

## REPUBLIC OF THE CONGO

As at 30 June 2020, the Republic of the Congo was providing protection to 40,721 refugees and asylum-seekers from 14 countries. In addition, approximately 300,000 people are currently internally displaced following the armed conflict in the Pool department at the end of 2016 and flooding in the northern part of the country (Likouala, Plateaux and Sangha).

Most refugees in the Republic of the Congo originate from the Central African Republic, the Democratic Republic of the Congo and Rwanda. Refugees from the Central African Republic mostly arrived between 2013 and 2016 following the security crisis in their country. Refugees from the Democratic Republic of the Congo arrived in various waves as a result of ongoing armed conflict and intercommunal violence in their home country. The last large inflow was in December 2018, with more than 8,000 people arriving in a two-day period. Many Rwandese refugees arrived in the aftermath of the 1994 genocide, although more than half of the Rwandese refugee population in the Republic of the Congo today consists of those refugees' children who were born in the Republic of the Congo.

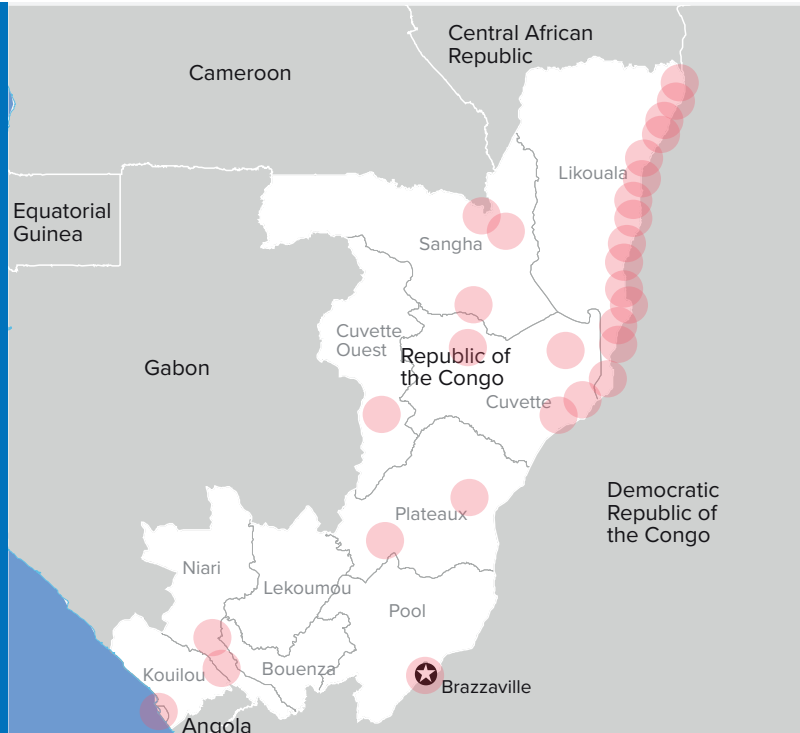
The Republic of the Congo is a low-income country, ranked 175th of the 189 countries on the Human Development Index for 2019. There are large income inequalities between rural and urban areas. Despite this, the Republic of the Congo has traditionally maintained an open-door policy for refugees.

### KEY POPULATION DATA

**26,702**  
Refugees

**13,696**  
Asylum-seekers

**0.75%**  
of the country's population (5,380,508)  
are refugees and asylum-seekers



Most asylum-seekers and refugees in the Republic of the Congo reside in the Likouala department near the borders with the Democratic Republic of the Congo and the Central African Republic. Likouala is relatively isolated and difficult to access compared to the other departments in the country, which contributes to high levels of poverty and limited access to basic social services for residents and refugees alike. A smaller number of refugees live in other departments of the country such as Plateau, Brazzaville, Sangha and Pointe-Noire. Approximately 17 per cent of refugees in the Republic of the Congo live in settlements (sites) in rural areas, while 83 per cent live with communities and hosted arrangements in urban and rural areas.

