

OPERATIONAL GUIDANCE NOTE

ANGOLA

CONTENTS

1. Introduction	1.1 – 1.4
2. Country assessment	2.1 – 2.7
3. Main categories of claims	3.1 – 3.5
Members of FLEC	3.6
Cabindans	3.7
Members of UNITA	3.8
General country situation	3.9
Prison conditions	3.10
4. Discretionary Leave	4.1 – 4.2
Minors claiming in their own right	4.3
Medical treatment	4.4
5. Returns	5.1 – 5.3
6. List of source documents	

1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Angola and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Angola Country of Origin Information at: http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instructions on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

Source documents

- 1.4** A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1** Angola gained independence from Portugal on 11 November 1975. Planned elections did not happen; instead, one of three nationalist groups, the Popular Movement for the Liberation of Angola (MPLA), declared themselves the government and imposed a one-party constitution to be guided by Marxist-Leninism. The other two nationalist

movements, the National Front for the Liberation of Angola (FNLA) and the National Union for the Total Independence of Angola (UNITA) retreated to their rural bases. The MPLA was backed by military hardware from the Soviet Union and Cuban troops. The FNLA and UNITA secured less help from the USA, apartheid South Africa and Mobutu's Zaire. Although the FNLA soon gave up the armed struggle, UNITA continued to fight a guerilla war which was to last until 2002. Throughout this long civil war, UNITA moved with impunity in the countryside while the MPLA controlled the towns. In 1998, the MPLA decided to pursue a final military offensive against UNITA. After 3 years of fighting government forces succeeded, firstly by killing UNITA's leader in February 2002, and subsequently through the Luena Memorandum of Understanding of April 2002, to end the war by agreement with UNITA commanders.¹

- 2.2** Having postponed parliamentary elections for two years, the Government held the first post-war elections in September 2008. The MPLA won a landslide victory, gaining 82% of the vote and 191 seats. UNITA, the main opposition, took just over 10% of the vote, losing more than fifty seats. Domestic and international observers reported that polling throughout the country was peaceful and generally credible, despite the ruling party's advantages due to state control of media and other resources, and serious logistical failures that marred polling in the capital city of Luanda. Opposition parties criticised many aspects of the electoral process, but generally accepted the results. Presidential elections are expected to be held in 2009.² Some incidents of politically motivated violence continue to be reported and in 2008 opposition parties stated that their members were subject to harassment, intimidation, and assault by supporters of the MPLA. Opposition party members and civil society leaders also cited examples of political intolerance during the election process.³
- 2.3** The National Police, under the Interior Ministry, are responsible for internal security and law enforcement. The Internal Intelligence Service reports to the Office of the Presidency and investigates sensitive state security matters. The Armed Forces of Angola (FAA) is responsible for external security, but also has domestic responsibilities including small-scale actions against dissident factions in Cabinda. The civilian authorities generally maintain effective control of the security forces, but in 2008 there were some reports that members of the security forces committed human rights abuses including unlawful killings, torture, and beatings, with impunity continuing to be a problem.⁴
- 2.4** The Government's human rights record has improved in some areas since the end of the civil war and the appointment of a human rights ombudsman in 2005 was an important step in ensuring citizen's ability to seek redress by reporting human rights concerns directly to an independent governmental body. The law provides for freedom of speech, assembly, and association, but although the Government generally respects these rights, at times they are reportedly restricted. Despite Angola's strong economic growth, the majority of Angolans reportedly continue to live in poverty.⁵
- 2.5** Although peace was achieved on the mainland in 2002, the province of Cabinda remained a problem. A low level guerilla war has been conducted for over thirty years by rebel groups fighting for independence of the province. Cabindans have been subjected to persistent guerilla warfare as factions of the separatist movement, Front for the Liberation of the Cabinda Enclave (FLEC) first fought for independence from Portugal. Since Angolan

¹ Home Office Country of Origin Information (COI) Service Angola Key Documents April 2008 (Background Information on Angola: Recent history) & Foreign and Commonwealth Office (FCO) Country Profile 2008: Angola

² U.S. Department of State report on Human Rights Practices (USSD) 2008: Angola (Introduction & Section 3), Human Rights Watch (HRW) World Report 2009: Angola, Amnesty International (AI) Report 2009: Angola, British Broadcasting Corporation (BBC) News Country Profile: Angola, BBC News Timeline: Angola & BBC News 'Landslide for Angola ruling party' dated 17 September 2008

