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## 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))

**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

**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 (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights (ACHPR),
- having regard to UN Human Rights Council resolution A/HRC/17/19 of 17 June 2011 on human rights, sexual orientation and gender identity; and the first official United Nations report on the issue prepared by the Office of the High Commissioner for Human Rights (A/HRC/19/41) March 2012,
- having regard to the second revision of the Partnership Agreement between the members of ACP and the EU (the Cotonou Agreement), and to the human rights clauses contained therein, in particular Articles 8(4) and 9,
- having regard to Articles 2, 3(5) and 21 of the Treaty on European Union and Article 10 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,
- 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 its previous resolutions of 15 March 2012, 4 July 2013 and 14 January 2014 on the situation in Nigeria and Uganda,
- having regard to "Same -Sex Marriage (Prohibition) Bill, signed by Nigerian President Goodluck Jonathan on the 13th of January 2014,
- having regard to "Uganda Anti-Homosexuality Act signed by Uganda's President Yoweri Museveni on the 24th of February 2014,
- having regard to the statement of 18 February 2014 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, and the signing into law by President Yoweri Museveni,

- 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, and the signing into law by President Goodluck Jonathan,

- 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 resolution of 5 July 2012 on violence against lesbian women and the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons in Africa (1), 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 ACP and the EU, signed in Cotonou on 23 June 2000,

A. whereas on 13 January 2014 the Nigerian President Goodluck Jonathan signed 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 running LGBTI bars, organisations or meetings with up to 10 years’ imprisonment;

B. whereas on 24 February 2014 the Ugandan President Yoweri Museveni signed the Anti-Homosexuality Bill, which punishes support for LGBTI people’s rights with up to 7 years’ imprisonment, the non-denunciation of LGBTI people with up to 3 years’ imprisonment, and ‘repeat offenders’ or HIV-positive offenders with life in prison, and whereas consensual same-sex conduct is already criminalised under Section 145 of the Ugandan Penal Code;

C. whereas consensual acts between people of the same sex were already punished with 14 years’ imprisonment in Uganda and 14 years’ imprisonment in Nigeria (or the death penalty in the 12 states under Sharia law);

D. whereas these laws are inconsistent with Nigeria's and Uganda's international legal obligations and undermine the human rights protection principles enshrined in their Constitutions;

E. 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;

F. whereas as many as 78 countries continue to consider consensual activities between adults of the same sex to be a crime, with 7 providing for the death penalty (Iran, Mauritania, parts of Nigeria, Saudi Arabia, parts of Somalia, Sudan and Yemen);

G. whereas the media, the public, and political and religious leaders in these countries are increasingly seeking to intimidate LGBTI people, limit their rights and legitimise violence

against them;

H. whereas UN Aids and the Global Fund to Fight Aids, Tuberculosis and Malaria, fear that LGBT and 3.4 million HIV infected citizens in Nigeria and Uganda will be denied vital health service, and demand that the "constitutionality of the laws are urgently reviewed in light of serious public health and human right applications";

I. whereas certain EU Member countries have seriously opposed and taken initiatives to raise sanction on Uganda and Nigeria, as the Bills are breaching the countries international treaty obligations and their constitutions

J. whereas even if putting Development Aid on hold would be a double-edged sword, it is apparent that this Aid is now under threat and that potential ramifications will be severe in order to force Uganda and Nigeria to uphold their international legal obligations

K. 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;

L. Attendu que l'Accord de Cotonou prévoit à l'article 8 entre les parties un dialogue politique, équilibré et approfondi conduisant à des engagements mutuels; que ce dialogue se concentre notamment sur les questions de "discrimination pour quelques raisons que ce soit: race, couleur de peau, sexe, langue, religion, etc; que ce dialogue a pour objectif de prévenir les situations dans lesquelles une partie pourrait juger nécessaire de recourir aux procédures de consultations prévues aux articles 96 et 97;

*(courtesy translation) whereas the Cotonou Agreement provides under article 8 a balanced and deep political dialogue between the parties leading to mutual commitments; that this dialogue focuses notably on the questions relating to 'discrimination on any grounds, be it race, skin colour, gender, language or religion etc; that the objectives of the dialogue is to prevent situations arising in which one Party might deem it necessary to have recourse to consultations procedures envisaged in articles 96 and 97.*