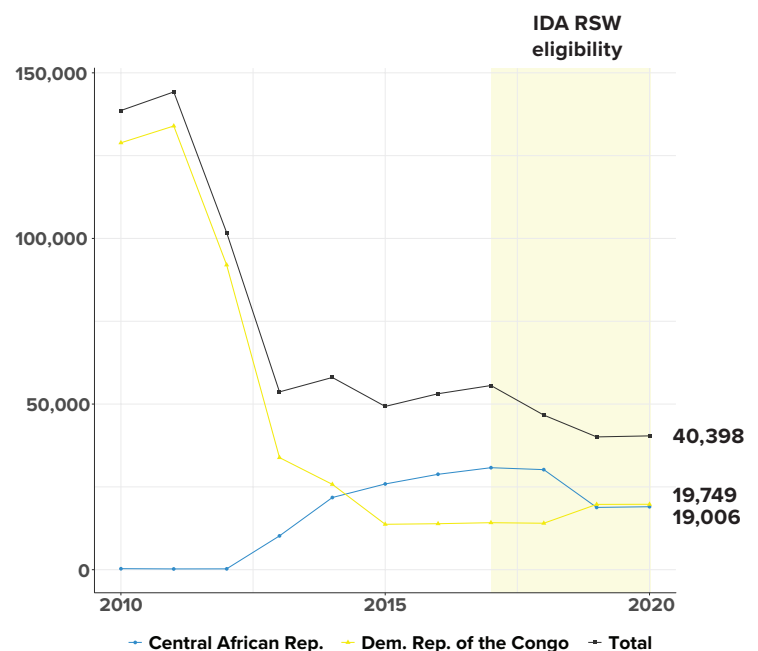


Figure 1: Number of refugees and asylum-seekers of the largest refugee population groups

## OVERVIEW OF REFUGEE POLICY ENVIRONMENT (JULY 2017–JUNE 2020)

The Republic of the Congo has a long tradition of hosting refugees and has demonstrated a strong commitment to fulfilling international responsibilities in refugee situations. Key policy developments at the national level in the period from 2017 to 2020 include:

- The adoption of a draft refugee law by the Council of Ministers in August 2019 and its submission to parliament. This followed the 2012 efforts of the National Committee for Refugee Assistance (CNAR) to draft a comprehensive and dedicated law on the right of asylum and refugee status, which were revived in the context of adoption of the New York Declaration on Refugees and Migrants by the United Nations General Assembly in 2016, the adoption of the Global Compact on Refugees in 2018, and the 2019 Global Refugee Forum.
- The passing of [Law No 29-2017](#) in August 2017, which establishes the conditions of entry, stay and exit of foreigners in the Republic of the Congo (hereafter: the 2017 foreigners law). The law amends and supplements certain provisions of [Law No 23-96 of 6 June 1996](#) and includes specific provisions on refugee identity documentation.
- The promulgation of [Law No 21-2018](#) in 2018 (hereafter: the 2018 land law). The law establishes the rules for occupying and acquiring land and plots of land and prescribes restrictions on land access for foreigners, including refugees.
- The adoption of the National Action Plan to combat statelessness in July 2018, setting out measures to improve the civil registration system, and the passing of [Law No 42-2019](#), which abolishes fees for birth registration and birth certificates. Both help to reduce the risk of statelessness for refugees and nationals.
- The adoption of the [2017 National Policy on Social Action](#), which includes refugees as an integral part of the beneficiary population.
- The passing of [Law No 7-2019](#) in April 2019, establishing the Congolese Employment Agency (Agence Congolaise Pour l'Emploi – ACPE), affording nationals and refugees access to business creation advice.
- The Ministry of Interior and Decentralization's civil status census in 2018, which identified 157,466 people born in the Republic of the Congo who had not been issued with a birth certificate and were therefore at risk of statelessness.

Furthermore, at the [Global Refugee Forum in December 2019](#), the Government presented among its best practices “facilitating local integration of refugees in accordance with the law”, including the ability to obtain residence permits and reside legally on Congolese territory, and encouraged the resettlement of refugees in third countries. It also made a policy pledge to complete the legislative reform (which has been under way since May 2016) to remove all discriminatory provisions from the Person and Family Code that could result in statelessness for Republic of the Congo nationals and refugees alike.

