



RESPONSES TO INFORMATION REQUESTS (RIRs)

[New Search](#) | [About RIRs](#) | [Help](#)

| The Board | |
|--|--|
| About the Board | COD103703.FE |
| Biographies | |
| Organization Chart | Democratic Republic of the Congo: Situation of homosexuals, including legislation and support services; treatment of homosexuals by society and government authorities (2008-February 2011) |
| Employment | Research Directorate, Immigration and Refugee Board of Canada, Ottawa |
| Legal and Policy References | |
| Publications | Legislation |
| Tribunal | |
| Refugee Protection Division | <p>Homosexual activity is not prohibited by law in the Democratic Republic of the Congo (DRC) (ILGA May 2010, 49; Belgium 12 Oct. 2009; Africultures 5 May 2009; US 11 Mar. 2010, sec. 6). However, some sources indicate that homosexual relationships can be criminalized under the public decency provisions in the Congolese Penal Code (<i>Code pénal congolais</i>) (ibid.; Africultures 5 May 2009; ILGA et al. n.d.). Article 176 of the Congolese Penal Code reads as follows: [translation] "A person who engages in activities against public decency will be liable to a term of imprisonment of eight days to three years and/or fined twenty-five to one thousand zaires [former currency]" (DRC 1940). According to a written response by the Minister of Development Cooperation (Coopération au développement) in Belgium to a question from a member of the Senate (Sénat), [translation] "in practice, prosecution for homosexuality is very rare" in the DRC (Belgium 12 Oct. 2009). Corroborating information could not be found among the sources consulted by the Research Directorate.</p> <p>However, in October 2010, a bill that would criminalize homosexuality was presented in the Parliament of the DRC (BTM 3 Nov. 2010; <i>Jeune Afrique</i> 22 Oct. 2010; AFP 25 Oct. 2010). The National Assembly (Assemblée nationale) deemed the bill admissible (ibid.; BTM 3 Nov. 2010). Behind the Mask (BTM) reports that, according to the President of Groupe Hirondelles Bukavu (GHB), an organization that defends the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in the DRC, the bill was sent to the socio-cultural committee (comité socioculturel), which is responsible for ensuring that it does not violate the Constitution (ibid.). BTM is a non-governmental organization (NGO) founded in Johannesburg in 2000, and its website covers news about LGBTI people in Africa (ibid. n.d.). In correspondence sent to the Research Directorate on 28 February 2011, the President of GHB said that the bill could be examined during the June 2011 parliamentary session. Under this bill, people who engage in homosexual activity could be sentenced to 3 to 5 years in prison (Human Rights Watch Jan. 2011) or fined 500,000 Congolese francs [500,000 Congolese francs (CDF) = 500 Canadian dollars (CAD) (XE.com 21 Feb. 2011)] (BTM 3 Nov. 2010; <i>Jeune Afrique</i> 22 Oct. 2010). Members of associations that defend the rights of homosexuals could also face prison sentences (Human Rights Watch Jan. 2011).</p> |
| Immigration Division | |
| Immigration Appeal Division | |
| Decisions | |
| Forms | |
| Statistics | |
| Research | |
| Research Program | |
| National Documentation Packages | |
| Issue Papers and Country Fact Sheets | |
| Responses to Information Requests | |
| Recent Research | |
| Media Centre | |
| News | |
| Information Sheets | |
| Media Relations | |
| Transparency | |
| Completed Access to Information Requests | |

3 March 2011

Proactive Disclosure

Treatment of homosexuals by society

In correspondence sent to the Research Directorate on 28 February 2011, the President of GHB said that, in general, society favours criminalizing [translation] “acts against nature.” Homosexuality is still taboo in the DRC (Belgium 12 Oct. 2009; *The New York Times* 5 Aug. 2009; US 11 Mar. 2010, sec. 6). In a telephone interview with the Research Directorate on 21 February 2011, the Secretary General of the Centre for Human Rights and Humanitarian Law (Centre des droits de l’homme et du droit humanitaire, CDH), an NGO founded in Lubumbashi in 1993 (CDH n.d.), said that homosexuals in the DRC are not open about their sexual orientation (ibid. 21 Feb. 2011). Moreover, according to the authors of an article on homosexuality in the DRC published by *Africultures*, whose offices are in France and which publishes a magazine on African art and culture (*Africultures* n.d.), there are no public places for homosexuals in the capital city of Kinshasa (5 May 2009).

