

Thursday 17 December 2009

**Uganda: anti-homosexual draft legislation**

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**European Parliament resolution of 17 December 2009 on Uganda: anti-homosexual draft legislation**

(2010/C 286 E/06)

*The European Parliament,*

- having regard to the international human rights obligations and instruments, including those contained in the UN conventions on human rights and in the European Convention for the Protection of Human Rights and Fundamental Freedoms, guaranteeing human rights and fundamental freedoms and prohibiting discrimination,
  - having regard to 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 <sup>(1)</sup> (the Cotonou Agreement) and the human rights clauses contained therein, in particular Article 9,
  - having regard to Articles 6 and 7 of the Treaty on European Union (TEU) and Article 19 of the Treaty on the Functioning of the European Union (TFEU), which commit the European Union and the Member States to upholding human rights and fundamental freedoms and provide means to fight discrimination and human rights violations at EU level,
  - having regard to the Charter of Fundamental Rights of the European Union, in particular Article 21 thereof, which prohibits discrimination on grounds of sexual orientation,
  - having regard to all EU activities that relate to fighting homophobia and discrimination on grounds of sexual orientation,
  - having regard to its previous resolutions on homophobia, protection of minorities and anti-discrimination policies, in particular that of 18 January 2006 on homophobia in Europe <sup>(2)</sup>, that of 15 June 2006 on the increase in racist and homophobic violence in Europe <sup>(3)</sup>, and that of 26 April 2007 on homophobia in Europe <sup>(4)</sup>,
  - having regard to the meeting of the Committee on Political Affairs of the ACP-EU Joint Parliamentary Assembly (JPA) held in Luanda on 28 November 2009,
  - having regard to the ACP-EU JPA resolution of 3 December 2009 on social and cultural integration and participation of young people,
  - having regard to Rule 122(5) of its Rules of Procedure,
- A. whereas on 25 September 2009 David Bahati MP tabled the 'Anti-Homosexuality Bill 2009' in the Ugandan Parliament,
- B. whereas the bill proposes to introduce harsher penalties, to criminalise homosexuality and to punish those alleged to be lesbian, gay, bisexual or transgender (LGBT) with life imprisonment or the death penalty,

<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3.

<sup>(2)</sup> OJ C 287 E, 24.11.2006, p. 179.

<sup>(3)</sup> OJ C 300 E, 9.12.2006, p. 491.

<sup>(4)</sup> OJ C 74 E, 20.3.2008, p. 776.

Thursday 17 December 2009

- C. whereas the bill includes a provision that could lead to the imprisonment for up to three years of anyone, including heterosexual people, who fails to report within 24 hours the identities of everyone they know who is lesbian, gay, bisexual or transgender, or who supports the human rights of those who are lesbian, gay, bisexual or transgender,
- D. whereas the bill provides for the nullification by Uganda of any of its international or regional commitments that it deems to be inconsistent with the provisions of the bill,
- E. whereas the bill has already been condemned by European Commissioner De Gucht, the British, French and Swedish governments, President Obama and the chair and vice-chair of the Committee on Foreign Affairs of the US House of Representatives,
- F. whereas the proposed law has been denounced by non-governmental organisations around the world and in Uganda itself as a major obstacle to fighting HIV/Aids in the homosexual community,
- G. whereas in Africa homosexuality is legal in only 13 countries and is a punishable offence in 38 countries, with Mauritania, Sudan and northern Nigeria also stipulating the death penalty for homosexuality, and whereas the adoption of such a law in Uganda could have spill-over effects in other African countries, where persons are or could be persecuted because of their sexual orientation,
1. Underlines that sexual orientation is a matter falling within the remit of the individual right to privacy as guaranteed by international human rights law, according to which equality and non-discrimination should be promoted, whilst freedom of expression should be guaranteed; in this context, condemns the 'Anti-Homosexuality Bill 2009';
  2. Calls, therefore, on the Ugandan authorities not to approve the bill and to review their laws so as to decriminalise homosexuality;
  3. Reminds the Ugandan Government of its obligations under international law and under the Cotonou Agreement, which calls for universal human rights to be respected;
  4. Recalls statements by the African Commission on Human and Peoples' Rights and the UN Human Rights Committee that a State cannot, through its domestic law, negate its international human rights obligations;
  5. Is extremely concerned that international donors, non-governmental organisations and humanitarian organisations would have to reconsider or cease their activities in certain fields should the bill pass into law;
  6. Rejects firmly any moves to introduce the death penalty;
  7. Calls on the Council and the Commission to make urgent representations to the Ugandan authorities and, should the bill pass into law and breaches of international human rights law take place, reconsider their involvement with Uganda, including by proposing another venue for the Review Conference of the Rome Statute scheduled for 31 May 2010;
  8. Calls on the Council, the Commission and the Member States to analyse the situation in third countries in relation to executions, criminalisation or discrimination on grounds of sexual orientation and to take concerted international action to promote respect for human rights in those countries through appropriate means, including working in partnership with local non-governmental organisations;
  9. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the President of the Republic of Uganda and the Speaker of the Ugandan Parliament.
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