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Plenary sitting

14.1.2014

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MOTION FOR A RESOLUTION

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

pursuant to Rule 122 of the Rules of Procedure

on recent moves to criminalise LGBTI people
(2014/2517(RSP))

Charles Tannock
on behalf of the ECR Group

**European Parliament resolution on recent moves to criminalise LGBTI people
(2014/2517(RSP))**

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 second revision of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Union and its Member States, of the other part (the Cotonou Agreement), and the human rights clauses contained therein, in particular Articles 8(4) and 9,
- 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 the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights (ACHPR) and the Constitution of India,
- having regard to the statement of 20 December 2013 by the High Representative of the Union for Foreign Affairs & Security Policy/Vice-President of the European Commission on the adoption of the Anti-Homosexuality Bill in Uganda,
- having regard to the statement from President Obama on the adoption of the Anti-homosexuality Bill in Uganda; and his request for President Museveni not to sign the bill into law;
- having regard to its previous resolutions of 5 July 2012 on violence against lesbians and LGBT rights in Africa, of 13 June 2013 on the draft Council decision on the conclusion of the Revised Cotonou Agreement, and of 11 December 2013 on Human rights in the world 2012 and EU policy on the matter,
- having regard to its previous resolutions of 17 December 2009 on Uganda: anti-homosexual draft legislation, of 16 December 2010 on Uganda: the Bahati Bill and discrimination against the LGBT population, and of 17 February 2011 on Uganda: murder of David Kato,
- having regard to its previous resolutions of 15 March 2012 and 4 July 2013 on the situation in Nigeria,

- having regard to its previous resolutions of 7 October 2010 on failures in protection of human rights and justice in the Democratic Republic of Congo, and of 13 December 2012 and 12 September 2013 on the situation in the Democratic Republic of Congo,

- having regard to Rule 122 of its Rules of Procedure,

- A. Whereas equality and freedom from discrimination applies to all persons universally; whereas all states have the obligation to prevent violence, discrimination and incitement of hatred based on individual characteristics, including sexual orientation;
 - B. Whereas as many as 76 countries continue to consider homosexuality a crime, with five countries foreseeing the death penalty for such crimes;
 - C. Whereas homosexuality is punished by 14 years' imprisonment in Uganda; and by 7 years' imprisonment in Nigeria;
 - D. Whereas the Democratic Republic of Congo had never criminalised homosexuality; whereas in November 2013, a Member of Parliament tabled a private Member's bill to amend the Penal Code and make homosexual acts a crime;
 - E. Whereas homosexuality has been decriminalised by a 2009 ruling by the Delhi High Court in India, whereas on 11 December 2013, the Indian Supreme Court overturned a 2009 Delhi High Court ruling that Section 377 thereby re-criminalising homosexuality with up to life imprisonment;
 - F. Whereas on 20 December 2013, the Ugandan Parliament adopted the 'Anti-Homosexuality Bill', which punishes support for LGBTI people's rights with up to 7 years' imprisonment, the non-denunciation of LGBTI people with up to 3 years' imprisonment, and 'repeat offenders' or HIV positive offenders with life in prison,
 - G. Whereas on 17 December 2013, the Nigerian Senate adopted the 'Same-Sex Marriage (Prohibition) Bill', which punishes people in a same-sex marriage with up to 14 years' imprisonment, and people witnessing same-sex marriages or running LGBTI bars, organisations or meetings with up to 10 years' imprisonment,
1. Strongly condemns any actions which lead to cruel, inhumane, and degrading treatment, and calls all countries to immediately end the criminalisation of homosexuality;
 2. Strongly condemns the actions of countries which violate a person's human rights, right to equality, right to privacy, and freedom of expression;
 3. Reiterates that sexual orientation and gender identity are matters falling within the remit of individuals' right to privacy and a private life, as guaranteed by international law and national constitutions; according to which equality and non-discrimination should be promoted, whilst freedom of expression should be guaranteed;

4. Notes that such laws present a major obstacle in the fight against HIV, AIDS and discrimination, and contributes towards a climate of extreme homophobia and discrimination;
5. Calls on the President of Uganda to refrain from signing the ‘Anti-Homosexuality Bill’ into law; reminds the Ugandan government of its obligations under international law and under the Cotonou agreement which calls for universal human rights to be respected;
6. Calls on the President of Nigeria to refrain from signing the ‘Same-Sex Marriage (Prohibition) Bill’ into law;
7. Calls on the Parliament of the Democratic Republic of Congo to dismiss the private Member’s bill to criminalise homosexuality, and remain a regional example in this regard;
8. 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;
9. Welcomes the Indian government’s initiative to ask the Supreme Court to review its ruling because it violates the constitutional principle of equality; calls on the Parliament to abolish Section 377 should the Supreme Court fail to review its ruling;
10. Calls on the Council, Commission, the External Action Service and Member States to make urgent representations to the authorities of Uganda, India, Nigeria, the Democratic Republic of Congo to express their opposition to these three laws in the strongest terms, and asks that the Commission, the External Action Service and Member States to lend all possible assistance to NGO's and human rights defenders;
11. Instructs its President to forward this resolution to the Commission, the Council, the External Action Service, Member States, the national governments and parliaments of Uganda, Nigeria, the Democratic Republic of Congo and India, and the Presidents of Uganda and Nigeria.