

Responses to Information Requests - Immigration and Refugee Board of Canada

Democratic Republic of the Congo: Civil status documents, including birth certificates, birth certificate extracts, birth registry extracts, certificates of notoriety in lieu of birth certificates (actes de notoriété supplétifs à un acte de naissance), supplementary judgments (jugements supplétifs), and the civil status record; requirements and steps to follow to obtain these documents; availability of fraudulent supplementary judgments and civil status records (2019–April 2021)

1. Civil Status Documents

For general information on civil status documents in the Democratic Republic of the Congo (DRC), see Response to Information Request COD200187 of April 2020.

The information in the following paragraph was provided by the Project Coordinator of Initiatives for Peace and Human Rights (IPHR), a non-profit organization with a presence in the DRC, Rwanda, and Burundi that advocates for lasting peaceful coexistence in the Great Lakes region (IPHR n.d.), in correspondence with the Research Directorate:

The content of civil status certificates is uniform because it is set by law. Their form may vary from one place to another, depending on the civil registrar or the applicant. [translation] "In Kisangani, for instance, civil registrars give future spouses the contents of the marriage certificate extract so they can design and print the form that suits them before filing [the document] with the civil status office to be stamped and signed by the registrar" (IPHR 25 Mar. 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.1 Birth Certificate

For information on birth certificates, see Response to Information Request COD200187 of April 2020.

A blank sample of a birth certificate from the DRC, provided by the IPHR Project Coordinator, is attached to this Response (Attachment 1). The IPHR Project Coordinator indicated the following about all samples provided:

[translation]

[T]he civil status certificate samples we are providing in this message are from the registry of the commune of Goma, city of Goma, province of Nord-Kivu in the DRC. They may have the same content as those issued by registrars in other communes and cities, but not necessarily the same form. (IPHR 25 Mar. 2021)

1.2 Birth Certificate Extract and Birth Registry Extract

The Family Code of the Democratic Republic of the Congo (*Code de la famille de la*

République démocratique du Congo) provides the following:

[translation]

Article 99:

Unless otherwise stated in the rules specific to each civil status certificate, any person may, subject to payment of fees, order the issuance of copies of the certificates recorded in the civil status registries.

These certified true copies bear the date of their issue, clearly written out, and are stamped by the authority that issued them.

They are also authenticated when they are produced for foreign authorities.

Simple extracts may be issued, containing the name of the commune, sector, or chiefdom where the certificate was drawn up, the date when it was prepared, the specific nature of the certificate and possible notes, and the name and sex of the person or persons whom it concerns.

They are signed by the issuing authority and marked with its stamp. If civil status certificates are required for administrative purposes, they are to be issued only by extract, at no fee.

Where the civil status registrar observes that the civil status certificate was not recorded, he drafts a negative certificate. Copies and extracts of civil status certificates as well as negative certificates are valid until declared to be false.

...

Article 129:

Copies and extracts of birth certificates are issued in accordance with Article 99 of this law.

However, except for the Prosecutor of the Republic, the Justice of the Peace Court or Justice of the Children's Court for the child's place of residence, as appropriate, one's direct ascendants and descendants, their spouse, and their legal guardian or representative, no one may obtain a certified copy of a birth certificate other than their own, except by permission of the justice of the place where the certificate was received and upon written request by the interested party.

If denied, an appeal may be filed.

The court rules in chambers.

Article 130:

Extracts additionally stating the name, profession, nationality, and domicile of the father and mother may only be issued under the conditions of the preceding article, unless issuance was requested by the heirs of the child or by government officials.
(DRC 1987, bold in original)

According to the Reciprocity Schedule published by the US Department of State, the birth certificate extract and birth registry extract are "[a]lternate [d]ocuments" for

the birth certificate (US n.d.).

Regarding the appearance of birth certificate extracts, the IPHR Project Coordinator stated that some civil registrars write [translation] "the name of the commune as a diagonal watermark" and that "others do not" (IPHR 25 Mar. 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

A blank sample of a birth certificate extract and a sample of a birth registry extract from the DRC, provided by the IPHR Project Coordinator, are attached to this Response (Attachments 2 and 3).

