



COI QUERY

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The target audience is caseworkers, COI researchers, policy makers, and decision-making authorities. The answer was finalised on 4 February 2022. Any event taking place after this date is not included in this answer.



COI QUERY RESPONSE - Togo

LGBTIQ persons

1. Legal framework on LGBTIQ¹ issues

The 1992 Constitution of Togo (as amended), at Article 2, states that:

‘The Togolese Republic assures the equality before the law of all citizens without distinction of origin, of race, of sex, of social condition or of religion. It respects all political opinions, philosophical [opinions] as well as all religious beliefs. [...]’²

The 1992 Constitution, at Article 11, further states that:

‘All human beings are equal in dignity and in right. The man and the woman are equal before the law. No one may be favoured or disadvantaged for reason of their familial, ethnic or regional origin, of their economic or social situation, of their political, religious, philosophical or other convictions.’³

Togo’s 2015 Penal Code (Act No. 2015-10 of 24 November 2015), which abolished⁴ the previous Penal Code of 1980 (Act No. 1980-01 of 13 August 1980)⁵, at Article 392, under the Section regarding ‘Outrages against morals’⁶, states:

‘Constitutes an outrage against good morals any immodest or unnatural act committed with an individual of his sex.

¹ The terminology to categorise LGBTIQ persons varies across sources and countries. In line with [EASO COI Research Guide on LGBTIQ, November 2021](#), throughout this document, the abbreviation LGBTIQ for ‘lesbian, gay, bisexual, transgender, intersex and queer’ persons and the abbreviation SOGIESC for ‘sexual orientation, gender identity, gender expression and sex characteristics’ will be used, except when citing other sources that may use different acronyms (such as LGBT, LGBTI, or SOGI).

² Togo, Constitution de la IVe République (version consolidée en 1919), 14 October 1992, [url](#), Article 2; English version available at Constitute Project, Togo’s Constitution of 1992 (with Amendments through 2007), 14 October 2013, [url](#)

³ Togo, Constitution de la IVe République (version consolidée en 1919), 14 October 1992, [url](#), Article 11; English version available at Constitute Project, Togo’s Constitution of 1992 (with Amendments through 2007), 14 October 2013, [url](#)

⁴ Togo, Loi N° 2015-10 du 24 novembre 2015 portant Nouveau Code Penal, (unofficial translation by EUAA), 24 November 2015, [url](#), Article 1024; ICRC, Togo National Implementation of IHL, n.d., [url](#)

⁵ Togo, Loi N° 1980-01 du 13 août 1980 instituant Code Pénal, 13 August 1980, [url](#)

⁶ ILGA World, State-Sponsored Homophobia 2020, December 2020, [url](#), p. 123; Togo, Loi N° 2015-10 du 24 novembre 2015 portant Nouveau Code Penal, 24 November 2015, [url](#)



Also constitutes an outrage against good morals any attack on public morality by words, writings, images or by any other means.⁷

Article 393 of the 2015 Penal Code states:

‘Anyone who commits an offense against good morals is punished with a prison sentence of one (01) to three (03) years and a fine of one million (1,000,000) to three million (3,000,000) CFA francs or one of these two penalties.’⁸

Article 394 of the 2015 Penal Code states:

‘It is punished with a prison sentence of six (06) months to two (02) years and a fine of five hundred thousand (500,000) to two million (2,000,000) CFA francs or one of these two penalties any person who:

- 1) publicly exhibits, manufactures or sells for public display objects, images, films, sound or audio-visual recordings, contrary to decency;
- 2) distributes or makes distribute on the public highway or by post, or door to door or even by electronic means any books, brochures, catalogues, prospectuses, images, films, sound or audio visual recordings contrary to decency, without the prior consent of recipients;
- 3) disseminates or makes publicly disseminate incitement to practices contrary to good morals by words, writings or any other means of communication.’⁹

Togo’s current Personal and Family Code (Act No. 2012-014 of 6 July 2012), which replaced¹⁰ the previous Personal and Family Code (Ordinance No. 1980-16 of 31 January 1980)¹¹, at Article 82, point 2, states: ‘The nullity of the marriage must be pronounced: [...] 2. when the spouses are not of different sex [...]’.¹²

⁷ Togo, Loi N° 2015-10 du 24 novembre 2015 portant Nouveau Code Penal, (unofficial translation by EUAA), 24 November 2015, [url](#), Article 392