³ USSD 2008: Angola (Section 3) & HRW World Report 2009: Angola

⁴ USSD 2008: Angola (Introduction and Section 1)

⁵ USSD 2008: Angola (Introduction & Sections 1, 2 & 3), USSD 2005 (Introduction), HRW World Report 2008: Angola & AI Report 2009: Angola

independence in 1975, FLEC has been fighting against the Angolan Government led by the MPLA. In late 2002, the armed conflict escalated following the deployment of some 30,000 government soldiers to Cabinda. By mid-2003 the Angolan Armed Forces had virtually destroyed the rebel group, but in the course of these military operations committed serious and widespread human rights abuses against the civilian population. The Government maintained a massive military presence in the province and local authorities reported in July 2005 that a new Angolan army offensive against FLEC in Cabinda was underway. The army denied that it stepped up the military campaign, but abuses reportedly committed by armed forces personnel did not seem to subside.⁶

- 2.6** On 1 August 2006, the Angolan Government signed a ceasefire agreement with Antonio Bento Bembe who acted on behalf of the Cabinda Forum for Dialogue (FCD), a representative body of Cabinda's secessionist movements including civil society groups, the Catholic Church and FLEC. The peace deal involves a 'special status' for the province, within the limits of Angola's centralised constitution; the demilitarisation of the rebels; and an amnesty for crimes committed during the thirty year conflict. However, the agreement has not attracted the support of all the Cabindan factions.⁷
- 2.7** The ceasefire agreement has largely brought an end to the insurgency in Cabinda, though sporadic clashes between FLEC and the FAA continue to be reported. There was one report in 2006 of an unlawful killing in Cabinda that could be linked to FAA soldiers and a similar report in 2007. Both incidents remained under investigation at the end of 2008. According to human rights non-governmental organisations (NGOs), incidents of human rights abuses by the FAA during anti-insurgency operations were reported in 2007 and 2008. In accordance with the ceasefire agreement, former FLEC combatants have been incorporated into the FAA and military personnel held for crimes committed during the conflict have been released.⁸

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Angola. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the guidance below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on Considering the Asylum Claim).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum

⁶ HRW. Angola: Between War and Peace in Cabinda - A Human Rights Watch Briefing Paper (page 1) & HRW World Report 2006: Angola

⁷ COI Service Key Documents Angola Key Documents April 2008 (Background Information on Angola: Recent events and political developments), FCO Country Profile 2008: Angola & BBC News 'Angola signs deal with Cabindans' dated 1 August 2006

⁸ USSD 2008: Angola (Section 1), USSD 2007: Angola (Section 1), HRW World Report 2009: Angola, HRW World Report 2008: Angola & AI Report 2008: Angola

nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on the individual circumstances.

- 3.4** This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see the Asylum Instructions on 'Considering the Asylum Claim' and 'Assessing Credibility in Asylum and Human Rights Claims'.
- 3.5** All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:
<http://www.ukba.homeoffice.gov.uk/documents/asylumpolicyinstructions/>
- 3.6 Members of FLEC**
- 3.6.1** Many applicants may apply for asylum based on ill-treatment amounting to persecution by the state authorities due to their membership of, involvement with, or perceived involvement with, the armed separatist group Front for the Liberation of the Cabinda Enclave (FLEC).
- 3.6.2 *Treatment.*** FLEC and its offshoots have been fighting a guerilla war since 1963 with the aim of securing Cabindan independence, originally from the Portuguese and then from the MPLA Government following Angolan independence in 1975. For much of the period from independence until late 2002, the armed conflict in Cabinda was a low intensity guerilla war, as FLEC had neither the manpower nor weaponry of a conventional army. The Angolan armed forces deployed approximately 30,000 soldiers to Cabinda, including an unknown number of special forces called commandos caçadores, in an attempt to defeat FLEC militarily.⁹
- 3.6.3** Reports compiled by Cabindan human rights activists in 2002 and 2003 alleged that Angolan forces committed widespread violations against captured combatants and civilians including the summary execution of suspected FLEC combatants or supporters; rape and forced marriage of women and girls; arbitrary detention; torture and other mistreatment; forced labour; and excessive restrictions on civilian access to agricultural areas, rivers and hunting grounds. The reports also attributed a small number of abuses, including hostage taking and summary executions of suspected government collaborators, to FLEC forces. Conflict levels reduced by mid-2003 as the Angolan Armed Forces had virtually destroyed the rebel group. The Government maintained a massive military presence in the province, however, and local authorities reported in July 2005 that a new Angolan army offensive against FLEC in Cabinda was underway. The army denied that it stepped up the military campaign, but abuses reportedly committed by armed forces personnel did not seem to subside.¹⁰
- 3.6.4** On 1 August 2006, the Angolan Government signed a ceasefire agreement with Antonio Bento Bembe who acted on behalf of the FCD. The peace deal involves a 'special status' for the province, within the limits of Angola's centralised constitution; the demilitarisation of the rebels; and an amnesty for crimes committed during the thirty year conflict. However, the agreement has not attracted the support of all the Cabindan factions.¹¹
- 3.6.5** The ceasefire agreement has largely brought an end to the insurgency in Cabinda, though sporadic clashes between FLEC and the FAA continue to be reported. There was one report in 2006 of an unlawful killing in Cabinda that could be linked to FAA soldiers and a similar report in 2007. Both incidents remained under investigation at the end of 2008. According to human rights NGOs, FAA troops continue to illegally detain, beat, or threaten