## POLICY DIMENSIONS (AS AT 30 JUNE 2020)

### 1 Host Communities

#### 1.1 Support for communities in refugee-hosting areas

National fiscal/budget policies and mechanisms exist that provide for timely additional financial transfers from national level to areas that are economically affected by the presence of refugees. The [2016–2023 National Strategy for the Prevention and Reduction of Risks of Disasters](#) (hereafter: the 2016–2023 National Prevention Strategy) identifies migration and population displacement, particularly across borders, as one of the main external “shocks” to which the Republic of the Congo is exposed. Strategic Action 10 of the Strategy aims to fully integrate prevention and risk reduction into the budget planning of all institutions and Ministries involved in crisis management, with clear and secure budget lines. Similarly, in the [2017 National Policy on Social Action](#), one of the priorities highlighted is the consultation with the Ministry of Finance to set up an emergency fund, with rapid disbursement mechanisms, to finance immediate responses to emergencies. Nonetheless, implementation of the 2016–2023 National Prevention Strategy has been limited and the emergency fund foreseen by the 2017 National Policy has not yet been established or integrated into the [2020 rectified Finance Law](#).

#### 1.2 Social cohesion

While there are no policies focused specifically on social tensions, national policies can be applied to identify, prevent and mitigate potential social tension and risks of violence in refugee-hosting areas. The [2015 Constitution](#), for instance, sets out obligations for citizens to promote and preserve peace, stability, national unity and social cohesion. The Constitution also establishes various Consultative Councils with the overall aim of promoting solidarity and harmony and fully taking different components of Congolese society into account. These include councils for national dialogue, women, civil society and non-governmental organizations, young people and persons with special needs. The councils are further regulated and operationalized through specific policies which can be implemented in refugee-hosting areas to the benefit of refugees and host communities, even if refugees are not specifically mentioned. In practice, refugees have been welcomed by local communities for decades, often fully integrating into the communities hosting them. Isolated incidents have been reported involving refugees, particularly over difficulties in accessing land; however, UNHCR observes that the reporting of such incidents is on the decrease.

Among the local governance structures in the Republic of the Congo, there are informal and formal local mechanisms that promote peaceful coexistence, dialogue, joint activities and citizen engagement. In some areas, refugees have been integrated and are represented, for instance, in agricultural associations. There are no formally established refugee leadership structures in the Republic of the Congo. Nonetheless, in some areas, refugees have informally organized themselves into community-based mechanisms that connect to similar mechanisms in the host community. In some cases, these mechanisms operate under the supervision of local village chiefs and local dispute resolution structures.

The [2015 Constitution](#) includes a provision protecting all children in the Republic of the Congo, including refugees, from discrimination. As described above, the Republic of the Congo also made a policy pledge at the 2019 Global Refugee Forum to complete the legislative reform under way since May 2016 to remove all discriminatory provisions from the Person and Family Code that could result in statelessness for Republic of the Congo nationals and refugees.

#### 1.3 Environmental management

National policies exist that can be applied to mitigate the environmental impact of hosting refugees. While these policies do not directly refer to refugees or host communities, they can be implemented in refugee-hosting areas to the benefit of both. For instance, the Republic of the Congo has a code ([Code No 33-2020 of 8 July 2020](#)) and various [other policies on forestry and nature conservation](#). Strategies and programmes

have also been developed to operationalize these policies, including a [national programme to reduce emissions from deforestation and forest degradation \(REDD+\)](#). Implementation of these policies is limited, particularly in remote rural refugee-hosting areas and in large refugee host cities such as Brazzaville and Pointe Noire.