⁸ Togo, Loi N° 2015-10 du 24 novembre 2015 portant Nouveau Code Penal, (unofficial translation by EUAA), 24 November 2015, [url](#), Article 393

⁹ Togo, Loi N° 2015-10 du 24 novembre 2015 portant Nouveau Code Penal, (unofficial translation by EUAA), 24 November 2015, [url](#), Article 394

¹⁰ Togo, Loi n° 2012-014 du 6 juillet 2012 portant Code des personnes et de la famille, (unofficial translation by EUAA), 6 July 2012, [url](#), Article 733

¹¹ Togo, Ordonnance n° 80-16 du 31 janvier 1980 portant Code des personnes et de la famille, 31 January 1980, [url](#)

¹² Togo, Loi n° 2012-014 du 6 juillet 2012 portant Code des personnes et de la famille, (unofficial translation by EUAA), 6 July 2012, [url](#), Article 82(2)



Togo's primary legislation regarding freedom of association is 'the 1901 French Law on the Contract of Associations¹³ which was made applicable in Togo by French Decree No. 46-432 of 13 March 1946¹⁴, and adopted by Togo on 4 April 1946¹⁵.

According to Article 3 of the 1910 Law: 'Any association founded on a cause or with unlawful objectives, contrary to the law, morality, or which aims to interfere with the interests of national territory and the republican form of Government, is null and void'.¹⁶

Referring to Articles 392-393 of the 2015 Penal Code, Amnesty International wrote that the Code had retained the provisions of the 1980 Penal Code which 'criminalize same-sex relationships and discriminate' against LGBTIQ persons. However, the same source noted that the new legislation had increased 'the applicable penalty for "unnatural acts between individuals of the same sex"', compared to the 1980 Code.¹⁷ Amnesty International further highlighted the fact that the 1910 Law on the Contract of Associations had been used, on occasion, by the authorities to refuse 'to issue registration certificates to a group of LGBTIQ activists, claiming that the mandate of the organization as set out in the registration form "challenged cultural and social norms"'.¹⁸ A joint report by CIVICUS/ CNSC-Togo argued that the effect of Article 3 of the 1910 Law, taken together with Article 392 of the 2015 Penal Code, is that LGBTIQ organisations, as such, 'cannot be formed or exist and are subjected to institutional discrimination'¹⁹, although they have been allowed registration if done so 'as health-related groups'.²⁰

According to the 2020 Country Report on Human Rights Practices published by the United States Department of State (USDOS), Togo's 'law prohibits "acts against nature committed with an individual of one's sex," widely understood as a reference to same-sex sexual activity'.

¹³ Amnesty International, Togo, Submission to The United Nations Human Rights Committee 128th Session (2 March - 27 March 2020), 2019, [url](#), p. 18; CIVICUS/ CNSC-Togo, Republic of Togo, Joint Submission to the UN Universal Periodic Review 26th Session of the UPR Working Group, 24 March 2016, [url](#), para. 2.1; France, Loi du 1er juillet 1901 relative au contrat d'association, 1 July 1901, [url](#); English version available at Legislationline, French Law of 01.07.1901 about the associations (Updated Version), 16 May 2009, [url](#)

¹⁴ CIVICUS/ CNSC-Togo, Republic of Togo, Joint Submission to the UN Universal Periodic Review 26th Session of the UPR Working Group, 24 March 2016, [url](#), para. 2.1; France, Décret n° 46-432 du 13 mars 1946 rendant applicable à l'Afrique équatoriale française, à l'Afrique occidentale française, à Madagascar et dépendances, à la côte française des Somalis, aux établissements français de l'Inde et de l'Océanie, à la Guyane, à la Nouvelle-Calédonie et dépendances, au Togo et au Cameroun, les titres I et II de la loi du 1er juillet 1901, 13 March 1946, [url](#)

¹⁵ Togo, Arrêté No. 265 Cab. du 8 avril 1946, promulgation du décret N° 46-432 rendant applicables à l'AEF, à l'AOF à Madagascar et dépendances, à la cote française des somalis, aux établissements français de l'Inde et de l'Océanie, à la Guyane, à la Nouvelle-Calédonie et dépendances, au Togo et au Cameroun les titres I et II de la loi du 1er juillet 1901 relative au contrat d'association, 8 April 1946, [url](#)

