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*Plenary sitting*

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**B9-0219/2023**

18.4.2023

## **MOTION FOR A RESOLUTION**

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

pursuant to Rule 132(2) of the Rules of Procedure

on the universal decriminalisation of homosexuality in the light of recent  
developments in Uganda  
(2023/2643(RSP))

**Malin Björk**

on behalf of The Left Group

**B9-0219/2023**

**European Parliament resolution on the universal decriminalisation of homosexuality in the light of recent developments in Uganda (2023/2643(RSP))**

*The European Parliament,*

- having regard to the Treaty on European Union (TEU), in particular Articles 21 and 26 thereof,
- having regard to the Universal Declaration of Human Rights, the United Nations Charter (UN Charter) and the International Covenant on Civil and Political Rights (ICCPR),
- having regard to the African Charter on Human and Peoples' Rights, in particular Articles 1 to 4 thereof,
- having regard to the 1995 Constitution of Uganda,
- having regard to the 'EU Guidelines on Death Penalty', adopted on 12 April 2013,
- having regard to the EU Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons adopted on 24 June 2013,
- having regard to the EU Human Rights Guidelines on Non-Discrimination in External Action, adopted on 18 March 2019,
- having regard to the Guidelines on EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – 2019 Revision of the Guidelines, adopted on 16 September 2019,
- having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 March 2020 entitled 'EU Action Plan on Human Rights and Democracy 2020-2024' (JOIN(2020)0005),
- having regard to the Commission communication of 12 November 2020 entitled 'Union of Equality: LGBTIQ Equality Strategy 2020-2025' (COM(2020)0698),
- having regard to the Diversity and Inclusion Agenda in the EEAS 2023-2025, adopted on 6 March 2023,
- having regard to its resolution of 24 October 2019 on the situation of LGBTI people in Uganda<sup>1</sup>,
- having regard to its resolution of 20 January 2021 on human rights and democracy in

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<sup>1</sup> OJ C 202, 28.5.2021, p. 54.

- the world and the European Union’s policy on the matter – annual report 2019<sup>2</sup>,
- having regard to its resolution of 11 February 2021 on the political situation in Uganda<sup>3</sup>,
  - having regard to its recommendation of 9 June 2021 to the Council on the 75th and 76th sessions of the United Nations General Assembly<sup>4</sup>,
  - having regard to its resolution of 17 February 2022 on human rights and democracy in the world and the European Union’s policy on the matter – annual report 2021<sup>5</sup>,
  - having regard to its resolution of 5 May 2022 on threats to stability, security and democracy in Western and Sahelian Africa<sup>6</sup>,
  - having regard to Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses<sup>7</sup>,
  - having regard to the Ugandan ‘Anti-Homosexuality’ Bill of 21 March 2023,
  - having regard to the statement by UN High Commissioner for Human Rights, Volker Türk, of 22 March 2023 entitled ‘Uganda: Türk urges President not to sign shocking anti-homosexuality bill’,
  - having regard to the statement by the European External Action Service (EEAS) Spokesperson of 22 March 2023 entitled ‘Uganda: Statement by the Spokesperson on the adoption of the anti-homosexuality bill’,
  - having regard to the statement by UN independent experts of 29 March 2023 entitled ‘Uganda: UN experts condemn egregious anti-LGBT legislation’,
  - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas over the past 30 years, 49 UN member states have decriminalised consensual same-sex sexual acts<sup>8</sup>; whereas, however, laws criminalising being gay remain a reality in one third of countries worldwide; whereas being LGBTIQ continues to be illegal in 64 UN member states; whereas in Brunei, Iran, Mauritania, Nigeria, Saudi Arabia and Yemen the death penalty is imposed across the country for consensual same-sex sexual acts; whereas there is no full legal certainty in a further five, and the death penalty is a possibility in Afghanistan, Pakistan, Qatar, Somalia and the United Arab Emirates;
- B. whereas the Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights, without distinction of any kind; whereas since 2010, combating discrimination against LGBTIQ people has been a priority of the UN, in particular the decriminalisation of homosexuality; whereas in order to address this

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<sup>2</sup> OJ C 456, 10.11.2021, p. 94.

