

## Republic of the Congo: Mapping of International Disaster Response Laws, Rules and Principles

The below information seeks to map the International Disaster Response Law Framework (IDRL) in Republic of the Congo as provided in law, policy and agreements. It is intended to contribute to a regional analysis of strengths and gaps in the institutional architecture for the coordination and facilitation of regional disaster response in Central Africa.

This document is the result of a desktop review of information either publicly available or shared by the Congolese Red Cross. This document was prepared by Candela Navarro Casquete, under the supervision of Jeanique Serradinho. The document was reviewed by Wilfrid Ongassa Deira of the Congolese Red Cross. The information is up to date as at June 2021.

IFRC Disaster Law wishes to express its gratitude to the persons who took the time to review and provide input to this country profile. Nevertheless, the challenges surrounding desktop legal research in the region means that errors may remain. IFRC Disaster Law would therefore welcome further feedback on the contents of this document.

### Question 1: Does your country have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

Summary	Source
<p>The legal framework for disaster management in Republic of the Congo (the Congo) is currently under development. In 2019, the Congolese parliament approved a draft bill on the orientation of social action, which is awaiting publication before it will enter into force. This bill was not available for review for the purposes of this mapping. This bill aims to set the framework for national policy in this area. The approved text is based on the principle of national solidarity, which aims to reduce inequalities; the protection and care of vulnerable people and victims of disasters; the strengthening of the protective role of the family; the promotion of knowledge and skills that allow for economic empowerment and social reintegration; and finally, the community-based approach aimed at empowering the population to solve their problems. Within the framework of this draft bill, social action is understood as all the means implemented by the various actors in the social field, under the responsibility of the public authorities. This bill also deals with the organisation and exercise of social action in the national territory, the central administration and local authorities are the actors that implement social action.<sup>1</sup></p> <p>In recent years, the Ministry of Social Affairs and Humanitarian Action<sup>2</sup> has developed various plans of action and strategies for social action in the Congo to promote, among others, bilateral and multilateral cooperation.<sup>3</sup> The National Policy for Social Action of 2017 (the Policy) is the guiding document in the area of civil protection, where the major pillars are based in its non-contributory and productive dimensions, because of its ambition to include and take into account vulnerable social strata not subject to conventional social security funds, on the one hand, and prevention, risk reduction and disaster management, on the other hand, which are important components of social action services and are called upon to play an important role in the fight against poverty, hunger and the reduction of social inequalities, and in particular in the achievement of the objectives of sustainable development. The implementation of this policy requires the commitment of the managers and agents of the social action sector as well as the support of all, particularly development partners.<sup>4</sup></p> <p>Section 6.3 of the Policy provides that a disaster response will be more efficient and rapid if the capacities and resources identified above are already in place. In its response to disasters, the ministry in charge of social action will act with all the other stakeholders, both domestic as well as international, including ministries, Red Cross, NGOs,</p>	<p><a href="#">Decree 2010-604, Organization of the Ministry of Social Affairs, Humanitarian Action and Solidarity</a></p> <p><a href="#">National Policy for Social Action 2017</a></p>

<sup>1</sup> Koubemba J.J., “Senate Adopts a Bill for the Orientation of Social Action”, Information Agency of Central Africa, [online] Available at: <https://www.adiac-congo.com/content/parlement-le-senat-adopte-le-projet-de-loi-dorientation-de-laction-sociale-104092>

<sup>2</sup> Ministry of Social Affairs and Humanitarian Action, [online] see: <https://www.affaires-sociales.gouv.cg/plans-dactions/>

<sup>3</sup> Decree 2010-604, article 4.

<sup>4</sup> National Policy for Social Action 2017, page ii.

and United Nations agencies, to meet the needs of disasters. It will play a key role in the development and execution of intersectoral response plans, as well as in the mobilization of national and international resources and in the operational coordination of relief at the level of the operations room to be set up. The Policy also recognizes the need to formalize, through the coordination mechanisms to be established, the role of the ministry in charge of social action as the government leader in the humanitarian response to certain types of disasters, such as influxes of refugees and internal population displacements.<sup>5</sup>

Furthermore, the Policy highlights that although the scale of some disasters and the international nature of those caused by conflicts outside Congo's borders justify recourse to international aid to finance an adequate response, the Congolese state will play a more important role in financing the country's humanitarian action mechanism, in particular through the establishment of a national emergency fund which will ensure a rapid response capacity to disasters and humanitarian crises.<sup>6</sup>

In addition to the Policy, the National Strategy for Disaster Risk Reduction and Prevention (SNPRRC) of 2017, together with its Action Plan, was created taking into account the objectives and priorities set out in the various national and multi-sectoral policy and strategy frameworks, contributing to disaster risk management, including climate change as well as the Sendai Framework.<sup>7</sup> The objective of the Strategy is to control the risks of disasters of all kinds and origins, and to manage adequately and effectively the residual risks in order to minimise the disruption caused to the development and life of the populations, and that of the country as a whole.<sup>8</sup> The Strategy provides seven strategic areas of action, outlined in detail in the Plan of Action of the SNPRRC:

1. promoting the effectiveness of disaster risk management at the level of decentralized authorities and at the local and community level;
2. institutional capacity building (technical and material) at all levels and the public for disaster risk management. public, for disaster risk management;
3. strengthening national disaster risk management coordination and its key mechanisms;
4. optimizing preparedness and strengthening disaster response capacity at all levels;
5. strengthening risk assessment, monitoring, early warning and risk information systems at national level;
6. optimizing the state implementation and practice of prevention and reduction of risks from all sources at all levels; and
7. strengthening regional and sub-regional cooperation, and international cooperation.<sup>9</sup>

