



Plenary sitting

B9-0222/2023

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))

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on behalf of the S&D Group

**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, in particular Articles 21 and 26 thereof,
- having regard to its resolution of 24 October 2019 on the situation of LGBTI people in Uganda¹,
- having regard to its resolution of 11 February 2021 on the political situation in Uganda²,
- having regard to its resolution of 5 May 2022 on threats to stability, security and democracy in Western and Sahelian Africa³,
- having regard to its resolution of 16 March 2023 on the EU Guidelines on Human Rights Defenders⁴,
- having regard to the Ugandan Anti-Homosexuality Bill of 21 March 2023,
- having regard to the Universal Declaration of Human Rights of 10 December 1948, of which Uganda is a signatory,
- having regard to the 1995 Constitution of Uganda,
- having regard to African Charter on Human and People's Rights, in particular Articles 1 to 4 thereof,
- having regard to 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 to the human rights clauses and commitments contained therein, particularly Articles 8(4), 9, 31a(e) and 96 thereof, as well as Article 65(2) and 65(5) of the post-Cotonou agreement,
- having regard to the European External Action Service (EEAS) spokesperson's statement on the adoption of the Ugandan anti-homosexuality bill,
- having regard to the EU Guidelines on the 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

¹ OJ C 202, 28.5.2021, p. 54.

² OJ C 465, 17.11.2021, p. 154.

³ OJ C 465, 6.12.2022, p. 137.

⁴ Texts adopted: P9_TA(2023)0086.

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 Commission’s joint communication to the European Parliament and the Council 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 the EU’s new Action Plan on Gender Equality and Women’s Empowerment in External Relations 2020–2025,
 - having regard to the statement by UN High Commissioner Volker Türk of 22 March 2023 entitled ‘Uganda: Türk urges President not to sign shocking 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 all human beings are born free and equal in dignity and rights; whereas all states have an obligation to prevent discrimination based on any grounds, such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;
- B. whereas the EU has adopted clear guidelines on the death penalty, LGBTI persons, non-discrimination in external action and on torture and other cruel, inhuman or degrading treatment or punishment; whereas these guidelines express strong and unequivocal opposition to the death penalty and to torture and other ill-treatment at all times and in all circumstances⁵ and furthermore restate 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 LGBTI persons⁶; whereas the guidelines on LGBTI persons specifically stipulate obligations for EEAS heads of mission on reporting on the situation of LGBTI persons and raising the issue in political dialogues; whereas they also require providing

⁵ <https://data.consilium.europa.eu/doc/document/ST-8416-2013-INIT/en/pdf>,
<https://www.consilium.europa.eu/media/40644/guidelines-st12107-en19.pdf>

⁶ https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf

support to civil society and the use of international mechanisms, among others;

- C. 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 Ugandan Parliament, claiming that it could ‘provide carte blanche for the systematic violation of nearly all of [LGBTI 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’, 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 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 International Covenant on Civil and Political Rights (ICCPR);
- D. 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 Parliament has unequivocally deplored the death penalty as a way to punish or sanction LGBTIQ+ persons and has called for its abolition;
- E. 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);
- F. whereas previous iterations of similar bills banning the promotion of homosexuality and homosexual acts were already proposed in 2009, 2012, 2013 and 2014, proving 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;
- G. whereas, on 21 March 2023, the unicameral Parliament of Uganda passed its Anti-Homosexuality Bill, as amended in its Committee on Legal and Parliamentary Affairs, through an expedited procedure; whereas while purporting to ‘protect the traditional family’, the Anti-Homosexuality Bill would constitute one of the harshest instances of anti-LGBTIQ+ legislation in the world if signed into law;
- H. whereas, under the Bill, the ‘offence of homosexuality’ is punishable upon conviction by life imprisonment and attempted same-sex conduct by a sentence not exceeding seven years;

