

Immigration and Refugee Board of Canada

[Home](#)

> [Research Program](#)

> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

4 December 2014

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Chad: Coming into force of the new penal code, particularly article 361 bis, including the process for enacting this code (September 2014-November 2014)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. New Draft Penal Code

Sources report that in September 2014, a new draft penal code was adopted by Chad's Council of Ministers (Conseil des ministres) (FIDH and LTDH 23 Sept. 2014; RFI 15 Sept. 2014; *La Nouvelle Tribune* 16 Sept. 2014). The same sources report that article 361 bis of this draft code penalizes homosexuality (ibid.; RFI 15 Sept. 2014; FIDH and LTDH 23 Sept. 2014). In a joint press release, the International Federation for Human Rights (Fédération internationale des ligues des droits de l'homme, FIDH) and the Chadian Human Rights League (Ligue tchadienne des droits de l'homme, LTDH) state that this article provides for sentences of 15 to 20 years in prison and fines ranging from 50,000 to 500,000 francs CFA [approximately US\$108 to US\$1,076] for people found guilty of [FIDH and LTDH English version] "homosexuality" (ibid.). According to Amnesty International (AI), these punishments target people found guilty of [AI English version] "same sex activity" or "same sex conduct" (AI 9 Oct. 2014). However, according to a November 2014 article published by the online version of *The Advocate*, a publication that focuses on the LGBT community (*The Advocate* n.d.), the new provisions of the penal code target "those perceived to be LGBT" (ibid. 17 Nov. 2014).

According to AI, the [AI English version] "vagueness" of the bill "is deeply worrying" because

[AI English version]

people could be investigated and prosecuted based on homosexuality, on a denunciation or rumour alone. People who are perceived to be gay or don't conform to traditional gender stereotypes will not be able to live their lives with equality and dignity. (AI 23 Sept. 2014)

The Government of Chad reportedly said that it introduced these measures [translation] "to protect the family and to comply with Chadian society" (RFI 15 Sept. 2014; *La Nouvelle Tribune* 16 Sept. 2014).

Sources report that a reform of the penal code had been under way for years (*The Guardian* 22 Sept. 2014; RFI 15 Sept. 2014), with the collaboration of human rights associations (ibid.). However, RFI states that according to the African director of FIDH, [translation] "the most recent draft [of the new code] was done in secret," and these associations "were not aware" of the provisions of article 361 bis (ibid.).

2. Enactment of the New Penal Code

According to a 22 September 2014 article by *The Guardian*, before coming into force, the new penal code still needed to be approved by members of Parliament and President Idriss Déby.

According to several sources, the provisions penalizing homosexuality in the new draft code have been criticized by human rights organizations, who want these measures changed before the new code is enacted (*The Advocate* 17 Nov. 2014; AI 9 Oct. 2014; FIDH 23 Sept. 2014).

An article published in November 2014 by *The Advocate* reports that the new draft code was still being reviewed by the National Assembly (*The Advocate* 17 Nov. 2014). An article posted on the website of the National Assembly of Chad states that a new legislative session opened on 6 October 2014 (Chad 10 Oct. 2014). On 10 October 2014, 20 bills were recorded for that session, in addition to the 14 draft bills that had been postponed at the time of the first parliamentary session in 2014 (*ibid.*). Information on whether the provisions of article 361 bis of will be reviewed during this session could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Adoption Process

According to a document on the legislative process in Chad prepared by the country's National Assembly for a collection prepared by the Parliamentary Assembly of La Francophonie (Assemblée parlementaire de la Francophonie, APF), which describes the [translation] "parliamentary practices and procedures in the Francophone community" (APF s.d.), after a bill or draft legislation has been debated and adopted by the National Assembly,

[translation]

the text is formatted by the servicing staff, submitted for the signatures of the president of the commission responsible, then the president of the National Assembly, and forwarded to the minister in charge of Parliamentary Relations (Relations avec le Parlement) for approval by the president of the Republic.

The president of the Republic has fifteen (15) days to enact the law. After that time, the law is considered to be in force (Chad 19 Nov. 2011, c. VI, sec. 7).

In a document on the legal system and legal research in Chad, an associate political affairs expert at the UN Office for West Africa, who was formerly a legal officer with the African Commission on Human and People's Rights, explains that during these 15 days, the president can send the bill back to the National Assembly for more deliberation (Ngarhadjim Jan. 2012). The author adds that the president can sign a bill into law within 8 days "in case of emergency" (*ibid.*).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Internet sites, including: 7 sur 7; 76 Crimes en français; ADHEOS; Afrik.com; AllAfrica; ecoi.net; Factiva; Gay Star News; Human Rights Watch; International Gay & Lesbian Human Rights Commission; International Lesbian, Gay, Bisexual, Trans and Intersex Association; *Journal du Tchad*; LGBT Weekly; NATLEX; *Le Nouvel Observateur*; UN – Refworld.

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[Top of Page](#)

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