### 1.4 Preparedness for refugee inflows

In 2019 and 2020, the Government implemented the Humanitarian Mechanism, an inter-ministerial coordination structure designed to prevent and respond to all types of humanitarian crises that may arise in the Republic of the Congo and to minimize short- and medium-term socioeconomic impacts. The Humanitarian Mechanism was established with financial support from UNHCR and is chaired by the Ministry of Social Affairs and Humanitarian Action (MSAHA). Teams of emergency workers were trained by UNHCR and MSAHA in all regions of the Republic of the Congo.

Decrees to underpin the mechanism have been drafted by the MSAHA and consultations were carried out with stakeholders in 2020. The decrees were scheduled to be submitted to the Prime Minister's Office for onwards submission to the Council of Ministers in the second half of 2020. Membership of the mechanism consists of line ministries (including CNAR), international and national humanitarian partners. Connections to the sub-national level also exist, but development partners are so far not included. The [2016–2023 National Strategy for the Prevention and Reduction of Disasters](#) also provides some elements for a national preparedness framework, most notably the potential for financial disbursement mechanisms. As set out under policy dimension 1.1 above, implementation of this funding mechanism is yet to start. As such, no comprehensive national preparedness framework currently formally exists.

In practice, preparedness measures are taken on an ad hoc basis when new refugee inflows are expected based on the situation in surrounding countries. In those situations, UNHCR and humanitarian partners develop short-term contingency plans in collaboration with national institutions. With financing from UNHCR, teams of local emergency workers have also been trained and formed in the 12 departments of the Republic of the Congo. The contingency plans and sub-national level emergency teams derive their legitimacy from the 2015 Constitution, Article 210: "Social action, prevention, risk reduction and disaster management are the responsibility of local authorities". Nonetheless, these measures are not integrated into the national system or budget and are predominantly financed and implemented by international and local humanitarian partners.

## 2 Regulatory Environment and Governance

### 2.1 Normative framework

The Republic of the Congo has been a State Party to the [1951 Convention Relating to the Status of Refugees](#) since 1962. No reservations were made. The Republic of the Congo is also a State Party to the [1967 Protocol Relating to the Status of Refugees](#), the [1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa](#) and other relevant international and regional instruments. The Republic of the Congo has endorsed the Global Compact on Refugees.

Refugee-related commitments in these instruments are currently implemented through the [2015 Constitution](#), the [2017 Foreigners Law](#), the [Decree of 31 December 1999 establishing the National Committee for Refugee Assistance](#) (hereafter: the [1999 Decree on CNAR](#)) and [Order 8040 of 28 December 2001 establishing the asylum eligibility committee](#) and [Order 8041 establishing the asylum appeals board](#) (hereafter: the [2001 Order on eligibility](#) and the [2001 Order on appeal](#)), in conjunction with the Congolese national legal and policy framework.

The Constitution stipulates in its preamble that ratified international texts relating to human rights form an integral part of the Constitution. Article 21 of the Constitution explicitly grants the right of asylum to foreign nationals within conditions determined by Congolese law. The [2017 Foreigners Law](#) contains explicit provisions on refugee rights relating to identity documentation, while the [1999 Decree on CNAR](#) and the

2001 Orders on [eligibility](#) and [appeal](#) contain refugee-specific provisions on refugee status determination (RSD), documentation, non-refoulement, work, social assistance, health and education. Other rights granted to refugees in the 1951 Convention and via other instruments have not, however, been integrated within the Congolese legal framework. A legal practice has emerged whereby these rights are mostly governed by laws and provisions that pertain to foreigners in general. As set out in the individual policy dimensions below, there are also discrepancies between relevant decrees and the Foreigners Law, such as on rights relating to identity documentation. These legal uncertainties are not in line with international and regional norms and standards.

UNHCR observes gaps in the awareness of refugee rights and applicable laws, policies and procedures among refugees, authorities and private sector entities. Most of these actors see refugees as (illegal) foreigners, which can sometimes result in refugees and asylum-seekers being subjected to arbitrary arrests and detention (Congolese Human Rights Observatory – Observatoire Congolais des Droits de l’Homme (OCDH)-Annual Report 2019: Human rights in Congo-Brazzaville; Country Reports on Human Rights Practices for 2019 from the United States Department of State, Bureau of Democracy, Human Rights and Labor).

