

Responses to Information Requests - Immigration and Refugee Board of Canada

Democratic Republic of the Congo: The National Intelligence Agency (Agence nationale de renseignements, ANR), including its mission, structure, territorial jurisdictions, co-operation with other state actors, and the documents it issues (2017-July 2019)

1. Mission, Structure and Territorial Jurisdictions

The Decree-Law No. 003-2003 on the creation and organization of the National Intelligence Agency (Agence nationale de renseignements, ANR) (*Décret-Loi n° 003-2003 portant création et organisation de l'Agence nationale de renseignements de 2003*) of the Democratic Republic of the Congo (DRC) states the following in terms of the ANR's mission:

[translation]

Art. 3. — Subject to other missions conferred on it and to be conferred on it by specific texts, the National Intelligence Agency's mission is to ensure the internal and external security of the State.

Its duties include the following:

1. research, centralization, interpretation, use and dissemination of political, diplomatic, strategic, economic, social, cultural, scientific and other information relevant to the internal and external security of the State;
2. investigation and determination, in accordance with law, of offences against State security;
3. surveillance of persons or groups of nationals or aliens suspected of carrying out an activity likely to jeopardize State security;
4. protection of the political environment to guarantee the normal expression of civil rights, in accordance with laws and regulations;
5. fingerprint identification of nationals;
6. search for criminals and other wrongdoers identified by the International Criminal Police Organization (INTERPOL);
7. collaboration in the fight against drug trafficking, fraud and smuggling, terrorism, serious economic crime and all other crimes posing a threat to the State or to humanity. (DRC 2013, art. 3).

Article 4 of the Decree-Law states that the ANR [translation] “operates throughout and outside the country” (DRC 2003, art. 4). Article 10 of the Decree-Law states that the ANR has three departments: the Department of Homeland Security (département de la sécurité intérieure, DSI), the Department of External Security (département de la sécurité extérieure, DSE) and the Support Department (département d'appui) (DRC 2003, art. 10). Article 11 of the Decree-Law, regarding the organization of the central administration of the DSI of the ANR, states [translation] “[that] a provincial directorate will be established in the capital of each province and will include divisions that carry out *mutatis mutandis* the same duties as the corresponding divisions of the central administration” (DRC 2003, art. 11, emphasis in original).

Sources state that the ANR has a presence throughout the country (CDH 9 July 2019; BBC 21 March 2019; International Crisis Group 13 Oct. 2016, 15). In correspondence with the Research Directorate, a representative of the Centre for Human Rights and Humanitarian Law (Centre des droits de l'homme et du droit humanitaire, CDH), an NGO based in Lubumbashi, added that the ANR is particularly present [translation] "in major cities," such as Kinshasa, Lubumbashi, Mbuji-Mayi and Kananga (CDH 9 July 2019).

The Decree-Law No. 003-2003 on the Creation and Organization of the National Intelligence Agency of 2003 is attached to this Response.

2. Cooperation with Other State Actors

2.1 In the Country

According to article 2 of the Decree-Law, the ANR [translation] "falls under the authority of the President of the Republic" (DRC 2003, art. 2). Radio France Internationale (RFI) also states that the ANR is [translation] "under the direct authority" of the president (RFI 28 Feb. 2019). Article 6 of the Decree-Law provides that [translation] "[t]he general administrator, assistant general administrator and chief administrators, and heads of departments shall be appointed and, if necessary, relieved of their duties by the President of the Republic. (DRC 2003, article 6).

According to the CDH representative, the ANR cooperates with judicial services, the Migration Directorate (Direction générale de migration, DGM) and the police (CDH 9 July 2019). However, a report published in October 2016 by the International Crisis Group on the political situation in the DRC describes the ANR as a "highly centralized parallel administration," explaining that DRC presidency "tightly controls" the ANR, "mostly bypassing civilian structures" (International Crisis Group 13 Oct. 2016, 14). A report prepared by the World Organisation Against Torture (Organisation mondiale contre la torture, OMCT) and 2 NGOs in the DRC, with the contribution of 11 other Congolese NGOs [1], also points out that, unlike the national police, which is [translation] "directly accountable to a conventional structure," the ANR is part of a security apparatus that "maintains a parallel system and structure and also includes military services and the Republican Guard (Garde républicaine) (OMCT et al. 2019, para. 80). The report adds that the ANR [translation] "has significant powers over which judicial authorities have very little control" (OMCT et al. Apr. 2019, para. 81). The report also explains that the 2003 Decree-Law [translation] "allows ANR officers to act outside the procedure mandated by the code of criminal procedure" and that "the public prosecutor does not have the power to directly control ANR judicial police officers" (OMCT et al. 2019, paras. 84-85).