For the Minister of Development Cooperation in Belgium, [translation] “homosexuality is not socially accepted and... is absolutely denied” in the DRC (Belgium 12 Oct. 2009). Similarly, the *Africultures* article indicates that [translation] “the vast majority of the population is extremely hostile” toward homosexuals (ibid. 5 May 2009). According to GHB, [translation] “discrimination against LGBTI individuals is widespread, and they are often rejected by their communities” and are subjected to threats, retaliation, insults and social exclusion (10 Dec. 2009). BTM provides similar information and reports that openly homosexual individuals “are abused by their relatives” and that “hostile acts [toward homosexuals] are not isolated” (BTM 7 Oct. 2009). The BTM article cites the cases of an adolescent whose parents stopped paying his tuition after discovering that he was gay, a young man whose family was “morally threatened for months” because of his homosexuality, and a homosexual man who was threatened by his neighbours because of his sexual orientation and was forced to move (ibid.). A document published by GHB on 10 September 2010 highlights the case of a young lesbian woman; Christians in the village of Cinjoma I in South Kivu [translation] “planned to kill” the woman because of her sexual orientation. The plan was not carried out after the territorial administrator intervened, but the young woman and her partner [translation] “became undesirables in their village” (GHB 10 Sept. 2010). However, according to *Country Reports on Human Rights Practices for 2009*, which is published by the United States Department of State, in 2009, there were no reports of social discrimination based on sexual orientation in the areas of employment, housing, education or health care (US 11 Mar. 2010, sec. 6).

Treatment of homosexuals by government authorities

Information on the treatment of homosexuals by government authorities was scarce among the sources consulted by the Research Directorate. According to *Country Reports*, in 2009, there were no reports of police harassing homosexuals or perpetrating violence against them (ibid.). However, in December 2009, GHB reported that LGBTI individuals were arrested or arbitrarily detained and denied justice, and that they complained [translation] “of not being listened to or made to feel safe” by law enforcement personnel; however, the GHB article does not mention a specific case (10 Dec. 2009). Nevertheless, in its article on the young lesbian woman in Cinjoma I, GHB states that the territorial administrator of Kabare informed the Congolese National Police (Police nationale congolaise), the National Intelligence Agency (Agence nationale de renseignement) and the Armed Forces (Forces armées) about the plot and warned the Christians that if anything happened, the guilty parties would face legal repercussions (GHB 10 Sept. 2010).

Support services

The Secretary General of the CDH in Lubumbashi said, in a 21 February 2011

telephone interview with the Research Directorate, that there are no support services for homosexuals in the DRC. According to Africultures, organizations that help homosexuals in the DRC instead organize meetings and outings and [translation] "are practically inactive when it comes to helping homosexuals rejected by their families or in the fight against AIDS" (5 May 2009). The President of GHB said that his organization, which is located in Bukavu, in South Kivu, is the only support service for homosexuals in the DRC (GHB 28 Feb. 2011). Founded in 2008, GHB is recognized under the Decree of 29 January 1999 respecting non-profit organizations and organizations that serve the public (*Décret du 29 janvier 1999 portant réglementation des associations sans but lucrative et des établissements d'utilité publique*) in the DRC (ibid.). Among other services, GHB helps make NGOs in Bukavu aware of the issues pertaining to LGBTI individuals, offers training to LGBTI individuals on such topics as human rights and sexual health, reports human rights violations against LGBTI individuals, and offers legal and judicial assistance to LGBTI individuals (ibid.). Notably, over a few days in late 2010, GHB held a seminar for [translation] "10 peer educators, health mediators and paralegals who support the LGBTI community" (GHB 30 Dec. 2010). In 2010, GHB received a grant of 8,900 Euros (EUR) (8,900 EUR = 12,016 CAD [XE.com 25 Feb. 2011]) from the Finnish NGO Foundation for Human Rights (KIOS) (KIOS n.d.a), an NGO founded in Finland in 1998 to promote human rights in developing countries (ibid. n.d.b). The Fund for Global Human Rights (FGHR), a non-profit organization located in Washington D.C. (FGHR n.d.b), also gave a grant of \$10,000 dollars to GHB (ibid. n.d.a). In addition, GHB participates on the working group against the bill criminalizing homosexuality, which is made up of various Congolese organizations and also receives support from organizations based in other African countries "that have more experience" (BTM 3 Nov. 2010).

