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21.5.2012

B7-0236/2012

## **MOTION FOR A RESOLUTION**

to wind up the debate on statements by the Council and the Commission

pursuant to Rule 110(2) of the Rules of Procedure

on the fight against homophobia in Europe  
(2012/2657(RSP))

**Ulrike Lunacek, Raül Romeva i Rueda, Marije Cornelissen,  
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on behalf of the Verts/ALE Group

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*United in diversity*

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**B7-0236/2012**

**European Parliament resolution on the fight against homophobia in Europe  
(2012/2657(RSP))**

*The European Parliament,*

- having regard to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and the Convention for the Protection of Human Rights and Fundamental Freedoms,
  - having regard to Articles 2, 3(5), 6, 7, 21 and 27 of the Treaty on European Union, Articles 10 and 19 of the Treaty on the Functioning of the European Union, and to the EU Charter of Fundamental Rights,
  - having regard to the Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People adopted by the Working Party on Human Rights of the Council of the European Union,
  - having regard to the Council of Europe Parliamentary Assembly resolution 1728 of 29 April 2010 on Discrimination on the basis of sexual orientation and gender identity, and the Committee of Ministers recommendation CM/Rec(2010)5 of 31 March 2010 on measures to combat discrimination on grounds of sexual orientation or gender identity,
  - having regard to the Fundamental Rights Agency report of November 2010 on Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity,
  - having regard to its previous resolutions on homophobia, and notably to those of 26 April 2007 on homophobia in Europe, of 15 June 2006 on the increase in racist and homophobic violence in Europe, and of 18 January 2006 on homophobia in Europe, of 19 January 2011 on violation of freedom of expression and discrimination on the basis of sexual orientation in Lithuania, of 17 September 2009 on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information, of 18 April 2012 on Human Rights in the world and the European Union's policy on the matter including implications for the EU's strategic human rights policy, of 14 December 2011 on the upcoming EU-Russia Summit, of 28 September 2011 on human rights, sexual orientation and gender identity at the United Nations,
  - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and shall uphold and promote these values in its relations with the wider world;
- B. whereas homophobia is the irrational fear of and aversion to female and male homosexuality and to lesbian, gay, bisexual and transgender (LGBT) people based on

prejudice, and similar to racism, xenophobia, anti-semitism and sexism; it manifests itself in the private and public spheres in different forms, such as hate speech and incitement to discrimination, ridicule and verbal, psychological and physical violence, persecution and murder, discrimination in violation of the principle of equality and unjustified and unreasonable limitations of rights, which are often hidden behind justifications based on public order, religious freedom and the right to conscientious objection;

- C. whereas the Commission has declared its commitment to ensuring respect for human rights and fundamental freedoms in the EU and has stated homophobia had no place in Europe;
- D. whereas homophobia, lesbophobia and transphobia continue to manifest themselves in Member States and third countries, including murders, banned gay prides and equality marches, public use of inflammatory, threatening and hateful language, police failure to provide adequate protection, violent authorised demonstrations by homophobic groups, and the explicit prohibition of recognising existing same-sex unions;
- E. whereas same-sex partners in some Member States do not enjoy all of the rights and protections enjoyed by married opposite sex partners and consequently suffer discrimination and disadvantage and whereas at the same time more and more countries in Europe have announced or are moving towards ensuring equal opportunities, inclusion and respect, and provide protection against discrimination on grounds of sexual orientation, gender expression and gender identity, and recognition of same-sex families;
- F. whereas the European Parliament remains committed to equality and non-discrimination based on sexual orientation and gender identity in the EU, and particularly to the adoption of the Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, which is blocked due to the objections of some Member States; to upcoming proposals for the mutual recognition of the effects of civil status documents; to the upcoming review of the Framework Decision on Racism and Xenophobia to include homophobic and transphobic crime; and to a comprehensive roadmap for equality on grounds of sexual orientation and gender identity;
- G. whereas in Lithuania, it remains legally unclear whether public information may or may not promote acceptance of homosexuality further to the Law on the Protection of Minors against the Detrimental Effects of Public Information amended in 2010;
- H. whereas in Latvia, a member of the Riga City Council recently tabled a bill to prohibit the 'propaganda of homosexuality' with the aim of preventing the Baltic Pride march 2012 to take place, whereas this proposal hasn't yet been examined;
- I. whereas in Hungary, far-right party Jobbik recently tabled several bills to create a new crime of 'propagation of disorders of sexual behaviour', and in the Budapest City Council a local ordinance was tabled by Fidesz to 'limit obscene marches' ahead of the Budapest gay pride, whereas these proposals were subsequently dropped, although they may be reintroduced in the national and local parliaments;