⁹ HRW. Angola: Between War and Peace in Cabinda (pages 4 - 8)

¹⁰ HRW. Angola: Between War and Peace in Cabinda (pages 1, 6 & 7) & HRW World Report 2006: Angola

¹¹ COI Service Key Documents Angola Key Documents April 2008 (Background Information on Angola: Recent events and political developments), FCO Country Profile 2008: Angola & BBC News 'Angola signs deal with Cabindans' dated 1 August 2006

citizens suspected of FLEC collaboration during anti-insurgency operations in Cabinda.¹²

- 3.6.6 Sufficiency of protection.** As this category of applicants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.6.7 Internal relocation.** Whilst this category of applicants' fear is of ill-treatment/persecution by the state authorities, this does not mean that case owners should automatically presume that internal relocation is not an option. As Lord Bingham observed in Januzi ([2006] UKHL 5):
- "The more closely the persecution in question is linked to the state, and the greater the control of the state over those acting or purporting to act on its behalf, the more likely (other things being equal) that a victim of persecution in one place will be similarly vulnerable in another place within the state. The converse may also be true. All must depend on a fair assessment of the relevant facts."*
- 3.6.8** Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of Angola where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.
- 3.6.9 Caselaw.**
- FP (Angola) CG [2003] UKIAT 00204.** The IAT found that the appellant who originated from Cabinda and had connections to FLEC could not safely return to Luanda and duly allowed the appellant's appeal.
- 3.6.10 Conclusion.** The ceasefire agreement has largely brought an end to the insurgency in Cabinda. Human rights abuses by the FAA have been reported during anti-insurgency operations since August 2006, but at a reduced level. In the light of these developments, case owners should assess on an individual case by case basis whether there may be a real risk that applicants will encounter ill-treatment amounting to persecution either because they are a member of FLEC or are associated with a member of FLEC. The grant of asylum may be appropriate in some cases.
- 3.6.11** Case owners should note that members of FLEC have been responsible for serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant for FLEC and the evidence suggests that he has been involved in such actions, case owners should consider whether one of the Exclusion clauses is applicable. Case owners should refer all such cases within this category to a Senior Caseworker in the first instance.
- 3.7 Cabindans**
- 3.7.1** Many applicants may apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to them originating from, and/or belonging to an ethnic group that is indigenous to Cabinda.
- 3.7.2 Treatment.** The Angolan province of Cabinda has a population of around 250,000. It is separated from the rest of Angola by a narrow strip of the Democratic Republic of Congo. There are two main ethnic groups in Cabinda; the Bakongo and the Mayombe. The Bakongo are in the majority, while the Mayombe has a small minority in the province and

¹² USSD 2008: Angola (Section 1), USSD 2007: Angola (Section 1), HRW World Report 2009: Angola, HRW World Report 2008: Angola & AI Report 2008: Angola

usually live in the mountain forests of eastern Cabinda. Cabindan separatists (see 3.6 above) claim the province has its own distinct and separate identity. However, the extensive mixing and intermarriage in Cabinda over the years has made it increasingly difficult to establish who is a true Cabindan.¹³

