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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 ALDE 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 (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,
 - 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⁽¹⁾ and of 16 December 2010 on Uganda: the so-called 'Bahati bill' and discrimination against the LGBT population,
 - having regard to the Declaration by the High Representative, Catherine Ashton, 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 gay rights group Sexual Minorities Uganda and of the Ugandan LGBT

community at large, was violently killed in Uganda after suing the local tabloid "Rolling Stones", which on 9 October and 15 November 2010 listed the names, personal details and photographs of a hundred of people alleged to be homosexual, inciting readers to harm or hang them, including that of Kato Kisule;

- B. whereas the killing happened three weeks after the Ugandan High Court ruled in his favour in his case against "Rolling Stones" 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, Kato Kisule denounced an increase in threats and harassment;
- C. whereas the President of the European Parliament¹, the United States President and Secretary of State, the Anglican church, as well as other leaders of the international community, made tributes to Mr. Kato as a human rights defender,
- D. whereas the European Parliament, as well as NGOs and government representatives, had repeatedly expressed its concern on the situation of LGBT persons in Uganda, on discriminations and persecutions, as well as the incitement to hatred against LGBT persons by public and private figures and organisations, and notably on the Anti-Homosexuality Bill tabled by private Member David Bahati MP on 25 September 2009 before the Ugandan Parliament, foreseeing 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;
- E. whereas a number of politicians and leaders have made inflammatory declarations against LGBT persons, such as those by Bahati MP, 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 priest²; whereas the climate of hate against homosexuals has been fuelled by extremist religious organisations and notably evangelical preachers conducting a campaign against LGBT persons³ and conducting a policy of infiltration of media, business, politics and targeting young people; whereas Muslim leaders in Uganda talk about an "underground movement" with secret tasks to kill LGBT people⁴; while the editor of the Rolling Stone stated that Kato was a victim of his own "evil"; whereas homophobic organizations, leaders and media such as Rolling Stone, appear to be funded in an obscure way;
- F. whereas LGBT persons in Uganda, as well as those persons whose pictures and details have appeared on "Rolling Stone" and were subsequently read out on radio and TV,

¹http://www.europarl.europa.eu/president/view/en/press/press_release/2011/2011-January/press_release-2011-January-32.html and <http://www.lgbt-ep.eu/press-releases/joint-statement-death-of-david-kato-lgbt-activist-in-uganda/>

² <http://www.bbc.co.uk/news/world-africa-12306077>

³ http://www.elpais.com/articulo/sociedad/Africa/persigue/homosexuales/elpepusoc/20110206elpepusoc_3/Tes

⁴ see documentary "Uganda. In the name of God" by Dominique Mesmin.

are now in danger of being persecuted, and in most cases are now homeless, unemployed, avoid public places, are intimidated and have to hide away;

- 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 tolerate and leave unpunished crimes committed on the basis of sexual orientation¹,
 - 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 António Guterres reminded 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 Kisule and the climate of persecution, discrimination and violence against LGBT 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 authorities to make further enquiries into those who publicly called for the killing of David Kato Kisule, their organizations, their role and their funding; calls on the Parliament to decriminalize homosexuality and reject the use of the death penalty 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,

¹ http://www.elpais.com/articulo/sociedad/Africa/persigue/homosexuales/elpepusoc/20110206elpepisoc_3/Tes

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 European NGOs to work together with LGBT NGOs within the Ugandan Human Rights Coalition; calls the Commission to include these issues in the Roadmap against homophobia the EP has requested it to draft¹,
4. joins the call of Kato Kisule organisation (SMUG) and of other Ugandan NGOs on authorities, political and religious leaders, as well as the media, to stop demonizing sexual minorities and creating a climate of violence against LGBT persons²;
5. 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;
6. calls 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,
7. 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.

¹ par. 7 of resolution P7_TA-PROV(2011)0019 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0019+0+DOC+XML+V0//EN>

² http://wthrockmorton.com/2011/01/27/smug-statement-on-the-murder-of-david-kato/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+Throckmorton+%28Warren+Throckmorton%29