The area of action which relates to the reinforcement of regional and international cooperation aims to contribute to a strengthened collaboration and participation between the Congo, its neighbouring countries, and the international community. Some of the strategic actions within this area include optimising the use of technical and financial support opportunities for disaster risk management (DRM) in Congo, available from technical and financial partners; strengthening Congo's participation and collaboration in the development and implementation of existing and planned international agreements, strategies, plans, programmes and projects; and optimising the possible use of emergency funds that could be made available to Congo in the event of a disaster beyond the country's capacity (following international appeals launched by the Government).<sup>10</sup>

The Humanitarian Mechanism 2020 in the Congo is a hierarchy of interconnected and interdependent decision-making and action levels, on the one hand, between the ministries directly involved in humanitarian action and, on the other hand, between the ministries, departments and communities before, during and after a humanitarian

[National Strategy for Disaster Risk Reduction and Prevention](#)

[Plan of Action of the SNPRRC 2016-2023](#)

[Humanitarian Mechanism](#)

<sup>5</sup> National Policy for Social Action 2017, page 33.

<sup>6</sup> National Policy for Social Action 2017, page 40.

<sup>7</sup> National Strategy for Disaster Risk Reduction and Prevention, page vii.

<sup>8</sup> National Strategy for Disaster Risk Reduction and Prevention, page 17.

<sup>9</sup> National Strategy for Disaster Risk Reduction and Prevention, page vii.

<sup>10</sup> National Strategy for Disaster Risk Reduction and Prevention, page 32.

situation.<sup>11</sup> The mechanism consists of three levels of decision-making and action: the strategic level, the technical level and the operational level.<sup>12</sup> The objective of the mechanism is to improve the following:

- monitoring, analysis and mapping of humanitarian disaster risks;
- prevention and reduction of disaster risks;
- information sharing and resource management;
- coordination within the Government and between the Government and national and international partners, including development partners;
- development of contingency plans;
- preparation and response to humanitarian emergencies;
- the mobilization and deployment of resources before, during and after a humanitarian situation;
- institutional, systemic and individual capacity building;
- taking into account and integrating the gender dimension in the planning, deployment of humanitarian missions and operations;
- the integration of interventions targeting gender-based violence in Humanitarian Action;
- research and implementation of sustainable solutions;
- institutional, systemic and individual resilience (recovery); and
- the transition between humanitarian response and sustainable development.<sup>13</sup>

It can be seen from the above that the strategic documents governing DRM in the Congo highlight the necessary engagement with international assisting actors in the event of a disaster, but do not provide clear procedures for the management of international disaster assistance.

**Question 2: Do your country's laws and regulations clearly set out a focal point for coordinating international disaster assistance?**

Summary	Source
<p>Decree 2017-413 sets out the powers and attributions of the Minister of Social Affairs and Humanitarian Action. From this Decree, it appears as though this Minister is the focal point for the coordination of international disaster assistance in the Congo. More specifically, it provides that the Minister is responsible for, among others, initiating national plans and strategies in the fields of his/her competence and ensuring their application; guiding, coordinating and controlling the activities of the services and organizations placed under his/her authority; coordinating the interventions of national and international partners, particularly in favor of social development, humanitarian action and the family; and mobilizing human, material and financial resources at the national level. In terms of procedures, however, from the resources available for review, the law does not appear to establish clear and standardized procedures to ensure the coordination of international and national efforts.<sup>14</sup></p>	<p><a href="#">Decree 2017-413, Minister of Social Affairs and Humanitarian Action</a></p>

<sup>11</sup> Humanitarian Mechanism, page 9.  
<sup>12</sup> Humanitarian Mechanism, page 13.  
<sup>13</sup> Humanitarian Mechanism, page 9.  
<sup>14</sup> Decree 2017-413, article 1.