¹⁶ France, Loi du 1er juillet 1901 relative au contrat d'association, 1 July 1901, [url](#), Article 3; English version available at Legislationline, French Law of 01.07.1901 about the associations (Updated Version), 16 May 2009, [url](#)

¹⁷ Amnesty International, Togo, Submission to The United Nations Human Rights Committee 128th Session (2 March - 27 March 2020), 2019, [url](#), p. 16

¹⁸ Amnesty International, Togo, Submission to The United Nations Human Rights Committee 128th Session (2 March - 27 March 2020), 2019, [url](#), p. 18

¹⁹ CIVICUS/ CNSC-Togo, Republic of Togo, Joint Submission to the UN Universal Periodic Review 26th Session of the UPR Working Group, 24 March 2016, [url](#), paras. 2.2, 2.3

²⁰ USDOS, 2020 Country Reports on Human Rights Practices: Togo, 30 March 2021, [url](#)



USDOS further adds that the law ‘forbids the promotion of immorality, which is understood to include promotion of same-sex activities. Existing antidiscrimination law does not apply to LGBTIQ persons. No law allows transgender persons to change gender markers on government-issued identity documents’.²¹

Referring to events that occurred in 2020, Freedom House noted that official discrimination continued against ‘LGBTIQ people’ [...] to whom antidiscrimination laws do not apply. Same-sex sexual activity is a criminal offense’.²²

In August 2021, the United Nations (UN) Human Rights Committee, referring to the New Penal Code, expressed concern ‘by the fact that there is no clear definition or criminal classification of direct or indirect discrimination that covers [...] sexual orientation and gender identity’. As such, the Committee recommended that Togo ‘revise its national legislation [...] by including a definition of direct and indirect discrimination, including in the private, that [...] encompasses sexual orientation and gender identity’.²³ Moreover, the Committee also highlighted its concern about the fact that the ‘criminal law provisions that characterize sex between consenting adults of the same sex as an offence [...] have been retained in the new Criminal Code and that the applicable penalties have been increased.’²⁴

2. Implementation of the law and treatment by the state (2020-2021)

According to the aforementioned report by USDOS:

‘The law provides that a person convicted of engaging in consensual same-sex sexual activity may be sentenced to one to three years’ imprisonment and a substantial fine, but it was not enforced. On those occasions when police arrested someone for engaging in consensual same-sex sexual activity, the justification for the arrest was usually for some other legal infraction, such as disturbing the peace or public urination’.²⁵

According to the 2021 Summary of Stakeholders’ submissions to the UN Human Rights Council for the Universal Periodic Review (UPR), the joint submission (JS5)²⁶, submitted by the International Clinic for the Defence of Human Rights of UQAM, organisations advocating for the rights of lesbian, bisexual and queer women are ‘constantly encountering problems’ in organising their activities due to the refusal by governmental officials to issue registration certificates to associations ‘that have the express aim of protecting lesbian, gay, bisexual,

²¹ USDOS, 2020 Country Reports on Human Rights Practices: Togo, 30 March 2021, [url](#)

²² Freedom House, Freedom in the World 2021, Togo, 3 March 2021, [url](#)

²³ UN Human Rights Committee, Concluding observations on the 5th periodic report of Togo, 24 August 2021, [url](#), paras. 17-18

²⁴ UN Human Rights Committee, Concluding observations on the 5th periodic report of Togo, 24 August 2021, [url](#), para. 17

²⁵ USDOS, 2020 Country Reports on Human Rights Practices: Togo, 30 March 2021, [url](#)

²⁶ Joint submission 5 submitted by: Clinique internationale de défense des droits humains de l’UQAM, Montréal, Canada, UN Human Rights Council, Summary of Stakeholders’ submissions on Togo; Report of the Office of the United Nations High Commissioner for Human Rights [A/HRC/WG.6/40/TGO/3], [url](#), p. 9



transgender and queer persons.’ According to the same source the reason for the refusal is ‘usually that the organizations’ mission is incompatible with social norms and cultures, since such associations are thought to contribute to the promotion of homosexuality’.²⁷