M. whereas the Cotonou Agreement foresees under its Article 96 a consultation procedure on the suspension of signatories who are in breach with their human rights obligations under Article 8(4) and 9;

1. Strongly condemns the adoption and signing into law of the Same-Sex Marriage (Prohibition) Bill in Nigeria and the Anti-Homosexuality Bill in Uganda;

2. Strongly condemns these grave threats to the universal rights to life, cruel, inhuman and degrading treatment, to privacy and to freedom of expression and assembly, along with all discrimination against, and legal restrictions on, LGBTI people and anyone defending their human rights; underlines the fact that LGBTI equality is an undeniable element of fundamental human rights;

3. Firmly condemns the adoption of ever more repressive laws against LGBTI people; 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;

4. Deplores that the President of Nigeria did not refrain from signing the Same-Sex Marriage (Prohibition) Bill; reminds the Nigerian Government of its obligations under international law and under the Cotonou Agreement, which call for universal human rights to be respected;

5. Equally deplores that the President of Uganda did not refrain from signing the Anti-Homosexuality Bill into law and to repeal Section 145 of the Ugandan Penal Code; reminds the Ugandan Government of its obligations under international law and under the Cotonou Agreement, which call for universal human rights to be respected;

6. Deeply regrets that some members of the Evangelical Christianity Church of Nigeria initiated the Same-Sex Marriage (Prohibition) Bill and started a witch-hunt on innocent citizens. Its firm anti-LGBT stands continue to endanger the freedom and enjoyment of human rights;

7. Denounces several fundamentalist Ugandan Pentecostal preachers, who have mined a rich seam of homophobia in Uganda pushing for the present anti-homosexuality bill and expresses deep concern that earlier versions of this law even called for the death penalty.

8. Regrets in general the increasing social, economic, and political predicament of African nations being threatened by religious fundamentalism becoming increasingly pervasive with dire consequences for the dignity, development and freedom of individuals be it protestant evangelical fundamentalism or Islamic fundamentalism;

9. Reiterates that sexual orientation and gender identity are matters falling within the remit of individuals' right to privacy and a private life, as guaranteed by international law and national constitutions; according to which equality and non-discrimination should be promoted, whilst freedom of expression should be guaranteed;

10. Highlights the fact that consensual acts between adults of the same sex are legal in Burkina Faso, Benin, Chad, the Central African Republic, Congo, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Guinea-Bissau, Côte d'Ivoire, Madagascar, Mali, Niger, Rwanda and South Africa, and that discrimination based on sexual orientation is outlawed in the South African Constitution, demonstrating that African approaches to the matter are diverse;

11. Recalls that laws criminalising consensual activities between adults of the same sex and the defence of LGBTI people's human rights represent a major obstacle in the fight against HIV/AIDS, systematically increase the transmission of HIV and sexually transmissible diseases, since at-risk groups fear interacting with medical professionals, and contribute to a climate of extreme homophobia and discrimination; notes that these laws will, among other things, make HIV/AIDS prevention even more difficult in countries with high prevalence rates;

12. Asks the Commission, the European External Action Service (EEAS) and the Member States to express their strongest opposition to these laws and to make it clear that they will have significant implications for the relevant countries' relationships with the EU and its Member States;

13. Reiterates that these laws fall within the remit of art 96. 1a.b) of the Cotonou agreement as cases of special urgency, as exceptional cases of particularly serious and flagrant violation of the human rights and dignity as referred to in paragraph 2 of Article 9, that therefore requires immediate reaction.

14. Calls therefore upon the Commission to engage in a strengthened and urgent political dialogue under Article 8 at local and Ministerial level, with a request to open the discussion latest at the EU-Africa Summit and if no result is yielded, in view of the particularly serious and flagrant violation as referred to in paragraph 2 of Article 9, appropriate measures must be taken under Art. 96 1.a 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; These measures shall be revoked as soon as the reasons for taking them no longer prevail.

15. Asks in general the Commission and the EU Member states to use all available means, including assistance programs, as the EU is the largest assistance provider to Uganda with 460 million euros annually, to push for decriminalization and to assure the LGBT community of the right to seek asylum in the EU because of the discrimination they might face in Uganda and Nigeria;

16. Calls on the Commission and the Council to include an explicit mention of non-discrimination based on sexual orientation during the next revision of the Cotonou Agreement, as demanded on multiple occasions by Parliament;

17. 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 and the Presidents of Uganda and Nigeria.