Information on the circumstances under which a birth registry extract would be issued rather than a birth certificate extract could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.3 Certificate of Notoriety in lieu of Birth Certificate

The Family Code provides the following:

[translation]

Article 153:

In the absence of a civil status certificate of a birth, death or marriage, on the basis of the legal or regulatory provisions prior to this Act, any interested party may ask the registrar of civil status in the place of the birth, death or marriage to provide a certificate of notoriety as a substitute.

However, the absence of a certificate of notoriety may be remedied by a judgment rendered within eight days of the date of referral by the Peace Court upon a simple motion made by any interested party or the Office of the Public Prosecutor to the court in the place where the certificate should have been issued.

Article 154:

The certificate of notoriety contains the statement by the person making the request, attested by two witnesses, who may or may not be the applicant's parents, who give the required details:

- For a birth certificate: the specific date of birth if possible, the place of birth, the name and sex of the applicant, the names of the father and mother whether or not they were married as well as the reasons that prevented the birth from being reported and any details that may be requested by the civil status registrar.
- For a death certificate: the name, sex, nationality of the deceased, specific date and place of death if possible, name, age, sex, nationality, profession, domicile or residence of the declarant as well as the reasons that prevented the death from being reported and any details that may be requested by the civil status registrar.
- For a marriage certificate: the names, sex, profession, date and place of birth, domicile or residence of the spouses; the names, profession, nationality, domicile or residence of the father and mother of each spouse and the matrimonial witnesses required by law; the prior marital status of the spouses;

the spouses' choice of matrimonial regime; the public enactment of the registration or solemnization, as well as the reasons that prevented the marriage from being reported and any details that may be requested by the civil status registrar.

The provisions of articles 92 to 96 and 99 of this law apply, *mutatis mutandis*, to certificates of notoriety.

The certificates of notoriety are recorded in the supplementary registries of the place of birth, death, or marriage.

Article 155:

Every certificate of notoriety must be approved, at the behest of the party which requested it, by the Presiding Justice of the Peace Court or of the Children's Court where that certificate of notoriety was prepared. Before approval, the certificate of notoriety is valid only for information purposes.

The Presiding Justice of the court in question may, prior to approval, ask the civil status registrar for more information, or request or order any verification that he deems necessary.

If approval is denied, the Presiding Justice of the court in question explains his decision, which is subject to appeal before the District Court. After approval, the certificate of notoriety is treated in every respect as a civil status certificate.

...

Article 157:

If there is no civil status certificate for the birth, death, or marriage subsequent to this law, any person unable to obtain the civil status certificate may by reasoned application ask the Presiding Justice of the Peace Court or of the Children's Court, as appropriate, under the civil status registry of the place where the certificate should have been drawn up, to establish a substitute certificate of notoriety, specifying for what purposes it is intended. (DRC 1987, bold in original)

The US Department of State's Reciprocity Schedule indicates that in order to obtain a certificate of notoriety in lieu of birth certificate, an application must be filed with the commune's civil status office, providing it with evidence of birth, such as witnesses or a hospital birth certificate; once the suppletory certificate of notoriety has been obtained, it should be taken to the nearest Peace Court or District Court in order to get an "Approval Order for a Certificate of Notoriety in lieu of Birth Certificate" (*Ordonnance d'homologation à un acte de notoriété supplétif à un acte de naissance*) (US n.d.). According to the same source, the certificate of notoriety in lieu of a birth certificate is accepted as a birth certificate for people born before the August 1986 law [1] (US n.d.).

A blank sample of a DRC certificate of notoriety in lieu of birth certificate, provided by the IPHR Project Coordinator, is attached to this Response (Attachment 4).

1.4 Suppletory Judgment

Law No. 16/008 of 15 July 2016 Amending and Supplementing Law No. 87-010 of 1

August 1987 on the Family Code (*Loi no 16/008 du 15 juillet 2016 modifiant et complétant la loi no 87-010 du 1^{er} août 1987 portant Code de la famille*) provides the following:

[translation]

Article 98:

Unless otherwise specified by law, civil status certificates are drawn up within 30 days of the event or the legal act that they record.

Beyond this statutory deadline, the civil status certificate has only probative value for information purposes.

However, it shall be otherwise if recorded in the registry pursuant to a declaratory or suppletory judgment.

...