In its report covering the year 2020, Freedom House noted that ‘nongovernmental organizations are subject to registration rules that have sometimes been enforced arbitrarily to suppress activism on sensitive topics, such as torture and the rights of LGBTIQ people.’²⁸ USDOS reported that ‘LGBTIQ groups may register with the Ministry of Territorial Affairs as health-related groups, particularly those focused on HIV/AIDS prevention.’ Citing activists, the same source noted that ‘violence against LGBTIQ persons was common, but police ignored complaints’ and ‘that most human rights organizations, including the CNDH, refused to address LGBTIQ concerns’.²⁹ The UN Human Rights Committee expressed its concerns on the reports it received ‘that the security forces have subjected persons to harassment, attacks, ill-treatment and arbitrary detention on grounds of their actual or presumed sexual orientation or gender identity’. The Committee further highlighted its concerns about the restrictions imposed on associations defending persons targeted on account of their sexual orientation or gender identity.³⁰

In June 2021, during the 132nd session of the UN Human Rights Committee, Christian Trimua, the Togolese minister in charge of human rights rejected the idea of decriminalising homosexuality, stating that ‘this sexual orientation is not part of the social values of our people and our country’.³¹ On 27 December 2021, Trimua further stated that ‘homosexuality is not a human right; what is a human right is the right to sexual life’.³²

Although the following information is outside the reference period of this COI query response, it might be relevant nonetheless.

In her 2014 report on the situation of human rights defenders in Togo, the UN Special Rapporteur expressed her concerns about ‘the use of certain legal provisions by law enforcement officials without proper investigation of facts in the case of unsubstantiated accusations against defenders and activists’. She further noted that:

‘She was informed that some activists have faced accusations of rape and abuse of minors that have not always been properly investigated by the police owing to the prevailing stigma surrounding the work of these defenders, assumptions about their sexual orientation and deeply-rooted discriminatory attitudes and stereotypes’.³³

²⁷ UN Human Rights Council, Summary of Stakeholders’ submissions on Togo; Report of the Office of the United Nations High Commissioner for Human Rights [A/HRC/WG.6/40/TGO/3], [url](#), para. 33

²⁸ Freedom House: Freedom in the World 2021 - Togo, 3 March 2021, [url](#)

²⁹ USDOS, 2020 Country Reports on Human Rights Practices: Togo, 30 March 2021, [url](#)

³⁰ UN Human Rights Committee, Concluding observations on the 5th periodic report of Togo, 24 August 2021, [url](#), para. 17

³¹ DW, Le Togo rejette la dépénalisation de l'homosexualité, 2 July 2021, [url](#)

³² Groups Francs, Déclaration D'un Ministre : " L'homosexualité N'est Pas Un Droit De L'homme, 29 December 2021, [url](#); Lome Infos, Togo: Christian Trimua "l'homosexualité n'est pas un droit de l'homme", 29 December 2021, [url](#)

³³ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya [A/HRC/25/55/Add.2], 26 February 2014, [url](#), para. 79



Amnesty International reported two incidents of harassment, intimidation and arbitrary detention by the security forces that took place in 2014. A gay man who was returning home from a party wearing female clothing was arrested by two police officers and detained without charge for five days in a police station while another gay man returning home in female clothing from a friend's house in 2014 was stopped by two members of the security forces and asked to produce identification. One of them attempted to touch his chest and genitals while escorting him home, when they discovered his real gender they slapped him and threatened his family that they would arrest him if they did not give them money.³⁴

According to USDOS, in 2015, several LGBTIQ groups were vocal in their opposition to the revision of the penal code, issuing press releases calling on lawmakers to eliminate Article 392. There were no overt reprisals against these groups by authorities.³⁵

In 2016, the Summary of Stakeholders' submissions to the UN Human Rights Council for the UPR noted that rights groups Afrique Arc-En-Ciel and the Sexual Rights Initiative had welcomed 'the progress made [by the Togolese government] in terms of the right to health, in particular the consideration given to men who have sex with men in the response to HIV/AIDS'.³⁶

Togo subsequently rejected the recommendations made under the 2016 UPR process to ensure the protection of LGBTIQ people.³⁷

A May 2016 report published by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) described the discourse around the topics of SOGIESC (sexual orientation, gender identity, gender expression and sex characteristics) and LGBTIQ in Togo, as well as the challenges individuals belonging to these communities face as follows:

"The socio-political environment for discourse on SOGI in Togo has been challenging over the past number of years, while there is some organizing and activity around SOGI. However, police are known to crack down on the LGBTIQ community at certain times, but according to a recent article, '... the biggest threat to the Togo LGBTIQ community is the church and religious leaders. The Catholic church is very powerful there, strongly influencing moral, political and other issues'.³⁸