**Question 3: Do your country's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?**

Summary	Source
<p><i>As stated above, the Humanitarian Mechanism in the Congo is a hierarchy of interconnected and interdependent decision-making and action levels, on the one hand, between the ministries directly involved in humanitarian action and, on the other hand, between the ministries, departments and communities before, during and after a humanitarian situation.<sup>15</sup> The mechanism consists of three levels of decision-making and action: the strategic level, the technical level and the operational level,<sup>16</sup> which apply to all areas of action within the humanitarian sector. Further details relating to each of these levels are provided below:</i></p> <ul style="list-style-type: none"> <li>• <b>The Strategic level:</b> <i>The National Humanitarian Action Council (CNAH), led by the Prime Minister Head of Government and comprising five pillars, namely: peace and security of civilians, humanitarian action, protection and human rights, international cooperation, humanitarian nexus and development.</i></li> <li>• <b>Technical level:</b> <i>National Technical Humanitarian Action Committee (CTNAH) led by the Prime Minister Head of Government and comprising nine leaders, namely: food security, civil protection, peacekeeping, pandemics and epidemics, humanitarian assistance, environmental protection, gender promotion, and mobilization of financial resources.</i></li> <li>• <b>Operational level:</b> <i>Directorates General of lead ministries – such as Social Affairs and Humanitarian Action, Transport, Interior and Defense, Environment, the National Committee for Assistance to Refugees, Internally Displaced Persons and Stateless Persons (CNARPDIA), Emergency Situations Response Preparation Team (EPRSU), and Local Departments and Communities.<sup>17</sup></i></li> </ul> <p><i>The CNAH is placed under the authority of the Prime Minister, Head of Government. It is made up of Ministers directly and indirectly involved in Humanitarian Action. It is represented at the departmental level by the Departmental Humanitarian Action Council (CDAH),<sup>18</sup> which is the body in charge of ensuring the implementation of actions and operations of the CNAH at the departmental level. The Permanent Secretary of the CNAH is in charge of the Humanitarian Operations Center, which is equipped with IT resources, information, communication, assessment, monitoring, analysis and mapping of disaster risks and humanitarian situations. Under the direct responsibility of the Permanent Secretary of the CNAH, the operations room will be manned by early warning analysts, each providing departmental coverage and headed by an operations manager.<sup>19</sup></i></p> <p><i>The CTNAH is responsible for the technical and sectoral coordination at the national level which includes disaster risk management (DRM) as well as assistance to refugees, internally displaced persons and stateless persons. It is made up of key ministries directly concerned, with technical support from the Directorates General concerned and the Commander of the National Gendarmerie.<sup>20</sup></i></p> <p><i>However, the roles and responsibilities of different institutions relating to international disaster assistance do not appear to be set out in detail in the law. As set out above, from the sources available for review for the purposes of this research, the roles and responsibilities relating to international disaster assistance as set out in the law are limited to:</i></p> <ul style="list-style-type: none"> <li>• <i>that the Government is responsible for issuing appeals for international assistance; and</i></li> </ul>	<p><a href="#">Humanitarian Mechanism</a></p>

<sup>15</sup> Humanitarian Mechanism, page 9.

<sup>16</sup> Humanitarian Mechanism, page 13.

<sup>17</sup> Humanitarian Mechanism, page 49-50

<sup>18</sup> Humanitarian Mechanism, page 14.

<sup>19</sup> Humanitarian Mechanism, page 41.

<sup>20</sup> Humanitarian Mechanism, page 14.

- *that the ministry in charge of social action is responsible for the mobilization and coordination of national and international resources at national level. With regards to the mobilization of aid, the Minister of Social Affairs and Humanitarian Action will be assisted by the General Directorate of Humanitarian Action.*<sup>21</sup>

**Question 4: Do your country's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?**

Summary	Source
<p><i>The Constitution of the Congo establishes in article 157 that the state of urgency like the state of siege is decreed by the President of the Republic in the Council of Ministers.<sup>22</sup> However, the law does not appear to outline clear procedures for the request and termination of international disaster assistance. It merely provides that international appeals will be launched by the Government.<sup>23</sup></i></p>	<p><a href="#">Decree 2017-413, Minister of Social Affairs and Humanitarian Action</a></p> <p><a href="#">Decree 2010-607, General Directorate of Humanitarian Action</a></p> <p><a href="#">Congo (Republic of the)'s Constitution of 2015</a></p>

**Question 5: Do your country's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?**

Summary	Source
<p><u>Legal facilities under international law</u></p> <p><i>The Congo subscribes to the monist approach to international law, according to which international agreements automatically become part of domestic law as soon as they are ratified and published. This is provided for in terms of Article 223 of the Constitution of the Congo, which states that the treaties or the agreements, regularly ratified or approved, have, from their publication, an authority superior to that of the laws, under the reserve, for each agreement or treaty of its application by the other Party.<sup>24</sup></i></p> <p><i>There are a number of international agreements of relevance to international disaster assistance. Most relevant to this study are those instruments that expedite and facilitate the provision of international humanitarian assistance. The Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (Tampere Convention) provides legal facilities for the importation of telecommunications equipment and resources during emergencies, specifically requiring state parties to reduce or remove regulatory barriers to the use of telecommunication resources for disaster relief.<sup>25</sup> With regards to transport, of most relevance is Annex 9 of the Chicago Convention on Civil Aviation (Chicago Convention) which provides procedural guidance for customs, immigration, agriculture, and public health clearance of aircrafts containing humanitarian assistance in response to disasters, including passengers, goods, and mail. Further, the Convention on the Facilitation of International</i></p>	<p><a href="#">Congo (Republic of the)'s Constitution of 2015</a></p>

<sup>21</sup> Decree 2010-607, article 9.

<sup>22</sup> Congo (Republic of the)'s Constitution of 2015, article 157.

<sup>23</sup> National Strategy for Disaster Risk Reduction and Prevention, page 32.

<sup>24</sup> Congo (Republic of the)'s Constitution of 2015, article 223.

<sup>25</sup> See article 9 of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations, June 18, 1998, UN depositary notification C.N.608.1998.TREATIES-8 of Dec. 4 1998 (entered into force Jan. 8, 2005) (Tampere Convention).

