

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	702
Land:	Den Demokratiske Republik Congo
Kilde:	EASO
Titel:	LGBT people in DRC
Udgivet:	9. september 2021
Optaget på baggrundsmaterialet:	17. januar 2022



COI QUERY

Country of Origin CONGO, DEMOCRATIC REPUBLIC OF

Main subject [LGBT people in DRC](#)

Question(s)

1. [Legislation on LGBT issues and its implementation](#)
2. [Treatment of LGBT by the state](#)
3. [Treatment of LGBT by society](#)

Date of completion 9 September 2021

Query Code Q30 -2021

**Contributing EU+ COI units
(if applicable)** N/A

Disclaimer

This response to a COI query has been elaborated according to the [EASO COI Report Methodology](#) and [EASO Writing and Referencing Guide](#).

The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.

The information in the response does not necessarily reflect the opinion of EASO and makes no political statement whatsoever.

The target audience is caseworkers, COI researchers, policy makers, and decision making authorities. The answer was finalised on 9 September 2021. Any event taking place after this date is not included in this answer.

COI QUERY RESPONSE – Congo, Democratic Republic of

LGBT people in DRC

1. Legislation on LGBT issues and its implementation

There is no specific law criminalising same sex relations in DRC.¹ Same-sex marriage and same-sex couples are not legally recognised² and ‘Congolese law prohibits adoption by same-sex couples’.³ Sources report that, however, public decency laws are often used and applied in DRC to ‘criminalise private relationships between persons of the same sex’.⁴ Specifically, Article 176 of the Penal Code states that ‘anyone who publicly offends morality by indecent acts shall be liable to eight days’ to three years’ imprisonment and/or a fine of twenty-five thousand zaires’.⁵

2. Treatment of LGBT by the state

As there are no specific laws addressing LGBT issues in the DRC, the treatment of people who belong to the LGBT community is reportedly subject to the moral judgment of state and non-state stakeholders.⁶ There are reports of abuses such as arbitrary arrests and detentions,⁷ and arbitrary search against LGBT people.⁸ Harassment by security forces and judicial officials, based on the sexual orientation and personal identity of the person have also been reported.⁹

The UN Human Rights Committee on its concluding remarks for the fourth periodic report of the Democratic Republic of Congo called the state party to take measures in order to:

¹ USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 38; UHAI EASHRI, Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, [url](#), p. 11; MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 6

² UK, GOV.UK., Foreign Travel Advice, Democratic Republic of the Congo, n.d., [url](#)

³ OSAC, Democratic Republic of the Congo 2019 Crime & Safety Report, 4 April 2019, [url](#)

⁴ Freedom House, Freedom in the World 2021, Democratic Republic of the Congo, 3 March 2021, [url](#); OSAC, Democratic Republic of the Congo 2019 Crime & Safety Report, 4 April 2019, [url](#); USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 38

⁵ UN Human Rights Council, Summary of Stakeholders’ submissions on the Democratic Republic of the Congo* Report of the Office of the United Nations High Commissioner for Human Rights, 19 February 2019, [url](#), p. 3; DRC, Journal Officiel de la République Démocratique du Congo, Code Penal Congolais, 30 November 2004, [url](#), p. 47

⁶ UHAI EASHRI, Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, [url](#), p. 12

⁷ UHAI EASHRI, Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, [url](#), p. 12; MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 4

⁸ UHAI EASHRI, Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, [url](#), p. 12

⁹ OSAC, Democratic Republic of the Congo 2019 Crime & Safety Report, 4 April 2019, [url](#); USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 39

‘(c) ensure that no one is prosecuted under article 176 of the Criminal Code by reason of sexual orientation or gender identity; and (d) enact comprehensive legislation providing full and effective protection against discrimination in all spheres and containing an exhaustive list of prohibited grounds of discrimination, including sexual orientation and gender identity’.¹⁰

According to Joint Submission 18, on the situation of LGBT person, referenced in the 2019 summary of the Stakeholders on the Democratic Republic of Congo:

‘lesbian, gay, bisexual and transgender people were often tortured by the police, the military and the intelligence services, who then took the opportunity to extort money. They were put on trial for indecent assault or exposed in television, radio or press reports in the Congolese media characterizing them as deviants’.¹¹

Furthermore, USDOS reported that freedom of association is ‘generally respected by the government’¹² but the registration for groups that want to be registered as pro-LGBT rights organisations has challenges¹³ and many of them are not legally registered because the process of registration requires the description of their mission and objectives and registrars do not accept groups which work for LGBT people.¹⁴

