



Plenary sitting

B9-0220/2023

18.4.2023

MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the universal decriminalisation of homosexuality in the light of recent developments in Uganda
(2023/2643(RSP))

Kim Van Sparrentak, Ignazio Corrao, Rosa D'Amato, Ernest Urtasun, Malte Gallée, Francisco Guerreiro, Hannah Neumann, Alice Kuhnke, Terry Reintke, Monika Vana, Rasmus Andresen, Jordi Solé, Alviina Alametsä

on behalf of the Verts/ALE Group

B9-0220/2023

European Parliament resolution on the universal decriminalisation of homosexuality in the light of recent developments in Uganda (2023/2643(RSP))

The European Parliament,

- having regard to its previous resolutions on Uganda, in particular its resolutions of 24 October 2019 on the situation of LGBTI people in Uganda¹ and of 11 February 2021 on the political situation in Uganda²,
- having regard to its resolution of 20 January 2021 on human rights and democracy in the world and the European Union’s policy on the matter – annual report 2019³,
- having regard to its recommendation of 9 June 2021 to the Council on the 75th and 76th sessions of the United Nations General Assembly⁴,
- having regard to its resolution of 17 February 2022 on human rights and democracy in the world and the European Union’s policy on the matter – annual report 2021⁵,
- having regard to its resolution of 5 May 2022 on threats to stability, security and democracy in Western and Sahelian Africa⁶,
- having regard to the Treaty on European Union (TEU), in particular Articles 21 and 26 thereof,
- having regard to the Universal Declaration of Human Rights, the United Nations Charter (UN Charter) and the International Covenant on Civil and Political Rights (ICCPR),
- having regard to the African Charter on Human and Peoples’ Rights, in particular Articles 1 to 4 thereof,
- having regard to the 1995 Constitution of Uganda,
- having regard to the EU Guidelines on Death Penalty, adopted on 12 April 2013,
- having regard to the EU Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, adopted on 24 June 2013,
- having regard to the EU Human Rights Guidelines on Non-Discrimination in External

¹ OJ C 202, 28.5.2021, p. 54.

² OJ C 465, 17.11.2021, p. 154.

³ OJ C 456, 10.11.2021, p. 94.

⁴ OJ C 67, 8.2.2022, p. 150.

⁵ OJ C 342, 6.9.2022, p. 191.

⁶ OJ C 465, 6.12.2022, p. 137.

Action, adopted on 18 March 2019,

- having regard to the Guidelines on EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – 2019 Revision of the Guidelines, adopted on 16 September 2019,
 - having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 March 2020 entitled ‘EU Action Plan on Human Rights and Democracy 2020-2024’ (JOIN(2020)0005),
 - having regard to the Commission communication of 12 November 2020 entitled ‘Union of Equality: LGBTIQ Equality Strategy 2020-2025’ (COM(2020)0698),
 - having regard to the Diversity and Inclusion Agenda in the EEAS 2023-2025, adopted on 6 March 2023,
 - having regard to Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses⁷,
 - having regard to Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preference and repealing Council Regulation (EC) No 732/2008⁸,
 - having regard to the Ugandan Anti-Homosexuality Bill of 21 March 2023,
 - having regard to the statement by United Nations High Commissioner Volker Türk of 22 March 2023 entitled ‘Uganda: Türk urges President not to sign shocking anti-homosexuality bill’,
 - having regard to the statement by the European External Action Service (EEAS) Spokesperson of 22 March 2023 entitled ‘Uganda: Statement by the Spokesperson on the adoption of the anti-homosexuality bill’,
 - having regard to the statement by UN independent experts of 29 March 2023 entitled ‘Uganda: UN experts condemn egregious anti-LGBT legislation’,
 - having regard to the statement by UNAIDS of 22 March 2023 entitled ‘UNAIDS urges the Government of Uganda to not enact harmful law that threatens public health’,
 - having regard to the most recent decision of the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in the case of *Rosanna Flamer-Caldera v Sri Lanka*,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas Article 21 TEU provides that EU action on the international scene is to be guided by the principles that have inspired the EU’s own creation, development and

⁷ OJ L 410I, 7.12.2020, p. 1.

