

# Democratic Republic of the Congo Labour Migration Review

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## FOREWORD

The Southern Africa Migration Management (SAMM) project represents a collaborative effort embodying the ONE-UN approach, uniting the expertise and resources of four prominent UN development and/or humanitarian agencies: the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC), and the United Nations High Commissioner for Refugees (UNHCR).

The SAMM project is dedicated to improve labour and mixed migration management in the Southern Africa and Indian Ocean region. By focusing on South-South migration flows, the project aims to uncover and enhance the positive spillover effects of international migration on regional integration and economic development (e.g. recognising the positive contribution of migrant workers to economic growth).

Based on ILO's constitutional mandate "the protection of the interests of workers when employed in countries other than their own", as well as its normative and policy frameworks, the SAMM project first produced a Labour Migration Stocktaking Report for the SADC region. Labour Migration Reviews (LMRs) are complementary tools aimed to enhance the capacity of Ministries of Labour, Employers' and Workers' Organizations to engage in tripartite dialogue and influence evidence-based policy formulation and implementation for fair labour migration governance. LMRs include information on at least, seven key labour migration thematic areas:

1. Gender-responsive labour migration policies and/or strategies;
2. International labour standards and national legislation on the protection of migrant workers, as well as advocacy on the contribution of migrant workers to development;
3. Bilateral labour migration agreements (BLMAs) across the region and with third countries;
4. Fair recruitment and decent employment for migrant workers including regulatory legislation on Private Employment Agencies (PEAs), and strengthening of Public Employment Services (PES);
5. Social Security Portability of Benefits for migrant workers through the SADC Guidelines on the Portability of Social Security Benefits;
6. Skills mobility (skills anticipation, skills profiling, skills matching, skills transfer and recognition of qualifications of migrant workers), as well as support to the SADC Qualifications Framework;
7. Labour migration statistics (indicators, module, inclusion in labour market information systems, etc) and the support to the establishment of the SADC Labour Market Observatory.

The ILO believes that this publication will provide valuable insights and contribute significantly to the ongoing efforts to improve labour migration governance effectively in the SADC and IOC region. We extend our gratitude to all partners and stakeholders for their unwavering support and commitment to this crucial endeavour.

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# 1 INTRODUCTION

The Democratic Republic of Congo (DRC) is one of the top migrant destination countries in Africa, ranking in eighth position. Migrants and refugees have access to all government-funded health services, and those with work permits also have access to social security (IOM, 2023). Foreigners who have lived in the country for at least seven years are eligible to apply for citizenship (IOM, 2023). Additionally, DRC allows family reunification through an "establishment visa" (IOM, 2023). The DRC also has the third-highest number of refugees and asylum seekers on the continent (IOM, 2024). It recognizes refugee and asylum seeker status and has a system in place to offer temporary protection. Refugees also enjoy many of the same basic rights as citizens (Migrant Refugees, 2023).

Migration from neighbouring countries has historically been shaped by various political, economic, and social factors (Flahaux & Schiouxmaker, 2016). As the largest country in SADC, the DRC attracts labour migrants for various reasons, including economic opportunities in formal and informal mining, agriculture, and trade. In recent decades, migration flows to the DRC have been significantly influenced by regional instability, with refugees and asylum seekers from countries such as Rwanda, Burundi, and the Central African Republic seeking refuge within the DRC's borders. Conflict within the DRC has also led to a significant outflow of refugees to other African countries.

Migration to the DRC from non-African countries is characterized by the arrival of individuals from Europe, Asia, and the Middle East. These migrants come for business, investment, or diplomatic purposes. In addition, infrastructure agreements with Chinese companies have led to a temporary influx of company employees from China. China has also acquired extensive mining rights in the DRC (Kabemba, 2016).

## 2 MIGRATION DATA SOURCES

The main data sources for migration to DRC include the following:

- UN DESA Migrant Stock by Origin and Destination 2019 Update
- UNICEF Migration and Displacement Country Profile (MCDP) (UNICEF, 2023). <https://data.unicef.org/resources/migration-and-displacement-country-profiles-mdcp/>
- UNHCR Monthly statistics of refugees and asylum seekers as of 31 August 2024. <https://data.unhcr.org/en/documents/details/111146>

## 3 LABOUR MIGRATION TREND AND DYNAMICS

### 3.1 Migrant Stock

The most recent National Census in the DRC was in 1984. As a result, migration data is sparse and, except for refugees, the numbers are largely guesstimates. The overall numbers of migrants

and refugees in the DRC are fluid due to the region's political instability, which causes frequent shifts in population dynamics. However, precise numbers are often not documented or made public due to challenges in governance, data collection, and porous border control.

UN DESA estimates that there were about 754,000 migrants in the DRC in 1990, rising to a peak of 1.8 million in 1995 during the Rwandan genocide, before declining to 590,000 in 2010 and rising again to 963,000 in 2019 (Table 1). These ebbs and flows are primarily related to movements of refugees and asylum-seekers. The number of SADC country migrants has declined over time from 468,000 (mainly Angolans) in 1990 to 179,000 in 2019.

**Table 1 - Migration Trends and Share of SADC Migrants, 1990-2019**

	<b>Total Migrants</b>	<b>SADC Migrants</b>	<b>% SADC Migrants</b>
1990	754,194	468,462	62.1%
1995	1,816,963	276,402	15.2%
2000	744,387	325,733	43.8%
2005	622,869	262,085	42.1%
2010	588,950	260,002	44.1%
2015	824,492	185,205	22.5%
2019	963,833	179,065	18.6%

Source: Compiled from UN DESA data

According to the latest UNHCR report, there were 525,630 refugees and asylum seekers in the country as of August 31, 2024. The Central African Republic and Rwanda accounted for almost 80 per cent of the total refugees in the country (Table 2).

