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B7-0238/2012

## **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))

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on behalf of the S&D Group

**B7-0238/2012**

**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 resolution 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,
- having regard to its previous resolution of 14 December 2011 on the upcoming EU-Russia Summit,
- having regard to its previous resolution of 28 September 2011 on human rights, sexual orientation and gender identity at the United Nations,
- having regard to its previous resolution of 19 January 2011 on violation of freedom of expression and discrimination on the basis of sexual orientation in Lithuania,
- having regard to its previous resolution of 17 September 2009 on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information,
- 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,
- 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 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 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;
- D. 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 these bills;
- E. whereas in Moldova, the cities of Bălți, Sorochi, Drochia, Cahul, Ceadr Lunga and Hiliuți, as well as the Aneni 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;
- F. 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;
- G. 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;
- H. 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;
- I. whereas the EU Delegation to Moldova has expressed ‘deep regret and concern’ about

‘these manifestations of intolerance and discrimination’;

- J. 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;
- K. whereas homophobia continues to manifest itself 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;
- L. 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;

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

- 1. Is gravely concerned by these developments, which restrict freedom of expression and assembly based on misconceptions about homosexuality and transgenderism;
- 2. 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;
- 3. 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;
- 4. 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;
- 5. 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

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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).

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;

6. 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;
7. 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;
8. 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;

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

9. Regrets that even in the European Union, the fundamental rights of LGBT people are not yet always fully upheld; strongly condemns any discrimination, hate speech or violence on the basis of sexual orientation or gender identity;
10. Calls on the Commission to review the Framework Decision on Racism and Xenophobia to strengthen and enlarge its scope to include hate crimes based on sexual orientation, gender identity and gender expression;
11. Calls on the Council of the European Union and Member States to proceed to the first reading of the proposed Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation;
12. 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; 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;
13. 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;
14. Calls on the Commission to carefully examine the future results of the Fundamental Rights Agency's LGBT survey, and take appropriate action;

15. 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;
16. Reiterates its request that the Commission produce a comprehensive roadmap for equality on grounds of sexual orientation and gender identity;
17. Considers that LGBT people's fundamental rights are more likely to be safeguarded if they have access to legal institutions such as cohabitation, registered partnership or marriage; welcomes the fact that 16 Member States currently offer these, and calls on other Member States to consider doing so;
18. Calls on Member States to grant asylum to people persecuted on the basis of their sexual orientation or gender identity;
19. 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.