The ANR is described as having been used as a [translation] "political police force" under Joseph Kabila (*Jeune Afrique* 7 June 2018). Sources state that the current DRC president, Félix Tshisekedi [in office since January 2019] also described the ANR in this way (*Jeune Afrique* 26 Feb. 2019; RFI 28 Feb. 2019). According to Human Rights Watch, the ANR "has been an instrument of political repression against opposition leaders and human rights and pro-democracy activists during the country's protracted political crisis" (Human Rights Watch 22 March 2019). Similarly, the BBC states that the ANR [translation] "is often accused of illegally arresting and detaining opponents and human rights activists" (BBC 21 Mar. 2019). Sources report that President Félix Tshisekedi has ordered the release of political prisoners held by the ANR to give the agency [translation] "a more human face" (*Jeune Afrique* 26 Feb. 2019, RFI 28 Feb. 2019).

According to an article published in April 2019 by *Jeune Afrique*, the ANR pressured Congolese television stations to limit the broadcasting of images of former president Joseph Kabila since Félix Tshisekedi took power (*Jeune Afrique* 4 Apr. 2019). This same article reports that an anonymous source in the ANR allegedly stated that [translation] “this was to prevent confusion in the public mind between the real president and the former one” (*Jeune Afrique* 4 Apr. 2019). Corroborating information and additional information on the ANR’s influence over the media in the DRC could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.2 Outside the Country

According to *Jeune Afrique*, in June 2018, Belgium criticized France for [translation] “the continued contacts between French intelligence services and the ANR, while Joseph Kabila, then president of the DRC, still held power despite the limits established by the DRC constitution” (*Jeune Afrique* 7 June 2018). The article adds that [translation] “a delegation of the ANR [had] once again visited Paris in early April [2018]” (*Jeune Afrique* 7 June 2018). Corroborating information and information on collaborations between the ANR and other countries could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The representative of the CDH stated, without providing details, that in the case of Lubumbashi, [translation] “the ANR also works with Zambian security services” under their agreements (CDH 9 July 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Documents Issued by the ANR

The information in the following paragraph was provided by the representative of the CDH:

The ANR issues notices to appear, invitations and search warrants. The purpose of invitations and notices to appear is to collect information or even to make arrests. A search warrant is used when a person [translation] “cannot be located.” [Translation] “Generally,” the documents are on A4 format paper and include the name of the person sought, the reason and the signatory. The director responsible for operations or his or her assistant are [translation] “often” responsible for producing these documents. The notice to appear and invitation may be given to a third party, but the search warrant is a confidential document although [translation] “information is always being leaked.” An acknowledgment of receipt must be produced upon receipt of an invitation or notice to appear, but not upon receipt of a search warrant, which is secret. Any person who refuses to cooperate after reception is forcibly arrested (CDH 9 July 2019).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. For more information on the documents issued by the ANR, refer to the Response to Information Request COD104668 published in December 2013.

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.

Note

[1] The report was written by the World Organisation Against Torture (Organisation mondiale contre la torture, OMCT) during the review of the report of the DRC to the 66th Session of the United Nations Committee Against Torture, jointly with the Alliance for Universal Basic Rights (Alliance pour l'universalité des droits fondamentaux, AUDF), located in Kinshasa, and the Association for the Social and Economic Development of Kasai (Association pour le développement socioéconomique du Kasai, ADSKA). The following Congolese NGOs also contributed to the report: SOS Multisectoral Legal Information (SOS Information juridique multisectorielle), Congolese Committee Against Torture (Comité congolais contre la torture), Network for the Protection of Human Rights Defenders (Réseau de protection des défenseurs des droits de l'homme, REPRODEV), ACAT RDC, Congolese Association for Access to Justice (Association congolaise pour l'accès à la justice, ACAJ), La Voix des sans voix (VSV), Fight for Change (Lutte pour le changement, LUCHA), Women's Synergy Against Sexual Violence (Synergie des femmes contre les violences sexuelles, SFVS), Africa Zone League for the Defence of the Rights of Children and Students (Ligue de la zone Afrique pour la défense des droits des enfants et des élèves) (OMCT et al. Apr. 2019, 5).