**Table 2 - Refugee Population by Country of Origin, August 2024**

<b>Country of origin</b>	<b>Total</b>	<b>% of total</b>	<b>Male</b>	<b>Female</b>	<b>% Female</b>
Central African Republic	208,433	39.8%	96,809	111,624	53.6%
Rwanda	206,771	39.5%	101,440	105,331	50.9%
South Sudan	54,945	10.5%	25,768	29,177	53.1%
Burundi	52,541	10.0%	25,649	26,892	51.2%
Republic of Congo	584	0.1%	314	270	46.2%
Other	436	0.1%	264	172	39.4%
<b>Total</b>	<b>523,710</b>	<b>100%</b>	<b>250,244</b>	<b>273,466</b>	<b>52.2%</b>

Source: Compiled from UNHCR Monthly Statistics

### 3.2 Countries of Migrant Origin

The UN DESA Migrant Stock by Origin and Destination Tables contain information about the countries from which migrants originate. These tables help us understand the diversity of migrants' country of origin and the share of the migrants from SADC countries in DRC (Tables 2 and 3). As shown in Table 3 and 4, DRC is the destination of mainly African migrants. Non-SADC migrants from Africa comprise almost 78 percent of total stock of migrants. This indicates that DEC is a less diverse country in terms of immigrants' country of origin both from SADC countries and globally.

The UN DESA Migrant Stock by Origin and Destination Tables provide information about the countries from which migrants plus refugees originate (Table 3). Non-SADC migrants from Africa made up almost 80% of the total stock of migrants. Angola was the primary SADC source of migrants at almost 180,000, most of whom were originally refugees who remained in the DRC after the end of the Angolan civil war. UN DESA also estimated that there were an additional 34,000 migrants from other countries in 2019.

As early as the 1970s, there were Middle Eastern migrants, mainly from Lebanon, present in the country, working in various roles such as traders, vehicle technicians, bakers, and restaurant owners (Flahaux & Schoumaker, 2016). They are now primarily involved in commerce and small to medium-sized businesses, in sectors like retail, hospitality, and real estate in urban centres like Kinshasa and Lubumbashi. The Lebanese community is estimated at 5,000 to 7,000 individuals. The Indian community is smaller (with around 3,000 to 5,000 individuals) but plays an influential role in commerce and trade in Kinshasa and Lubumbashi.

**Table 3 - Migrant and Refugee Origin Countries, 2019**

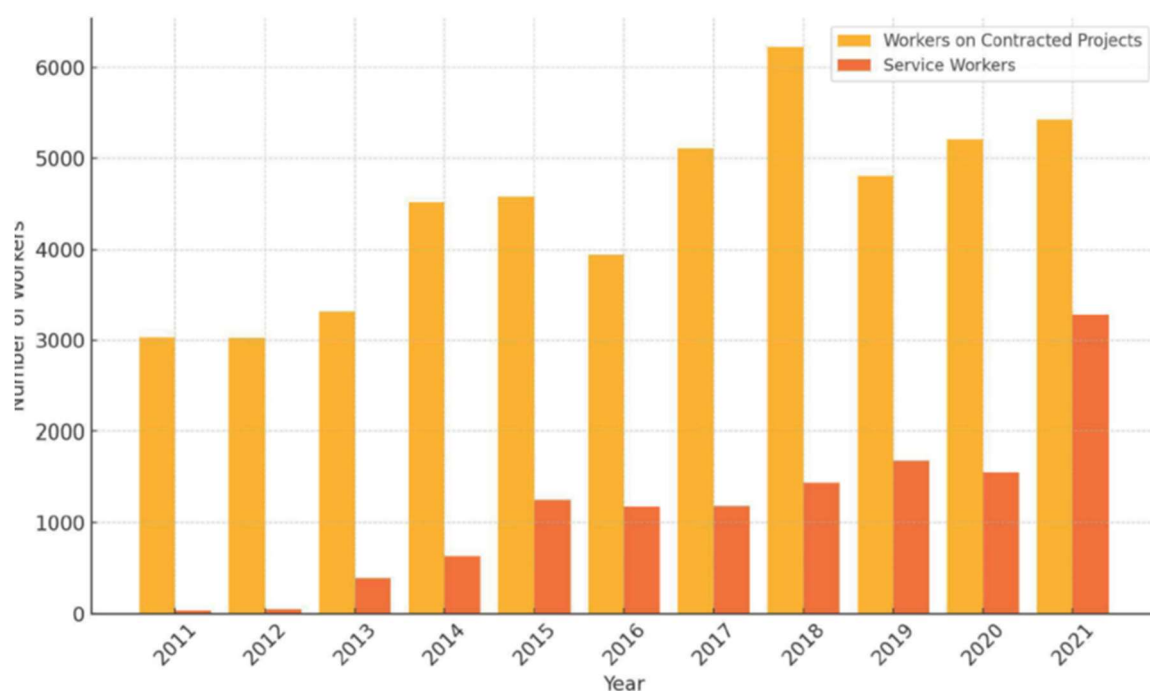
	<b>No of Migrants</b>	<b>% of Total Migrants</b>
<b>Africa (SADC)</b>		
Angola	179,065	18.6%
<b>Africa (Non-SADC)</b>		
Central African Republic	326,984	33.9%
Rwanda	254,225	26.4%
South Sudan	92,018	9.5%
Burundi	59,826	6.2%
Congo	6,314	0.7%
Uganda	6,019	0.6%
Sudan	5,432	0.6%
Sub-Total	750,818	77.9%
<b>Other</b>		

Other South	22,221	2.3%
Other North	11,729	1.2%
Sub-Total	33,950	3.5%
<b>Total</b>	<b>784,768</b>	<b>81.4%</b>

Source: Compiled from UN DESA 2019 update

The Chinese population in the DRC has grown substantially, with estimates ranging anywhere from 10,000 to 50,000, mostly involved in mining, construction, infrastructure projects, and trade (Ryan, 2014). The only available data on numbers was collected by the China in Africa Research Initiative (CARI) which shows a steady increase in Chinese migrants on contracted projects and services from 2011 onwards to over 8,000 labour migrants in 2021.