- J. whereas in Russia, criminal and administrative laws against the ‘propaganda of homosexuality’ were enacted in the regions of Ryazan in 2006, Arkhangelsk in 2011, Kostroma and Saint Petersburg in 2012, and the regions of Novosibirsk, Samara, Kirov, Krasnoyarsk and Kaliningrad are currently considering such laws, whereas these laws foresee various fines of up to EUR 1 270 for individuals and up to EUR 12 700 for associations and companies, whereas the Federal Duma is considering a similar law;
- K. whereas in Ukraine, the Parliament is examining two draft laws put forward in 2011 and 2012 which would make it an offense to ‘spread homosexuality’, including ‘holding meetings, parades, actions, demonstrations and mass events aiming at intentional distribution of any positive information about homosexuality’, foreseeing fines and up to five years’ imprisonment, whereas the Committee on Freedom of Expression and Information supports this bill;
- L. whereas in Moldova, the cities of Bălți, Sorochi, Drochia, Cahul, Ceadr Lunga and Hiliuți, as well as the Anenei Noi and Basarabasca districts recently adopted laws to prohibit the ‘aggressive propaganda of non-traditional sexual orientations’ and in one case ‘Muslim activity’, whereas such measures were already declared unconstitutional by the Chancellery of State in Chetriș;
- M. whereas the EU Delegation to Moldova has expressed ‘deep regret and concern’ about ‘these manifestations of intolerance and discrimination’;

### **Situation in the European Union**

1. Strongly condemns any violence and discrimination on the basis of sexual orientation or gender identity and holds that continuous and systematic efforts must be made in the EU, its Member States and in third countries both to fight homophobia in society and to refrain from adopting laws that could have a negative impact on LGBTI persons; calls on the Commission, the Council and the Member States to ensure that LGBTI people are protected from homophobic hate speech, incitement to hatred, violence and discrimination and ensure that same-sex partners enjoy the same rights, freedoms, respect, dignity and protection as the rest of society; condemns the discriminatory remarks by political and religious leaders targeting homosexuals since they fuel hate and violence and asks the respective organisations’ hierarchies to condemn them;
2. Calls on the Commission to review the Framework Decision on Racism and Xenophobia to strengthen and enlarge its scope to include homophobia and transphobia;
3. Calls on the Council of the European Union and Member States to concretise the objective of the fight against homophobic discriminations by unblocking the proposed Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation;
4. Calls on the Commission and Member States to ensure that Directive 2004/38/EC on free movement is implemented without any discrimination based on sexual orientation and to bring to Court those Member States that transposed it partially or incorrectly; calls on the Commission to propose measures to mutually recognise the effects of civil status documents on the basis of the principle of mutual recognition;

5. Draws attention to the findings of the European Union's Fundamental Rights Agency in its report 'Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity'; calls on the Commission and Member States to implement the opinions contained therein to the greatest possible extent; calls on the Commission to carefully examine the future results of the Fundamental Rights Agency's LGBT survey, and take appropriate action;
6. Calls on the Commission to ensure that the annual report on the application of the Charter of fundamental rights includes a strategy for to strengthen the protection of fundamental rights in the EU, including full and comprehensive information on the incidence of homophobia in Member States and proposed solutions and actions to overcome it;
7. Reiterates its request that the Commission produce a comprehensive roadmap for equality on grounds of sexual orientation and gender identity;
8. Welcomes the developments in Member States to overcome discriminations lived by LGBTI persons and same-sex couples, for instance in the areas of inheritance, property arrangements, tenancies, pensions, tax, social security etc, notably by recognising same-sex relationship either through cohabitation, civil partnership or marriage; welcomes the fact that 16 Member States currently offer these and calls on other Member States to do the same;
9. Calls on Member States to grant asylum to people persecuted on the basis of their sexual orientation or gender identity;