3. Treatment of LGBT by society

Discrimination against LGBT people is deep rooted in the society,¹⁵ and ‘non-heterosexual relationships and personal identities remain a cultural taboo’.¹⁶ Consequently, many people do not report any act of discrimination against them because of the ‘fear of stigma and further discrimination’.¹⁷ According to a 2017 UN Human Rights Committee ‘there was a general trend of discrimination [against LGBT people] because the society was not ready to accept them’.¹⁸

As reported by USDOS, during 2018, ‘a coalition of revivalist churches in Bukavu published materials characterizing LGBTI persons as against the will of God. The publications contributed to a deteriorating environment for LGBTI rights in the area’. During 2020, LGBTI individuals were subjected to harassment, stigmatization, and violence.¹⁹ Additionally, LGBT people in DRC were

¹⁰ UN Human Rights Committee, Concluding observations on the fourth periodic report of the Democratic Republic of the Congo*, 30 November 2017, [url](#), p. 3

¹¹ UN Human Rights Council, Summary of Stakeholders’ submissions on the Democratic Republic of the Congo* Report of the Office of the United Nations High Commissioner for Human Rights, 19 February 2019, [url](#), p. 3

¹² USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 21

¹³ USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 22; UHAI EASHRI, Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, [url](#), p. 12

¹⁴ MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 4; Refugee Legal Aid Information for Lawyers Representing Refugees Globally, Democratic Republic of Congo LGBTI Resources, n.d., [url](#); 2

¹⁵ MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 5; NPR, Gay, Out And On The Airwaves In Kinshasa, 21 November 2017, [url](#)

¹⁶ OSAC, Democratic Republic of the Congo 2019 Crime & Safety Report, 4 April 2019, [url](#); NPR, Gay, Out And On The Airwaves In Kinshasa, 21 November 2017, [url](#)

¹⁷ MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), pp. 5,7

¹⁸ OHCHR, Human Rights Committee considers report of the Democratic Republic of the Congo, 17 October 2017, [url](#)

¹⁹ USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 39

subject to so-called 'corrective rape',²⁰ as it is believed that an homosexual person becomes heterosexual if raped.²¹ According to a 2017 Joint Report: 'sometimes rape is committed by young men who live in the same neighborhood as the victim, who generally cannot stand to see a man with a "feminine" gender expression or a young girl with "masculine" gender expression'.²²

Sources indicated that LGBT people face discrimination also within their families,²³ as well as by sectors such as health,²⁴ education and employment.²⁵ For instance, it is reported that parents 'often react very negatively when they find out that their child is gay' and in some cases the child becomes homeless.²⁶ Many LGBT people are forced into prostitution as they have no income or support.²⁷

²⁰ USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 39

²¹ New Humanitarian (The), Paul, gay rights campaigner in DRC: "They said I was the Antichrist", 18 August 2014, [url](#); USDOS, 2019 Country Reports on Human Rights Practices: Democratic Republic of the Congo, 11 March 2020, [url](#), p.40; USDOS, 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, [url](#), p. 39; UHAI EASHRI, Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, [url](#), p. 14

²² MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 11

²³ MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 5; World (The), Abuse of Congo's LGBT community puts US Supreme Court ruling in perspective, 2 July 2015, [url](#); New Humanitarian (The), Paul, gay rights campaigner in DRC: "They said I was the Antichrist", 18 August 2014, [url](#); Global Press Journal, Members of the LGBT Community in DRC Face Violence and Excommunication, 3- March 2018, [url](#)

²⁴ MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 5; New Humanitarian (The), Paul, gay rights campaigner in DRC: "They said I was the Antichrist", 18 August 2014, [url](#);

²⁵ MOPREDS et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, [url](#), p. 5;

²⁶ World (The), Abuse of Congo's LGBT community puts US Supreme Court ruling in perspective, 2 July 2015, [url](#); UNHCR, UNHCR helps gay Congolese rejected by his mother find a new home, 16 December 2014, [url](#)

²⁷ New Humanitarian (The), Paul, gay rights campaigner in DRC: "They said I was the Antichrist", 18 August 2014, [url](#); World (The), Abuse of Congo's LGBT community puts US Supreme Court ruling in perspective, 2 July 2015, [url](#)

SOURCES USED

DRC (Democratic Republic of Congo), Journal Officiel de la République Démocratique du Congo, Code Penal Congolais, 30 November 2004, <https://wipolex.wipo.int/en/text/194348>, accessed 6 September 2021