Article 106:

The absence of a civil status certificate may be remedied by a judgment rendered by the Peace Court or Children's Court, as appropriate, upon a simple motion made to the court of the place where the certificate should have been prepared.

Any interested party or the Office of the Public Prosecutor may make such a motion. When a motion is made by a party other than the Office of the Public Prosecutor, the Office of the Public Prosecutor is informed of it.

When the registrar of civil status notes the absence of a civil status record as a result of the registrants coming forward after the prescribed time limit, the registrar of civil status, after verifying the truthfulness of what is being declared and the reasons for the delay, immediately sends a report to the Office of the Public Prosecutor, which refers it to the court.

The court, after verification and possible investigation, renders its decision and gives reasons for that decision.

The judgment is transcribed into the civil status registry by the registrar of civil status in the place where the event occurred, within eight days of receiving the judgment, at the initiative of the Office of the Public Prosecutor. The judgment is transcribed into the registers for the current year, and note of the event is made in the margins of the registries at the date of its occurrence.

In cases where the transcription concerns an event that occurred in a year prior to the current year, the registrar of civil status, after verification or investigation and within eight days, informs the District Court's registrar and the central office of civil status records of the ministry responsible for justice of the event date entry to be made in the margins of the registries. (DRC 2016, bold in original)

The US Department of State's Reciprocity Schedule notes that if the parents failed to apply for their child's birth certificate within the 90 days provided, they or the applicant may apply for a suppletory judgment for a birth certificate at the nearest Children's Court or Peace Court in their birth city (US n.d.). The IPHR Project Coordinator indicated the following:

[translation]

To obtain a judgment in lieu of birth certificate, the applicant must:

- submit an application for a judgment in lieu of birth certificate to the Presiding Justice of the Children's Court or Peace Court, as appropriate;
- attach their hospital birth record; and
- pay the court fees. (IPHR 25 Mar. 2021)

In its overview of the procedure for declaring births in the DRC in its Platform to Raise Awareness Among States and Populations to Ensure Every Child is Declared at Birth (*Plateforme de sensibilisation des États et des populations pour que chaque enfant soit déclaré à la naissance*), Regards de femmes [2] notes that for the procedure to regularize a birth through a supplementary judgment, evidence related to the birth is required and that the acceptable types of evidence are a birth record or witness testimony (two witnesses from the father's side and two from the mother's side) (Regards de femmes n.d.b). The same source notes that the supplementary judgment [translation] "costs about [US\$]250.00" (Regards de femmes n.d.b). The International Bureau for Children's Rights (IBCR) [3], in a report on the child welfare system in the DRC, reports that [translation] "this procedure is complex and costs a fee" (IBCR March 2016, 30).

According to the US Department of State's Reciprocity Schedule, the applicant may then present this document to obtain a birth certificate from the nearest commune's civil status office (US n.d.). Regards de femmes further notes that a judgment in lieu of birth certificate may be used to regularize the birth of a child who was not declared at birth or not declared within 90 days (Regards de femmes n.d.b).

For further information on supplementary judgments, see Response to Information Request COD200187 of April 2020.

A sample of a judgment in lieu of birth certificate from the DRC, provided by the IPHR Project Coordinator, is attached to this Response (Attachment 5).

1.5 Individual Civil Status Record

Information on the individual civil status record or civil status record was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the IPHR Project Coordinator, a document called a [translation] "civil status record" "does not exist" in the DRC (IPHR 25 Mar. 2021).

However, in a 2017 decision, France's Defender of Rights (*Défenseur des droits de la France*) cites a decision by the Court of Appeal of Bordeaux that referred to an [translation] "individual civil status record ... established in July 2015 by the civil status offices of the city of Kinshasa" (France 16 June 2017, 4).

Information on the requirements and procedure for obtaining these civil status documents from abroad or through a third party could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Prevalence of Fraudulent Documents

Information on fraudulent supplementary judgments or civil status records could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

On the subject of false civil status certificates in general, the IPHR Project Coordinator reported that they [translation] "exist" in the DRC and that "without a QR code, bar code, or any other security features," they are "easy to forge" (IPHR 25 Mar. 2021). He also stated that [translation] "some" of the false civil status records are "forged on a computer and printed out" (IPHR 25 Mar. 2021).