The framework for recognizing refugee status is defined in the [1999 Decree on CNAR](#) and the 2001 Decrees on [eligibility](#) and [appeal](#). In accordance with these policies, CNAR conducts refugee status determination (RSD) interviews and submits its recommendations to the Eligibility Committee which takes the decision to grant or reject the asylum claim. Appeals are reviewed by the Appeal Committee. The procedures described in the law, including those of the appeal process, generally comply with international standards. However, there were noted gaps in the implementation of these procedures. Indeed, asylum-seekers have to wait before receiving a final decision on their request for asylum. CNAR has indicated willingness to improve the situation. When conditions as stated in Article 1 of the OAU Convention are met in the country of origin, the country of asylum may recognize the refugee status of civilians who flee into their territory due to these circumstances, on a group basis, following an official decision. The last time the authorities of the Republic of the Congo granted such *prima facie* refugee status was in 2013, when Central African civilians were fleeing political violence.

## 2.2 Security of legal status

Although the legislative reform process of the refugee legal framework is well under way, the absence of an asylum law remains an important factor regarding implementation of the right to asylum and the protection environment in the Republic of the Congo. Despite this legislative gap, no illegal loss or termination of refugee status has been observed.

It is important to note that since 31 December 2017, the Republic of the Congo has lawfully invoked the cessation clause of the 1951 Refugee Convention with respect to Rwandan refugees and has provided them with opportunities to repatriate or benefit from local integration opportunities. Those who opted for local integration received residency permits and those who opted for voluntary repatriation were assisted in returning home in safety and in dignity. In addition, after a review exercise, those with continuous protection needs were exempted from the cessation clause and have retained their refugee status to date.

[The 2001 Order on eligibility](#) provides asylum-seekers with the right to stay in the country based on temporary identity documentation that should remain valid until the asylum-seekers receive a final decision on their claim. However, in practice, identity documentation for asylum-seekers must be renewed every 6 months at the office of the National Committee for Assistance to Refugees (CNAR). This renewal requirement poses challenges for asylum-seekers living far from localities where CNAR has an office. Similarly, once refugee status is granted, the [2001 Order on eligibility](#) provides refugees with the right to stay in the country based on a refugee ID card with a 5-year validity. The order stipulates that the refugee ID card has the same value as a residency permit and should be granted free of charge. However, [the 2017 Foreigners Law](#) also includes specific provisions concerning the refugee ID card, stating that it does not grant residency status to refugees and that its validity is for a period of 3 years. In practice, the provisions of the 2017 Foreigners Law are observed with respect to refugee documentation, rather than those of the 2001 Order.

[The 2001 Order on eligibility](#) also sets out that no refugee or asylum-seeker will be sent against their will to a country where their lives could be at risk due to persecution on grounds covered by the 1951 Convention. From 2019 to 30 June 2020, there were no known cases of unlawful termination of refugee status by way of cancellation, revocation or cessation; no cases of recognized refugees being expelled on grounds of national security or public order; and no reported cases of refoulement.

### 2.3 Institutional framework for refugee management and coordination

The CNAR is an inter-ministerial committee which retains institutional responsibility for refugee management and consists of representatives of the President's Office and the Ministries of Justice, Finance, Interior, Foreign Affairs, Education, Health, and Social Affairs and Humanitarian Action. The [1999 Decree on CNAR](#) stipulates that the Ministry of Foreign Affairs presides over CNAR (through the Directorate of Multilateral Affairs, which is one of the directorates of the general secretariat), while its two vice-presidents are representatives of the Ministry of Interior and Ministry of Social Affairs and Humanitarian Action respectively. CNAR membership does not include any representatives of the refugee, host or donor communities, and its policies and practices do not link up to other coordination structures such as those related to development planning.