*Maritime Traffic mandates parties to facilitate the entry and exit of vessels engaged in natural disaster relief work and facilitate the entry of persons and cargo related to natural disaster relief work.*<sup>26</sup>

*In terms of customs, the International Convention on the Simplification and Harmonisation of Customs Procedures (Kyoto Convention),<sup>27</sup> which was adopted in 1973 and revised in 1999, and the Convention on Temporary Admission (Istanbul Convention),<sup>28</sup> simplify and harmonise customs clearance procedures for the importation of goods. Specifically, Annexe B3 of the Kyoto Convention recommends as practice that states exempt goods, including “foodstuffs, medicaments, clothing and blankets sent as gifts to an approved charitable or philanthropic organisation for distribution free of charge to needy persons by the organisation or under its control”.<sup>29</sup> Annexe J5 provides guidelines to expedite the clearance of relief consignments intended to assist those affected by disasters. Annexe B2 to the Istanbul Convention regulates the importation of professional and communication equipment for practitioners of various disciplines in support to relief efforts. The measures and exemptions for temporary admission of goods for humanitarian purposes in response to natural disasters and other catastrophes are stipulated in Annexe B9. In addition, Annexe C of the Istanbul Convention allows for the temporary admission of means of transport used by a foreign entity and Annexe D allows for temporary admission of animals, including those involved in rescue operations.*

*It is also relevant to note treaties related to privileges and immunities law. The doctrine of privileges and immunities is not directly linked to disasters.<sup>30</sup> However, it is essential for those entities involved in disaster response to which it applies, as it addresses many of the access and operations related issues identified as problematic in field operations, as it typically allows the holder of privileges and immunities to easily enter, exit and operate in a foreign country with minimum interference from domestic authorities.<sup>31</sup> Much of the customary law in the area of privileges and immunities has been codified in the Vienna Convention on Diplomatic Relations<sup>32</sup> and the Vienna Convention on Consular Relations.<sup>33</sup> However, personal diplomatic and consular privileges and immunities generally do not extend outside the scope of mission staff and their families, and therefore civil protection, military and other disaster responders generally do not benefit from them.<sup>34</sup> Intergovernmental organisations have also traditionally been granted privileges and immunities to enable them to carry out their functions without undue interference, but in general NGOs do not benefit from privileges and immunities under international law.<sup>35</sup>*

*In addition, the Framework Convention on Civil Defence Assistance provides a legal framework to reduce obstacles for effective international cooperation between states in disaster settings. It is also worth mentioning the Convention on the Safety of UN and Associated Personnel (UN Safety Convention) and the Optional Protocol thereto, which imposes an obligation on a state hosting a UN operation to protect UN personnel and property to prevent or reduce any impunity for those who attack UN or associated personnel or property.<sup>36</sup>*

*In terms of human rights treaties, the Convention on the Rights of Persons with Disabilities references disaster assistance the most directly. State parties are required to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including humanitarian emergencies and natural disasters.<sup>37</sup> In*

<sup>26</sup> See article 5.11 and 5.12 of Annexe 1 of the Convention on the Facilitation of International Maritime Traffic, 9 April 1965, 591 U.N.T.S. 265.

<sup>27</sup> Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures of 18 May 1973, 26 June 1999.

<sup>28</sup> Convention on Temporary Admission, 26 June 1990.

<sup>29</sup> Annexe B.3 to the Kyoto Convention, recommendation 7.

<sup>30</sup> 2007 IDRL Study, page 39.

<sup>31</sup> 2007 IDRL Study, page 39.

<sup>32</sup> Vienna Convention on Diplomatic Relations, April 18, 1961, 500 U.N.T.S. 95.

<sup>33</sup> Vienna Convention on Consular Relations, April 24, 1963, 596 U.N.T.S. 261.

<sup>34</sup> 2007 IDRL Study, page 40.

<sup>35</sup> 2007 IDRL Study, page 40.

<sup>36</sup> UN Safety Convention, articles 7 and 11.

<sup>37</sup> See article 11 of the Convention on the Rights of Persons with Disabilities.

addition, there are a number of global human rights treaties, such as the International Covenant on Civil and Political Rights<sup>38</sup> and the International Covenant on Economic, Social and Cultural Rights<sup>39</sup> that set out rights closely linked to disaster relief and recovery assistance. These include the rights to life, food and water, housing, clothing, health, livelihood, and freedom from discrimination.<sup>40</sup>

There are also instruments which regulate the management of specific types of disasters or emergencies. For example, the International Health Regulations (the IHR)<sup>41</sup> regulate health emergencies with potential transboundary effects, defining the rights and responsibilities for state parties in handling outbreaks and providing public health measures for international traffic and travel. Another example is the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, which sets out rules for the initiation, coordination, and operation of international assistance operations in case of nuclear or radiological events as well as for legal facilities to be granted for the effective administration of assistance.<sup>42</sup> A third example is the International Convention on Oil Pollution Preparedness, Response and Cooperation<sup>43</sup> and its Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances<sup>44</sup> which require state parties to cooperate and provide advisory services, technical support, and equipment when necessary and within their capabilities and resources, to respond to an oil pollution incident, as well as to take the legal or administrative measures necessary to facilitate the arrival and utilisation of vessels and the expeditious movement of personnel, cargoes, materials and equipment.<sup>45</sup>

In terms of regional instruments, article 23 of the African Charter on the Rights and Welfare of the Child<sup>46</sup> (ACRWC) provides that states shall take all appropriate measures to ensure that refugee children as well as children who have been internally displaced, including by disasters, receive appropriate humanitarian assistance. In addition, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), provides in article 5(7) that state parties are obligated to facilitate the coordination of international relief and allow rapid and unimpeded passage of humanitarian relief to internally displaced persons. Further, states shall enable and facilitate the role of local and international organisations and humanitarian agencies, as well as other relevant actors, to provide protection and assistance to IDPs.