### **Homophobic laws and freedom of expression in Europe**

10. Is gravely concerned by the developments in some EU Member States and non-EU Member States of laws targeting public information on homosexuality and consequently restricting freedom of expression and assembly based on misconceptions about homosexuality and transgenderism;
11. Regrets that these laws are already used to arrest and fine citizens, including heterosexual citizens, who express support, tolerance or acceptance to lesbian, gay, bisexual and transgender people; also regrets that these laws legitimate homophobia and sometimes violence, as was the case in the violent attack of a bus carrying LGBT activists on 17 May 2012 in Saint Petersburg; or two gay pride leaders being beaten up on 20 May 2012 in Kiev, resulting in cancelling the pride; condemns the violence and threats surrounding the Kiev Pride on 20 May; recalls that for visa liberalisation, Ukraine is bound to introduce anti-discrimination legislation including sexual orientation; is of the opinion that the current developments in Ukraine, the proposed draft laws against 'spreading homosexuality' and the incidents surrounding the Kiev Pride, are in contradiction to this; calls upon the Ukrainian authorities to immediately revoke the draft laws, to propose anti-discrimination legislation including sexual orientation and to commit to making a safe Kiev Pride possible next year;
12. Underlines that the term 'propaganda' is rarely defined; is distressed that media outlets have demonstrably censored themselves, citizens are intimidated and fear expressing their

opinions, and associations and companies using gay-friendly insignia, such as rainbows, may be prosecuted;

13. Highlights that these laws run contrary to the International Covenant on Civil and Political Rights, which protects sexual orientation from discriminatory laws and practices<sup>1</sup>, and to which Russia, Ukraine, Moldova, Lithuania, Latvia and Hungary are parties;
14. Furthermore, highlights that these laws run contrary to the best interest of the child, whose right to seek and receive information and ideas of all kinds is protected by the Convention on the Rights of the Child; affirms that children who are lesbian, gay, bisexual or transgender must have access to positive and reassuring information about their sexuality; regrets that these laws make accessing such information difficult and illegal;
15. Finally, highlights that national and international courts have consistently affirmed that public morality concerns do not justify differential treatment, including in relation to freedom of expression; points to the vast majority of countries in Europe that do not have such laws, and have thriving, diverse and respectful societies;
16. Calls on the relevant authorities in Russia, Ukraine, Moldova, Lithuania, Latvia and Hungary to demonstrate and ensure respect for the principle of non-discrimination, and reconsider these laws in light of international human rights law and their commitments thereunder;
17. Calls on the Commission, the Council and the External Action Service to take note of these bans and condemn them, particularly in the context of home affairs, bilateral dialogue, and the European Neighbourhood Policy; further calls on the Council of the European Union and the External Action Service to raise this issue in relevant international fora, such as the Council of Europe, the Organization for Security and Co-operation in Europe, and the United Nations;
18. Instructs its President to forward this resolution to the European Commission, the Council of the European Union, the High Representative of the Union for Foreign Affairs and Security/Vice-President of the Commission, the governments and parliaments of Member States, the national governments and parliaments of Russia and Ukraine, the regional parliaments of Russia cited herein, and Moldovan local councils cited herein.

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<sup>1</sup> *Toonen v. Australia*, Communication No 488/§992, UN Doc. CCPR/C/50/D/488/1992 (1994); *Young v. Australia*, Communication No 941/2000, UN Doc. CCPR/C/78/D/941/2000 (2003); *X v. Columbia*, Communication No 1361/2005, UN Doc. CCPR/C/89/D/1361/2005 (2007).