<sup>3</sup> OJ C 465, 17.11.2021, p. 154.

<sup>4</sup> OJ C 67, 8.2.2022, p. 150.

<sup>5</sup> OJ C 342, 6.9.2022, p. 191.

<sup>6</sup> OJ C 465, 6.12.2022, p. 137.

<sup>7</sup> OJ L 410 I, 7.12.2020, p. 1.

<sup>8</sup> <https://ilga.org/ilga-world-database-launch-key-data-lgbti>.

concern, the UN Human Rights Council (HRC) created the mandate of Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity in June 2016 under Resolution 32/2; whereas the mandate was renewed in June 2019 under Resolution 41/18 and in July 2022 under Resolution 50/10;

- C. whereas the African Charter on Human and Peoples' Rights stipulates that 'every individual shall be entitled to the enjoyment of rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind' (Article 2), that 'every individual shall be equal before the law' and 'every individual shall be entitled to equal protection of the law' (Article 3) and that 'Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may arbitrarily be deprived of this right' (Article 4);
- D. whereas on 21 March 2023, the Ugandan Parliament adopted the 'Anti-Homosexuality Bill' (hereinafter 'the Bill'); whereas the Bill proposes the application of the death penalty for the offence of 'aggravated homosexuality', life imprisonment for the offence of 'homosexuality', up to 14 years in prison for 'attempted homosexuality' and up to 20 years in prison for 'promoting homosexuality'; whereas the latter includes the complete censorship of LGBTIQ issues, including civil society organisations (CSOs) undertaking human rights-based advocacy work;
- E. whereas previous iterations of similar bills banning the promotion of homosexuality and homosexual acts were already proposed in 2009, 2012, 2013 and 2014, signalling a propensity for the systematic scapegoating of LGBTIQ people and their instrumentalisation as political opponents; whereas politicians and religious leaders have played a pivotal role in inciting hateful rhetoric against LGBTIQ persons in Uganda; whereas an increase in verbal and physical violence is already being witnessed as a result of the adoption of the Bill;
- F. whereas the UN High Commissioner for Human Rights, Volker Türk, has called on President Museveni not to promulgate the law immediately after its adoption by the Parliament, claiming that it could 'provide carte blanche for the systematic violation of nearly all of [LGBTIQ persons'] human rights and serve to incite people against each other'; whereas he claimed that 'the bill confuses consensual and non-consensual relations', that it is a 'massive distraction from taking the necessary action to end sexual violence' and that it 'conflict[s] with Uganda's own constitutional provisions' and 'runs counter to the country's international legal obligations on human rights and political commitments on sustainable development, and actively puts people's rights, health and safety at grave risk'; whereas the UN High Commissioner's comments were backed by 28 UN Experts, who clarified that the imposition of the death penalty based on such legislation is per se an arbitrary killing and a breach of Article 6 of the ICCPR;
- G. whereas President Museveni has made inflammatory statements such as those claiming that 'homosexuals are deviations from the normal' and that 'the West' sought to compel other countries to 'normalise deviations';
- H. whereas different sexualities and gender identities have traditionally existed in many African cultures; whereas the anti-LGBTIQ legislation in the continent has its roots in the colonial era; whereas the hateful rhetoric spread in Uganda and other Africa

countries is fuelled by Western actors;

