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MOTION FOR A RESOLUTION

with request for inclusion in the agenda for the debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 122 of the Rules of Procedure

on Uganda: the killing of David Kato

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on behalf of the Verts/ALE Group

European Parliament resolution on Uganda: the killing of David Kato

The European Parliament,

- having regard to the international human rights obligations and instruments, including those contained in the UN conventions on human rights and in the European Convention for the Protection of Human Rights and Fundamental Freedoms, guaranteeing human rights and fundamental freedoms and prohibiting discrimination,
- having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2001 and revised in Ougadougou on 23 June 2010 (the Cotonou Agreement) and the human rights clauses contained therein, in particular Article 9,
- having regard to Articles 6 and 7 of the Treaty on European Union (TEU) and Article 19 of the Treaty on the Functioning of the European Union (TFEU), which commit the European Union and the Member States to upholding human rights and fundamental freedoms and provide means to fight discrimination and human rights violations at EU level and in the EU's external action,
- having regard to the Charter of Fundamental Rights of the European Union, in particular Article 21 thereof, which prohibits discrimination on grounds of sexual orientation,
- having regard to all EU activities that relate to fighting homophobia and discrimination on grounds of sexual orientation,
- having regard to its previous resolutions on homophobia, protection of minorities and antidiscrimination policies,
- having regard to its resolutions of 17 December 2009 on Uganda: anti-homosexual draft legislation, and of 16 December 2010 on Uganda: the so-called ‘Bahati bill’ and discrimination against the LGBT (lesbian, gay, bisexual and transgender) population,
- having regard to the Declaration by the High Representative, Catherine Ashton and the President of the European Parliament, Jerzy Buzek, on the International Day Against Homophobia, 17 May 2010,
- having regard to the ACP-EU JPA resolution of 3 December 2009 on social and cultural integration and participation of young people,
- having regard to Rule 122(5) of its Rules of Procedure,

A. Whereas on 26 January 2011 David Kato Kisule, human rights defender and leading

figure of the human rights group Sexual Minorities Uganda and of the Ugandan LGBT community at large, was brutally killed in Uganda after using the local tabloid “Rolling Stone”, which on 9 October and 15 November 2010 listed the names, personal details and photographs of several people alleged to be homosexual, including that of David Kato, inciting readers to harm or hang them, ;

- B. Whereas the killing happened three weeks after the Ugandan High Court ruled in David Kato's favor in his case against the “Rolling Stone” tabloid, finding that the publication violated the fundamental constitutional rights of all citizens to dignity and privacy and specifying that even current Ugandan anti-homosexuality legislation cannot be used against persons for being or being alleged to be homosexual, but only in relation to specific acts listed in the legislation; whereas after the Court victory, David Kato denounced an increase in threats and harassment;
- C. Whereas the President of the European Parliament, the United States President and Secretary of State, the Anglican church, as well as other leaders of the international community, made tributes to David Kato as a human rights defender and called on Ugandan authorities to bring the perpetrator(s) to justice,
- D. Whereas the European Parliament, as well as NGOs and international non-governmental organisations as well as US and EU government representatives, had repeatedly expressed their concern regarding the situation of LGBT persons in Uganda, on discrimination and persecutions, as well as the incitement to hatred against LGBT persons by public and private figures and organisations,
- E. Whereas the Anti-Homosexuality Bill tabled by private Member David Bahati MP on 25 September 2009 before the Ugandan Parliament foresees the punishment of homosexual acts by imprisonment between seven years and life as well as the death penalty, as well as the punishment of a failure to disclose a child's or patient's homosexuality by up to three years' imprisonment; whereas the bill is still under consideration,
- F. Whereas a number of politicians and leaders have made inflammatory declarations against LGBT persons, such as those by the Ugandan Minister of State for Ethics and Integrity, who declared that "homosexuals can forget about human rights", while the preacher at the funeral made statements against LGBT persons, which led to disorders and to villagers refusing to bury the body of Kato, and had to be substituted by an excommunicated priest; whereas the climate of hate against lesbian and gays has been fuelled by US evangelical preachers conducting a campaign against LGBT persons; while the editor of the Rolling Stone stated that Kato was a victim of his own "evil";
- G. Whereas in Africa homosexuality is legal in only 13 countries and a criminal offence in 38 countries; whereas Mauritania, Somalia, Sudan and northern Nigeria punish homosexuality by death; whereas political and extremist religious leaders, among others, incite to violence against LGBT persons, while the authorities very often tolerate and leave unpunished crimes committed on the basis of sexual orientation,
- H. Whereas States shall ensure that that LGBT people are properly protected against discriminations, persecutions, violence and killings, incited or committed by either