CNAR has a permanent secretariat that is responsible for the day-to-day management of refugee affairs, including budget and programme execution, liaison with UNHCR, registration and status determination and provision of humanitarian assistance. There are no formalized agreements between the CNAR secretariat and other line ministries for the execution and coordination of such functions. However, UNHCR has partnerships with line ministries to facilitate the inclusion of refugees in national services in the spirit of the Global Compact on Refugees. The CNAR secretariat is based in Brazzaville but also has four sub-offices in Betou, Ouessou, Impfondo and Pointe Noire.

No formalized consultation mechanisms have been established by the Government to obtain refugee input and feedback on decisions taken by national, sub-national or local level institutions. However, CNAR does meet with refugees on a regular basis. Furthermore, UNHCR facilitates regular consultations with refugees, including with CNAR, in the context of its annual Participatory Assessments. A complaint mechanism and telephone hotline that were established and managed by UNHCR also allow refugees to give input and feedback on activities implemented by CNAR, UNHCR and other organizations. Reports from Participatory Assessments and feedback from the complaint box and hotlines are shared and discussed with relevant stakeholders, including the Government, to inform planning and programming.

Refugees have so far not been included in the national population census. During the last 2007 Census, the national statistics agency classified refugees simply as foreigners, thereby excluding them from the census. This was also the case for the civil registration exercise that took place in 2019 (and is different from the 2018 civil status census).

There are no examples of administrative data collection systems or national surveys that include refugees. The [2018–2022 National Development Plan \(NDP\)](#) does not set out specific long-term development interventions relating to refugees or hosting communities. However, it does set out general policy directions relating to disaster and humanitarian crisis prevention and response, which could include refugee response priorities. The policy directions are also costed and budgeted for in its operational annex.

### 2.4 Access to civil registration and documentation

[The 2001 Order on eligibility](#) provides asylum-seekers and refugees with the right to identity and identity documentation. The [2017 Foreigners Law](#) also grants refugees the right to identity and identity documentation. As stated above, in the midst of contradictions between these policies, the 2017 Foreigners Law is followed in practice. At the request of the Government, UNHCR generates refugee identity cards based on information from the refugee database. These are subsequently handed over to CNAR, which in turn formally issues them.



[The 2001 Order on eligibility](#) also provides asylum-seekers and refugees with the right to civil documentation on the same basis as nationals. Civil registration and documentation for nationals is governed by the October 1984 [Family Code](#), which provides for birth registration free of charge if the request is made within the month of birth. However, the country faces challenges with its civil registration system, especially in remote locations, that affect refugee and host communities alike. In fact, the country reports having more than 157,466 people without birth certificates, based on the civil registry census conducted in 2018 in 12 departments of the country (*Recensement à vocation d'état Civil* – Ministry of Interior and Decentralization). During the High-Level Segment on Statelessness in October 2019, the government pledged that any person identified in the 2018 civil status census as not having a birth certificate would obtain a birth certificate by 2019 as previously committed; and that no child would be without a birth certificate by 2022, including through the continuation of outreach activities to encourage the population to register each birth.

## 2.5 Justice and Security

UNHCR regularly conducts multi-stakeholder participatory assessments as well as protection monitoring of refugees living in urban and rural areas and has not received any reports of security issues involving refugees and host communities.

Refugees are granted access to justice on the same terms as nationals, based on Article 49 of the 2015 Constitution. The Foreigner Law and Congolese civil and criminal codes and procedures do not differentiate between Congolese and foreign nationals. However, the criminal justice system remains weak and faces huge impediments in upholding fairness and efficiency. Criminal courts are not fully operational in many parts of the country. Legal aid, although provided for in law, is not available to those who cannot afford to pay a lawyer, which makes it inaccessible to many refugees and asylum-seekers.

Sexual and gender-based violence (GBV), which increased during the armed conflicts of the 1990s, remains a concern in the Republic of the Congo. According to studies conducted by the Ministry for the Promotion of Women and the Integration of Women in Development (MPFIFD) with the support of the United Nations Children's Fund (UNICEF), sexual violence often occurs with younger people being assaulted by people within their families and neighbourhoods. The studies did not distinguish populations per their status.