**Figure 1 - Chinese Labour Migrants in the DRC, 2011-2021**



Data

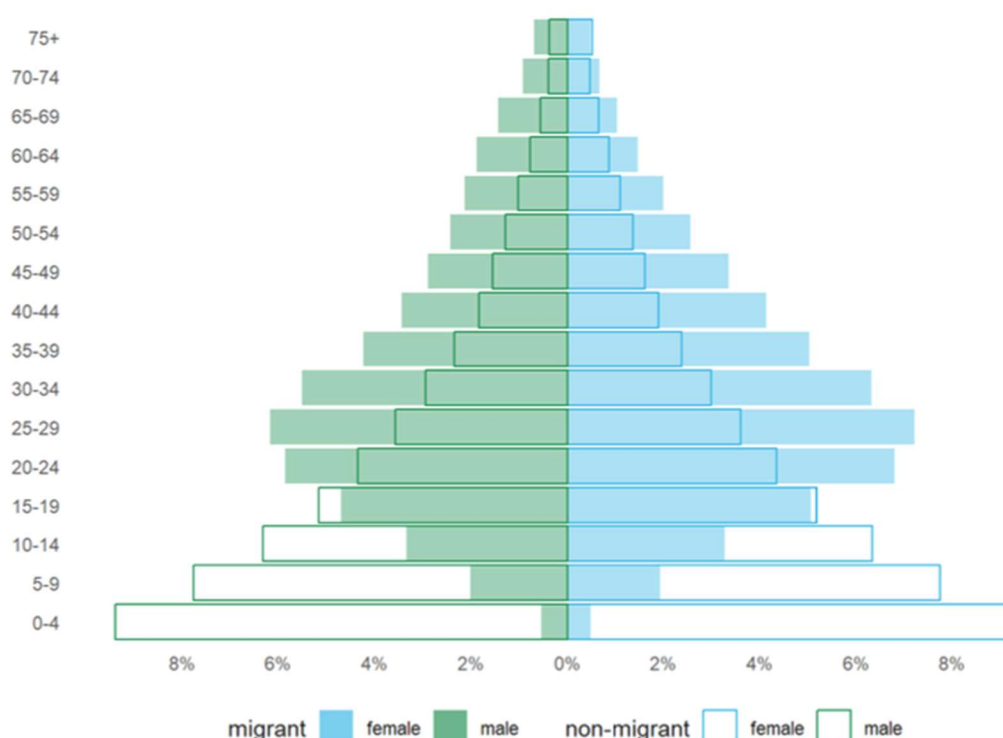
source: <https://www.sais-cari.org/data-chinese-workers-in-africa>

### 3.3 Age and Sex Distribution of Migrant Population

UNICEF's Migration and Displacement Country Profile 2023 provides the age and gender population pyramid that compares migrants to the non-migrant population in DRC in 2020 (Figure 2). The data shows a higher proportional distribution of male and female migrants in all age groups of 20 and above, compared to male and female non-migrants. The data is reversed for age groups below 19 where the non-migrant population dominates the proportional distribution of migrants.



**Figure 2 - Age Pyramid of Migrants and Non-Migrants DRC, 2020**



Source: UNICEF ( 2023)

In Table 5, the sex ratio for migrant regions and countries of origin is provided. According to the UNDESA 2019 update, the sex ratio of migrants reveals that the immigrant population in DRC is slightly female-dominated, with females accounting for almost 52 percent and males accounting for about 48 percent. The only countries showing male dominance are the Central African Republic, where men account for 51 percent, and Angola, where men account for 50.2 percent. Additionally, over 80 percent of migrants from Congo, Sudan, and Uganda are female.

	Total Migrants	% of Total	No. of Females	No. of Males	% Female	% Male
<b>Africa</b>						
CAR	326,984	33.9%	160,086	166,898	49.0%	51.0%
Rwanda	254,225	26.4%	127,619	126,606	50.2%	49.8%
Angola	179,065	18.6%	89,154	89,911	49.8%	50.2%
South Sudan	92,018	9.5%	49,688	42,330	54.0%	46.0%
Burundi	59,826	6.2%	33,658	26,168	56.3%	43.7%
Congo	6,314	0.7%	5,261	1,053	83.3%	16.7%
Sudan	5,432	0.6%	4,848	584	89.2%	10.8%
Uganda	6,019	0.6%	5,008	1,011	83.2%	16.8%
Sub-Total	929,883	96.5%	475,322	454,561	51.1%	48.9%

<b>Other</b>						
Other South	22,221	2.3%	16,715	5,506	75.2%	24.8%
Other North	11,729	1.2%	7,842	3,887	66.9%	33.1%
Sub-Total	33,950	3.5%	24,557	9,393	72.3%	27.7%
<b>Total</b>	<b>963,833</b>	<b>100%</b>	<b>499,879</b>	<b>463,954</b>	<b>51.9%</b>	<b>48.1%</b>

