

Sexual orientation and gender identity at the UN Human Rights Council

European Parliament resolution of 28 September 2011 on human rights, sexual orientation and gender identity at the United Nations

The European Parliament,

- having regard to the Universal Declaration of Human Rights, to the European Convention on Human Rights, and to the EU Charter of Fundamental Rights,
- having regard to UN General Assembly Resolution A/RES/60/251 establishing the United Nations Human Rights Council (UNHRC),
- having regard to the Declaration of 16 March 2006 by the Presidency of the Council of the European Union on behalf of the European Union on the establishment of the UNHRC,
- having regard to its resolution of 10 March 2011 on the 16th session of the UNHRC¹,
- having regard to its resolution of 16 December 2010 on Human Rights in the World in 2009 and EU policy on the matter²,
- having regard to previous joint statements and declarations at the United Nations, including the Joint statement on ending acts of violence and related human rights violations based on sexual orientation and gender identity of 22 March 2011 at the Human Rights Council, and the Declaration on Human Rights and Sexual Orientation and Gender Identity of 18 December 2008 at the General Assembly,
- having regard to the UNHRC resolution A/HRC/17/19 of 17 June 2011 on Human rights, sexual orientation and gender identity,
- having regard to the 17th session of the UNHRC, which adopted resolution A/HRC/17/19 on Human rights, sexual orientation and gender identity, and the 19th session of the UNHRC, which will hold the panel discussion mandated by resolution A/HRC/17/19,
- having regard to the Council of Europe Parliamentary Assembly resolution 1728 of 29 April 2010 on Discrimination on the basis of sexual orientation and gender identity, and the Committee of Ministers recommendation CM/Rec(2010)5 of 31 March 2010 on measures to combat discrimination on grounds of sexual orientation or gender identity,
- having regard to the Organization of American States resolution AG/RES. 2653 of 7 June 2011 on Human rights, sexual orientation and gender identity,
- having regard to the report ‘Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity’ by the Fundamental Rights Agency (November 2010),

¹ Texts adopted, P7_TA(2011)0097.

² Texts adopted, P7_TA(2010)0489.

- having regard to Articles 2, 3(5), 18, 21 and 27 of the Treaty on European Union, and Article 10 of the Treaty on the Functioning of the European Union,
 - having regard to the Council of the European Union’s Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People,
 - having regard to the statement by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security on human rights, sexual orientation and gender identity at the United Nations,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas respect for, and the promotion and safeguarding of, the universality of human rights is part of the European Union’s ethical and legal acquis and one of the cornerstones of European unity and integrity;
 - B. whereas numerous human rights violations linked to sexual orientation and gender identity occur daily in the European Union as well as in third countries;
 - C. whereas the European Union and its Member States should guarantee respect for human rights in their own policies and practice, so as to strengthen and make credible the European Union’s position in the UNHRC;
 - D. whereas the European Union attaches paramount importance to universal and indivisible human rights;
 - E. whereas the European Union already includes sexual orientation and gender identity in its work at the United Nations, within regional bodies and some of its bilateral human rights dialogues;
 - F. whereas the UNHRC resolution on Human rights, sexual orientation and gender identity is the first resolution adopted at the United Nations dealing specifically with sexual orientation and gender identity;
 - G. whereas states from all regions, including all EU Member States at the UNHRC, voted in favour of the resolution on Human rights, sexual orientation and gender identity, and 21 EU Member States sponsored the resolution;
 - H. whereas several United Nations human rights treaty bodies, special rapporteurs and agencies, as well as the United Nations Secretary-General and High Commissioner for Human Rights, have expressed grave concerns about human rights violations experienced by LGBT people worldwide;
 - I. whereas other regional institutions, including the Council of Europe and the Organization of American States, recently adopted resolutions condemning human rights abuses on grounds of sexual orientation and gender identity;
1. Reiterates its concern regarding the numerous human rights violations and widespread discrimination based on sexual orientation and gender identity, both in the European Union and in third countries;

