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**United Nations Human Right Council 12th Session
Geneva, September 2009.
UPR Congo
International Lesbian and Gay Association (European Region)**

Mr President

I have the honour to present a statement on behalf of ILGA and Pan Africa ILGA.

We wish to address the recommendations contained in paragraphs 23, 27 and 59 in the Working Group report on Congo, which urge the government to repeal article 331 of the Penal Code to decriminalize same-sex sexual activity between consenting adults, with a view to more effective HIV/AIDS education, prevention and treatment.

While we appreciate the government's position on the difficulties regarding cultural problems and sociological implications and that no-one is currently in detention because of their homosexuality, the current penal code of Congo continues to threaten the existence of sexual minorities, and this law also violates the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights (ICCPR), to which Congo is a party.

According to the United Nations Human Rights Committee's 1994 ruling in the case Toonen v. Australia, laws criminalizing homosexual conduct violate the international rights to privacy and non-discrimination, and impede measures to address HIV and AIDS by driving marginalised communities underground, a position also affirmed by UNAIDS and the High Commissioner for Human Rights.

In Congo all men who have sex with men, do not necessarily identify as homosexuals. The lack of legislation to protect Lesbians, Gays, Bisexual and Transgender people continues to have a negative impact on important HIV prevention work for the gay and lesbian community, and this we believe is a threat to public health.

We therefore urge the government to implement the recommendations of member states and take further action:

- To repeal the penal code provision which criminalizes homosexual activity between consenting adults, and review other national legislation which results in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity and bring this into line with the provisions of the ICCPR, particularly articles 2 and 26.
- We also ask the government to adopt measures to promote tolerance in this regard, which would also facilitate more effective educational programmes for prevention of HIV/AIDS; and
- to provide law enforcement and judicial officials with specific training regarding the protection of human rights of sexual minorities.

Thank you very much Mr President.