- I. whereas, under a particularly egregious provision in the Bill, a person convicted of ‘aggravated homosexuality’ may be subject to capital punishment; whereas the definition of ‘aggravated homosexuality’ includes repeated same-sex relations with a person over the age of 75 or living with a disability; whereas attempted ‘aggravated homosexuality’ is punishable by a maximum prison sentence of 14 years;
- J. whereas, through its deliberate failure to distinguish between consensual and non-consensual relations in Clause 6, the Bill perpetuates false and particularly harmful narratives about LGBTIQ+ persons which is likely to result in their further societal marginalisation; whereas the Bill’s attempted elimination of LGBTIQ+ persons from public life is likely to reverse progress made in the fight against HIV/AIDS;
- K. whereas, as the Bill provides for the punishment of the owners, occupiers or managers of premises in which an offence under the Bill may have taken place by imprisonment of up to one year, its enactment will further limit LGBTIQ+ persons’ ability to find housing;
- L. whereas under the Bill, individuals performing, attending or in any other way involved in a wedding between persons of the same gender would be liable to imprisonment of up to 10 years;
- M. whereas individuals with knowledge or harbouring a reasonable suspicion that persons, including family members and friends, are engaging in same-sex relations have a duty to report such homosexual acts to the police on penalty of a fine or six months’ imprisonment; whereas this and other provisions will heighten fear of association with persons known or considered to belong to the LGBTIQ+ community, thereby increasing the latter’s social isolation and fostering an environment of suspicion, discrimination and violence;
- N. whereas in the weeks before the debate on this proposed legislation, anti-LGBTIQ+ sentiment in Uganda was stirred up by public anti-gay comments, among others by Uganda’s President Yoweri Museveni, which has led to numerous violent attacks on LGBTIQ+ activists as well as on people identifying as LGBTIQ+;
- O. whereas the EU allocated EUR 30 million in humanitarian aid to Uganda days after the adoption of Bill on 28 March 2023⁷;
- P. whereas the situation in Uganda has had a negative effective in the region, with Kenya and Tanzania tabling similar bills;
- 1. Strongly condemns this extremely repressive Bill and considers that its adoption is in flagrant violation of the Ugandan Constitution and Uganda’s international obligations under the African Charter and the UN international law architecture, such as the Universal Declaration of Human Rights, the ICCP and the UN Charter; categorically rejects the use of the death penalty under any circumstances; reiterates its strong opposition to all forms of discrimination based on sexual orientation or gender identity, as well as to any violence towards LGBTIQ+ people;

⁷ https://www.eeas.europa.eu/delegations/uganda/eu-allocates-uganda-€30-million-humanitarian-aid_en?s=127.

2. Calls on Ugandan President Yoweri Museveni to exercise his veto power and reject the Anti-Homosexuality Bill, 2023; recalls that the EU Global Human Rights Sanction Regime allows the EU to target individuals, entities and bodies responsible for, involved in or associated with serious human rights violations and abuses worldwide; considers the Anti-Homosexuality Bill 2023 and any implementation measures justifying the punishment, imprisonment or even the death penalty for being identified as LGBTIQ+ as serious breaches of human rights;
3. Strongly condemns Ugandan politicians' rhetoric inciting hatred and crackdowns on LGBTIQ+ persons and organisations, as it is devastating and deeply disturbing; is alarmed by the fact that only 2 out of 389 legislators voted against the Bill; deplores the comments by President Museveni, who has further contributed to the hateful rhetoric about LGBTIQ+ persons;
4. Is concerned by reports that in February alone, over 110 LGBTIQ+ people in Uganda reported incidents to the Sexual Minorities Uganda (SMUG) civil society organisation (CSO), including arrests, sexual violence, evictions and public undressing; notes with concern that transgender persons are disproportionately affected by this phenomenon⁸;
5. 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 risks faced by HRDs who advocate for rights is a particular reason for concern;
6. Considers that the inflammatory rhetoric and disinformation propagated by religious leaders, 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;
7. Recalls that Uganda has been a trailblazer in the fights against HIV and its associated stigma; recalls that the prevalence of HIV among men who have sex with men in 2021 was 12.7 %⁹; notes with concern that HIV prevalence among this group 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 life-saving HIV programme illegal as it could constitute 'promotion of homosexuality';
8. Deeply deplores the violent attacks and arrests already made in the run-up to the adoption of the Anti-Homosexuality Bill;
9. Calls on President Museveni to re-establish the protection of basic human rights of people identifying as LGBTIQ+ in Uganda and to guarantee their safety from any type

⁸ <https://www.theguardian.com/world/2023/mar/21/ugandan-mps-pass-bill-imposing-death-penalty-homosexuality>.