public or private actors and organizations,

- I. Whereas the UN Secretary-General Ban Ki-moon stated last September in Geneva that “Laws criminalizing people on grounds of sexual orientation and gender identity violate the principle of non-discrimination. They also fuel violence, help to legitimize homophobia and contribute to a climate of hate”,
- J. Whereas the UN High Commissioner for Refugees Antonio Guterres reiterated that people facing persecution for their sexual orientation in Uganda should be given refugee status in other countries, and whereas EU directives provide for this possibility, but still problems arise in specific cases,
- K. Whereas Germany decided to withhold half of the 33 million dollars foreign aid promised to Malawi because of the criminalization of homosexuality and the restriction of press freedom, followed by the United States refusal to sign over \$350 million in foreign aid to Malawi without further talks about laws restricting individual freedoms,
 - 1 Condemns the killing of David Kato and the climate of persecution, discrimination and violence against LGBT (lesbian, gay, bisexual and transgender) people in Uganda; calls on the authorities to carry an in-depth, impartial, active and vigorous investigation into the killing and bring the perpetrator or perpetrators to justice, as well as any act of persecution, discrimination and violence against LGBT people and to provide appropriate protection to LGBT activists; calls on the Parliament to decriminalize homosexuality and reject the use of the penal code and/or death penalty against LGBT people under any circumstances;
 - 2 Joins the recent appeal of UN Secretary-General Ban Ki-moon recent on 10 December 2010 for the universal decriminalization of homosexuality, which is still criminalized in some 80 countries, and shares his declarations on the fact that human rights must always trump cultural attitudes and societal structures; reiterates the need for Member states to intensify efforts to table and rally support for a resolution on these issues and objectives,
 - 3 Urges the Commission and Member States to include LGBT activists in their human rights defender support programs and believes that EU and Member States should review their cooperation and development policy with those States criminalizing LGBT persons, and closely scrutinize its financial support and cooperation with civil society organizations for homophobic stance and activities, so to ensure that it is conditional on concrete progress to be made in this field; calls the Commission to include these issues in the Roadmap against homophobia the EP has requested it to draft,
 - 4 Calls on the European Commission, the Council and the European External Action Service to make full use of the *Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People* in their dealings with Uganda, provide full protection to LGBT activists in Uganda, and support their activities;

- 5 Joins the call of David Kato's organisation (SMUG) on authorities, political and religious leaders, as well as the media, to stop demonizing sexual minorities and creating a climate of violence against lesbian and gay persons,
- 6 Reiterates the fact that sexual orientation is a matter falling within the sphere of the individual right to privacy as guaranteed by international human rights law, according to which equality and non-discrimination should be protected, whilst freedom of expression should be guaranteed and reminds the Ugandan authorities of their obligations under international law and under the Cotonou Agreement, which calls for universal human rights to be respected;
- 7 Calls on Member States and EU institutions to ensure that refugee status is granted to persons that are at risk of persecution on the basis of sexual orientation,
- 8 Instructs its President to forward this resolution to the Council, the Commission, the High Representative/Vice-President for Foreign Affairs and Security Policy, the President of the Republic of Uganda, the Speaker of the Ugandan Parliament, the East African Legislative Assembly and the African Union Commission and its institutions.