- I. whereas the EEAS reacted to the adoption of the Bill by means of a statement of the Spokesperson, yet to date, no official reaction from the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) has been published;
- J. whereas, as stipulated by Article 21 TEU, the Union's action on the international scene shall be guided by the principles of development, democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law;
- K. whereas the decriminalisation of consensual same-sex sexual adult relations has been a standard call by Parliament in numerous foreign policy texts and constitutes agreed language; whereas on numerous occasions, Parliament has called on non-EU countries to move towards decriminalisation as a way to ensure the indivisibility and exercise of all human rights by all LGBTIQ persons; whereas the application of the death penalty as a way to punish or sanction LGBTIQ persons has been unequivocally deplored;
- L. whereas the EU has adopted clear guidelines on the death penalty, LGBTIQ persons, gender equality, women's rights, non-discrimination in external action and on torture and other cruel, inhuman or degrading treatment or punishment; whereas these guidelines set out strong and unequivocal opposition to the death penalty and torture and other ill treatment at all times and in all circumstances<sup>9</sup> and further reiterate that the criminalisation of consensual same-sex adult relations is contrary to international human rights law and is in violation of the human rights of LGBTIQ persons<sup>10</sup>; whereas the guidelines on LGBTIQ persons specifically stipulate obligations for EEAS heads of mission on reporting on the situation of LGBTIQ persons and raising the issue in political dialogues; whereas they also require support for civil society and the use of international mechanisms, among others;
- M. whereas the EU allocated EUR 30 million in humanitarian aid to Uganda days after the adoption of Bill, on 28 March 2023<sup>11</sup>;

### ***Recent developments in Uganda***

- 1. Condemns in the strongest possible terms the adoption of the so-called Anti-Homosexuality Bill by the Ugandan Parliament and reiterates its strong opposition to all forms of discrimination based on sexual orientation or gender identity, as well as any violence towards LGBTIQ people; considers that its adoption is in stark violation of the Ugandan Constitution and Uganda's international obligations arising from the African Charter and the UN international law architecture, such as the Universal Declaration of Human Rights, the ICCPR and the UN Charter; categorically rejects the use of the death penalty under any circumstance; endorses the statement by High Commissioner for

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<sup>9</sup> <https://data.consilium.europa.eu/doc/document/ST-8416-2013-INIT/en/pdf>.  
<https://www.consilium.europa.eu/media/40644/guidelines-st12107-en19.pdf>.

<sup>10</sup> [https://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/137584.pdf](https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf).

<sup>11</sup> [https://www.eas.europa.eu/delegations/uganda/eu-allocates-uganda-e30-million-humanitarian-aid\\_en?s=127](https://www.eas.europa.eu/delegations/uganda/eu-allocates-uganda-e30-million-humanitarian-aid_en?s=127).

Human Rights, Volker Türk, and urges President Museveni to withdraw this law;

2. Is alarmed by the fact that only two among 389 legislators voted against the Bill; deplores the comments by President Museveni, who has further contributed to the hateful rhetoric about LGBTIQ persons; is concerned about the number of politicians, religious leaders and media representatives who have instigated hatred; considers that the instrumentalisation of LGBTIQ people by the majority of Ugandan politicians constitutes a grave development affecting the principles of democracy, the rule of law and respect for internationally recognised human rights;
3. Is concerned by reports that in February alone, over 110 LGBTIQ people in Uganda reported incidents to the Sexual Minorities Uganda (SMUG) CSO, including arrests, sexual violence, evictions and public undressing; notes with concern that transgender persons are disproportionately affected by this phenomenon<sup>12</sup>; recalls further that sexual violence against women and girls is widespread in Uganda and that there is a correlation between hatred and violence directed towards LGBTIQ people and violence against women and the lack of gender equality;
4. Is concerned that the Bill exacerbates the stigma, harassment and discrimination, as well as the potential violence, that LGBTIQ people and human rights defenders (HRDs) may face following recent developments, in particular when doing their work or trying to access social services such as housing, education or healthcare; considers that the increasing risk faced by HRDs who advocate for rights is a particular reason for concern;
5. Considers that the inflammatory rhetoric and disinformation propagated by religious leaders, the media and politicians contribute to an overall climate of repression against LGBTIQ persons and their families and friends, who are forced to self-censor in order not to become victims of violence; believes that the same rhetoric promotes a climate of surveillance allowing the systematic violation of human rights, such as the right to privacy, to enjoy protection from state authorities and to be free from discrimination;
6. Recalls that Uganda has been a trailblazer in the fights against HIV and its associated stigma; recalls that the prevalence of HIV in men who have sex with men in 2021 was 12.7 %<sup>13</sup>; notes with concern that HIV prevalence is significantly higher than for heterosexual men and above the national average; is therefore extremely concerned that the Bill would criminalise people with HIV; considers that such provisions serve only to further stigmatise HIV testing, tracing and prevention efforts, running counter to the goal of eradicating HIV and potentially rendering any HIV life-saving programme illegal, as it could constitute ‘promotion of homosexuality’;
7. Expresses concern about the adoption of so-called anti-gay propaganda bills in some countries, which contribute to a culture of intolerance and discrimination, and sounds the alarm about the way in which such laws can have a spillover effect in other countries, paving the way for the adoption of more severe measures, such as the