- 3.7.3** Following the end of the armed conflict between the MPLA and UNITA in the contiguous part of Angola in 2002, the fighting and attendant violations against the civilian population shifted to Cabinda. By August 2004, the human rights situation in Cabinda had improved due to a decrease in military operations, but there were reports that the Angolan armed forces continued to commit violations against civilians with almost complete impunity. This reportedly included extrajudicial executions, arbitrary arrests and detention, torture and other mistreatment, sexual violence, and the denial of civilians' freedom of movement.¹⁴
- 3.7.4** Between 2002 and 2004, the FAA and the Angolan National Police in Cabinda reportedly failed to investigate or prosecute abuses against civilians in which the FAA was implicated, in some cases simply transferring the alleged perpetrators, including officers and the perpetrators' unit, elsewhere in Cabinda or to another province. The deployment of some 30,000 FAA troops in close proximity to the civilian population in Cabinda and the sense of impunity fostered a climate in which human rights violations were reportedly common.¹⁵ Abuses against civilians by the Angolan military in Cabinda and impunity remained causes for concern into 2005.¹⁶
- 3.7.5** On 1 August 2006, the Angolan Government signed a ceasefire agreement with Antonio Bento Bembe who acted on behalf of the FCD. The peace deal involves a 'special status' for the province, within the limits of Angola's centralised constitution; the demilitarisation of the rebels; and an amnesty for crimes committed during the thirty year conflict. However, the agreement has not attracted the support of all the Cabindan factions.¹⁷
- 3.7.6** The ceasefire agreement has largely brought an end to the insurgency in Cabinda, though sporadic clashes between FLEC and the FAA continue to be reported. There was one report in 2006 of an unlawful killing in Cabinda that could be linked to FAA soldiers and a similar report in 2007. Both incidents remained under investigation at the end of 2008. According to human rights NGOs, FAA troops continue to illegally detain, beat, or threaten citizens suspected of FLEC collaboration during anti-insurgency operations in Cabinda. In July 2007, residents and media reported security forces searched and conducted raids for FLEC collaborators.¹⁸
- 3.7.7** **Sufficiency of protection.** As this category of applicants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.7.8** **Internal relocation.** Whilst this category of applicants' fear is of ill-treatment/persecution by the state authorities, this does not mean that case owners should automatically presume that internal relocation is not an option. As Lord Bingham observed in Januzi ([2006] UKHL 5):

"The more closely the persecution in question is linked to the state, and the greater the control of the state over those acting or purporting to act on its behalf, the more likely (other things being equal) that a victim of persecution in one place will be similarly vulnerable in

¹³ IRIN Web Special on Cabinda & Minorities at Risk. Data: Assessment for Cabinda in Angola

¹⁴ HRW. Angola: Between War and Peace in Cabinda (pages 1 & 6)

¹⁵ HRW. Angola: Between War and Peace in Cabinda (page 1)

¹⁶ HRW World Report 2006: Angola & USSD 2005: Angola (Introduction & Sections 1 & 2)

¹⁷ COI Service Key Documents Angola Key Documents April 2008 (Background Information on Angola: Recent events and political developments), FCO Country Profile 2008: Angola & BBC News 'Angola signs deal with Cabindans' dated 1 August 2006

¹⁸ USSD 2008: Angola (Section 1), USSD 2007: Angola (Section 1), HRW World Report 2009: Angola, HRW World Report 2008: Angola & AI Report 2008: Angola

another place within the state. The converse may also be true. All must depend on a fair assessment of the relevant facts.”

3.7.9 Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of Angola where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.

3.7.10 Conclusion. The ceasefire agreement has largely brought an end to the insurgency in Cabinda and the security situation there has improved markedly. Human rights abuses by the FAA have been reported during anti-insurgency operations since August 2006, but at a reduced level. In the light of these developments, case owners should assess on an individual case by case basis whether there may be a real risk that applicants will encounter ill-treatment amounting to persecution by the state authorities on the grounds that they belong to an ethnic group indigenous to the Cabinda province. The grant of asylum may be appropriate in some cases.

3.8 Members of UNITA

3.8.1 Some applicants may apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with, the main political opposition group National Union for the Total Independence of Angola (UNITA).