Freedom House, Freedom in the World 2021, Democratic Republic of the Congo, 3 March 2021, <https://freedomhouse.org/country/democratic-republic-congo/freedom-world/2021>, accessed 6 September 2021

Global Press Journal, Members of the LGBT Community in DRC Face Violence and Excommunication, 3- March 2018, <https://globalpressjournal.com/africa/democratic-republic-of-congo/members-lgbt-community-drc-face-violence-excommunication/>, accessed 7 September 2021

MOPREDS (Mouvement pour la promotion du respect et égalité des droits et santé) et al., Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC), October 2017, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/COD/INT_CCPR_CSS_COD_29078_E.pdf, accessed 6 September 2021

New Humanitarian (The), Paul, gay rights campaigner in DRC: ‘They said I was the Antichrist’, 18 August 2014, <https://www.thenewhumanitarian.org/interview/2014/08/18/paul-gay-rights-campaigner-drc-they-said-i-was-antichrist>, accessed 6 September 2021

NPR, Gay, Out And On The Airwaves In Kinshasa, 21 November 2017, <https://www.npr.org/sections/goatsandsoda/2017/11/21/565683670/gay-out-and-on-the-airwaves-in-kinshasa?t=1630910431266&t=1631098362782>, accessed 7 September 2021

OHCHR (Office of the United Nations High Commissioner for Human Rights), Human Rights Committee considers report of the Democratic Republic of the Congo, 17 October 2017, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22249&LangID=E>, accessed 6 September 2021

OSAC (Overseas Security Advisory Council), Democratic Republic of the Congo 2019 Crime & Safety Report, 4 April 2019, <https://www.osac.gov/Content/Report/09b61b82-602a-43fa-8dfb-15f4aec11692>, accessed 6 September 2021

Refugee Legal Aid Information for Lawyers Representing Refugees Globally, Democratic Republic of Congo LGBTI Resources, n.d., <https://www.refugeelegalaidinformation.org/democratic-republic-congo-lgbti-resources>, accessed 7 September 2021

UHA1 EASHRI (The East African Sexual Health and Rights Initiative), Landscape Analysis of the Human Rights Situation of Lesbians, Gay Bisexual, Transgender, Intersex People and Sex Workers in the Democratic Republic of the Congo, 2017, <https://globalphilanthropyproject.org/wp-content/uploads/2017/09/UHA1-DRC-baseline-ENG.pdf>, accessed 6 September 2021

UK (United Kingdom), GOV.UK., Foreign Travel Advice, Democratic Republic of the Congo, n.d., <https://www.gov.uk/foreign-travel-advice/democratic-republic-of-the-congo/local-laws-and-customs>, accessed 6 September 2021

UNHCR (United Nations High Commissioner for the Refugees), UNHCR helps gay Congolese rejected by his mother find a new home, 16 December 2014, <https://www.unhcr.org/54905cf39.html>, accessed 7 August 2021

UN Human Rights Committee, Concluding observations on the fourth periodic report of the Democratic Republic of the Congo*, CCPR/C/COD/CO/4, 30 November 2017, <https://www.refworld.org/docid/5b4dec787.html>, accessed 6 September 2021

UN Human Rights Council, Summary of Stakeholders' submissions on the Democratic Republic of the Congo* Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/33/COD/3, 19 February 2019, https://www.ecoi.net/en/file/local/2007121/a_hrc_wg.6_33_cod_3_E.pdf, accessed 7 September 2021

USDOS (United States Department of State), 2019 Country Reports on Human Rights Practices: Democratic Republic of the Congo, 11 March 2020, <https://www.state.gov/wp-content/uploads/2020/03/CONGO-DEM-REP-2019-HUMAN-RIGHTS-REPORT.pdf>, accessed 7 September 2021

USDOS (United States Department of State), 2020 Country Reports on Human Rights Practises: Democratic Republic of the Congo, 30 March 2021, <https://www.state.gov/wp-content/uploads/2021/03/CONGO-DEM-REP-2020-HUMAN-RIGHTS-REPORT.pdf>, accessed 6 September 2021

World (The), Abuse of Congo's LGBT community puts US Supreme Court ruling in perspective, 2 July 2015, <https://www.pri.org/stories/2015-07-02/abuse-congos-lgbt-community-puts-us-supreme-court-ruling-perspective-photos>, accessed 6 September 2021