



**COEUR ARC-EN-CIEL**

Association Sans But Lucratif

Espoir - Amour - Assistance

Coalition of organisations Coeur Arc-en-ciel, CJJ, ASGV and ODDHC

## **Situation of LGBTI minorities in the Republic of Congo**

### Implementation of the 2nd cycle

Congo has already received numerous recommendations on the recognition and protection of the rights of LGBTQI people during their 2009 Universal Periodic Review. The Czech Republic, United Kingdom, the Netherlands, Belgium and France made recommendations aimed mainly at decriminalizing same sex conduct, taking action to prevent discrimination based on sexual orientation and gender identity, and developing training programs for police forces and judicial authorities on the protection of the human rights of LGBTQI persons.

Congo has "noted" these recommendations and to date none of the recommendations received by the Congo regarding the recognition and protection of the rights of LGBTQI persons have been followed up at the institutional and legal level.

Governmental actions for LGBTI minorities have been exclusively based on the fight against HIV, with the emphasis on MSM. These actions were conducted within the legislative framework and government policies.

### National Context

Congolese legislation does not specifically protect LGBTI minorities. To date, discrimination persists and yet no legal or institutional action has been initiated by the Congo to abolish the discriminatory provisions provided for by law and policies and to ensure the protection of the rights of LGBTI people. The only actions taken into account were exclusively based on the fight against HIV among MSM.

### Human rights most often violated

Right to health, right to adequate housing, right to life and security of person, arbitrary arrest and the right to privacy.

### Major challenges

#### *Right to health*

Violence and discrimination have made MSM vulnerable to AIDS with a prevalence that has increased from 26.1% in 2012 to 41.2% in 2018. Neglect and abuse in health facilities have also been recorded in Rainbow Heart's survey in 2017.

#### *Right to housing*

LGBTI minorities are most often evicted from family or rental homes by parents or landlords

#### *Right to security of person*

LGBTI minorities are most often victims of psychological, physical and sexual violence.



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## Recommendations

1. Repeal the provisions of article 331 of the Penal Code, which punishes immodest or unnatural acts committed with a person under the age of 21, to facilitate the fight against HIV among men who have sex with men under whom HIV prevalence is highest;
2. Adopt and give binding value to the charter of good conduct to remove the barriers of access to health services for members of the LGBTI community in the Congo established within the framework of the services of the Ministry of Health and Populations;
3. Amend Act No. 30-2011 of 3 June 2011 on the fight against HIV and AIDS and protection of people living with HIV to define the concept of "key populations", including in this definition LGBTI minorities .
4. Criminalize all violence, offenses, acts of hatred and discrimination on the basis of sexual orientation or gender identity, in order to combat discrimination in all its forms, including access to housing, access to asylum, goods and services, etc.;
5. Criminalize, in the Criminal Code, hate speech on the basis of sexual orientation or gender identity, as well as public incitement to violence and discrimination on the basis of sexual orientation or gender identity;
6. Establish a system of legal protection for "whistle-blowers" and organisations specializing in the protection and defense of LGBTI persons in order to allow anyone to fight against such discrimination and to address discriminatory practices of state and non-state actors without the risk of reprisals;
7. Implement training and awareness programs on issues related to LGBTI issues, and the fight against violence and discrimination on the basis of sexual orientation or gender identity, for employees of public institutions, hospitals and health centers, schools and universities, major employers in the country and major trade union organizations.

## Questions submitted in advance

- 1- Why did the Congo vote against the creation of the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity?
- 2- In view of the increase in HIV prevalence among MSM to 41.2%, will Congo take into account the resolutions adopted for MSM in the May 2017 country dialogue on funding priorities of the Global Fund to Fight AIDS, Malaria and Tuberculosis 2018-2020 for the removal of barriers?

## Contact

Republic of Congo

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