



12.3.2014

B7-0251/2014 }
B7-0252/2014 }
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JOINT MOTION FOR A RESOLUTION

pursuant to Rules 122(5) and 110(4), of the Rules of Procedure

replacing the motions by the following groups:

ECR (B7-251/2014)
Verts/ALE (B7-0252/2014)
S&D (B7-0253/2014)
ALDE (B7-0255/2014)
PPE (B7-0257/2014)
GUE/NGL (B7-0258/2014)

on launching consultations to suspend Uganda and Nigeria from the Cotonou Agreement in view of recent legislation further criminalising homosexuality (2014/2634(RSP))

Mariya Gabriel, Gay Mitchell, Michèle Striffler, Tunne Kelam, Cristian Dan Preda, Elena Băsescu, Monica Luisa Macovei, Philippe Boulland, Jean Roatta, Petri Sarvamaa, Eija-Riitta Korhola, Sari Essayah, Salvador Sedó i Alabart, Dubravka Šuica, Bogusław Sonik

on behalf of the PPE Group

Véronique De Keyser, Joanna Senyszyn, Tonino Picula, Tanja Fajon, Lidia Joanna Geringer de Oedenberg, Mitro Repo, María Muñoz De Urquiza,

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Richard Howitt, Ana Gomes, Michael Cashman, Liisa Jaakonsaari, Marc Tarabella, Pino Arlacchi, Gianni Pittella, Ricardo Cortés Lastra, Silvia-Adriana Țicău

on behalf of the S&D Group

Marietje Schaake, Sarah Ludford, Louis Michel, Ramon Tremosa i Balcells, Angelika Werthmann, Leonidas Donskis, Ivo Vajgl, Johannes Cornelis van Baalen, Kristiina Ojuland, Izaskun Bilbao Barandica, Phil Bennion

on behalf of the ALDE Group

Ulrike Lunacek, Barbara Lochbihler, Judith Sargentini, Jean Lambert, Raül Romeva i Rueda, Iñaki Irazabalbeitia Fernández, Marije Cornelissen, Jean-Jacob Bicep, Hiltrud Breyer

on behalf of the Verts/ALE Group

Charles Tannock, Marina Yannakoudakis

on behalf of the ECR Group

Marie-Christine Vergiat, Patrick Le Hyaric, Nikola Vuljanić

on behalf of the GUE/NGL Group

European Parliament resolution on launching consultations to suspend Uganda and Nigeria from the Cotonou Agreement in view of recent legislation further criminalising homosexuality (2014/2634(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 Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the African Charter on Human and Peoples' Rights,
- having regard to UN Human Rights Council resolution 17/19 of 17 June 2011 on human rights, sexual orientation and gender identity,
- 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 to the human rights and public health clauses and commitments contained therein, particularly Articles 8(4), 9, 31a(e) and 96,
- having regard to Articles 2, 3(5), 21, 24, 29 and 31 of the Treaty on European Union and Articles 10 and 215 of the Treaty on the Functioning of the European Union, which commit the EU and its Member States, in their relations with the wider world, to upholding and promoting universal human rights and the protection of individuals, and adopting restrictive measures in the event of grave human rights breaches,
- having regard to the Guidelines to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons, adopted by the Council on 24 June 2013,
- having regard to the statement of 15 January 2014 by Catherine Ashton, Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR), expressing her concern about the signing into law in Nigeria of the Same-Sex Marriage (Prohibition) Bill,
- having regard to the statement of 20 December 2013 by the VP/HR on the adoption of the Anti-Homosexuality Bill in Uganda,
- having regard to the statement made by President Obama on 16 February 2014 on the adoption of the Anti-Homosexuality Bill in Uganda and his request for President Museveni not to sign the bill into law;