The tables below examine which of the above-mentioned agreements the Congo is a state party to:

<b><u>Convention</u></b>	<b><u>State party</u></b>
<b><u>Tampere Convention</u></b> <sup>47</sup>	Signed, but not ratified.
<b><u>Chicago Convention</u></b> <sup>48</sup>	Yes
<b><u>Convention on the Facilitation of International Maritime Traffic</u></b> <sup>49</sup>	No
<b><u>Annexe B.3 to the Kyoto Convention</u></b> <sup>50</sup>	Yes

<sup>38</sup> International Covenant on Civil and Political Rights, 16 December 1966, 999 U.N.T.S. 171.

<sup>39</sup> International Covenant on Economic Social and Cultural Rights, 16 December 1966, 999 U.N.T.S. 3.

<sup>40</sup> 2007 IDRL Study, page 34.

<sup>41</sup> World Health Assembly, Revision of the International Health Regulations, Doc. No. WHA58.3 (23 May 2005).

<sup>42</sup> Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency Sept. 26, 1986, 1439 U.N.T.S. 275, articles 1, 2, 3, 4, 7, 8, 9, 10, and 11.

<sup>43</sup> International Convention on Oil Pollution Preparedness, Response and Cooperation, 30 November 1990, 30 I.L.M. 733 (1990).

<sup>44</sup> Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 15 March 2000.

<sup>45</sup> See article 7 on the Convention on Oil Pollution Preparedness, Response and Cooperation and article 5 of the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances.

<sup>46</sup> African Charter on the Rights and Welfare of the Child, 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (1990).

<sup>47</sup> Information obtained from the UN Treaty Collection (UNTC) available at [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXV-4&chapter=25](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXV-4&chapter=25).

<sup>48</sup> Information obtained from ICAO available at <https://www.icao.int/publications/Pages/doc7300.aspx>.

<sup>49</sup> Information obtained from the UNTC available at <https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280129d04>.

<sup>50</sup> Information obtained from the World Customs Organization (WCO) available at [http://www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Conventions/pf\\_revised\\_kyoto\\_conv/Instruments](http://www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Conventions/pf_revised_kyoto_conv/Instruments).



<i>Annexe J-5 to the Kyoto Convention</i> <sup>51</sup>	Yes
<i>Annexe B2 to the Istanbul Convention</i> <sup>52</sup>	No
<i>Annexe B9 to the Istanbul Convention</i> <sup>53</sup>	No
<i>Annexe C to the Istanbul Convention</i> <sup>54</sup>	No
<i>Annexe D to the Istanbul Convention</i> <sup>55</sup>	No
<i>Vienna Convention on Diplomatic Relations</i> <sup>56</sup>	Yes
<i>Vienna Convention on Consular Relations</i> <sup>57</sup>	Signed, but not ratified.
<i>Framework Convention on Civil Defence Assistance</i> <sup>58</sup>	No
<i>UN Safety Convention and Optional Protocol</i> <sup>59</sup>	Yes (not the optional protocol)
<i>Convention on the Rights of Persons with Disabilities</i> <sup>60</sup>	Yes
<i>IHR</i> <sup>61</sup>	Yes
<i>Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency</i> <sup>62</sup>	No
<i>International Convention on Oil Pollution Preparedness, Response and Cooperation</i> <sup>63</sup>	No
<i>ACRWC</i> <sup>64</sup>	Yes
<i>Kampala Convention</i> <sup>65</sup>	Yes

The sections below examine whether there are any legal facilities provided for international assisting actors in terms of the domestic laws in the Congo.

**i. Landing rights**

<sup>51</sup> Information obtained from the WCO available at [http://www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Conventions/pf\\_revised\\_kyoto\\_conv/Instruments](http://www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Conventions/pf_revised_kyoto_conv/Instruments).

<sup>52</sup> Information obtained from the UNTC available at <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800b2770&clang=en>.

<sup>53</sup> Information obtained from the UNTC available at <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800b2770&clang=en>.

<sup>54</sup> Information obtained from the UNTC available at <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800b2770&clang=en>.

<sup>55</sup> Information obtained from the UNTC available at <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800b2770&clang=en>.

<sup>56</sup> Information obtained from [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=III-3&chapter=3&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=III-3&chapter=3&clang=en).

<sup>57</sup> Information obtained from the UNTC [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=III-6&chapter=3](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=III-6&chapter=3).

<sup>58</sup> Information obtained from the UNTC available at <https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280086ecb&clang=en>.

<sup>59</sup> Information obtained from the UNTC available at [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=XVIII-8&chapter=18](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=XVIII-8&chapter=18) and [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=XVIII-8-a&chapter=18&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=XVIII-8-a&chapter=18&clang=en).

<sup>60</sup> Information obtained from the UNTC available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=IV-15&chapter=4](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-15&chapter=4).

<sup>61</sup> Information obtained from World Health Organisation available at [https://www.who.int/ihr/legal\\_issues/states\\_parties/en/](https://www.who.int/ihr/legal_issues/states_parties/en/).

<sup>62</sup> Information obtained from the International Atomic Energy Agency available at <https://www.iaea.org/topics/nuclear-safety-conventions/convention-assistance-case-nuclear-accident-or-radiological-emergency#:~:text=The%20Convention%20on%20Assistance%20in,in%20the%20event%20of%20nuclear>.

<sup>63</sup> Information obtained from the UNTC <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800aada6>.

<sup>64</sup> Information obtained from the AU available at <https://au.int/en/treaties/african-charter-rights-and-welfare-child>.

<sup>65</sup> Information obtained from the AU available at <https://au.int/sites/default/files/treaties/36846-sl-AFRICAN%20UNION%20CONVENTION%20FOR%20THE%20PROTECTION%20AND%20ASSISTANCE%20OF%20INTERNALLY%20DISPLACED%20PERSONS%20IN%20AFRICA%20%2028KAMPALA%20CONVENTION%29.pdf>.



