of the state or a member of a local cooperative (ibid., Art. 2425).

According to Act No. 23-96 of 6 June 1996,

[translation]

[a] temporary, ordinary or privileged resident may not accommodate a foreigner who entered the Congo fraudulently. The resident is required to present the foreigner to the competent authorities within 48 hours of accommodating the individual, or they may be punished under the sanctions set out in Article 43 of the Act (ibid., Art. 10).

Article 43 states the following:

[translation]

Any individual who, by direct or indirect assistance, facilitated or tried to facilitate the unauthorized entry, stay or exit of a foreigner may be punished by imprisonment of one to five years or receive a fine of one to five million CFA francs [about C\$2,350 to C\$11,750].

These provisions may be associated with immediate deportation from the national territory if the offender is a temporary, ordinary or privileged resident (*ibid.*, Art. 43).

Further information on the loss of resident status could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. In addition, the Research Directorate was unable to find information indicating that the entry conditions would be different than those set out in title II of the Act No. 23-96 of 6 June 1996 on the Conditions for the Entry, Residence and Exit of Foreigners.

5. Situation of Citizens of the Democratic Republic of the Congo (DRC) in the Republic of the Congo

According to an article in KongoTimes!, a DRC news website, the government of the Republic of the Congo requires DRC nationals to have a passport and visa to enter the Republic of the Congo (KongoTimes! 26 May 2014). The source cites the Minister of the Interior of the DRC, who stated on 21 May 2014 that citizens in his country who [translation] "held only the *laissez-passer*" had begun to be deported from the Republic of the Congo (*ibid.*). The article states that the Migration Branch (Direction générale des migrations) of the DRC in Kinshasa was informed of this in May 2014 and that the measure was implemented the next day (*ibid.*).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to an article on the website of Processus de Rabat [3], signed by the Director of Immigration and Emigration of the Republic of the Congo, [translation] "with respect to the removal of foreigners residing without authorization, last April [2014] the police force launched operation Mbata ya Bakolo, which aims to fight the growing insecurity in a number of neighbourhoods in Brazzaville because of the aggressive behaviour of some foreign nationals residing without authorization in the Congo, including some criminals called 'Kutuna,' who came from the Democratic Republic of the Congo" (Republic of the Congo n.d.). During the operation, [translation] "over three thousand ... foreign nationals of various nationalities, including 2,000 Congolese from the DRC, were deported for criminality and residing without authorization" (*ibid.*). ADIAC states that the first phase of operation Mbata ya Bakolo [translation] "involved fighting illegal immigration and organized crime," while the second phase, announced in January 2015, concerns "all the foreign nationals" (ADIAC 18 Jan. 2015). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Central African Customs and Economic Union (Union douanière et économique de l'Afrique centrale, UDEAC) was replaced in 1994 by the Economic and Monetary Community of Central Africa (Communauté économique et monétaire de l'Afrique centrale, CEMAC) (CEMAC n.d.). The CEMAC, which groups together Cameroon, the Republic of the Congo, Gabon, Equatorial Guinea, the Central African Republic and Chad, aims to institute [translation] "a true common market" (*ibid.*).

[2] According to Article 41 of Act No. 23-96 of 6 June 1996 on the Conditions for the Entry, Residence and Exit of Foreigners, nationals from the DRC [formerly the Republic of Zaire] and the countries of the CEMAC are [translation] "exempt from paying the guarantee" (Republic of the Congo, 1996, Art. 41).

[3] Processus de Rabat is a partnership between the member countries of the EuroAfrican Ministerial Conference on Migration and Development (Conférence euro-africaine sur la migration et le développement) (Processus de Rabat n.d.).

References

Agence d'information d'Afrique centrale (ADIAC). 18 January 2015. Rock Ngassakys. "Immigration et émigration : Les étrangers vivant au Congo s'activent à régulariser leur situation." <<http://www.adiac-congo.com/content/immigration-et-emigration-les-etrangiers-vivant-au-congo-sactivent-regulariser-leur-situation>> [Accessed 10 Dec. 2015]

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KongoTimes! 26 May 2014. "RDC : 240 dollars pour obtenir un visa du Congo-Brazzaville." <<http://afrique.kongotimes.info/rdc/politique/7545-dollars-rdc-visa-tdc-ministre-richard-muyej-regrette-durcissement-position-brazzaville-preconise-dialogue.html>> [Accessed 21 Dec. 2015]

Processus de Rabat. N.d. "Présentation du Processus de Rabat." <<http://processusderabat.net/web/index.php/processus>> [Accessed 7 Jan. 2016]

Republic of the Congo. 1996. *Loi no 23-96 du 6 juin 1996 fixant les conditions d'entrée, de séjour et de sortie des étrangers*. <<http://www.refworld.org/docid/44aa884a.html>> [Accessed 8 Jan. 2016]

_____. N.d. Direction de l'immigration et de l'émigration. "Gestion de la migration en République du Congo." By Paul Bernard Ondzé. <<http://www.processusderabat.net/web/index.php/actualites-et-evenements/gestion-de-la-migration-en-republique-du-congo>> [Accessed 10 Dec. 2015]

Additional Sources Consulted

Oral sources: Canada – embassy in Kinshasa; constitutionnaliste, Université libre du Congo; Forum pour la gouvernance et les droits de l'homme; France – embassy in Brazzaville; Observatoire congolais des droits de l'homme; Republic of the Congo – embassy in Washington, consulate in Toronto; United States – embassy in Brazzaville.

Internet sites, including: 123visas; AllAfrica; Canada – voyages.gc.ca; Congopages; Deloitte Touche Tohmatsu Limited; *Les Dépêches de Brazzaville*; IciBrazza; Mediacongo.net; Observatoire congolais des droits de l'homme; *Le Patriote*; Radio Africana; Republic of the Congo – Embassy in France, Consular services; Réseau de recherche sur les opérations de paix; *La Semaine africaine*; *Star du Congo*.

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[Top of Page](#)

Date modified: 2016-01-05