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- having regard to the statement of 18 February 2014 by the VP/HR on anti-homosexuality legislation in Uganda,
- having regard to the statement of 25 February 2014 by Ban Ki-moon urging the Ugandan authorities to revise or repeal the country’s Anti-Homosexuality Bill;
- having regard to the declaration of 4 March 2014 by the High Representative on behalf of the European Union concerning the Ugandan Anti-Homosexuality Act,
- having regard to its resolution of 5 July 2012 on violence against lesbian women and the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons in Africa¹, to its position of 13 June 2013 on the draft Council decision on the conclusion of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005², and to its resolution of 11 December 2013 on the Annual Report on Human Rights and Democracy in the World 2012 and the European Union’s policy on the matter³,
- having regard to its resolutions of 17 December 2009 on ‘Uganda: anti-homosexual draft legislation’⁴, of 16 December 2010 on ‘Uganda: the so-called ‘Bahati Bill’ and discrimination against the LGBT population’⁵, and of 17 February 2011 on ‘Uganda: the killing of David Kato’⁶,
- having regard to its resolutions of 15 March 2012⁷ and of 4 July 2013⁸ on the situation in Nigeria,
- having regard to its resolution of 16 January 2014 on recent moves to criminalise lesbian, gay, bisexual, transgender and intersex (LGBTI) people⁹,
- having regard to its resolution of 28 September 2011 on human rights, sexual orientation and gender identity at the United Nations¹⁰,
- having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

A. whereas all human beings are born free and equal in dignity and rights; whereas all states

¹ OJ C 349 E, 29.11.2013, p. 88.

² Texts adopted, P7_TA(2013)0273.

³ Texts adopted, P7_TA(2013)0575.

⁴ OJ C 286 E, 22.10.2010, p. 25.

⁵ OJ C 169 E, 15.6.2012, p. 134.

⁶ OJ C 188 E, 28.6.2012, p. 62.

⁷ OJ C 251 E, 31.8.2013, p. 97.

⁸ Texts adopted, P7_TA(2013)0335.

⁹ Texts adopted, P7_TA(2014)0046.

¹⁰ OJ C 56 E, 26.2.2013, p. 100.

have an obligation to prevent violence, incitement to hatred and stigmatisation based on individual characteristics, including sexual orientation, gender identity and gender expression;

- B. whereas the European Union's Common Foreign and Security Policy (CFSP) aims to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms;
- C. whereas as many as 76 countries continue to consider homosexuality a crime, with five countries providing for the death penalty for such crimes;
- D. whereas consensual acts between people of the same sex were already punished with 14 years' imprisonment in Uganda under Section 145 of the Ugandan Penal Code and with seven years' imprisonment in Nigeria under Section 214 of the Nigerian Criminal Code (or the death penalty in the 12 states under Sharia law);
- E. 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, persons keeping a house, room or rooms or a place of any kind for the 'purpose of homosexuality' with 7 years' imprisonment, and 'repeat offenders' or HIV-positive offenders with life imprisonment; whereas the bill was signed into law by President Yoweri Museveni Kaguta of the Republic of Uganda on 24 February 2014;
- F. whereas the Ugandan authorities adopted the Anti-Pornography Act and the Public Order Management Act, which are further attacks on human rights and NGOs defending human rights; whereas this is indicative of the shrinking and deteriorating policy space being experienced by civil society;
- G. whereas on 17 December 2013 the Nigerian Senate adopted the Same-Sex Marriage (Prohibition) Bill, which punishes people in a same-sex relationship with up to 14 years' imprisonment, and people witnessing same-sex marriages or operating or participating in LGBTI bars, organisations or societies with up to 10 years' imprisonment; whereas the bill was signed into law by President Goodluck Jonathan in January 2014;
- H. whereas a number of media outlets, of members of the public, and of political and religious leaders in these countries are increasingly seeking to intimidate LGBTI people, limit their rights and those of NGOs and human rights groups, and legitimise violence against them; whereas shortly after President Museveni signed the bill, a Ugandan tabloid newspaper published a list of names and pictures of 200 Ugandan gays and lesbians, with serious negative consequences for their security situation; whereas the media have reported an increasing number of arrests and violence against LGBTI people in Nigeria;
- I. whereas numerous heads of state and of government, United Nations leaders, government and parliamentary representatives, the EU (including the Council, Parliament, the Commission and the VP /HR) and numerous world figures have sternly condemned laws criminalising LGBTI people;