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<sup>12</sup> <https://www.theguardian.com/world/2023/mar/21/ugandan-mps-pass-bill-imposing-death-penalty-homosexuality>.

<sup>13</sup> Data from UNAIDS 2021 Uganda country situation, <https://www.unaids.org/en/regionscountries/countries/uganda>.

criminalisation of same-sex sexual relations and other aspects of sexual orientation, gender identity and expression, and sex characteristics;

### ***The situation of decriminalisation in the world***

8. Recalls that the EU has adopted clear foreign policy guidelines concerning the application of the death penalty and the protection of LGBTIQ persons, women's rights and gender equality, as well as the application of the principle of non-discrimination in external action and the prevention of torture and other ill treatment; considers that the pursuit of international decriminalisation in international forums is not only a moral imperative but also an international human rights necessity;
9. Recalls that the Commission's LGBTIQ Equality Strategy, together with the EU Action Plans on Human Rights and Democracy, commit the Union to stepping up actions to actively condemn and combat discriminatory laws, policies and practices, including the criminalisation of consensual same-sex relations<sup>14</sup>;
10. Highlights the positive international trend towards decriminalisation, with 49 UN member states undertaking legal reform in the last 30 years, in particular Mozambique in 2015, Belize and Seychelles in 2016, Trinidad and Tobago and India in 2018, Botswana in 2019, Gabon in 2020, Angola and Bhutan in 2021, Antigua and Barbuda, Singapore and Barbados in 2022<sup>15</sup>; recalls, nevertheless, that there are also countries where laws criminalising such conduct have been tightened or reintroduced, such as Chad, Brunei, Nigeria and, lastly, Uganda, which highlights the need for a universal movement advocating decriminalisation; recalls that UN bodies have already ruled against criminalisation (in the HRC, in *Toonen v Australia*, 1994<sup>16</sup>; in the Committee on the Elimination of Discrimination against Women, in *Rosanna Flamer-Caldera v Sri Lanka*, 2022<sup>17</sup>);
11. Recalls that the promotion of the Sustainable Development Goals (SDGs) is a responsibility of the 191 UN member states which signed up to them, Uganda included, and that they must serve the goal of 'leaving no one behind'; acknowledges the inherent link between respect for LGBTIQ persons' human rights and the SDGs, and understands that any discriminatory practice, particularly one which envisages the death penalty, is in radical opposition to these goals;

### ***Calls for action***

12. Calls on President Museveni not to promulgate the Bill and to categorically reject his assent to any future similar initiative, dissuading further attempts in this direction; calls on the President to promote the principles of tolerance, acceptance and respect for internationally recognised human rights;
13. Calls on the Ugandan authorities to investigate, prosecute and sanction all hate-based

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<sup>14</sup> EU Action Plan on Human Rights and Democracy, 1.1.