References

British Broadcasting Corporation (BBC). 21 March 2019. "[RDC : Inzun Kakiak nouveau patron de l'ANR.](#)" [Accessed 5 July 2019]

Centre des droits de l'homme et du droit humanitaire (CDH). 9 July 2019
Correspondence sent to the Research Directorate by a representative.

Democratic Republic of the Congo (DRC). 2003. [Décret-Loi n° 003-2003 portant création et organisation de l'Agence nationale de renseignements.](#) [Accessed 5 July 2019]

Human Rights Watch. 22 March 2019. "[RD Congo : Il faut enquêter sur deux anciens responsables des services de renseignement.](#)" [Accessed 5 July 2019]

International Crisis Group. 13 October 2016. [Boulevard of Broken Dreams: The "Street" and Politics in DR Congo.](#) Africa Briefing n°123. [Accessed 5 July 2019]

Jeune Afrique. 4 April 2019. Stanis Bujakera Tshiamala. "[RDC : quand l'ANR fait pression pour limiter les apparitions de Joseph Kabila à la télévision.](#)" [Accessed 5 July 2019]

Jeune Afrique. 26 February 2019. Stanis Bujakera Tshiamala. "[RDC : Félix Tshisekedi promet la libération prochaine de 'tous les prisonniers politiques'.](#)" [Accessed 5 July 2019]

Jeune Afrique. 7 June 2018. Pierre Boisselet. "[RDC : divergences 'tactiques' entre Bruxelles et Paris.](#)" [Accessed 5 July 2019]

Organisation mondiale contre la torture (OCMT), et al. April 2019. [La torture en](#)

[*République démocratique du Congo : un secret de polichinelle ? Rapport alternatif soumis en application de l'article 19 de la Convention contre la torture et autres peines ou traitement cruels, inhumains ou dégradants. 66e session du Comité contre la torture : examen du rapport de la République démocratique du Congo \(RDC\).*](#)
[Accessed 5 July 2019]

Radio France internationale (RFI). 28 February 2019. "[RDC : Comment donner un visage humain à la très redoutée ANR?](#)" [Accessed 5 July 2019]

Additional Sources Consulted

Oral sources: American Bar Association – Rule of Law Initiative; Amis de Nelson Mandela; Association africaine de défense des droits de l'homme; Association congolaise pour l'accès à la justice; emeritus professor in political science who conducted research on the DRC; Héritiers de la Justice; independent consultant on human rights in the Great Lakes region; Journaliste en danger; Ligue pour la paix, les droits de l'homme et la justice; Réseau provincial des ONG des droits de l'homme de la ville-province de Kinshasa; Toges noires; two lawyers in Kinshasa; La Voix des sans voix.

Internet sites, including: Africa Intelligence; Africa Radio; AllAfrica; Amnesty International; Austrian Centre for Country of Origin and Asylum Research and Documentation; Belgium – Office of the Commissioner General for Refugees and Stateless Persons; Bertstulman Stiftung; Committee to Protect Journalists; Droitcongolais.info; European Union – European Asylum Support Office; Factiva; Fédération internationale des ligues des droits de l'homme; France – Cour nationale du droit d'asile, Office français de protection des réfugiés et apatrides; GlobalSecurity.org; Interpol; The Jamestown Foundation; Jane's; La Libre Afrique; Organisation mondiale contre la torture; Radio Okapi; Reporters sans frontières; United Kingdom – Home Office; United Nations – MONUSCO, Refworld; United States – State Department.

Attachment

Democratic Republic of the Congo (DRC). 2003. [*Décret-Loi n° 003-2003 portant création et organisation de l'Agence nationale de renseignements.*](#) [Accessed 5 July 2019]