

Immigration and Refugee Board of Canada

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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.

2 April 2012

COD104014.FE

Democratic Republic of the Congo: Whether a foreign national who acquired Congolese citizenship through marriage can regain Congolese nationality; if so, the procedure for regaining Congolese nationality; whether a child born outside the Democratic Republic of the Congo (DRC) of a Congolese father can acquire Congolese nationality from outside the country; if so, the procedure for doing so
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Acquiring Nationality Through Marriage

A comparative study of African legislation on nationality produced by the Open Society Institute (OSI) indicates that the conditions for acquiring nationality through marriage in the Democratic Republic of the Congo (DRC) are [translation] "extremely restrictive" (OSI Oct. 2010, 53 note 100). The study notes that acquiring nationality through marriage [translation] "must be approved by decree of the Council of Ministers and examined by the National Assembly" (ibid., 52-53). Article 19 of Law No. 04/024 of 12 November 2004 on Congolese Nationality (*Loi N°04/024 du 12 novembre 2004 relative à la nationalité congolaise*) also states that an application for nationality can be made only seven years after the marriage [translation] "on the condition that, on the date the application is filed, the spouses are still living together and the Congolese spouse has retained his nationality" (DRC 2004).

2. Conditions for the Loss of Congolese Nationality

2.1 Acquiring Nationality from Outside the Country

In a telephone interview with the Research Directorate, an official of the Embassy of the Democratic Republic of the Congo in Ottawa stated that Congolese nationality is lost [translation] "automatically" if a person with Congolese nationality acquires a foreign nationality (ibid. 17 Feb. 2012). This is set out in Article 26 of Law No. 04/024 (ibid. 2004). The embassy official noted, however, that, in practice, it is difficult for the Congolese authorities to know whether a person with Congolese nationality has acquired a foreign nationality and that there are [translation] "certainly" people who have acquired a foreign nationality without informing the Congolese authorities (ibid. 17 Feb. 2012).

The official explained that the authorities conduct a check when there are reasons to believe that a person might have acquired a foreign nationality (ibid.). For example, when a person submits an application to an embassy abroad to renew a passport, proof of the person's status in the country where he or she resides is required, such as a work or study permit, in order to ensure that the person has not obtained the nationality of the country of residence (ibid.). The official also noted that the Congolese authorities may investigate if they suspect that a person has acquired a foreign nationality, for example, when a person is reported by someone else (ibid.). The official stated that it is often difficult to determine the status of a person in a foreign country, particularly because of legislation governing the protection of privacy or because of the relations with the country concerned (ibid.).

2.2 Other Conditions

The embassy official also stated that a person who is not of Congolese origin but who acquired Congolese nationality can lose that nationality if he or she acquired it by fraudulent means or has committed a [translation] "serious" crime, such as treason, an attack on a statesman, or taking part in a rebellion (DRC 17 Feb. 2012). The official stated that, aside from these circumstances or the acquisition of a foreign nationality, a person who acquired Congolese nationality retains it (ibid.).

3. Regaining Congolese Nationality

The embassy official stated that it is possible for a person who has lost Congolese nationality to reacquire it but it is [translation] "complex" (ibid.). However, he was unable to provide any details about the procedure for reacquiring Congolese nationality. Articles 30 and 31 of Law No. 04/024 provide that a person who had previously held Congolese nationality by acquisition may reacquire it by decree (DRC 2004). The decrees referred to in Law No. 04/024 are decrees debated in the Council of Ministers, as mentioned earlier (ibid., Art. 19, 29). Additional information on reacquiring Congolese nationality could not be found among the sources consulted by the Research Directorate.

4. Acquisition of Nationality by Children born Abroad

According to the embassy official, children born of a parent with Congolese nationality, whether born in the DRC or abroad, automatically receive Congolese nationality (DRC 17 Feb. 2012). This is set out in Article 2 of Law No. 04/024 (ibid. 2004). The embassy official explained that, in the case of children born in a country that gives them nationality by birth, the parents must decide whether their children will adopt the nationality of that country, for example, by obtaining a passport of the country where the child was born (ibid. 17 Feb. 2012). The official stated that, in that case, the child would lose his or her Congolese nationality (ibid.).

The embassy official stated that children whose parents have Congolese nationality and who want to regain their Congolese nationality must prove their identity and their relationship to the parent or parents of Congolese origin (ibid.). The official added that the Congolese authorities may require evidence that one of the parents has retained Congolese nationality (ibid.). In another telephone interview with the Research Directorate, the official stated that a minor child can establish his or her Congolese nationality by presenting a birth certificate indicating the child's relationship to at least one parent of Congolese origin and identity documents establishing the parent's Congolese nationality (ibid. 28 Feb. 2012). The official also stated that the parents may have to establish that the child has not acquired a foreign nationality or that has renounced a

foreign nationality (ibid.). However, he also stated that the Congolese government bears the burden of establishing that the child acquired a foreign nationality (ibid.). According to him, it is difficult to obtain that information without consulting the authorities of the foreign country, which depends on the relations between the governments and the laws and regulations of the foreign country, and therefore there may be some people who have reacquired Congolese nationality without having to renounce another nationality (ibid.).

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.

References

Democratic Republic of the Congo (DRC). 28 February 2012. Embassy of the Democratic Republic of the Congo in Ottawa. Telephone interview with an official.

_____. 17 February 2012. Embassy of the Democratic Republic of the Congo in Ottawa. Telephone interview with an official.

_____. 2004. *Loi n°04/024 du 12 novembre 2004 relative à la nationalité congolaise*. <<http://www.glin.gov/view.action?glinID=202770>> [Accessed 10 Feb. 2012]

Open Society Institute (OSI). October 2010. Africa Governance Monitoring and Advocacy Project (AfriMAP). Bronwen Manby. Les lois sur la nationalité en Afrique: une étude comparée. <http://www.soros.org/initiatives/justice/articles_publications/publications/citizenship_20091009/citizenship-africa-fr-20110512.pdf> [Accessed 15 Feb. 2012]

Additional Sources Consulted

Oral sources: Attempts to contact the embassies of the Democratic Republic of the Congo in Washington, Brussels and Paris were unsuccessful.

Internet sites, including: Democratic Republic of the Congo – embassies in Brussels, Paris and Washington, DC, Ministry of Justice and Human Rights, Official site of the President of the Republic, La Primature.

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