Source: Compiled from UN DESA 2019 update

## 4 MIGRANT EMPLOYMENT

Data on the formal and informal employment of migrants is unavailable. Many international migrants, especially those from neighbouring countries, find employment in the informal economy, working as street vendors. They sell a wide range of goods such as clothing, food, and household items in Kinshasa's markets and streets. International migrants, including those from West Africa (such as Mali and Senegal), work in small-scale transport services or in informal sector jobs such as mechanics, tailoring, and hairdressing. International migrants, particularly those from Angola, Zambia, and other bordering countries, are involved in cross-border trade. They import goods, including food products, electronics, and textiles, which they sell in Kinshasa's markets. Some international migrants find work in construction as labourers. While these jobs offer an opportunity for income, they are typically low-paying and insecure. Migrants from Angola are often part of the informal labor force in this sector.

Chinese nationals are more likely to be employed in formal jobs, particularly in Chinese construction companies or businesses related to trade, infrastructure and mining projects. They often occupy technical or managerial positions, and some run businesses like restaurants, retail stores, and import-export companies. The exact number of Chinese workers imported into the DRC by Chinese companies fluctuates depending on the projects and sectors involved, but thousands of Chinese workers have been brought in over the past decade, particularly for large-scale mining and infrastructure projects. Chinese workers are housed in company-managed compounds or camps near the worksite. These compounds are usually segregated from the local population and provide accommodation, food, and other amenities for workers.

The majority of Chinese workers in the DRC are employed in the mining sector. Chinese companies have secured significant investments in cobalt, copper, and other minerals, which require technical expertise and skilled labor, often imported from China. Large Chinese-funded infrastructure projects, such as road-building, dam construction, and railways, also bring in substantial numbers of Chinese workers. Many of these projects are funded as part of "infrastructure-for-minerals" deals with state-owned entities such as the 2007 **Sicomines Agreement** in which Chinese companies Sinohydro and China Railway Group (CREC) partnered

with the DRC government to develop copper and cobalt mining operations in the DRC.<sup>1</sup> In return, the Chinese companies committed to building infrastructure projects, including roads, hospitals, and schools, worth around \$3 billion. The partnership created a joint venture called *Sino-Congolaise des Mines (Sicomines)*, with the DRC's state-owned mining company, Gécamines, holding a stake. **In early 2024, the agreement was renegotiated and the infrastructure commitment increased to \$7 billion.**<sup>2</sup> Gécamines partners with a number of other Chinese mining companies. For example, China Molybdenum has a troubled partnership with Gécamines in the **Tenke Fungurume Mine (TFM)**, one of the world's largest cobalt and copper mines.<sup>3</sup>

The recruitment and import of Chinese workers for projects in the DRC is coordinated by the Chinese companies involved. Recruitment begins in China, where Chinese companies advertise job openings for positions in their overseas projects. These job advertisements may be posted internally within company networks or in local labour markets, often targeting workers with specific skill sets required for mining, construction, or technical operations.

Once selected, workers are offered employment contracts that typically include details on salary, working conditions, duration of employment, and benefits. These contracts are often tied to specific project timelines. They are typically hired on fixed-term contracts that last for the duration of a project. Depending on the size and scope of the operation, this can range from a few months to several years. However, RAID (2009, p. 23) notes that “it is common for workers employed by Chinese mining companies either to have no contracts or if they do, the contracts are written in Chinese without any translation. This means that the workers do not know the precise terms and conditions of their employment. Furthermore there is a general sense that the Chinese companies lack accountability which is attributable to the failure of both the Congolese and Chinese authorities to make public the terms on which the majority of them are allowed to operate in Katanga.”

Chinese companies handle the visa process and logistics for their workers. They work with the DRC government to secure work visas. The transparency and legality of some visa arrangements is questionable, especially where workers have entered the DRC on tourist or short-term business visas. The process of importing Chinese workers has sometimes skirted local labour laws. There have been allegations that some Chinese workers arrive on tourist or business visas, which may not allow them to legally work in the DRC. This undermines the ability of the DRC government to monitor or regulate foreign labor flows effectively. To streamline the process, companies arrange group air travel for their workers. Some large projects may organize entire

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<sup>1</sup> See Landry (2018) for a critical assessment of the Sicomines Agreement.

<sup>2</sup> <https://www.scmp.com/news/china/diplomacy/article/3272077/chinese-firms-start-work-drc-road-projects-under-renegotiated-mining-deal>; <https://www.argusmedia.com/en/news-and-insights/latest-market-news/2593779-china-starts-7bn-road-building-project-in-drc>; <https://thechinaproject.com/2023/06/07/mining-the-heart-of-africa-china-and-the-democratic-republic-of-congo/>

<sup>3</sup> <https://www.nytimes.com/2022/02/28/world/congo-cobalt-mining-china.html>

contingents of Chinese workers to arrive simultaneously for project kickoff. Workers are often rotated back to China at the end of their contract, with new workers brought in to replace them if necessary.

The importation of Chinese labour has led to resentment among local workers with concerns about job displacement, wage disparity, and a lack of knowledge transfer to the Congolese workforce. Some civil society groups in the DRC have advocated for the implementation of "local content" laws, which would require a certain percentage of workers on foreign-funded projects to be Congolese. This would help ensure that the benefits of foreign investment, particularly in terms of employment, are more evenly distributed.

