



Plenary sitting

B9-0223/2023

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 Renew 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 Universal Declaration of Human Rights,
- having regard to the African Charter on Human and Peoples' Rights,
- having regard to the American Convention on Human Rights,
- having regard to the European Convention on Human Rights,
- having regard to the International Covenant on Civil and Political Rights,
- having regard to the resolution on protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity, adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola from 28 April to 12 May 2014,
- having regard to the joint statement signed by 85 countries at the UN Human Rights Council of 22 March 2011 on ending acts of violence and related human rights violations based on sexual orientation and gender identity,
- having regard to the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity,
- having regard to the report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity of 11 May 2018,
- having regard to the work of the UN LGBTI Core Group, in particular its statement of 19 March 2023 calling on the UN Security Council to better integrate LGBTIQ human rights into its international peace and security mandate,
- 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 EU Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, adopted by the Foreign Affairs Council on 24 June 2013,
- having regard to the EU Guidelines on Death Penalty, adopted by the Council on 12 April 2013,
- having regard to the Treaty on European Union (TEU), in particular Article 21 thereof,
- having regard to the 2023-2025 inclusion and diversity agenda in the European External

Action Service, adopted on 6 March 2023,

- having regard to the Ugandan Anti-Homosexuality Bill of 21 March 2023,
 - having regard to the statement of the UN High Commissioner for Human Rights, Volker Türk, of 22 March 2023;
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Universal Declaration of Human Rights upholds the inherent dignity and equal rights of all human beings, including the inalienable right to life, liberty and privacy;
- B. whereas the African Charter on Human and Peoples' Rights protects the right of every individual to have their dignity and right to liberty respected, and prohibits cruel, inhuman or degrading punishment and treatment;
- C. whereas the International Covenant on Civil and Political Rights recognises the right to life as a fundamental human right and explicitly states that the death penalty should not be imposed for non-violent offences or for crimes committed by individuals who were under the age of 18 at the time of the offence;
- D. whereas 61 countries around the globe – mainly in Africa, the Middle East and Asia – criminalise homosexuality and transgender identity by law; whereas two additional countries de facto criminalise it; whereas in Qatar, Saudi Arabia, Afghanistan, Iran, Yemen, Somalia, the United Arab Emirates, Brunei, northern Nigeria, Mauritania and Pakistan, the penalty for homosexual acts is death;
- E. whereas laws that criminalise consensual same-sex sexual activity violate fundamental and internationally protected human rights;
- F. whereas there is a global movement towards decriminalising homosexuality and transgender identities, as the number of countries that criminalise consensual same-sex acts has decreased from 113 in 1990 to 64 in 2023; whereas this movement is being fuelled by an increasing realisation that laws that criminalise homosexuality and transgender identity are discriminatory and violate fundamental human rights, and that societal progress demands the same rights and opportunities for everyone; whereas this growing momentum offers hope that the world is moving towards a more just and equitable future in which all individuals will be free to express their authentic selves without fear of discrimination or persecution;
- G. 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 undertaking human rights-based advocacy work;
- H. 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; 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;

- I. 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’; whereas he has not yet promulgated the Bill;
- J. whereas in April 2023, the Cook Islands became the latest country to decriminalise homosexuality by amending its Crimes Act; whereas in early 2023, Singapore decriminalised ‘indecent acts between men’ by amending its Penal Code;
- K. whereas in many recent cases, the decriminalisation of homosexuality and transgender identity has resulted from court rulings, such as the Barbadian High Court’s oral ruling of December 2022 and the Eastern Caribbean Supreme Court’s ruling of August 2022;
- L. whereas all EU Member States have repeatedly stated their unwavering opposition to the death penalty at all times and in all circumstances, considering it to be inhuman and degrading treatment and contrary to human dignity; whereas the Member States have committed to advocate tirelessly for the total abolition of capital punishment;
- M. whereas all EU Member States have unambiguously condemned discriminatory laws, policies and practices, including the criminalisation of consenting same-sex relations between adults or of transgender identities; whereas the Member States have called for the EU to work to achieve the decriminalisation of consenting same-sex and transgender adult relations;
- N. whereas Article 21 TEU stipulates that the Union’s ‘action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement’, in particular ‘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’;
- O. whereas the EU’s common foreign and security policy aims to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms;
- P. whereas the European Consensus on Development commits the EU and its Member States to implementing a human rights–based approach to development cooperation, encompassing all human rights;
- Q. whereas the EU’s Everything but Arms (EBA) scheme removes tariffs and quotas for all imports of goods (except arms and ammunition) coming into the EU from the least developed countries; whereas the EU can withdraw EBA preferences for serious and systematic violations of principles laid down in international conventions on fundamental human rights and labour rights, such as systemic human rights abuses;