<sup>15</sup> <https://www.humandignitytrust.org/lgbt-the-law/a-history-of-criminalisation/>.

<sup>16</sup> <http://hrlibrary.umn.edu/undocs/html/vws488.htm>, 8.4-11.

<sup>17</sup> <https://www.humandignitytrust.org/wp-content/uploads/resources/CEDAW-C-81-D-134-2018-English-clean-copy.pdf>, 11 (i).



attacks against individuals and organisations as a result of the adoption of the Bill, and to stop any retaliatory actions against CSOs involved in human rights and LGBTIQ advocacy, such as raids and the blocking of bank accounts, as the latter are crucial to providing community-based services;

14. Calls on European and other Western actors active in Uganda to immediately end the dissemination of hateful anti-LGBTIQ propaganda;
15. Regrets the fact that the VP/HR has to date not reacted to the Bill in a personal capacity, merely through his spokesperson; considers that the gravity of the situation, which includes resort to the death penalty in some cases, warrants a stronger institutional response and calls on the VP/HR to deliver it;
16. Calls on the Council and the EEAS to categorically implement the applicable EU Guidelines, including the need for the Delegation to Uganda to report thoroughly on the situation, as well as to provide support to civil society and HRDs, and promote the use by the Council of international mechanisms in accordance with the guidelines;
17. Calls on the VP/HR, the Special Representative for Human Rights and the EEAS Ambassador for Gender and Diversity, together with the EU Delegation to Uganda, to follow the situation closely and explore potential EU actions, in accordance with the EEAS Inclusion and Diversity Agenda; insists that Parliament should be kept informed of the steps undertaken, including on support to CSOs and HRDs;
18. Recalls its position on the EU Guidelines on Human Rights Defenders<sup>18</sup>, and calls on the EEAS to increase its efforts in ensuring that Ugandan HRDs have access to funding, support, protection, relocation, visas and shelter, when appropriate;
19. Acknowledges that the third cycle of the Universal Periodic Review (UPR), during which Uganda was reviewed, has ended, and notes that the UPR addressed the criminalisation of LGBTIQ persons; calls for the EU to make a submission in the upcoming UPR on Uganda, reflecting the developments concerning LGTBIQ persons; calls for the EU to take a more proactive approach in making submissions to States that continue to criminalise LGTBIQ persons, calling for such laws to be repealed;
20. Calls for the EU to review its trade relationships under the Generalised Scheme of Preferences, in order to increase pressure on the government to respect the lives and human rights of LGBTIQ people;
21. Calls on the Commission, under the leadership of the VP/HR, to devise a set of human rights-oriented actions to limit or end current or future economic relations with non-EU countries that continue to criminalise homosexuality, particularly where the use of the death penalty is prescribed;
22. Calls for the EU to pursue actions in all relevant political and diplomatic forums for the universal decriminalisation of consensual same-sex sexual acts in order to ensure the enjoyment of all human rights by LGBTIQ persons; invites the EU to create a broad coalition of the willing with the international community for these endeavours, focused

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<sup>18</sup> Texts adopted, P9\_TA(2023)0086.



on international instruments such as the ICCPR, the UN Charter and UN General Assembly resolutions in this matter<sup>19</sup>, the landmark decisions of the HRC and the Committee on the Elimination of Discrimination against Women, as well as the reports of the UN Independent Expert on Sexual Orientation and Gender Identity<sup>20</sup>; recalls that actions can also be pursued at the United Nations through active engagement with UN mechanisms and bodies, including through cooperating more actively with other Independent Experts; recalls that the UPR should be used adequately in this regard;

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23. Instructs its President to forward this resolution to the governments and parliaments of the Member States, the Council, the Commission, the European External Action Service, the EU Delegation to Uganda and to the President, Government and Parliament of Uganda.

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<sup>19</sup> <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/resolutions-sexual-orientation-gender-identity-and-sex-characteristics>.

<sup>20</sup> <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/annual-thematic-reports>.