# 3 Economic Opportunities

## 3.1 Freedom of movement

The [2017 Foreigners Law](#) allows foreigners, including refugees and asylum-seekers, to choose their place of residence without restrictions, based on their identity document. Accordingly, refugees in the Republic of the Congo can choose to live in refugee sites or outside site settings in urban or rural areas without restrictions. In fact, 83 per cent of refugees live with communities in urban and rural areas, while 17 per cent live in refugee settlements in rural areas.

The [2017 Foreigners Law](#) also allows foreigners to move freely based on their identity document. In practice, however, refugees report facing challenges while travelling across the country that include law enforcement officers not recognizing their refugee identity documents; being charged a fee (1,000–2,000 FCFA) each time they were stopped on the road, etc. These cases are reported largely in the northern part of the country where checkpoints have multiplied in recent years. Both CNAR and the Ministry of Foreign Affairs are making efforts to raise awareness of the recognition of refugee ID cards. Criminalizing asylum-seekers' irregular entry into the territory is forbidden under the Foreigners Law.

## 3.2 Right to work and rights at work

[The 2001 order on eligibility](#) provides refugees with the right to work on the same basis as nationals. Law No 45/75 of 15 March 1975 and amended and supplemented by Law No 6-96 of 6 March 1996 (hereafter: the Labour Code) does not make any distinction between workers on the grounds of nationality. However,

the 2005 Law on trade occupation and its implementing decrees of 2008 and 2011 forbid foreigners from accessing small trade activities such as selling in the market, working in a bakery or driving a taxi. In practice, the provisions of the more restrictive 2005 Law on trade occupation are followed.

In addition, various policies require foreigners to have specific authorizations and work permits, with a burdensome and costly process for obtaining these. Law No 22/88 of 17 September 1988 (amending Law No 01/86 of 22 February 1986, and replacing and supplementing Law No 03/85 of 14 February 1985) states that employment of any foreign worker is subject to prior authorization by the Minister of Labour after receiving the opinion of the trade union, the director of the National Office for Employment and Manpower (Office National de l'Emploi et de la Main d'Œuvre – ONEMO), now the Congolese Employment Agency), and then the Director General of ONEMO. Once this authorization is obtained, it is valid for a period of two years from the date of the worker's hiring and can be renewed subject to a fee of 100,000 CFA.

There are no known cases of refugees who possess work permits or who are employed in the formal sector. In fact, the number of refugees working in the informal sector is believed to be high, although data from the reporting period is not available. The most recent data comes from a UNHCR survey carried out in Brazzaville in 2014, which estimated that 72 per cent of urban refugees had access to wage employment in the informal sector, but that revenues did not cover their needs.

Foreigners residing in the Republic of the Congo may engage in commercial activities, subject to obtaining a trader's permit for a cost, as laid out in Law 25-94 of 23 August 1994, supplemented by Law 19-2005 of 24 November 2005. Article 47 of the latter law repeals all other provisions to the contrary. Its Article 4 defines commercial activities as all profit-making activities of production and exchange of goods and services. The process for doing so includes providing an extract from the person's criminal records in the country of origin, which can be difficult for some refugees to obtain. Trader's permits, if granted, are valid for three years and must be endorsed every year; however, they are only valid in the region in which they were issued. Foreigners must also obtain a visa for the trader's permit at additional cost. Subsequent Decrees 2008-483 and 2011-490 limited the activity of running one's own business to Congolese nationals only.

In April 2019, the Government passed [Law No 7-2019](#), establishing the Congolese Employment Agency (Agence Congolaise Pour l'Emploi – ACPE), which facilitates business creation formalities and allows for nationals and refugees to benefit from business opportunities in a legal and regulatory framework. No restrictions or limitations for refugees have been reported.

### 3.3 Land, housing and property rights

The Land Law of 2018 limits foreigners' access to ownership and lease of land. The law is interpreted to apply to refugees as well. The law states that the acquisition and occupation of rural land is limited to Congolese nationals and Congolese legal entities (Article 37) and that any acquisition of rural land by a

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