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.

References

Africultures. 5 May 2009. Christophe Cassiau-Haurie and Sylvestre Luwa. "L'homosexualité en Afrique, un tabou persistant : l'exemple de la RDC." [Accessed 4 Feb. 2011]

_____. N.d. "Africultures association." <<http://www.africultures.com/php/index.php?nav=structure&no=1975>> [Accessed 21 Feb. 2011]

Agence France-Presse (AFP). 25 October 2010. "RDC : projet de loi pour punir les gays." (*Le Figaro*) <<http://www.lefigaro.fr/flash-actu/2010/10/25/97001-20101025FILWWW00514-rdc-projet-de-loi-pour-punir-les-gays.php>> [Accessed 14 Feb. 2011]

Behind the Mask (BTM). 3 November 2010. Jerina Chendze Messie. "Groups Mobilise Against DRC's Anti Gay Bill." <<http://www.mask.org.za/gay-rights-groups-mobilise-against-drc%E2%80%99s-anti-gay-bill/>> [Accessed 1 Feb. 2011]

_____. 7 October 2009. Junior Mayema. "DRC Still Hostile to Homosexuality." (AsylumLaw.org) <<http://www.asylumlaw.org/docs/sexualminorities/DRCMask100709.pdf>> [Accessed 1 Feb. 2011]

_____. N.d. "Our History." <<http://www.mask.org.za/who-we-are/our-history/>> [Accessed 21 Feb. 2011]

Belgium. 12 October 2009. Sénat. "Question écrite n° 4-4312 de Paul Wille (Open

Vld) du 7 septembre 2009 au ministre de la Coopération au développement." <[http://www.senate.be/www/?](http://www.senate.be/www/?MIval=/Vragen/SchriftelijkeVraag&LEG=4&NR=4312&LANG=fr)

<<http://www.senate.be/www/?MIval=/Vragen/SchriftelijkeVraag&LEG=4&NR=4312&LANG=fr>> [Accessed 4 Feb. 2011]

Centre des droits de l'homme et du droit humanitaire (CDH). 21 February 2011. Telephone interview with the Secretary General.

_____. N.d. "Qui sommes-nous?" <http://www.cdhrdc.org/index.php?option=com_content&task=view&id=1&Itemid=2> [Accessed 21 Feb. 2011]

Democratic Republic of the Congo (DRC). 1940 (amended in 1979). *Code pénal congolais*. <http://www.justice.gov.cd/j/index.php?option=com_docman&task=cat_view&gid=16&dir=DESC&order=name&Itemid=54&limit=5&limitstart=15> [Accessed 1 Feb. 2011]

Fund for Global Human Rights (FGHR). N.d.a. "Fund for Global Human Rights: Spring 2010 Grants List." <<http://www.globalhumanrights.org/about-fghr/downloads/2010%20Spring%20Grants%20List.doc/view?searchterm=grants%20list>> [Accessed 22 Feb. 2011]

_____. N.d.b. "Notre organisation." <<http://www.globalhumanrights.org/about-fghr/organization-profile>> [Accessed 22 Feb. 2011]

Groupe Hironnelles Bukavu (GHB). 28 February 2011. Correspondence sent to the Research Directorate from the President.