### **Major Chinese Companies in the Democratic Republic of Congo (DRC)**

#### **1. Sinohydro Corporation**

- **Sector:** Infrastructure
- **Projects:** Sinohydro is one of the largest state-owned enterprises specializing in hydropower construction and infrastructure development. It is involved in the *Sicomines* project, a major "minerals-for-infrastructure" deal between China and the DRC. Sinohydro, along with China Railway Group, committed to building roads, hospitals, schools, and other infrastructure in exchange for copper and cobalt mining rights.

#### **2. China Railway Group Limited (CREC)**

- **Sector:** Infrastructure and Mining
- **Projects:** China Railway Group is another partner in the *Sicomines* project. It is involved in infrastructure construction, including road networks, and has stakes in copper and cobalt mining operations in the DRC.

#### **3. China Molybdenum Co., Ltd. (CMOC)**

- **Sector:** Mining
- **Projects:** China Molybdenum is one of the largest producers of cobalt in the world and operates the Tenke Fungurume Mine (TFM), DRC's major source of copper and cobalt.

#### **4. Zijin Mining Group Co., Ltd.**

- **Sector:** Mining
- **Projects:** Zijin Mining has a stake in the *Kamoa-Kakula* copper project, one of the largest copper deposits in the world, in partnership with Canadian mining company Ivanhoe Mines.

#### **5. Huayou Cobalt Co., Ltd.**

- **Sector:** Mining

- **Projects:** Huayou Cobalt operates several cobalt mining operations in the DRC. The company has been involved in controversy with small-scale artisanal miners <https://www.reuters.com/world/africa/exclusive-congo-talks-with-chinas-huayou-end-dispute-over-cobalt-mine-2021-09-27/>

#### **6. Jinchuan Group International Resources**

- **Sector:** Mining
- **Projects:** Jinchuan Group operates the Ruashi Mine and the Musonoi Mine in the DRC, both of which are significant producers of copper and cobalt.

#### **7. China Nonferrous Metal Mining Group (CNMC)**

- **Sector:** Mining and Infrastructure
- **Projects:** CNMC is involved in various mining projects in the DRC, including copper and cobalt extraction along with involvement in infrastructure development linked to mining projects.. It operates through subsidiaries such as Sino-Congolaise des Mines (Sicomines).

#### **8. Shenzhen Hanking Industrial Co., Ltd.**

- **Sector:** Mining
- **Projects:** Shenzhen Hanking operates mining projects in the DRC with a focus on copper and cobalt.

#### **9. Chengtun Mining Group**

- **Sector:** Mining
- **Projects:** Chengtun Mining Group has investments in copper and cobalt mines in the DRC.

#### **10. Wanbao Mining**

- **Sector:** Mining
- **Projects:** Wanbao Mining is involved in copper mining in the DRC, operating in collaboration with other Chinese and international companies. Its operations focus on large-scale copper extraction for export.

#### **11. Sinomine Resource Group Co., Ltd.**

- **Sector:** Mining
- **Projects:** Sinomine Resource Group is involved in the extraction of critical minerals like lithium, copper, and cobalt in the DRC.

## 5 POLICY AND LEGISLATIVE FRAMEWORK

### 5.1 Constitution Congo (Democratic Republic of the) 2005 (rev. 2011)<sup>4</sup>

Title II of the Constitution sets out the Human Rights, Fundamental Freedoms and Duties of citizens and of the State, including the following:

#### Chapter 1. Civil and Political Rights

##### Article 11

All human beings are born free and equal in dignity and in rights. However, the enjoyment of political rights is recognized to Congolese only, save for the exceptions established by the law.

##### Article 12

All Congolese are equal before the law and have the right to equal protection of the laws.

##### Article 13

No Congolese person may, in matters of education or of access to public functions or any other matter, be subject to a discriminatory measure, that results from the law or from an act of the executive, for reason of his religion, of his family origin, of his social condition, of his residence, of his opinion or political convictions, or his belonging to a certain race, to an ethnicity, to a tribe, [or] to a cultural or linguistic minority.

##### Article 14

The public powers see to the elimination of any form of discrimination concerning women and assure the protection and the promotion of their rights. They take measures to struggle against all forms of violence made against women in public and in private life. Women have the right to an equitable representation within the national, provincial and local institutions. The State guarantees the implementation of man-woman parity in these said institutions.

##### Article 16

The human person is sacred. The State has the obligation to respect it and to protect it. All persons have the right to life, to physical integrity as well as to the free development of their personality, under respect for the law, of public order, of the rights of others and of public morality.

No one may be held in slavery or in an analogous condition.

No one may be subjected to cruel, inhuman or degrading treatment.

No one may be subjected to forced or compulsory labour.

##### Article 30

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<sup>4</sup> [https://www.constituteproject.org/constitution/Democratic\\_Republic\\_of\\_the\\_Congo\\_2011](https://www.constituteproject.org/constitution/Democratic_Republic_of_the_Congo_2011)

All persons who are on the national territory have the right to circulate freely in it, to establish their residence in it, to leave it and to return to it, under the conditions established by the law.

#### Article 32

All foreigners who find themselves legally on the national territory enjoy the protection granted to persons and to their assets under the conditions determined by the treaties and the laws. They are required to conform to the laws and regulations of the Republic.

#### Article 33

The right to asylum is recognized. The Democratic Republic of the Congo grants, under reserve of national security, asylum on its territory to foreign nationals, prosecuted or persecuted, notably, for their opinion, their belief, their racial, tribal, ethnic, linguistic affiliation or for their action in favor of democracy and for the defense of the Rights of Man and of Peoples, in accordance with the laws and regulations in force.