The same source stated the following with respect to fraudulently obtained documents:

[translation]

Fraudulently obtaining a civil status document is possible in the DRC, but hard to imagine. It generally occurs when the document was not obtained through official channels. This is the case for civil status certificates obtained after the statutory deadline and subject to prior formalities like applying to the Justice of the Peace Court or Children's Court. To bypass this often-lengthy procedure, some applicants have backdated civil status records issued with the complicity of certain civil status officers. When this occurs, the issued document looks real, but is actually a forgery. Often this is only noticed when it comes up in a legal proceeding. (IPHR 25 Mar. 2021)

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] Information about an August 1986 law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. However, it should be noted that the Family Code of the Democratic Republic of the Congo (Code de la famille de la République démocratique du Congo) dates from August 1987 (DRC 2016).

[2] Regards de femmes are a French NGO that fights stereotypes and violence and encourages gender parity and solidarity among women (Regards de Femmes n.d.a).

[3] The International Bureau for Children's Rights (IBCR) is an international NGO based in Montréal, Canada, which promotes children's rights (IBCR n.d.).

References

Democratic Republic of the Congo (DRC). 2016. [*Loi no 16/008 du 15 juillet 2016 modifiant et complétant la loi no 87-010 du 1^{er} août 1987 portant Code de la famille*](#). [Accessed 7 Apr. 2021]

Democratic Republic of the Congo (DRC). 1987 (amended in 2016). [*Code de la famille de la République démocratique du Congo*](#). [Accessed 31 Mar. 2021]

France. 16 June 2017 Défenseur des droits. [*Décision du défenseur des droits no 2017-180*](#). [Accessed 29 Mar. 2021]

Initiatives for Peace and Human Rights (IPHR). 25 March 2021. Correspondence from the Project Coordinator to the Research Directorate.

[Initiatives for Peace and Human Rights \(IPHR\). N.d. "Who We Are."](#) [Accessed 6 Apr. 2021]

International Bureau for Children's Rights (IBCR). March 2016. [*État des lieux du système de protection de l'enfant et de la formation des policiers, du personnel judiciaire et des travailleurs sociaux en République démocratique du Congo*](#). [Accessed 31 Mar. 2021]

[International Bureau for Children's Rights \(IBCR\). N.d. "À propos."](#) [Accessed 31 Mar. 2021]

Regards de femmes. N.d.a. ["Présentation de l'association."](#) [Accessed 31 Mar. 2021]

Regards de femmes. N.d.b. ["Procédure de déclaration des naissances en République démocratique du Congo."](#) [Accessed 23 Mar. 2021]

United States (US). N.d. Department of State. ["Democratic Republic of the Congo \(D.R.C.\) Reciprocity Schedule."](#) [Accessed 12 Feb. 2021]

Additional Sources Consulted

Oral sources: Avocats sans frontières in the DRC; Comité national femme et développement; Conseil national des organisations non gouvernementales de développement; Droits humains sans frontières; La Voix des sans voix pour les droits de l'homme; law firms in the DRC.

Internet sites, including: ecoi.net; Factiva, UN – Refworld, UNICEF.

Attachments

1. Democratic Republic of the Congo (DRC). N.d. "Acte de naissance." Blank sample sent to the Research Directorate by the Project Coordinator of Initiatives for Peace and Human Rights (IPHR), 25 Mar. 2021.
2. Democratic Republic of the Congo (DRC). N.d. "Extrait d'acte de naissance." Blank sample sent to the Research Directorate by the Project Coordinator of Initiatives for Peace and Human Rights (IPHR), 25 March 2021.
3. Democratic Republic of the Congo (DRC). N.d. "Extrait du registre des déclarations de naissance." Blank sample sent to the Research Directorate by the Project Coordinator of Initiatives for Peace and Human Rights (IPHR), 25 March 2021.
4. Democratic Republic of the Congo (DRC). N.d. "Acte de notoriété supplétif à un acte de naissance." Blank sample sent to the Research Directorate by the Project Coordinator of Initiatives for Peace and Human Rights (IPHR), 25 March 2021.
5. Democratic Republic of the Congo (DRC). N.d. Jugement supplétif d'acte de naissance. Sample sent to the Research Directorate by the Project Coordinator of Initiatives for Peace and Human Rights (IPHR), 25 March 2021.