Recent developments in Uganda

1. Condemns, in the strongest possible terms, the Bill adopted on 21 March 2023 by the Ugandan Parliament, which increases sentences and widens the scope of Uganda's legislation criminalising homosexuality and transgender identity; 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 International Covenant on Civil and Political Rights and the UN Charter;
2. 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; is concerned by the number of politicians, religious leaders and media figures who have instigated hatred; considers that the scapegoating of LGBTIQ people by the majority of the Ugandan political class constitutes a grave development affecting the principles of democracy, the rule of law and respect for internationally recognised human rights; considers that the promulgation of this Bill would inevitably strain relations between the EU and Uganda and would require the EU to re-orient its focus;
3. Expresses its support and admiration for the Ugandan parliamentarians and civil society representatives who had the courage to stand up and publicly speak out against the Bill;
4. Welcomes the statement by the European External Action Service immediately following the Ugandan Parliament's vote, which stated that the EU was 'deeply concerned' by the passing of the Bill; regrets however that Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy Josep Borrell has to date not reacted to the Bill in a personal capacity, merely through his spokesperson; believes that the gravity of the situation warrants a stronger institutional response and merits a reaction at the highest level of EU diplomacy;
5. Recalls that this Bill is only Uganda's latest step on the worrying path it has been following for several years, coming amid a rise in homophobic rhetoric among politicians, religious leaders and other significant figures in Ugandan society, with ever increasing pressure being put on civil society, as well as a rise in state-sponsored anti-LGBTIQ hate speech, which incites hatred and violence against LGBTIQ people in the country; condemns this bigotry, prejudice and discrimination in the 21st century;
6. Is convinced that the signing of the Bill into law would not only further promote discrimination and hate crimes against LGBTIQ people, but could also reverse the progress that the Ugandan Government has made on ending HIV as a public health threat;
7. Strongly deplores and condemns the decision by the Ugandan National Bureau for Non-Governmental Organizations of 5 August 2022 to shut down Sexual Minorities Uganda, the country's leading LGBTIQ rights organisation; gives its unwavering support to Frank Mugisha, the founder and leader of this organisation, who has devoted his life to fighting for LGBTIQ rights in Uganda;

Situation in the world

8. Unambiguously condemns all laws, practices and official positions criminalising

homosexuality, transgender identity or consensual same-sex acts;

9. Considers such laws to be in full opposition to international human rights law and in violation of the human rights of LGBTIQ persons, including the right to life, privacy, liberty, security and health, as well as the freedom of association, assembly and expression; considers that the criminalisation of homosexuality and transgender identity creates an apartheid situation by depriving part of the population of the protection of the State and the law;
10. Insists that, by outlawing their existence, the criminalisation of homosexuality and transgender identity makes LGBTIQ people a target, increases their risk of being blackmailed by the authorities or other citizens and encourages hate speech, hate crimes and discrimination against them; recalls the health risks caused by the criminalisation of homosexuality and transgender identity, as criminalisation prevents community-based health policies and prevents LGBTIQ people from having access to reliable information about their health, in particular about the HIV epidemic;
11. Reiterates its unwavering opposition to the death penalty at all times and in all circumstances; considers it to be an inhuman and degrading treatment that is contrary to human dignity;
12. Welcomes the global trend towards the universal decriminalisation of homosexuality and transgender identity; notes that the number of countries that criminalise homosexuality and transgender identity is at an all-time low; believes, however, that there is a long way to go until universal decriminalisation is achieved and that all means should be used to reach it in the near future;
13. Is worried about the current global anti-gender and anti-LGBTIQ rhetoric and movements, which are fuelled by political and religious leaders around the world, including within the EU; believes that these movements dramatically hinder efforts to achieve the universal decriminalisation of homosexuality and transgender identity, as they legitimise the rhetoric that claims LGBTIQ people are an ideology rather than human beings; strongly condemns the spread of such rhetoric by some influential political leaders in the EU, including governments representatives in Hungary, Poland and Italy;
14. Refutes the narrative developed by political and religious leaders that homosexuality and transgender identity are Western concepts; recalls that most of the laws criminalising homosexuality and transgender identity in the world have their origin in the laws of the Western colonising powers;
15. Refutes the narrative that decriminalising homosexuality and transgender identity would go against fundamental religious principles or hinder the freedom of religion; welcomes, in this regard, the statements made by the Pope on 24 January 2023 affirming that laws criminalising homosexuality and transgender identity are ‘unjust’ and that ‘being homosexual is not a crime’;
16. Praises the work of grassroots human rights-focused civil society organisations around the world, which tirelessly work to protect and defend LGBTIQ people and fight against stigma and prejudice, sometimes at the price of the safety of their members; believes

