



EUROPEAN PARLIAMENT

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Plenary sitting

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B7-0145/2011

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

Charles Tannock
on behalf of the ECR Group

European Parliament resolution on Uganda: the killing of David Kato

The European Parliament,

– having regard to international human rights obligations and instruments, including those contained in the UN conventions on human rights and in the European Convention on Human Rights and Fundamental Freedoms, guaranteeing human rights and fundamental freedoms and prohibiting discrimination,

- having regard to the Cotonou Agreement and human rights clauses contained therein, more particularly Article 9.

- Having regards to the ongoing work of the Human Rights Coalition of Uganda

– having regard to Articles 6 and 7 of the Treaty on European Union (TEU) and Article 13 of the EC Treaty, which commit the EU, as well as the Member States, to uphold human rights and fundamental freedoms and which provide means at European level to fight discrimination and human rights violations,

– having regard to the Charter of Fundamental Rights of the European Union, in particular Article 21 thereof, which, prohibits discrimination based on sexual orientation,

– having regard to all EU activities to fight homophobia and discrimination based on sexual orientation

– having regard to its previous resolutions on homophobia, protection of minorities and anti-discrimination policies, and notably to those of 18 January 2006 on homophobia in Europe and of 15 June 2006 on the increase in racist and homophobic violence in Europe resolution of 26 April 2007 on homophobia in Europe,

- having regard to the ACP EU JPA committee on political affairs meeting in Luanda on 28 November 2009

- having regard to the ACP EU resolution of 3 December 2009 on social and cultural integration and participation of young people

- having regard to the European Parliament resolution 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 population,

- having regard to the European Parliament Question on the 4th of November 2010 on the Persecution of gay people in Uganda

- having report to the European Parliament Annual Report on Human Rights in the World 2009 and the European Union’s policy on the matter

- having regard to the Declaration by the High Representative, Catherine Ashton, on the International Day Against Homophobia, 17 May 2010,
- having regard to Rule 122 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 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;

D. 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; while the authorities tolerate and leave unpunished crimes committed on the basis of sexual orientation¹, foreseeing also the death penalty, and the approval of such law in Uganda could have spill over effects on other African countries, where persons are or could be persecuted because of their sexual orientation;

E. 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;

F. 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”;

G. Whereas the Bahati bill has already been condemned by President Obama, the Chair and Vice-chair of the U.S. House of Representatives' Committee on Foreign Affairs, Commissioner De Gucht as well as the British, French and Swedish governments.

H. Whereas Political leaders of the international community, made tributes to Mr. Kato as a human rights defender;

1. Calls 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;
2. Strongly condemns an atmosphere of fear and discrimination within Uganda that has led to homelessness, unemployment and everyday restrictions for the LBGT community;
3. Stresses the importance of an independent, internationally lawful and responsible media within Uganda;
4. Stresses the fundamental importance of freedom and democracy in Uganda's 2011 election, and stresses the importance of a campaign free from rhetoric that is likely to incite discrimination and/or violence against the LGBT Community;
5. Underlines that sexual orientation is a matter falling within the remit of the individual right to private life, according to which equality and non-discrimination should be promoted, whilst freedom of expression should be guaranteed, in this context condemns the "anti homosexuality bill 2009";
6. Reminds the Ugandan government of its obligations under international law and under the Cotonou agreement which calls for universal human rights to be respected;
7. Recalls statements by the African Commission and the UN Human Rights Committee that a state cannot, through its domestic law, negate its international human rights obligations;
8. Is extremely concerned that international donors, International Organisations and non-governmental Organisations, Humanitarian Organisations and Doctors would have to reconsider or cease their activities in certain fields should the bill pass and notes that Germany decided to withheld 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;
9. Calls on the Council and Commission and the Member States to make urgent representations to the Ugandan authorities and should the criminalization of homosexuality stay and breaches of international human rights law take place, reconsider their engagement with Uganda;
10. 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.