⁸ OJ L 303, 31.10.2012, p. 1.

enlargement, in particular democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the UN Charter and international law;

- B. 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 on the basis of individual characteristics, including sexual orientation, gender identity and gender expression;
- C. whereas the African Charter on Human and People's Rights provides that 'every individual shall be entitled to the enjoyment of rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind' (Article 2), that 'every individual shall be equal before the law' and 'every individual shall be entitled to equal protection of the law' (Article 3), and that 'every human being shall be entitled to respect for his life and the integrity of his person' and 'no one may arbitrarily be deprived of this right' (Article 4);
- D. whereas on 21 March 2023, the Ugandan Parliament adopted the Anti-Homosexuality Bill (hereinafter 'the Bill'); whereas the Bill proposes the application of the death penalty for the offence of 'aggravated homosexuality', life imprisonment for the offence of 'homosexuality', up to 14 years in prison for 'attempted homosexuality', and up to 20 years in prison for 'promoting homosexuality'; whereas the latter entails the complete censorship of LGBTI issues, including for civil society organisations undertaking human-rights-based advocacy and healthcare work;
- E. whereas previous iterations of similar bills banning the promotion of homosexuality and homosexual acts were already proposed in 2009, 2012, 2013 and 2014, signalling a propensity for the systematic scapegoating of LGBTI people and their instrumentalisation as fictitious political opponents; whereas this legislation conflicts with Uganda's own constitutional provisions stipulating equality and non-discrimination for all; whereas politicians and (foreign) religious leaders have played a pivotal role in inciting hateful rhetoric against LGBTI persons in Uganda; whereas modern anti-LGBTI attitudes in Uganda and other countries in the region are impacted by the lingering influence of colonial-era laws; whereas an increase in verbal and physical violence is already being witnessed as a result of the adoption of the Bill;
- F. whereas the decriminalisation of consensual same-sex sexual adult relations has been a standard call by Parliament and constitutes agreed language; whereas on numerous occasions, Parliament has called on non-EU countries to move towards decriminalisation as a way to ensure the indivisibility and enjoyment of all human rights by LGBTI persons;
- G. whereas the EU has adopted clear guidelines for the EEAS on LGBTI persons, on the death penalty, on non-discrimination in external action and on torture and other cruel, inhuman or degrading treatment or punishment; whereas these guidelines set out unequivocal opposition to the death penalty, torture and other ill treatment at all times and in all circumstances and further state that the criminalisation of consensual same-sex adult relations is contrary to international human rights law; whereas the guidelines

on LGBTI persons specifically lay down obligations for EEAS on reporting, on raising the issue in political dialogues and on supporting civil society, among others;

- H. whereas the UN High Commissioner for Human Rights has called on President Museveni not to promulgate the law, claiming that it could ‘provide carte blanche for the systematic violation of nearly all of [LGBTI persons’] human rights’; whereas he claimed that ‘the bill confuses consensual and non-consensual relations’, is a ‘massive distraction from taking the necessary action to end sexual violence’ and that it ‘conflict[s] with Uganda’s own constitutional provisions’; whereas 28 UN experts from the UN Special Procedures mechanism have stated that the imposition of the death penalty based on such legislation is *per se* an arbitrary killing and a breach of Article 6 of the ICCPR;
- I. whereas the EU is Uganda’s largest development cooperation partner; whereas the EU’s multiannual indicative programme for Uganda for 2021-2024 has a total budget of EUR 375 million;
- J. whereas the new EU global human rights sanctions regime, under the EU action plan on human rights and democracy, allows the EU to target serious human rights violations and abuses worldwide, irrespective of where they occur, including cases of arbitrary killings and inhuman or degrading treatment or punishment;

Recent developments in Uganda

1. Condemns in the strongest possible terms the adoption of the so-called Anti-Homosexuality Bill by the Ugandan Parliament and reiterates its strong opposition to all forms of discrimination based on sexual orientation or gender identity, as well as any violence towards LGBTI people; considers that its adoption is in stark violation of the Ugandan Constitution and Uganda’s international obligations arising from the African Charter and the UN international law architecture, such as the Universal Declaration of Human Rights, the ICCPR and the UN Charter; categorically rejects the use of the death penalty under any circumstances;
2. Is alarmed by the fact that only 2 out of 389 legislators voted against the Bill; deplores the comments made by President Museveni, which further contribute to hateful rhetoric about LGBTI persons; is concerned by the number of politicians, religious leaders and media figures who have instigated hatred; considers that the instrumentalisation of LGBTI people as fictitious opponents by the majority of the Ugandan political class constitutes a grave and concerning development; considers that this Bill is among the worst of its kind in the world and that its promulgation will inevitably strain relations between the EU and Uganda;
3. Is concerned by reports that in February 2023 alone, over 110 LGBTI people in Uganda reported incidents to the civil society organisation Sexual Minorities Uganda (SMUG), including arrests, sexual violence, evictions and public undressing; notes that this is likely only a fraction of the actual number of cases, as most victims are too afraid to go to the police; notes with concern that transgender persons are disproportionately affected by this phenomenon; condemns the banning of SMUG in August 2022;
4. Is concerned that the Bill exacerbates the stigma, harassment and discrimination, as well