3.8.2 Treatment. Between the declaration of independence in November 1975 and April 2002, UNITA and the MPLA continued a bitter conflict for control of the country. During the conflict, UNITA comprised at least two major groups; in addition to which there were also known sympathisers. The main distinction was between the military wing, led by Jonas Savimbi, and those who formed the parliamentary wing UNITA-Renovada (UNITA-R). During the reconciliation process in 2002-3, which saw UNITA's transition to an unarmed political opposition group, UNITA-R ceased to exist.¹⁹ The demobilisation of UNITA ex-combatants was successfully completed on 30 July 2002. In October 2004, the disarmament and re-integration of more than 97,000 former UNITA rebel fighters was fully completed with most ex-combatants receiving five months' salary, demobilisation kits and discretionary payments.²⁰

3.8.3 The return of demobilised UNITA soldiers to their home provinces in some cases resulted in violence directed against them. Such violence reportedly prompted around 2,000 former UNITA soldiers to leave a municipality in Moxico province in mid-July 2004 when local residents protested against the return of a former UNITA general who had been involved in war atrocities. UNITA raised concerns in 2004 over increased incidents of intimidation of its members by individuals allegedly belonging to MPLA militia groups. During 2003-4, UNITA complained repeatedly about persecutions, intimidations, and violence perpetrated against its officials in various provinces and municipalities in the interior of the country. During a meeting on 15 July 2004, the MPLA and UNITA agreed to coordinate efforts to curb such acts. A common mission from both parties would visit affected areas in order to investigate alleged incidents.²¹

3.8.4 Some incidents of politically motivated violence continue to be reported and in 2008 opposition parties stated that their members were subject to harassment, intimidation, and

¹⁹ Europa Publications Ltd. Regional Surveys of the World - Africa: South of the Sahara 2005 (34th Edition), Angola & USSD 2004: Angola (Section 3)

²⁰ Republic of Angola Embassy in the United Kingdom: Newsletter No. 99 October 2004

²¹ Global IDP Database. Profile of Internal Displacement: Angola (pages 7, 49 - 53, 93 & 94) & FCO letter dated 26 August 2004

assault by supporters of the MPLA. In August 2008, for example, MPLA members reportedly harassed UNITA members in Namibe town centre when they tried to hang UNITA party flags on lamp posts in the town square. Opposition party members and civil society leaders have also cited examples of political intolerance during the election process.²²

3.8.5 Sufficiency of protection. As this category of applicants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.8.6 Internal relocation. Whilst this category of applicants' fear is of ill-treatment/persecution by the state authorities, this does not mean that case owners should automatically presume that internal relocation is not an option. As Lord Bingham observed in *Januzi* ([2006] UKHL 5):

"The more closely the persecution in question is linked to the state, and the greater the control of the state over those acting or purporting to act on its behalf, the more likely (other things being equal) that a victim of persecution in one place will be similarly vulnerable in another place within the state. The converse may also be true. All must depend on a fair assessment of the relevant facts."

3.8.7 Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of Angola where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.

3.8.8 Caselaw.

M (Angola) [2003] UKIAT 00010. The IAT found that the risk to family members of UNITA supporters is "now below the Article 3 ECHR and Refugee Convention standard" (paragraph 9).

3.8.9 Conclusion. In light of the ending of the civil war between the MPLA and UNITA in April 2002, UNITA's peaceful transition from armed opposition group to a major political party and the successful completion in 2004 of the disarmament and reintegration programme for ex-combatants, there is no evidence that members of UNITA, or ex-UNITA combatants are at real risk of ill-treatment amounting to persecution by the state authorities. In 2003 and 2004, there were occasional reports of localised disputes about the re-integration of ex-combatants, however, there is no evidence that the treatment generally suffered by UNITA members amounts to persecution within the terms of the 1951 Convention. A grant of asylum will not therefore generally be appropriate for claims that cite persecution on account of membership of, or association with, UNITA. Applications under this category are likely to be clearly unfounded and as such should be certified.

3.8.10 Case owners should note that members of UNITA have been responsible for serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant for UNITA and the evidence suggests that he has been involved in such actions, then case owners should consider whether one of the Exclusion clauses is applicable. Case owners should refer all such cases within this category to a Senior Caseworker in the first instance.

3.9 General country situation

3.9.1 Some applicants may apply for asylum based on ill-treatment amounting to persecution due to the general political, human rights and/or humanitarian situation in Angola. (excluding Cabinda which is covered in 3.6 and 3.7 above).

