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MOTION FOR A RESOLUTION

further to Questions for Oral Answer B7-0201/2009 and B7-0202/2009

pursuant to Rules 115 and 110(2) of the Rules of Procedure

on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information

Rui Tavares, Cornelia Ernst, Kyriacos Triantaphyllides, Marie-Christine Vergiat, Thomas Händel, Sabine Lösing
on behalf of the GUE/NGL Group

European Parliament resolution on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information

The European Parliament,

- having regard to international and European human rights obligations, including those contained in the UN conventions on human rights and in the European Convention on Human Rights and Fundamental Freedoms,
 - having regard to the European Union’s provisions on human rights, namely Articles 6 and 7 of the Treaty on European Union, to the European Convention on Human Rights and its Protocols and to the Charter of Fundamental Rights of the European Union,
 - having regard to Article 13 of the Treaty establishing the European Community, which invests the European Union with the power to adopt measures to combat discrimination based, *inter alia*, on sexual orientation, and to promote the principle of equality,
 - having regard to Directive 2000/43/EC and Directive 2000/78/EC prohibiting direct or indirect discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation, as well as to the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426 final),
 - having regard to Article 21 of the Charter of Fundamental Rights of the European Union, which prohibits ‘any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation’,
 - having regard to Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (‘Television without Frontiers’),
 - having regard to Rules 115 and 110(2) of its Rules of Procedure,
- A. whereas the EU is based on human rights, fundamental freedoms, democracy and the rule of law, equality and non-discrimination,
- B. whereas the EU and its Member States are obliged to promote equality and fight discrimination, in particular on the basis of Article 13 of the EC Treaty and of the directives that have been approved and proposed to reach this aim, including the fight against discrimination based on sexual orientation,
- C. whereas exclusion, discrimination and harassment of young lesbian, gay, bisexual and transgender (LGBT) people lead to severe psychological distress and high suicide rates,

and that information and education in schools is essential to protect young LGBT people,

- D. whereas sexual orientation is a matter falling within the remit of the individual right to privacy, guaranteed by international, European and national human rights law, and equality and non discrimination should be promoted by public authorities, while freedom of expression should be guaranteed for the media, non-governmental organisations (NGOs) and individuals, and pluralism promoted,
- E. whereas on 14 July 2009 the Lithuanian Parliament approved amendments to the Law on the Protection of Minors against the Detrimental Effects of Public Information, due to come into force on 1 March 2010, which assert that ‘public information [...] that agitates for homosexual [or] bisexual [...] relations’ or that ‘defies family values’ has ‘a detrimental effect on the development of minors’, and whereas a previous version of this law had been vetoed by the President of Lithuania and was then confirmed by the Lithuanian Parliament,
- F. whereas the law does not provide any definition of ‘propagating’ or ‘agitating for’ homosexuality, heterosexuality or any other kind of sexual orientation, contradicting the principle of legal certainty according to which a law is valid where the banned acts are clearly defined in legal terms,
- G. whereas it is unclear what kind of materials fall under this law and whether its jurisdiction extends to books, art, press, publicity, music and public representations such as theatre, exhibitions or demonstrations, and whereas the vagueness of definitions leave authors, publishers and journalists subject to self-censorship in order to avoid the punishments now being discussed,
- H. whereas such amendments will result in the banning of any information on homosexuality if it can be accessed by minors, and this could be used to restrict the work of activists working on issues of human rights, sexual orientation and gender identity,
- I. whereas the UK introduced a similar law in 1988, which was subsequently repealed,
- J. whereas Article 22 of the Television without Frontiers Directive allows Member States to take appropriate measures to ensure that television broadcasts do not include programmes which might seriously impair the physical, mental or moral development of minors by containing ‘pornography or gratuitous violence’, but this cannot be interpreted as covering all information related to sexual orientation,
- K. whereas the President of Lithuania had vetoed the law on 26 June 2009, as it was drafted in vague and unclear terms, and asked the Lithuanian Parliament to reconsider it to ensure that it complies with ‘the constitutional principles of the rule of law, legal certainty, and legal clarity’ and does not contravene ‘the guarantees of an open society and pluralistic democracy’,
- L. whereas NGOs in the field of human rights and press freedom, as well as MEPs, have repeatedly called on the EU institutions to intervene and on the Lithuanian Parliament to review the law, since it amounts to institutionalising homophobia and violating the right to freedom of expression and the right to be free from discrimination,

- M. whereas the Swedish Presidency of the EU has discussed the law with the Lithuanian authorities, while the new Lithuanian President has declared that she will act to ensure it is changed in conformity with EU requirements,
- N. whereas further amendments to the penal and administrative codes will be examined in the autumn; whereas these amendments criminalise acts by private or legal persons promoting, or financing the promotion of, homosexuality in public places and deem them punishable by a community service order, a fine of up to EUR 1 500 or arrest,
1. Asks the Agency for Fundamental Rights to assess the law and the amendments, indicating those being against European law and principles;
 2. Calls upon the Council to evaluate the possibility of launching the procedure provided for in Article 7 of the Treaty on European Union;
 3. Calls on the Lithuanian authorities to amend the law, or to repeal it, and to refrain from adopting the amendments to the penal and administrative codes, so as to ensure that laws are compatible with human rights and fundamental freedoms as enshrined in international and European law;
 4. Calls for respect for the right to freedom of expression for everybody – including the right to seek, receive and impart information – for EU law and policies on anti discrimination, and for the Charter of Fundamental Rights of the European Union, Article 6 of the Treaty on European Union and Article 13 of the EC Treaty, in other words, for the EU’s fundamental values;
 5. Calls on other Member States to refrain from adopting similar laws or amendments, to condemn homophobic acts and to strengthen the implementation of European laws in the field of anti-discrimination and human rights;
 6. Instructs its President to forward this resolution to the Commission, the Council, the governments and parliaments of the Member States and of the candidate countries, the President of the Republic of Lithuania, the Agency for Fundamental Rights and the Council of Europe.