_____. 30 December 2010. "Information publique." (CongoForum) <http://www.congoforum.be/upldocs/Bukavu-_Formation_des_paires_LGBTI.pdf> [Accessed 22 Feb. 2011]

_____. 10 September 2010. "Recrudescence de la justice populaire au Sud Kivu, en RD Congo." (CongoForum) <<http://www.congoforum.be/upldocs/Hironnelles.pdf>> [Accessed 22 Feb. 2011]

_____. 10 December 2009. "La discrimination des personnes LGBTI en RD Congo." (CongoForum) <<http://www.congoforum.be/upldocs/Groupe%20Hironnelles%20Bukavu.pdf>> [Accessed 14 Feb. 2011]

Human Rights Watch. January 2011. "République démocratique du Congo." *Rapport mondial 2011 : événements de 2010*. <<http://www.hrw.org/fr/world-report-2011/r-publique-d-mocratique-du-congo>> [Accessed 15 Feb. 2011]

International Lesbian, Gay, Trans and Intersex Association (ILGA). May 2010. Daniel Ottosson. *Homophobie d'État : une enquête mondiale sur les lois qui interdisent la sexualité entre adultes consentants de même sexe*. <http://old.ilga.org/Statehomophobia/ILGA_Homophobie_Etat_2010.pdf> [Accessed 14 Feb. 2011]

International Lesbian, Gay, Trans and Intersex Association (ILGA), ILGA-Europe, Pan Africa ILGA, International Gay and Lesbian Human Rights Commission (IGLHRC) and ARC International. N.d. "Submission in the UPR Review of the Democratic Republic of Congo." (Office of the United Nations High Commissioner for Human Rights, UNHCHR) <http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CD/JS7_COD_UPR_S06_2009_JointSubmission7.pdf> [Accessed 14 Feb. 2011]

Jeune Afrique. 22 October 2010. Habibou Bangré. "RDC : sur la voie de la criminalisation de l'homosexualité?" <<http://www.jeuneafrique.com/Article/ARTJAWEB20101022143105/>> [Accessed 14

Feb. 2011]

Kansalaisjärjestöjen ihmisoikeussäätiö (KIOS). N.d.a. "Les nouvelles subventions, novembre 2010." <http://www.kios.fi/francais/?news_article=774> [Accessed 15 Feb. 2011]

_____. N.d.b. "À propos de KIOS." <http://www.kios.fi/francais/a_propos_de_kios/> [Accessed 15 Feb. 2011]

The New York Times. 5 August 2009. Jeffrey Gettleman. "Symbol of Unhealed Congo: Male Rape Victims." <<http://www.nytimes.com/2009/08/05/world/africa/05congo.html>> [Accessed 1 Feb. 2011]

United States (US). 11 March 2010. Department of State. "Democratic Republic of Congo." *Country Reports on Human Rights Practices for 2009*. <<http://www.state.gov/g/drl/rls/hrrpt/2009/af/135947.htm>> [Accessed 14 Feb. 2011]

XE.com. 21 February 2011. "Résultats du convertisseur universel de devises." <<http://www.xe.com/ucc/convert.cgi?language=fr&Amount=500+000&From=CDF&To=CAD>> [Accessed 21 Feb. 2011]

_____. 25 February 2011. "Résultats du convertisseur universel de devises." <<http://www.xe.com/ucc/convert.cgi?language=fr&Amount=8+900&From=EUR&To=CAD>> [Accessed 25 Feb. 2011]

Additional Sources Consulted

Oral sources: Attempts to reach representatives of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the Association africaine de défense des droits de l'homme (ASADHO), Voix des sans voix (VSV), the Ligue des droits de la personne dans la région des Grands Lacs (LDGL), and the Ligue pour la paix et les droits de l'homme (LIPADHO) were unsuccessful.

Internet sites, including: African Men for Sexual Health and Rights (AMSHer); Amnesty International (AI); AsylumLaw.org; Centre for Human Rights, University of Pretoria; Fédération internationale des ligues des droits de l'homme (FIDH); Freedom House; GlobalGayz.com; Human Rights First; International Gay and Lesbian Human Rights Commission (IGLHRC); Palm Center; Pink News; Radio Okapi; 365gay.com; United Nations — Integrated Regional Information Networks (IRIN); United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

The attached reproduction is a copy of an official work that is published by the Government of Canada. The reproduction has not been produced in affiliation with, or with the endorsement of the Government of Canada.


[Top of Page](#)

[Important Notices](#)