as the potential violence, that LGBTI people and human rights defenders may face following recent developments, in particular when doing their work or trying to access social services such as housing, education or healthcare; considers that the increasing risk faced by human rights defenders who advocate for rights is a particular reason for concern; underlines that the Bill could be used as a pretext to attack those involved in human rights work and imprison political opponents, undermining democratic institutions and civil society as a whole;

5. Considers that the inflammatory rhetoric and disinformation propagated by religious leaders, the media and politicians contribute to an overall climate of repression against LGBTI persons and their families and friends, forcing them to self-censor in order not to become victims of violence; believes that the same rhetoric promotes a climate of surveillance allowing the systematic violation of human rights, such as the right to privacy, the right to life, liberty and the security of person and the right to equal protection against any discrimination;
6. Recalls that Uganda has been a trailblazer in fighting HIV and the associated stigma; recalls that the prevalence of HIV in men who have sex with men in 2021 was 12.7 %; notes with concern that this percentage is significantly higher than for heterosexual men and above the national average; is therefore extremely concerned that the Bill would effectively criminalise people with HIV; considers that such provisions serve only to further stigmatise HIV testing, tracing and prevention efforts, potentially rendering any life-saving HIV programmes and efforts to reach key populations illegal as they could constitute ‘promotion of homosexuality’; refers to the insurmountable evidence presented by UNAIDS that criminalising laws drive communities away from life-saving services;

The situation of decriminalisation in the world

7. Recalls that the EU has adopted clear external policy guidelines concerning the condemnation of the death penalty and the protection of LGBTI persons, as well as the application of the principle of non-discrimination in external action and the condemnation of torture and other ill-treatment; considers that the pursuit of international decriminalisation in international forums is not only a moral imperative but also an international human rights necessity;
8. Recalls that the Commission’s LGBTIQ equality strategy, together with the EU action plans on human rights and democracy, commit the EU to stepping up actions to actively condemn and combat discriminatory laws, policies and practices, including the criminalisation of consensual same-sex relations;
9. Highlights the positive international trend towards decriminalisation, with 49 UN member states undertaking legal reform in the last 30 years, in particular Mozambique in 2015, Belize and Seychelles in 2016, Trinidad and Tobago and India in 2018, Botswana in 2019, Gabon in 2020, Angola and Bhutan in 2021, Antigua and Barbuda, Singapore and Barbados in 2022 and the Cook Islands in 2023; recalls, nevertheless, that there are also countries where laws criminalising same-sex conduct have been tightened or reintroduced, such as Chad, Brunei, Nigeria and, lastly, Uganda, which highlights the need for a universal movement advocating decriminalisation; recalls

precedents where UN bodies have provided legal recourse against criminalisation, such as the Human Rights Council in *Toonen v Australia* in 1994 and CEDAW in *Rosanna Flamer-Caldera v Sri Lanka* in 2022;

10. Expresses concern about the adoption of so-called anti-gay propaganda bills in some countries, which contribute to a culture of intolerance and discrimination, and sounds the alarm about the way in which such laws can have a spillover effect in other countries, paving the way for the adoption of more severe measures, such as the criminalisation of same-sex sexual relations and other aspects of sexual orientation, gender identity and expression, and sex characteristics; notes that recent research shows that conspiracy theories are increasingly popular in many EU Member States; is concerned that hatred and conspiracies online lead to violence offline and can cost lives; takes note of research by the International Lesbian, Gay, Bisexual, Trans and Intersex Association showing that 2022 has been the most violent year for the LGBTI community as a result of hate speech and disinformation; calls on the Commission to include action against interaction-based recommender systems on social media in the upcoming defence of democracy package, as these systems are known to amplify hate and disinformation;
11. Is concerned about the growing trend towards criminalisation in other parts of Africa, such as in Ghana and Kenya, where similar bills have been proposed and are under consideration by countries' respective parliaments, and about the likelihood that the promulgation of the Ugandan Bill will have a significant impact on the outcomes of these bills;
12. Recalls that the promotion of the Sustainable Development Goals is a responsibility of all UN member states that signed up to them, Uganda included, and that they must serve the goal of 'leaving no one behind'; acknowledges the inherent link between the respect for LGBTI persons' human rights and the Sustainable Development Goals and understands that any discriminatory practice, particularly one which prescribes the death penalty, is in radical opposition to these goals;