- J. whereas EU cooperation should support the efforts of ACP states to develop supportive legal and policy frameworks and remove punitive laws, policies and practices, stigma and discrimination that undermine human rights, increase vulnerability to HIV/AIDS and inhibit access to effective HIV/AIDS prevention, treatment, care and support, including medicines, commodities and services, for people living with HIV/AIDS and for the populations most at risk;
- K. whereas UN Aids and the Global Fund to Fight Aids, Tuberculosis and Malaria fear that LGBT people and 3.4 million HIV-infected citizens in Nigeria and Uganda will be denied vital health services, and are demanding that the ‘constitutionality of the laws are urgently reviewed in light of serious public health and human right applications’;
- L. whereas further criminalising consensual activities between adults of the same sex will make it even harder to achieve both the Millennium Development Goals, especially with regard to gender equality and combating disease, and any success in respect of the post-2015 development framework;
- M. whereas a number of Member States, including the Netherlands, Denmark and Sweden, and other countries such as the United States of America and Norway have decided either to withhold aid directed to the Ugandan Government or to redirect aid from government support to civil society support;
- N. whereas under Article 96(1a) of the Cotonou Agreement a consultation procedure may be launched with a view to the suspension of signatories who are in breach of their human rights obligations under Articles 8(4) and 9;
1. Deplores the adoption of new laws that constitute grave threats to the universal rights to life, freedom of expression, of association and assembly, and freedom from torture and cruel, inhuman and degrading treatment; reiterates that sexual orientation and gender identity are matters falling within the remit of individuals’ right to privacy, as guaranteed by international law and national constitutions; underlines the fact that LGBTI equality is an undeniable element of fundamental human rights;
 2. 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;
 3. Calls on the President of Uganda to repeal the Anti-Homosexuality Act, as well as section 145 of the Ugandan Penal Code; calls on the President of Nigeria to repeal the Same-Sex Marriage (Prohibition) Bill, as well as sections 214 and 217 of the Nigerian Penal Code, as they violate international human rights obligations;
 4. Notes that, by signing these laws, the Governments of Uganda and Nigeria failed to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law, referred to in Article 9(2) of the Cotonou Agreement;
 5. Reiterates that these laws fall within the remit of Article 96(1a(b)) of the Cotonou Agreement

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as cases of special urgency, i.e. exceptional cases of particularly serious and flagrant violation of human rights and dignity, as referred to in paragraph 2 of Article 9, which therefore require an immediate reaction;

6. Calls on the Commission, therefore, to engage in a strengthened and urgent political dialogue under Article 8 at local and ministerial level, with a request to open discussion no later than at the EU-Africa Summit and if this yields no result, considers that, in view of the particularly serious and flagrant violation involved, as referred to in paragraph 2 of Article 9, appropriate measures must be taken under Article 96(1a(a)), such as global or partial suspension of Uganda and Nigeria from the ACP-EU Cotonou Agreement on the grounds of grave human rights violations; considers that these measures should be revoked as soon as the reasons for taking them no longer prevail;
7. Urges the Commission and the Member States to review their development cooperation aid strategy with Uganda and Nigeria and to give priority to redirection of aid to civil society and other organisations over suspension – even on a sectoral basis – of aid;
8. Suggests to the African Union that it take the lead and set up an internal committee to look into these laws and issues;
9. Calls on African Union and European Union leaders to put these laws at the heart of the discussions of the 4th Africa-EU Summit, to be held on 2-3 April 2014;
10. Calls on the Member States, or the High Representative with the support of the Commission, to consider targeted sanctions, such as travel and visa bans, for the key individuals responsible for drafting and adopting these two laws;
11. Recalls the CJEU judgment of 7 November 2013 in *X, Y, Z v Minister voor Immigratie en Asiel* (cases C-199-201/12), which stresses that people of a specific sexual orientation targeted by laws criminalising their conduct or identity may constitute a particular social group for the purposes of granting asylum;
12. Regrets the generally increasing social, economic, and political predicament of African nations threatened by religious fundamentalism, which is becoming increasingly pervasive, with dire consequences for the dignity, development and freedom of individuals;
13. Calls on the Commission and the Council to include an explicit mention of non-discrimination based on sexual orientation in any future agreement taking the place of the Cotonou Agreement, as demanded on many occasions by Parliament;
14. Instructs its President to forward this resolution to the Commission, the Council, the European External Action Service, the Member States, the national governments and parliaments of Uganda, Nigeria, the Democratic Republic of Congo and India, and the Presidents of Uganda and Nigeria.