that the Member States and the EU should support these civil society organisations and activists, including financially;

17. Recalls that protecting the rights of lesbian, gay, bisexual, transgender and intersex people throughout the world is a priority for the EU and that the universal decriminalisation of homosexuality and transgender identity is an objective that the EU should continue to pursue as long as necessary;

Call for action

18. Calls for the universal decriminalisation of homosexuality and transgender identity;
19. Calls for the universal abolishment of the death penalty;
20. Calls on Ugandan President Museveni not to promulgate the Bill and to categorically refuse to give 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 human rights;
21. Urges the 63 Countries that have not yet done so to comply with international law and take all necessary measures, legislative or otherwise, to ensure that sexual orientation and gender identity are no longer the basis for criminal sanctions;
22. Calls on the Commission to use all necessary diplomatic, legal and financial means at its disposal to convince the Ugandan President to refrain from signing the Bill passed by the Ugandan Parliament; insists that decisions taken and sanctions adopted in relation to Uganda should, as a priority, target and affect the political and religious leaders who instigated and supported the Bill;
23. Stresses that the law should not be used to deny Ugandans the right to HIV services and medication and calls on the Ugandan Government to provide better access to these services;
24. Strongly believes that, should the Ugandan President sign the Bill, the conditions would be met for the Commission to withdraw EBA preferences for Uganda in accordance with Article 19 of Regulation (EU) 978/2012¹ on the basis of serious and systemic human rights violations, as it did with Cambodia; calls on the Commission to reinstate tariffs and quotas for all imports of goods from Uganda to the EU until LGBTIQ rights have fundamentally improved according to strict deadlines and follow-up measures; calls on the Commission to make the decriminalisation of homosexuality a requirement for access to the EBA scheme, and to remove other countries that continue to criminalise consensual same-sex sexual acts from the EBA list;
25. Calls for the EU to pursue all relevant political and diplomatic actions to bring about the universal decriminalisation of homosexuality and transgender identity; invites the EU to create a broad coalition of those willing to support these endeavours within the

¹ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

international community focused on international instruments such UN General Assembly resolutions; insists that all EU external policies should be mobilised to achieve this objective, including the common security and foreign policy, trade policy and development aid policy;

26. Invites the Commission to consider including a ‘no backtrack on human rights’ clause in its international partnership agreements, through which a partnership, including its financial aspects, could be suspended if a partner country backtracks on human rights, including by criminalising homosexuality or transgender identity;
27. Calls for the Commission, the EU and its Member States to finalise the reform of the common European asylum system and to ensure the creation of safe and legal asylum pathways, including for LGBTIQ people fleeing countries where they could be put in jail or sentenced to death;
28. Urges the EU, its Member States and international partners to extend financial support to grassroots LGBTIQ and human rights organisations based in countries that criminalise homosexuality and transgender identity; calls on the Commission to establish a dedicated EU fund that offers financial, technical and legal aid to these organisations, as well as to lawyers involved in prosecuting laws in international courts that breach international human rights conventions, charters, and treaties;

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29. Instructs its President to forward this resolution to the governments and parliaments of the Member States, the Council, the Commission, the agencies of the United Nations, the Ugandan authorities and the authorities of the 63 other countries that still criminalise homosexuality and transgender identity, and calls for this resolution to be translated into Swahili.