²² USSD 2008: Angola (Section 3), HRW World Report 2009: Angola & AI Report 2009: Angola

- 3.9.2 Treatment.** The political situation in Angola has improved since the end of the civil war in 2002. The first post-war elections were held in September 2008 and were reported by domestic and international observers as peaceful and generally credible. Opposition parties criticised many aspects of the electoral process, but generally accepted the results. Presidential elections are expected to be held in 2009.²³
- 3.9.3** The Government's human rights record has improved in some areas since the end of the civil war and the appointment of a human rights ombudsman in 2005 was an important step in ensuring citizen's ability to seek redress by reporting human rights concerns directly to an independent governmental body. However, there continue to be reports of mistreatment and unlawful killings by members of the police, military, and private security forces. The law provides for freedom of speech, assembly, and association, but although the Government generally respects these rights, at times they are reportedly restricted. Despite Angola's strong economic growth, the majority of Angolans reportedly continue to live in poverty.²⁴
- 3.9.4** The UNHCR advised in January 2004 that in view of the changed situation in Angola following the end of the civil war it is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. The UNHCR reinforced its position with regard to the return of Cabindans in January 2005. With regard to the remainder of Angola, the UNHCR did however ask governments to carefully assess the risk to individuals upon return. The UNHCR judged that there may well be persons who, while not having a demonstrated need for international protection, would be particularly vulnerable upon return. This would include, for example, separated children, unaccompanied elderly people, and people with physical disabilities or in need of specialised or ongoing medical care.²⁵
- 3.9.5 Sufficiency of protection.** In light of the nature of this category of claims, the availability of sufficient protection from the state authorities is not relevant.
- 3.9.6 Internal relocation.** In light of the nature of this category of claims, the availability of an internal relocation option is not relevant.
- 3.9.7 Caselaw.**

2003 UKIAT 00049 M (Angola). No breach of Articles 3 or 8 to return a young single female with no connections to Luanda. The IAT found that while accepting the appellant's situation will be grim as there is a real likelihood she would become internally displaced given she has no connections with Luanda, the UNHCR has not said categorically that returns of those who do not have connections should not take place; its position is that returns should be avoided and based on the evidence, the conditions the appellant would face would not be of such severity as to reach the threshold of a breach of Article 3 (para 6.6)

AA (Angola) CG [2002] UKIAT 01518. The appellant was a single woman with a young child. She was from Luanda and some of her family were still resident there. IAT find that there would be no breach of her human rights to be returned to Luanda.

- 3.9.8 Conclusion.** The civil war in Angola has now ended and former adversaries have successfully disarmed and reintegrated into a peaceful society (see 3.8 above). With the exception of the Cabinda province, the country has stabilised considerably since 2002 and the first post-war parliamentary elections have been held. There is no indication that a return to a prolonged armed conflict or the humanitarian crisis it perpetuated will re-emerge.

²³ USSD 2008: Angola (Introduction & Section 3), HRW World Report 2009: Angola, AI Report 2009: Angola, BBC News Country Profile: Angola, BBC News Timeline: Angola & BBC News 'Landslide for Angola ruling party' dated 17 September 2008

²⁴ USSD 2008: Angola (Introduction & Sections 1, 2 & 3), USSD 2005: Angola (Introduction), HRW World Report 2009: Angola, HRW World Report 2008: Angola & AI Report 2009: Angola

²⁵ The United Nations High Commissioner for Refugees (UNHCR) Position on Return of Rejected Asylum Seekers to Angola (January 2004) & The UNHCR: Return of failed asylum seekers to Angola (January 2005)

Individual applicants who cite the general political, human rights and/or humanitarian situation in Angola will not be able to demonstrate conditions amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not appropriate. Applications based solely on the general country situation are likely to be clearly unfounded and as such should be certified.

3.9.9 Whilst the UNHCR advises governments to carefully assess the risk to individuals upon return to Angola, it is not likely that an applicant citing the general country situation would generally be able to demonstrate that their return would be in breach of ECHR. General lawlessness, poverty and lack of resources are not sufficient to amount to a breach of ECHR. The grant of Humanitarian Protection or Discretionary Leave in such cases is therefore not appropriate and applications based solely on the general country situation are likely to be clearly unfounded and as such should be certified.

