



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

11.3.2014

B7-0252/2014

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 122 of the Rules of Procedure

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

Ulrike Lunacek, Barbara Lochbihler, Judith Sargentini, Jean Lambert, Raül Romeva i Rueda
on behalf of the Verts/ALE 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 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 A/HRC/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, Article 31a (e) and Article 96,
- having regard to Articles 2, 3(5), 21, 24, 29 and 31 of the Treaty on European Union and Article 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 case 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 Catherine Ashton's statement of 15 January 2014 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 Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on the adoption of the Anti-Homosexuality Bill in Uganda,
- having regard to the statement of 18 February 2014 by EU High Representative Catherine on anti-homosexuality legislation in Uganda
- 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 previous 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 previous 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 previous 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 Rule 122 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 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 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 7 years' imprisonment in Nigeria under Section 214 of the Nigerian Criminal Code (or the death penalty in the 12 states under Sharia law)
 - D. 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 place of any kind for the 'purpose of homosexuality' with 7 years imprisonment, and 'repeat offenders' or

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.

HIV-positive offenders with life imprisonment; whereas the bill was signed into law by President Yoweri Museveni Kaguta of the Republic of Uganda on 24th February 2014;

- E. Whereas 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 a shrinking and deteriorating policy space that civil society is experiencing;
- F. 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;
- G. Whereas a number of media, 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 legitimise violence against them; whereas just after President Museveni signed the bill, a Ugandan tabloid newspaper published a list of names and pictures of 200 Ugandan gays and lesbians, bearing large negative consequences on their security situation; whereas media reports an increasing number of arrests and violence against LGBTI people in Nigeria;
- H. Whereas male and female homosexuality has existed across African cultures and at all times in history; whereas South Africa was the world's first country to constitutionally prohibit discrimination based on sexual orientation in 1996 in its post-Apartheid-constitution; whereas well-known Kenyan writer Binyavanga Wainaina recently came out as gay and said 'I belong to this continent';
- I. Whereas numerous heads of states and government, United Nations leaders, government and parliamentary representatives, the EU (including the Council, the Parliament, the Commission and the High Representative) and numerous world figures have sternly condemned laws criminalising LGBTI people;
- J. Whereas EU cooperation should support efforts of ACP States at developing supportive legal and policy frameworks and removing punitive laws, policies, 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 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
- L. Whereas a number of Member States, among which the Netherlands, Denmark and Sweden, as well as other countries such as the United States of America and Norway have decided to either withhold aid directed to Ugandan government or redirect aid, away from government support to civil society support;

1. Firmly condemns the adoption of the 'Same-Sex Marriage (Prohibition) Act' in Nigeria and the 'Anti-Homosexuality Act' in Uganda; reiterates that these laws constitute grave threats to the universal rights to life, to freedom of expression, of association and assembly and to freedom from torture, 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. Notes that by signing these anti-homosexuality Acts 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;
3. Regrets that all possible options for dialogue under Article 8 of the Cotonou Agreement have been exhausted and notes that they have failed, due to the unilateral refusal on the ACP's side to discuss sexual orientation as a part of the dialogue;
4. Calls on the European Commission to immediately launch consultations under Article 96 of the Cotonou Agreement with Uganda and Nigeria in view of a possible suspension from the Agreement and to take any appropriate measures while they are conducted;
5. Urges the European Commission and 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 sectoral - of aid;
6. Calls on Member States, or the High Representative with the support of the Commission, to put forward a proposal to the Council to ban political and civil society leaders in these countries and beyond responsible for drafting and adopting these two laws from entering, or transiting through, EU territory;
7. Recalls the CJEU judgment of 7 November 2013 in *X, Y, Z v Minister voor Immigratie en Asiel*, stressing that people of a specific sexual orientation targeted by laws criminalising their conduct or identity may constitute a particular social group for the purpose of granting asylum;
8. Calls on the Commission and the Council to include an explicit mention of non-discrimination based on sexual orientation in any future agreement coming in place of the Cotonou Agreement, as demanded on multiple occasions by Parliament;
9. Instructs its President to forward this resolution to the Commission, the Council, the External Action Service, Member States, the national governments and parliaments of Uganda, Nigeria, the Democratic Republic of Congo and India, and the Presidents of Uganda and Nigeria.