### Chapter 2. Of Economic, Social and Cultural Rights

#### Article 36

Work is a sacred right and duty for each Congolese. The State guarantees the right to work, protection against unemployment and an equitable and satisfactory remuneration, assuring the worker as well as his (sic) family of an existence in accordance with human dignity, together with all the other means of social protection, notably retirement pension[s] and life annuities.

No one may be discriminated against in their work because of their origin, their sex, their opinions, their beliefs or their socio-economic condition.

#### Article 37

The State guarantees the freedom of association.

#### Article 38

The syndical right is recognized and is guaranteed.

All Congolese have the right to found trade unions or to affiliate with them freely, under the conditions established by the law.

#### Article 39

The right to strike is recognized and guaranteed. It is exercised under the conditions specified by the law which can forbid it or limit its exercise in the domains of national defence and of security or for any [public] activity or public service of vital interest for the Nation.

## Article 50

The State protects the legitimate rights and interests of Congolese who are both inside and outside the country.

Under reserve of reciprocity, any foreigner who finds himself legally on the national territory enjoys the same rights and freedoms as a Congolese, the political rights excepted. They benefit from the protection granted to persons and their assets under the conditions determined by the treaties and the laws. They are required to conform to the laws and regulations of the Republic.

Articles 32 and 50 make it clear that migrants, including migrant workers legally in the territory of the DRC, have the same rights, freedoms and duties as set out in Title II of the Constitution, except for political rights.

### 5.2 Labour Code (Law No. 015/2002 of 16 October 2002) <sup>5</sup>

Inter alia, the Labour Code provides for the following:

Article 1: This Code shall apply to all workers and all employers, including those of public enterprises carrying out their professional activity throughout the Democratic Republic of the Congo, whatever their race, the sex, marital status, religion, political opinion, national descent, social origin and nationality of the parties, the nature of the services, the amount of remuneration or the place of conclusion of the contract, provided that the latter is performed in the Democratic Republic of Congo.

Article 2: Work is for everyone a right and a duty. It is a moral obligation for all those who are not prevented from doing so by age or incapacity for work as determined by a doctor. Forced or compulsory labour is prohibited. The prohibition shall also be punishable by any work or service which is required of a person under threat of any penalty and for which the said person has not offered himself voluntarily.

Article 3: All the worst forms of child labour shall be abolished. The term "the worst forms of child labour" includes, inter alia: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom as well as forced or compulsory labour, including forced or compulsory recruitment of children for the purpose of their use in armed conflict; (b) the use, recruitment or offering of a child for the purpose of prostitution, the production of pornographic material, pornographic performances or obscene dances; (c) the use, recruitment or offering of a child for the purpose of illicit activities, including the production of and trafficking in narcotics; (d) work which, by its nature or the conditions in which it is carried out, is likely to be harmful to the health, safety, dignity or morals of the child.

Article 4: A National Committee to Combat the Worst Forms of Child Labour is hereby established. The Committee's mission is to develop the national strategy for the eradication of

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<sup>5</sup> Extracts translated from the original French. Original document is available at <https://wwwex.ilo.org/dyn/natlex2/natlex2/files/download/62645/COD-62645.pdf>



the worst forms of child labour; monitoring the implementation of the strategy and assessing the level of implementation of the recommended measures.

Article 5: An inter-ministerial order, issued by the Ministers responsible for Labour and Social Security and Social Affairs and the Family, respectively, shall determine the organization and functioning of the National Committee for the Fight against the Worst Forms of Child Labour.

Article 7: For the purposes of this Code, the following definitions apply:

(a) Worker: Any natural person of contract age, regardless of sex, marital status or nationality, who has undertaken to place his professional activity, in return for remuneration, under the direction and authority of a natural or legal person, public or private, under the bonds of an employment contract. To determine the status of a worker, neither the legal status of the employer nor that of the employee shall be taken into account.

(b) Employer: Any natural or legal person, governed by public or private law, who uses the services of one or more workers under an employment contract.

(c) Contract of employment: Any agreement, written or oral, by which a person, the worker, undertakes to provide another person, the employer, with manual or other work under the direct or indirect direction and authority of the employer and for remuneration.

(d) Enterprise: Any economic, social, cultural, community or philanthropic organization, of specific legal form, individual or collective property, whether or not it is for profit, which may include one or more establishments.

Article 8: Every public or private employer must provide training, further training or professional adaptation to the workers it employs. To this end, he (sic) may use the means made available to him throughout the territory of the Democratic Republic of Congo by the National Institute of Vocational Preparation.

Article 36: Employment contracts shall be entered into freely, subject to the provisions of this Code. The date of entry into force and the duration of the contract, the nature and purpose of the worker's services, the place or places where they are to be performed, the remuneration, additional benefits, reimbursable expenses and any other conditions are determined by the contract, within the framework of the legal provisions and subject to the observance of collective agreements, company regulations, and local customs. The contract may mention conditions that are more favourable to the employee.

Article 37: Employment contracts may not derogate from the provisions of public policy defined by the legislation and regulations in force. Any contractual clause granting the worker benefits inferior to those prescribed by this Code shall be automatically null and void.

Article 86: Equal conditions of work, professional qualification and performance, pay shall be equal for all workers, regardless of their origin, sex and age.

In addition to the above, the Labour Code also has provisions relating to:

- Working Hours
- Weekly Rest and Public Holidays
- Obligations of the Worker and Employer
- Suspension/Termination of Contract
- Determination of Wages
- Health and Safety at Work
- Labour Administration (see Section 5 below)

### 5.3 Immigration Policy

The DRC does not have a specific immigration policy or legislation. Migration is governed through Legislative Order No. 83/033 on the Immigration Police (1983), which determines the status of foreign nationals and sets out the provisions that apply to them, as well as the documents required for residence.<sup>6</sup> It also provides information on the residence provisions for foreign nationals and the issuance of residence permits, and the conditions and provisions for the refoulement and removal of foreign nationals.