*As indicated above, the Congo is a party to the Chicago Convention, Annex 9 of which provides procedural guidance for customs, immigration, agriculture, and public health clearance of aircrafts containing humanitarian assistance in response to disasters, including passengers, goods, and mail. This may facilitate the entry of international disaster assistance in the Congo.*

*In terms of domestic law, the Congo has various documents that ensure the implementation of the Chicago Convention, establishing different bodies for the management of civil aviation, such as:*

- *Order n ° 5069 of March 6, 2020 setting the conditions for the civil air transport of passengers who may present risks to the security of civil aviation;*
- *Decree n ° 2019-216 of August 13, 2019 relating to civil aviation freight and post security;*
- *Decree n ° 2019-218 of August 13, 2019 relating to the obligation to inform air passengers;*
- *Order No. 11 954 of June 28, 2019 setting out the modalities for coordinating the technical investigation and the judicial investigation into civil aviation accidents and incidents;*
- *Order No. 4419 of April 28, 2016 setting the information and the frequency of transmission of statistical and financial data to the national civil aviation agency;*
- *Order No. 4420 of April 28, 2016 relating to operating authorizations for scheduled international air services;*
- *Order No. 530 of January 14, 2015 establishing the organization and responsibilities of the services and offices of the national civil aviation agency;*
- *Order No. 531 of January 14, 2015 relating to the exercise of the function of civil aviation safety inspector;*
- *Decree n ° 2014-23 of February 5, 2014 fixing the different categories of air carriers benefiting from authorizations to operate international air services; and*
- *Decree n ° 2014-25 of February 5, 2014 setting the procedures for security checks at airports and aerodromes.<sup>66</sup>*

*However, these documents do not contain provisions on international humanitarian assistance, and from the information available, the Congo does not appear to have a central civil aviation law.*

## **ii. Customs arrangements for specialized goods and equipment**

*The National Customs Code of the Congo was not available for review for the purposes of this mapping.*

*As indicated above, the Congo is a party to the Kyoto Convention and has acceded to all of the annexes thereto, including Annexe B3 of the Kyoto Convention, which recommends as practice that states exempt goods, including “foodstuffs, medicaments, clothing and blankets sent as gifts to an approved charitable or philanthropic organisation for distribution free of charge to needy persons by the organisation or under its control”.<sup>67</sup> In addition, Annexe J5 provides guidelines to expedite the clearance of relief consignments intended to assist those affected by disasters. “Relief consignments” are defined to mean: “goods, including vehicles and other means of transport, foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity, forwarded as aid to those affected by disaster; and all equipment, vehicles and other means of transport, specially trained animals, provisions, supplies, personal effects and other goods for disaster relief personnel in order to perform their duties and to support them in living and working in the territory of the disaster throughout the duration of their mission”. These provisions may facilitate the expedited entry of relief consignments, including food, medication, and specialized equipment such as vehicles and communications equipment, into the Congo.*

*In terms of sub-regional instruments, the CEMAC Customs Code provides in article 276 that importation free of duties and taxes may be authorized in favor of:*

- a) *donations offered to Heads of State;*
- b) *materials and products provided free of charge to Member States by foreign States or international organizations;*

<sup>66</sup> These documents are available at: <https://www.sgg.cg/fr/recherche.html>

<sup>67</sup> Annexe B.3 to the Kyoto Convention, recommendation 7.

- c) *items intended for Ambassadors, diplomatic and consular services and foreign members of certain official international organizations based in Member States;*
- d) *consignments intended for the Red Cross and other national solidarity organizations specially designated, devoid of any commercial character of certain materials and products, either by reason of their method of financing, or by reason of their nature or their destination.*<sup>68</sup>

[CEMAC Customs Code](#)

*In addition, goods exported by the Red Cross or other national solidarity works can also be exempt from exit duties and taxes.*<sup>69</sup>

Communications equipment

*In addition to the above, it is worth noting that the Telecommunications Law of the Congo provides in article 55 that the Regulatory Agency for Posts and Electronic Communication determines the approval procedure for national and international equipment and laboratories as well as the conditions for the recognition of standards and technical specifications. It also determines the types of electronic communications and radiocommunication equipment requiring technical qualification for their connection, commissioning and maintenance, as well as the criteria and procedure for admitting the persons called upon to carry out this work. In the absence of technical standards and specifications, the agency applies the standards and specifications of the International Telecommunication Union.<sup>70</sup> However, this law does not specify clear procedures for the import of telecommunications equipment as part of international disaster assistance.*

[Law 9-2009, Telecommunications Law](#)

**iii. Immigration**

*From the information available online, there do not appear to be any specific provisions which provide expedited processes or waivers for visas for international disaster relief personnel in the Congo.*

[Law 29-2017, Immigration Law](#)