⁹ Data from UNAIDS 2021 Uganda country situation, <https://www.unaids.org/en/regionscountries/countries/uganda>.

of persecution;

10. Notes that signing this Bill into law would require immediate action under the essential elements clause of the Cotonou Agreement or the Post-Cotonou Agreement depending on the timing; calls on the Commission to immediately review how the Bill conflicts with human rights commitments in all agreements with Uganda;
11. Urges the Commission to target its cooperation and support on strengthening the capacity of Ugandan LGBTIQ+ organisations and other organisations working on the upholding and strengthening of human rights; calls on the EEAS, EU delegation and Member State embassies to support community members, partners and allies, by means of a targeted LGBTIQ+ support package and to engage with the Ugandan authorities and civil society to ensure that all individuals, regardless of their sexual orientation and gender identity, are treated equally, with dignity and respect and to raise this through all diplomatic channels;
12. Calls on the EU Member States to grant asylum to people who are the victims of persecution due to their LGBTIQ+ identity;
13. Calls on the Council to consider reacting to the human rights violation that the Bill constitutes with sanctions under the EU Global Human Rights Sanctions Regime;
14. Calls on the Ugandan authorities to investigate, prosecute and sanction all hate-based 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;
15. Recalls the Parliament's position on the EU Guidelines on Human Rights Defenders, and calls on the EEAS to step up its efforts to ensure that Ugandan HRDs have access to funding, support, protection, relocation, visas and shelter, when appropriate;
16. 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+ persons¹⁰; calls for the EU to make a submission in the upcoming UPR on Uganda reflecting developments affecting LGTBIQ+ persons; calls for the EU to become more proactive in making submissions to States that continue to criminalise calling for repealing such laws;
17. Urges the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to swiftly engage with the President and Parliament of the Republic of Uganda, LGBTIQ+ activists and the Ugandan authorities in order obtain unfettered access to the country;
18. Recalls that the Commission's LGBTIQ+ Equality Strategy, together with the EU Action Plans on Human Rights and Democracy, commit the Union to step up actions to actively condemn and combat discriminatory laws, policies and practices, including the

¹⁰ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/319/74/PDF/G2131974.pdf?OpenElement>, ¶22.

criminalisation of consensual same-sex relations¹¹;

19. Recalls that the EU has adopted clear foreign policy guidelines concerning the application of the death penalty and the protection of LGBTIQ+ persons, as well as the application of the principle of non-discrimination in external action and the prevention from 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;
20. 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 2022¹²; 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 Human Rights Council (HRC) in *Toonen v Australia*, 1994¹³ and in the Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW) in *Rosanna Flamer-Caldera v Sri Lanka*, 2022¹⁴;
21. Calls for the issue of decriminalisation of consensual same-sex sexual acts and of diverse gender identities to be put at the core of future discussions in EU-AU summits;
22. 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;
23. 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 on international instruments such as the ICCPR, UN Charter and UN General Assembly resolutions in this matter¹⁵, the landmark decisions of the HRC and CEDAW, as well as the reports of the UN Independent Expert on Sexual Orientation and Gender Identity¹⁶; 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

¹¹ EU Action Plan on Human Rights and Democracy, 1.1.1.

¹² <https://www.humandignitytrust.org/lgbt-the-law/a-history-of-criminalisation/>

¹³ <http://hrlibrary.umn.edu/undocs/html/vws488.htm>, 8.4-11.

¹⁴ <https://www.humandignitytrust.org/wp-content/uploads/resources/CEDAW-C-81-D-134-2018-English-clean-copy.pdf>, 11(i).

¹⁵ <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/resolutions-sexual-orientation-gender-identity-and-sex-characteristics>

¹⁶ <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/annual-thematic-reports>

other independent experts; recalls that the UPR should be used properly in this regard;

24. Urges EU- and African leaders to put the issue of criminalising people who identify as members of the LGBTIQ+ community at the core of future discussions in future EU-AU summits; calls on South Africa, which leads by example on LGBTIQ+ rights to be at the forefront of discussions in order to develop a LGBTIQ+ friendly environment in Africa;
25. Instructs its President to forward this resolution to the Commission, the Council, the European External Action Service, the Member States and the President, Government and Parliament of Uganda.