Calls for action

13. Calls on President Museveni not to promulgate the Bill into law and to categorically reject any future similar initiatives; calls on President Museveni to promote the principles of tolerance, acceptance and respect for internationally recognised human rights, ensuring that all individuals in Uganda, regardless of their sexual orientation and gender identity, are treated equally, with dignity and respect;
14. Calls on the Ugandan authorities to investigate, prosecute and punish all hate-based attacks against individuals and organisations as a result of the adoption of the Bill, and to stop any retaliatory actions, such as police raids or the blocking of bank accounts, against civil society organisations involved in human rights and LGBTI advocacy and providing crucial community-based services;
15. Calls on members of the Ugandan Parliament and other politicians to refrain from fuelling hate against sexual and gender minorities;
16. Regrets the fact that the Vice-President of the Commission / High Representative of the

Union for Foreign Affairs and Security Policy (VP/HR) has to date not directly reacted to the Bill; considers that the gravity of the situation, which includes resorting to the death penalty in some cases, warrants a stronger institutional response and calls on the VP/HR to deliver it;

17. Calls on the Council and the EEAS to categorically implement the applicable EU Guidelines; calls on the EU Delegation in Uganda to report thoroughly on the situation and continue providing support to civil society and human rights defenders;
18. Calls on the EEAS and the Member States to urgently engage with the Ugandan authorities to strongly advocate against the promulgation of the Bill and make clear that this law would have a significant and detrimental impact on EU-Uganda relations;
19. Calls on the VP/HR, the Special Representative for Human Rights and the EEAS Ambassador for Gender and Diversity, together with the EU Delegation to Uganda, to explore options for a strong EU response, in accordance with the EEAS Diversity and Inclusion Agenda; calls on the VP/HR to consider sanctions under the EU global human rights sanctions regime if the Bill is promulgated into law; insists that Parliament should be kept informed of the steps taken in this regard, including steps to support civil society organisations and human rights defenders;
20. Recalls Parliament's resolution of 16 March 2023 on the EU Guidelines on Human Rights Defenders⁹ and calls on the EEAS to increase its efforts to ensure that Ugandan human rights defenders have access to funding, support, protection, relocation, visas and shelter, where appropriate;
21. Acknowledges that the third cycle of the Universal Periodic Review (UPR), during which Uganda was reviewed, has ended, and notes that the UPR addressed the criminalisation of LGBTI persons; calls for the EU to make a submission in the upcoming UPR on Uganda, reflecting the developments concerning LGTBI persons; calls for the EU to take a more proactive approach in making UPR submissions to states in order to call for the decriminalisation of homosexuality;
22. Calls for the immediate withdrawal of Uganda's preferential access to the Everything But Arms scheme, which is part of the Generalised Scheme of Preferences (GSP), should the Bill be promulgated; calls on the Commission to make the decriminalisation of homosexuality a requirement for GSP access and to remove all other countries that continue to criminalise consensual same-sex sexual acts from the list;
23. Calls on the Commission to devise a set of human rights-oriented actions to limit or end current or future economic relations with non-EU countries that continue to criminalise homosexuality, particularly where the use of the death penalty is prescribed;
24. Calls on the EU to pursue actions in all relevant political and diplomatic forums for the universal decriminalisation of consensual same-sex sexual acts, as well as an end to bans on gender-affirming care, in order to ensure the enjoyment of all human rights by LGBTI persons; invites the EU to create a broad coalition of the willing with the international community for these endeavours, focused on international instruments

⁹ Texts adopted, P9_TA(2023)0086.

such as the ICCPR, the UN Charter and UN General Assembly resolutions in this matter, the landmark decisions of the Human Rights Council and CEDAW, as well as the reports of the UN Independent Expert on Sexual Orientation and Gender Identity; recalls that the UPR should be used appropriately and proactively in this regard;

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25. Instructs its President to forward this resolution to the governments and parliaments of the Member States, the Council, the Commission, the European External Action Service, the EU Delegation to Uganda, the President, Government and Parliament of the Republic of Uganda and all other countries that have a bill pending on the criminalisation of same-sex activities.