3.10 Prison conditions

3.10.1 Applicants may claim they cannot return to Angola due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Angola are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

3.10.3 *Consideration.* Prison conditions in Angola are reportedly harsh and in some cases life-threatening. In 2008, NGOs reported that prison officials routinely beat and tortured detainees. In 2008, the national prison system continued to hold more than five times the number of prisoners for which it was designed. Luanda's Central Prison, for example, was built to house 600 prisoners, but before violent riots in October 2007 the prison population held 3,300 prisoners. By the end of 2007 the prison population was reduced to approximately 1,000 prisoners.²⁶

3.10.4 Overcrowding and lack of medical care, sanitation, potable water, and food reportedly led to some prison deaths in 2008. It is customary for families to bring food to prisoners, but guards reportedly demand bribes as a precondition for food delivery. Some prisoners died of disease in 2008, especially in provincial prisons. Female prisoners also reported during the year that they were regularly raped by prison guards. Juveniles, often incarcerated for petty theft, are frequently housed with adults and also reportedly suffer abuse by guards and inmates in provincial prisons. Pre-trial detainees frequently are housed directly with sentenced inmates, and prisoners serving short term sentences often are reportedly held with inmates serving long term or life sentences for violent crimes, especially in provincial prisons. During 2008, the Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons, but limited access to politically sensitive inmates.²⁷

3.10.5 *Conclusion.* Whilst prison conditions in Angola are poor, with overcrowding, unsanitary conditions, and a lack of health and medical care being particular problems, conditions are unlikely to reach the Article 3 threshold. Therefore, even where applicants can demonstrate a real risk of imprisonment on return to Angola a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of

²⁶ USSD 2008: Angola (Section 1)

²⁷ USSD 2008: Angola (Section 1)

health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

4. Discretionary Leave

- 4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.
- 4.2** With particular reference to Angola the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.
- 4.3 Minors claiming in their own right**
- 4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care, and support arrangements in place for minors with no family in Angola.
- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favorable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.
- 4.4 Medical treatment**
- 4.4.1** Applicants may claim they cannot return to Angola due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** Angola has made limited progress in improving the country's weakened health system since the civil war ended in 2002. The Angolan Government, with the support of the international community, has launched a massive effort to reconstruct the health system, but the availability of free of charge medical care is limited. In 2004, the United Nations noted that there were 1,032 health units working in Angola, divided into 8 national hospitals, 64 provincial hospitals, 201 health centres, 759 medical posts and 70 family planning rooms. Nevertheless, many diseases including tuberculosis and malaria are prevalent in many parts of the country and a cholera outbreak killed more than two and a half thousand people in 2006. Government capacity to provide adequate medical care and mental health care is limited or even non-existent in some areas of the country. In 2008, UNAIDS estimated that approximately 190,000 people in Angola were living with HIV. Anti-retroviral treatment is available and the Government's National Institute for HIV/AIDS conducts HIV/AIDS awareness and prevention campaigns.²⁸

²⁸ IRIN: Angola 'More than 400 people die from cholera this year' dated 14 August 2007, IRIN: Angola 'A year of cholera teaches prevention is better than treatment' dated 7 February 2007, Medical Sans Frontiers Angola - Activity Report 2007, USSD 2008: Angola (Section 5), United Nations Convention on the Elimination of All Forms of Discrimination against Women - Combined fourth and fifth periodic reports of States parties: Angola (page 39), World Health Organisation Mental Health Atlas 2005: Angola & UNAIDS: Joint United Nations Programme on HIV/AIDS. Uniting the world against AIDS: Angola

4.4.3 Where a case owner considers that the circumstances of the individual applicant and the situation in Angola reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

5.2 In its position paper of January 2004, the UNHCR no longer advised states against involuntary returns of rejected asylum seekers to Angola, except Cabinda. The UNHCR reinforced its advice for Cabinda in a supplementary position paper of January 2005.²⁹ The UNHCR's papers provided broad assessments of the current situation and we do not dispute that they presented accurate overviews of the general humanitarian situation and the social and security problems in Angola. However, asylum and human rights claims are not decided on the basis of the general situation - they are based on the circumstances of the particular individual and the risk to that individual. We do not therefore accept the UNHCR's conclusion, based on their overview of the general situation in Cabinda that all persons presenting themselves as asylum seekers from Cabinda are, irrespective of their individual circumstances, automatically in need of some form of international protection.

5.3 Angolan nationals may return voluntarily to any region of Angola at any time by way of the Voluntary Assisted Return and Reintegration Programme implemented on behalf of the UK Border Agency by the International Organization for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Angola. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Those wishing to avail themselves of this opportunity for assisted return should be put in contact with the IOM offices in London on 0800 783 2332 or www.iomlondon.org.

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