*In terms of ore general provisions, Law 29-2017 provides the amendments to the Immigration law of 1996. Articles which may be of relevance to international assisting actors include article 5, which provides that a visitor is a foreigner admitted to the territory of the Congo for a stay the duration of which cannot exceed three months and which comes for family, cultural, scientific or business reasons, without the will to fix his residence there.<sup>71</sup> Visitors include: tourists, temporary workers and businessmen.<sup>72</sup> Temporary workers are people who come on mission to Congo as part of their professional activities.<sup>73</sup> Also relevant to the entry of international assisting actors may be the provisions established in articles 16 and 17 which are related to diplomatic officials and international experts. The entry of diplomats accredited to the Congo as well as that of their families, is subject to the presentation of: a valid diplomatic passport in which is affixed a courtesy or service visa obtained from diplomatic representations or consular posts of the Congo, if the diplomat is a national of a country that has not concluded special agreements with the Republic of Congo in matters of immigration; a valid international vaccination card.<sup>74</sup> The entry of international experts and officials on mission is subject to the presentation of: a valid passport or any other documents in lieu thereof, bearing an entry visa if the expert or the official is a national of a State which has not concluded special agreements with the Congo in the matter immigration; an order of admission or an accrediting document; a valid international vaccination card.<sup>75</sup>*

**iv. Registration of international assisting actors**

<sup>68</sup> CEMAC Customs Code, article 276.

<sup>69</sup> CEMAC Customs Code, article 276.

<sup>70</sup> Law 9-2009, article 55.

<sup>71</sup> Law 29-2017, Immigration Law, article 5.

<sup>72</sup> Law 29-2017, Immigration Law, article 6.

<sup>73</sup> Law 29-2017, Immigration Law, article 8.

<sup>74</sup> Law 29-2017, Immigration Law, article 16.

<sup>75</sup> Law 29-2017, Immigration Law, article 17.

The law does not appear to provide expedited procedures for international actors to register in the Congo and therefore it appears that the normal rules and procedures would apply.

**v. Recognition of professional qualification of foreign personnel**

The Labor Code of the Congo does not appear to establish specific procedures for the recognition of foreign professional qualifications of international relief personnel. It would therefore appear that the normal rules relating to the recognition of foreign qualifications in the Congo, would apply.

**vi. Tax and currency exchange for disaster relief activities**

With regard to VAT, the Finance Law of 2021 provides a list of basic necessity goods and services which are exempted of VAT. These include, among others, food, medicines and pharmaceutical products, medical devices and operations related to international traffic such as rescue and assistance boats.<sup>76</sup>

[Law 66-2020, Finance Law for 2021](#)

With regards to income tax, the Congo has a source based tax system in terms of which both residents and non-residents are subject to tax on income earned from a source in the Congo.<sup>77</sup> The law does not appear to specify exemptions of the corporate income tax and the personal income tax involving international assisting actors.

**vii. Freedom of movement of international assisting actors during a disaster response**

The Immigration Law provides in article 37 that the movement of foreigners, whether residents or not, including those who enjoy diplomatic privileges and immunities, in the territory of the Republic of the Congo is not subject to any restriction. However, within the framework of the rules governing national security or the protection of certain strategic interests, the movement of foreigners can be regulated by a collective or individual measure and the stay in certain places can be prohibited. These measures are decided by the police or gendarmerie authority, and there do not appear to be specific exemptions with respect to international assisting actors.

**viii. Safety and security of international assisting actors**

The law does not appear to contain specific provisions on the safety and security of international assisting actors. In general, this appears to be the responsibility of the police force. Law 11/013 establishes the organization and functioning of the national Congolese police, who are responsible for ensuring the security of people and their property in the Congo in general in terms of Article 2. Article 16 provides that ordinary missions include, among others, participation in the relief of the population in the event of disasters.<sup>78</sup>

[Law 11/013, National Congolese Police](#)

**ix. Additional facilities for international disaster relief**

There do not appear to be additional facilities related to international disaster relief operations.

**Question 6: Do your country's laws and regulations set out quality standards for international assisting actors?**

Summary

Source

<sup>76</sup> Las 66-2020, Finance Law for 2021, article 7.

<sup>77</sup> See ENS, *Doing Business in the Republic of the Congo*, available at <https://www.ensafrica.com/doing-business/download?termId=45>.

<sup>78</sup> Law 11/013, National Congolese Police, article 16.

*The law does not appear to set out quality standards for international assisting actors explicitly. However, social action in the Congo is carried out based on the guiding principles provided in the National Policy for Social Action, which, although not explicitly stated, would apply to both domestic and international actors. These principles include the following:*

[National Policy for Social Action 2017](#)