Here are key points regarding the Order:

- **Visas and Entry Permits:** Foreign nationals wishing to enter the DRC must generally obtain a visa from a Congolese embassy or consulate prior to arrival. Different types of visas include tourist, business, and work visas.
- **Work and Residence Permits:** Foreigners who plan to work or stay in the DRC for an extended period must apply for residence permits. Work permits are often required for those employed by businesses or organizations.
- **Enforcement and Penalties:** The Order outlines penalties for illegal immigration, including overstaying a visa or entering the country without authorization. The immigration authorities are responsible for enforcing these regulations.

Responsibility for the design, development and implementation of government policy in relation to migration lies with the Ministry of the Interior and specifically with the Directorate-General for Migration (Direction Générale de Migration, DGM), which was established by Legislative Decree No. 002/2003. The DGM is also in charge of the Immigration and Border Police, and issues ordinary passports to Congolese nationals and visas to foreign nationals.

Within the Ministry of Foreign Affairs and International Cooperation the Directorate for Congolese Abroad (Direction des Congolais de l'Étranger) is responsible for implementing emigration and diaspora policy. Their functions include identifying and keeping a record of Congolese nationals abroad, mobilizing them for the development of the country, and defending their rights and interests abroad.

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<sup>6</sup> <https://publications.iom.int/system/files/pdf/PUB2023-067-EL%20MGI%20DR%20Congo.pdf>

## 6 LABOUR MARKET INSTITUTIONS

The Ministry of Labour and Social Security has primary responsibility for the administration of labour and its responsibilities are stated as follows in the Labour Code:

- Prepare all draft legislative or regulatory texts concerning the status of workers, professional relations, employment and placement of workers, vocational training and further training and social security;
- Advising, coordinating and supervising the services or bodies involved in the application of labour and social security legislation and regulations;
- Collecting and maintaining statistical data relating to employment and working conditions and social security operations;
- Monitoring relations with other States and International Organizations with regard to questions of labour, employment, social promotion and welfare;
- Ensure the application of the laws and regulations concerning the matters set out,
- Enlighten employers and workers with advice and recommendations.

To implement this mandate, the Labour Code establishes the following institutions:

### 6.1 Labour Inspectorate

The mission of the Labour Inspectorate is to:

- Ensure the application of the legal provisions relating to working conditions and the protection of workers in the exercise of their profession, such as the provisions relating to working hours, wages, safety, hygiene and welfare, the employment of women, children and persons with disabilities, collective disputes, individual labour disputes, the application of collective agreements, staff representation and other related matters;
- Provide information and technical advice to employers and workers on the most effective ways to comply with legal provisions;
- Give opinions on matters relating to the establishment or modification of the installations of undertakings and bodies subject to administrative authorisation; and,
- Bring to the attention of the competent authority deficiencies or abuses revealed by the application of the statutory provisions which are not covered by them.

### 6.2 National Commission for the Employment of Foreigners.

The National Commission for the Employment of Foreigners has the general mission of deciding on the issuance of work permits for foreigners. To this end, it decides on applications for recruitment and on the renewal of work permits for foreigners and advises the Minister responsible for Labour and Social Security on measures likely to improve the legislation protecting the national workforce against foreign competition.

### 6.3 National Labour Council

The National Labour Council is a tripartite body that has the general task of:

- studying all questions concerning labour, manpower and social security;

- studying the elements which may serve as a basis for the determination of the guaranteed inter-professional minimum wage and its economic implications; and
- issuing opinions and formulating proposals and resolutions on the regulations to be adopted in these matters.

The opinion of the National Labour Council is required on all draft laws, decree-laws, decrees and ministerial orders when their purpose is to modify or create obligations or rights for workers and employers in the field of labour or social security.

## 6.4 Labour Courts

The Labour Code provides for the following:

Article 1: A Labour Court shall be established within the jurisdiction of each Regional Court with the rank of the above-mentioned court.

Article 2: The jurisdiction of the Labour Court shall cover that of the Regional Court in which it has its seat.

Article 3: The Labour Court is composed of a President, judges and associate judges. The President and the judges are appointed by the Minister responsible for Justice from among the judges of the Regional Court. The associate judges are appointed for a two-year term by the Minister responsible for Labour and Social Security on the basis of the lists proposed by the professional organisations of employers and workers.

Article 4: An order of the Minister responsible for Labour and Social Security shall determine the procedures for appointing candidates for the functions of the Judge-Assessor.

Article 15: The Labour Courts hear individual disputes arising between the worker and his employer in or in connection with the employment contract, collective agreements or the legislation and regulations of labour and social security.

Article 16: The Labour Courts also hear collective labour disputes, i.e. disputes arising between one or more employers on the one hand and a certain number of members of their staff on the other hand, concerning working conditions when they are likely to compromise the smooth running of the company or social peace.