Referring to events that occurred in 2018, Freedom House noted that LGBTIQ persons faced police harassment.³⁹

³⁴ Amnesty International, Togo, Submission to The United Nations Human Rights Committee 128th Session (2 March - 27 March 2020), 2019, [url](#), p. 17

³⁵ USDOS, Country Report on Human Rights Practices 2015 - Togo, 13 April 2016, [url](#)

³⁶ UN Human Rights Council, Summary of Stakeholders' submissions on Togo; Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/26/TGO/3, 17 August 2016, [url](#), para. 78

³⁷ Amnesty International, Amnesty International Report 2017/18 - The State of the World's Human Rights - Togo, 22 February 2018, [url](#), p. 362

³⁸ ILGA, A World Survey Of Sexual Orientation Laws: Criminalisation, Protection And Recognition, May 2016, [url](#), p. 88

³⁹ Freedom House: Freedom in the World 2019 - Togo, 3 March 2019, [url](#)



3. Treatment of LGBTIQ persons by society (2020-2021)

Among sources consulted within the limited timeframe for drafting this COI Query response, scarce information could be found regarding the societal treatment of LGBTIQ persons in Togo.

According to the Spartacus Gay Travel Index⁴⁰, Togo ranked 146th (out of 197) in 2019⁴¹, 156th in 2020⁴², and 150th in 2021.⁴³ Such ranking makes Togo one of the least welcoming countries for members of the LGBTIQ community, as noted by L-frii, the media for young Africans based in Lomé.⁴⁴

A 2020 report by Bertelsmann Stiftung covering the period from 1 February 2017 to 31 January 2019 noted that ‘86% of the Togolese dislike the idea of a homosexual neighbour’.⁴⁵ USDOS reported that LGBTIQ persons faced societal discrimination in employment, housing, and access to education and health care.⁴⁶

Although the following information is outside the reference period of this COI query response, it might be relevant nonetheless.

The UN Special Rapporteur on the situation of human rights defenders noted in her 2014 report that ‘the working environment for defenders of LGBTIQ persons was often hostile owing not only to pressure from society and families but also the existing legal framework’.⁴⁷ She further noted that such defenders faced harassment and threats from members of their communities due to their activities and their own sexual orientation and that such incidents sometimes went unreported due to fear of social stigma or criminal charges.⁴⁸

According to the 2016 Summary of Stakeholders’ submissions to the UN Human Rights Council for the UPR, the JS1 and the Association Femme Plus-Togo (AFPT) noted that LGBTIQ persons experienced discrimination.⁴⁹

⁴⁰ Spartacus publishes the Gay Travel Index every year since 2012. The index measures the legal situation and living conditions for members of the queer community in the respective country. The index consists of 17 categories at present, ranging from gay marriage to death penalty for homosexuals. The index attempts at finding a balance between measuring the rights of the local LGBTIQ community and considering the demands of queer holidaymakers see Spartacus Gay Travel Index 2021 - Ranking Order, n.d., [url](#), p. 1

⁴¹ Spartacus Gay Travel Index 2019 - Ranking Order, n.d., [url](#)

⁴² Spartacus Gay Travel Index 2020 - Ranking Order, n.d., [url](#)

⁴³ Spartacus Gay Travel Index 2021 - Ranking Order, n.d., [url](#)

⁴⁴ L.frii, Les pays les plus fréquentables pour les homosexuels en 2019: le rapport Spartacus donne la position du Togo, 29 March 2019, [url](#)

⁴⁵ BTI, 2020 Country Report Togo, 29 April 2020, [url](#)

⁴⁶ USDOS – US Department of State: 2020 Country Report on Human Rights Practices: Togo, 30 March 2021, [url](#)

⁴⁷ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya [A/HRC/25/55/Add.2], 26 February 2014, [url](#), para. 77

⁴⁸ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya [A/HRC/25/55/Add.2], 26 February 2014, [url](#), para. 80

⁴⁹ UN Human Rights Council, Summary of Stakeholders’ submissions on Togo; Report of the Office of the United Nations High Commissioner for Human Rights] A/HRC/WG.6/26/TGO/3], 17 August 2016, [url](#), para. 32

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