- *a rights-based approach, including the universal right to social protection, as well as on other economic, social and cultural rights, including those relating to children, women, persons living with disabilities, the elderly and indigenous peoples, and on humanitarian law, in particular the protection of the rights of refugees;*
- *national solidarity: social action is part of the concern to reduce inequalities and promote equality of opportunity in order to ensure social inclusion and build a just and cohesive society;*
- *a gender-sensitive approach, which is aware of gender inequalities, specific gender-related risks, such as gender-based violence, and the need to implement anti-discrimination and promotion measures for girls and women;*
- *the balanced application of prevention, protection, care and promotion approaches in social action: prevention actions, which aim to reduce risk, include early intervention at the family level, as well as awareness campaigns at the community level. Promotional measures aim to develop the capacities of vulnerable or high-risk people, to promote their economic empowerment and the development of their human and productive capital, and, in the case of people living on the margins of society, to ensure their family reintegration and social inclusion. Lastly, protection measures, in the narrower sense of the term, and of care are essential when people live in precariousness, are victims of violence, ill-treatment or exploitation, or live in conditions liable to expose them to high risks;*
- *strengthening the protective framework of the family: the family is the privileged place of protection, development and fulfillment of its members and in particular of the child;*
- *a community-based approach: the effectiveness of social action requires local approaches to communities in order to better sensitize populations on the risks, their rights and responsibilities, and the behaviors, and in order to identify the risks, the victims of abuse and the proactive potential beneficiaries of programs and services;*
- *subsidiarity in the management of services: bringing services closer to the populations, flexibility in the granting of aid and efficiency in the management of services require that the resources and decision-making powers be granted to the level closest to the populations;*
- *the right of people in precarious situations to express themselves: the importance attached to listening to vulnerable people or victims of disasters reflects the recognition that the search for solutions must consider the information, opinions and opinions of these people;*
- *accountability of beneficiaries: in return for the services and transfers offered to beneficiaries of the social action system, they have the obligation to take responsibility and respect their duties towards others, especially children and women;*
- *prioritization of high impact actions: while recognizing the importance of capacity building and the mobilization of additional resources, it is necessary to use available resources and capacities to the best of their ability. It is crucial to prioritize the programs and interventions that will have the greatest social impact relative to their costs;*
- *results-based management and strong attention to monitoring and evaluation of interventions: actions must be based on a chain of results clearly defining the relationships between resources, activities, products and results;*
- *strong partnership between the various institutions concerned: the multidimensional nature of vulnerability and risks requires the involvement of several ministries, as well as civil society actors in prevention, promotion, protection and care actions for vulnerable segments of the population;*
- *humanity: the safeguarding of human life and the alleviation of human suffering will be at the center of humanitarian action;*
- *impartiality: the magnitude of the needs of the mainly vulnerable people will guide humanitarian action without discrimination between affected populations;*
- *neutrality: no part of the vulnerable population will be favored to the detriment of another, in conflict or other humanitarian situations;*
- *independence: no political objective will be taken into account in all humanitarian actions; and*

<ul style="list-style-type: none"> <li>• <i>an integrated disaster management approach: encompasses all phases of management, from risk prevention and reduction, to disaster preparedness, emergency disaster response and disaster recovery.</i><sup>79</sup></li> </ul>	
<b>Question 7: Do your country's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?</b>	
<b>Summary</b>	<b>Source</b>
<p><i>From the sources available for review, the law does not appear to set out eligibility requirements for international assisting actors to receive legal facilities.</i></p>	
<b>Question 8: Do your country's laws and regulations establish a specialized unit for expediting the entry of international disaster assistance?</b>	
<b>Summary</b>	<b>Source</b>
<p><i>Current laws and policies on disaster management in the Congo do not appear to explicitly set out a consolidated "One Stop Shop" approach to international disaster assistance nor do they establish a specialized unit for expediting the entry of international assistance.</i></p>	
<b>Question 9: Do your country's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?</b>	
<b>Summary</b>	<b>Source</b>
<p><i>The law does not appear to provide specific transparency, safeguards or accountability mechanisms governing international disaster relief and initial recovery assistance specifically, although normal criminal law provisions would usually be applicable in such situations.</i></p> <p><i>In terms of the funding of DRM in general, the Finance Law of 2021 establishes that the hiring and scheduling of advance funds related to various activities, including disaster management, are carried out in the name of the general paymaster, principal accountant of the State budget, who ensures its management for the benefit of the ministries or institutions concerned. The advance fund may not exceed five million FCFA. The management of major advance funds (including those relating to disasters) is carried out by the fund managers appointed by decree of the Minister of Finance. The manager of an advance fund is personally and financially responsible for its management.</i><sup>80</sup></p> <p><i>The principles, objectives, scope, supervision and sources of financing of the Emergency Fund (FU) should be defined in the Finance Law. The primary objective is to strengthen good humanitarian governance and humanitarian leadership by reducing administrative and bureaucratic slowness. A rapid "fasttracking" disbursement procedure should be put in place in order to avoid the lethargy of the operational response in the event of an emergency. The established operational periods and phases must be scrupulously respected in the mobilization and disbursement of the Emergency Fund. The Emergency Fund should be under the authority of the Prime Minister, Head of Government, Coordinator of CNAH and CTNAH and should cover purely humanitarian operations and integrated peacekeeping and civil security and humanitarian action missions at the national, departmental and local government levels, at each period and at each phase of Risk and Disaster Management (GRC).</i><sup>81</sup></p>	<p><a href="#">Criminal Code</a></p> <p><a href="#">Law 66-2020, Finance Law for 2021</a></p> <p><a href="#">Humanitarian Mechanism</a></p>

<sup>79</sup> National Policy for Social Action 2017, page 18-20.

<sup>80</sup> Law 66-2020, Finance Law for 2021, page 69.

<sup>81</sup> Humanitarian Mechanism, page 51.

Question 10: Do your country's laws and regulations outline procedures for international disaster assistance sent from, and transiting through your country?	
Summary	Source
<p><i>The law does not provide clear customs procedures for international disaster assistance sent from, and transiting through, the country.</i></p> <p><i>However, it is relevant to note that the Finance Law of 2021 provides a list of goods and services which are exempted of VAT. These include, among others, inter-state transit operations and related services.<sup>82</sup> Furthermore, the CEMAC Customs Code provides in article 276 that, as stated above, goods exported by the Red Cross or other national solidarity works can be exempt from exit duties and taxes.<sup>83</sup></i></p>	<p><a href="#">Law 66-2020, Finance Law for 2021</a></p> <p><a href="#">CEMAC Customs Code</a></p>

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<sup>82</sup> *Las 66-2020, Finance Law for 2021, article 7.*

<sup>83</sup> *CEMAC Customs Code, article 276.*