## 7 RATIFICATION OF INTERNATIONAL INSTRUMENTS

The DRC has ratified 37 ILO conventions, of which 32 are in force.<sup>7</sup> Concerning fundamental rights covering all workers in the country, including migrant workers (regardless of migration status), the following Conventions have been ratified:

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<sup>7</sup> [https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102981](https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102981)

	Convention No	Title	Date of Ratification
<b>Fundamental Conventions</b>	C029	Forced Labour Convention, 1930 (No. 29)	20 Sep 1960
	C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	20 Jun 2001
	C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	16 Jun 1969
	C100	Equal Remuneration Convention, 1951 (No. 100)	16 Jun 1969
	C105	Abolition of Forced Labour Convention, 1957 (No. 105)	20 Jun 2001
	C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	20 Jun 2001
	C138	Minimum Age Convention, 1973 (No. 138)	20 Jun 2001
	C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	20 Jun 2001
<b>Governance Conventions</b>	C81	Labour Inspection Convention, 1947 (No. 81)	19 Apr 1968
	C144	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	20 Jun 2001

The DRC has not ratified the following ILO conventions that are specifically related to labour migration or of particular significance in terms of the recruitment and employment of migrant workers:

- Migration for Employment Convention (Revised, 1949 (No 97)
- Employment Policy Convention, 1964 (No. 122)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Private Employment Agencies Convention, 1997 (No. 181)
- Domestic Workers Convention, 2011 (N0. 189)
- Violence and Harassment Convention, 2019 (No. 190)

In addition, the DRC has not ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.<sup>8</sup>

## 8 BILATERAL LABOUR AGREEMENTS

The 2023 IOM Migration Governance Indicators report notes the following about migration-related agreements:<sup>9</sup>

- The DRC signed agreements with Switzerland in 2013 and with Canada in 2022 on the joint management of migration
- A signed a Memorandum of Understanding with Belgium (2006) to facilitate the return of rejected applicants for international protection and irregular migrants to the DRC.
- An agreement signed with Zimbabwe on 22 August 2002 on the free movement of persons between the two countries. Under this agreement, nationals from those countries can enter the other country without needing to first obtain a visa, which can instead be issued at the border.

## 9 FAIR RECRUITMENT OF MIGRANT WORKERS

Other than the provisions in the Labour Code pertaining to employment contracts, forced labour and child labour, wages, and working hours, there is no available information on the regulation of the recruitment of migrant workers. Recruitment of workers in China is controlled by the mining companies.

## 10 SKILLS RECOGNITION OF MIGRANT WORKERS

The DRC does not have a National Qualifications and Certification Framework. In its absence, a National Vocational Certification Framework (CNCP) has been set up with support from AFD and ILO, but is not yet operational. With these tools, the Government aims to evaluate skills that are covered by certification standards, including: the vocational training certificate (CQP), the certificate of skills (CC) and the certificate of participation (CP), and to validate Recognition of Prior Learning (VAE). According to the ILO (2020, p. 32), “the system of recognition of skills acquired informally is precarious, less structured and is sometimes neither systematic, nor leads to certification. In effect, each employer recognizes in his or her own way the skills held by the supplier. Recognition of credentials by employers’ organizations is almost non-existent, and implementation remains problematic due to lack of initiatives. Without an exhaustive and well-targeted study, it will be difficult to identify the number of beneficiaries...The employers’ organizations do not support affiliated companies in recognizing the skills of their employees.”

Hence there is no operational Framework with which to evaluate foreign skills and qualifications. However, the conditions of recruitment of foreign nationals are regulated by Departmental Order

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<sup>8</sup> <https://indicators.ohchr.org/>

<sup>9</sup> <https://publications.iom.int/system/files/pdf/PUB2023-067-EL%20MGI%20DR%20Congo.pdf>

No. 87/005. In terms of this Order, work permit applications can only be processed if evidence of qualifications, training, and work experience is provided by the foreign worker submitting a work permit application.

Notwithstanding the lack of a Framework, the DRC is a member of the African and Malagasy Council for Higher Education (Conseil Africain et Malgache pour l'Enseignement Supérieur, CAMES), through which CAMES member States recognize and accredit the qualifications awarded by certain universities in other member States.<sup>10</sup>

In addition, as part of the African Union initiative to develop an African Continental Qualifications Framework, which will be a common system intended to facilitate the recognition of diplomas and other certificates throughout the continent, the Ministry of Vocational Training (MFP) of the DRC is co-organising a continental Forum of the Institutions of National Qualifications Frameworks with the African Continental Qualifications Framework (ACQF-II) project, the African Union Commission, and other African countries.<sup>11</sup>

## 11 SOCIAL PROTECTION OF MIGRANT WORKERS

As per Articles 32 and 50 of the DRC Constitution, as well as the Labour Code of 2002, regular migrant workers are entitled to all social security and social protection measures, to the extent that these are available and operational in the DRC (IOM, 2023). Also, migrants holding a work permit have access to social security under Article 33 of Law No. 16/009 setting out the rules regarding the general social security scheme. This includes antenatal, maternity and family allowances, as well as pensions. However, the social protection scheme is contributory, meaning that it can be accessed only by those who have paid into the social security scheme.

The DRC is a member of the Inter-African Conference on Social Security (Conférence Interafricaine de la Prévoyance Sociale, (CIPRES) (IOM, 2023). The treaty establishing CIPRES sets out “the principle of equal treatment of all nationals of member States with regard to social security legislation, as well as the principle that any social security rights acquired or in the course of being acquired by nationals are retained” However, a 2021 Report from the Office of the United Nations High Commissioner for Human Rights noted that only a very small proportion of workers benefit from social protection and that the system is weak because of the non-payment of employee and employer contributions to the social protection scheme.<sup>12</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> <https://acqf.africa/capacity-development-programme/webinars/forum-of-national-qualifications-frameworks-forum-des-cadres-nationaux-des-certifications-continentales>

<sup>12</sup> <https://www.ohchr.org/sites/default/files/documents/issues/poverty/sr/cfi-hrc-social/subm-un-hrc-social-cso-atd-4th-world-drc.pdf>

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