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Kyrgyzstan: homosexual propaganda bill

European Parliament resolution of 15 January 2015 on Kyrgyzstan, homosexual propaganda bill (2015/2505(RSP))

(2016/C 300/03)

The European Parliament,

- having regard to its previous resolutions on Kyrgyzstan and Central Asian republics, in particular that of 15 December 2011 on the state of implementation of the EU Strategy for Central Asia ⁽¹⁾,
- having regard to Kyrgyzstan's constitution, and in particular to Articles 16, 31, 33 and 34 thereof,
- 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 International Covenant on Civil and Political Rights (ICCPR), which guarantees freedom of expression, freedom of assembly, the right to respect for the personal, private and family lives of individuals and the right to equality, and bans discrimination in the enjoyment of those rights,
- having regard to UN Human Rights Council resolution A/HRC/17/19 of 17 June 2011 and UN Human Rights Council resolution A/HRC/27/32 of 24 September 2014 on human rights, sexual orientation and gender identity,
- having regard to the statement by the spokesperson for the UN High Commissioner for Human Rights on Kyrgyzstan of 24 October 2014,
- having regard to the Kyrgyz Parliament's 'Partner for democracy' status at the Parliamentary Assembly of the Council of Europe (PACE),
- having regard to PACE resolution 1984 (2014) of 8 April 2014 on the Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Parliament of the Kyrgyz Republic, in particular paragraphs 15.24, 15.25 and 15.26 thereof,
- having regard to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Kyrgyz Republic, of the other part, in particular Articles 2 and 92 thereof,
- having regard to the European Union Guidelines on Human Rights Defenders, adopted in June 2004 and reviewed in 2008, and 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 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979,

⁽¹⁾ OJ C 168 E, 14.6.2013, p. 91.

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- having regard the Millennium Development Goals and the post-2015 agenda,

- having regard to Rules 135(5) and 123(4) of its Rules of Procedure,

- A. whereas Kyrgyzstan has achieved great progress over the past years compared to the other countries in the region, most notably by becoming a parliamentary democracy, stepping up efforts in the fight against corruption, and committing itself to universal human rights standards;

- B. whereas the EU has a clear interest in a peaceful, democratic and economically prosperous Kyrgyzstan; whereas the EU has committed itself, in particular through its Central Asia Strategy, to act as a partner of the countries in the region;

- C. whereas the countries of Central Asia face a number of common challenges, such as poverty and serious threats to human security, and the need to strengthen democracy, respect for human rights, good governance and the rule of law;

- D. whereas all human beings are born free and equal in dignity and rights; whereas all states have the obligation to prevent violence and discrimination, including on the basis of sexual orientation, gender identity and gender expression;

- E. whereas lesbian, gay, bisexual, transgender and intersex (LGBTI) people must enjoy the same human rights as all other people;

- F. whereas the Kyrgyz Republic decriminalised male homosexuality in 1998;

- G. whereas on 15 October 2014 the Kyrgyz Parliament passed at first reading draft bill 6-11804/14, which contains amendments to the Criminal Code, the Code of Administrative Responsibility, the Law on Peaceful Assembly and the Law on Mass Media aimed at prohibiting the ‘promotion of non-traditional sexual relations in an open or indirect way’ and providing for up to one year’s imprisonment;

- H. whereas some media and some political and religious leaders in the country are increasingly seeking to intimidate LGBTI people, limit their rights and legitimise violence against them;

- I. whereas numerous heads of states and government, United Nations leaders, government and parliamentary representatives, and the European Union, including the Council, the Parliament, the Commission and former High Representative Ashton, have strongly condemned similar ‘anti-propaganda’ laws;

- J. whereas discrimination based on sex, sexual orientation and gender identity are linked, and whereas various NGOs and the UN have pointed out that gender inequalities remain significant, and that girls and women in Kyrgyzstan continue to suffer abuse such as abduction and forced marriage, although the law of 1994 forbidding this was reinforced in January 2013;