2. Acknowledges and supports the work already undertaken by the Human Rights Council, the UN Secretary-General, the High Commissioner for Human Rights, UN human rights treaty bodies, special rapporteurs and other UN agencies to ensure that international human rights standards apply fully, regardless of a person's sexual orientation and gender identity;
3. Welcomes the adoption of resolution A/HRC/17/19 on Human rights, sexual orientation and gender identity by the Human Rights Council;
4. Draws attention to the fact that the resolution was supported by states from all regions and authored by South Africa; reiterates that human rights are universal and indivisible, and apply equally to all regardless of their sexual orientation and gender identity;
5. Supports the organisation of a panel discussion during the 19th session of the Human Rights Council in spring 2012 to have 'constructive, informed and transparent dialogue on the issue of discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity'; takes the view that holding a respectful and open dialogue on human rights, sexual orientation and gender identity among UN Member States from all regions is indispensable;
6. Welcomes the longstanding support of EU Member States and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy for including sexual orientation and gender identity in the work of the Human Rights Council and of other UN bodies, including in the case of earlier joint statements and declarations;
7. Recalls that the Toolkit to Promote and Protect the Enjoyment of all Human Rights by LGBT People of the Working Party on Human Rights of the Council of the European Union mentions the decriminalisation of homosexuality in the world, equality and non-discrimination, and the protection of human rights defenders as key priorities; takes the view that the High Representative, all EU institutions and Member States should uphold these priorities systematically at home and in their foreign relations;
8. Calls on the High Representative and Member States to systematically promote, in partnership with third countries, the protection and respect of human rights in relation to sexual orientation and gender identity at the United Nations and in other multilateral fora, and bilaterally in their human rights dialogues;
9. Encourages Member States to engage constructively, and in partnership with third countries, with the Universal Periodic Review and treaty body procedures to ensure that human rights in relation to sexual orientation and gender identity are fully upheld in the European Union and in third countries; to this end, encourages Member States and the High Representative to ensure consistency between the EU's external and internal action in the field of human rights, as provided for by Article 21(3) of the Treaty on European Union;
10. Calls on the High Representative, the Commission and Member States to further promote, in partnership with third countries, human rights in relation to sexual orientation and gender identity through bilateral human rights dialogues, the European Instrument for Democracy and Human Rights (EIDHR) and other external financial instruments;
11. Regrets that the rights of lesbian, gay, bisexual and transgender people are not yet always fully upheld in the European Union, including the right to bodily integrity, the right to private and family life, the right to freedom of opinion and expression, the right to freedom

of assembly, the right to non-discrimination, the right to freedom of movement, including the right to free movement for same-sex couples and their families, *the right of access to preventive health care, the right to medical treatment* and the right to asylum;

12. Recalls Member States' obligation to protect or grant asylum to third country nationals escaping or risking persecution in their country of origin on the basis of their sexual orientation, as laid down in Directive 2004/83/EC¹ on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;
13. Roundly condemns the fact that homosexuality, bisexuality and transsexuality are still regarded as mental illnesses by some countries, including within the EU, and calls on states to combat this; calls in particular for the depsychiatrisation of the transsexual, transgender, journey, for free choice of care providers, for changing identity to be simplified, and for costs to be met by social security schemes;
14. Draws attention to the findings of the European Union's Fundamental Rights Agency in its report 'Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity'; calls on the Commission and Member States to act on the opinions contained therein to the greatest possible extent;
15. Calls on Member States, the Commission and the EEAS to fully address these inequalities; reiterates its request that the Commission produce a comprehensive roadmap against homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity;
16. Calls on the Commission and the World Health Organisation to withdraw gender identity disorders from the list of mental and behavioural disorders, and to ensure a non-pathologising reclassification in the negotiations on the 11th version of the International Classification of Diseases (ICD-11);
17. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security, the Commission, the Council of the European Union, the governments and parliaments of the Member States, the United Nations High Commissioner for Human Rights and the United Nations Secretary-General.

¹ OJ L 304, 30.9.2004, p. 12.