- 1. Deeply regrets the presentation of this draft law, and any actions which could lead to cruel, inhumane and degrading treatment, and calls on all countries to put an immediate end to the criminalisation of homosexuality;

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2. Reiterates the fact that sexual orientation and gender identity are matters falling within the sphere of the individual right to privacy, as guaranteed by international human rights law, according to which equality and non-discrimination are to be protected, whilst freedom of expression is to be guaranteed;
3. Reminds the Kyrgyz Parliament of its international obligations and of the Partnership and Cooperation Agreement with the European Union, which includes full respect for human rights as an essential element of the partnership and calls for the withdrawal of the draft law on 'dissemination of information about non-traditional sexual relations' currently under review in parliament;
4. Notes that the draft law passed its first reading and must be voted on twice more before going to the President for signature, and stresses that the adoption of any legislation on 'non-traditional relations' should not run counter to Kyrgyzstan's human rights obligations and commitments;
5. Calls on the Kyrgyz authorities to reaffirm publicly that all people in Kyrgyzstan have the right to live free from discrimination and violence based on their sexual orientation and gender identity and that any acts to the contrary are illegal and will be prosecuted;
6. Calls on the Kyrgyz Parliament to follow the recommendations made by the Parliamentary Assembly of the Council of Europe in Resolution 1984 (2014) on the Request for Partner for Democracy status, in particular recommendations 15.24, 15.25 and 15.26;
7. Calls on the Kyrgyz Parliament to respect its constitution, including Article 16, which states that 'laws that deny or derogate human and civil rights and freedoms shall not be adopted in the Kyrgyz Republic', and Articles 31, 33 and 34, which affirm freedom of speech, freedom of information and freedom of assembly, and to reject draft bill 6-11804/14;
8. Is deeply concerned about the negative consequences of the discussion and potential adoption of this bill, which are further increasing stigmatisation, discrimination and violence against LGBTI individuals; calls on politicians and religious leaders to refrain from anti-LGBTI rhetoric, including hate speech and incitement to hatred;
9. Is concerned about the possible effects of such legislation on international donors, non-governmental organisations and humanitarian organisations working on LGBTI issues and HIV prevention;
10. Calls on the UN Human Rights Council to take into consideration, as part of the upcoming Universal Periodic Review of Kyrgyzstan, the disregard for the principles of equality and non-discrimination represented by this draft law;
11. Calls on the Kyrgyz authorities to take all the measures needed to ensure that human rights defenders can carry on their work of promoting and protecting human rights without hindrance;
12. Urges Kyrgyzstan, in the period leading to the fourteenth meeting of the Cooperation Council between the EU and the Kyrgyz Republic, to continue with reforms leading to transparency, independence of the judiciary, inter-ethnic reconciliation and respect for human rights, as these are key factors for the long-term sustainable development of the country;
13. Welcomes the progress made by the Kyrgyz authorities in the domain of human rights in the period between the fourth and fifth rounds of the EU-Kyrgyz Republic Human Rights Dialogue; strongly urges the Kyrgyz authorities to continue progress in this field;

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14. Calls on the Commission, the Council and the External Action Service to make clear to the Kyrgyz authorities that the eventual adoption of this bill could affect relations with the EU in line with Article 92 (2) of the Partnership and Cooperation Agreement; further calls on the Council and the External Action Service to raise this issue in the relevant international fora, such as the Organization for Security and Co-operation in Europe and the United Nations;

15. Calls on the Kyrgyz authorities to ensure that allegations of torture and inhuman and degrading treatment are investigated promptly and efficiently and that perpetrators are brought to justice; calls, furthermore, for the release of all prisoners of conscience, with regard in particular to Azimjon Askarov pending a full, impartial and fair investigation, including into his allegations of torture and ill-treatment;

16. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the European Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Parliamentary Assembly of the Council of Europe, the Parliament of Kyrgyzstan and the President of Kyrgyzstan.
