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Violation of freedom of expression and discrimination on the basis of sexual orientation in Lithuania

Joint motion for a resolution

The European Parliament,

– having regard to international instruments guaranteeing human rights and fundamental freedoms and prohibiting discrimination, notably the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR),

– having regard to Articles 6 and 7 of the Treaty on European Union and Article 19 of the Treaty on the Functioning of the European Union, which commit the EU and its Member States to upholding human rights and fundamental freedoms and provide European means to fight discrimination and human rights violations,

– having regard to the Charter of Fundamental Rights of the European Union, especially Article 11 thereof, which guarantees the right to freedom of expression and Article 21 thereof, which prohibits discrimination based on sexual orientation,

– having regard to European Union activities to fight discrimination based on sexual orientation and homophobia,

– having regard to the November 2010 Fundamental Rights Agency report *'Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity',*

– having regard to its Resolution of September 17, 2009, on the Situation in Lithuania following the adoption of the law on protection of minors[1],

– having regard to its previous resolutions on homophobia, protection of minorities and anti-discrimination policies, and notably to those on homophobia in Europe[2],

– having regard to Rule 110(2) of its Rules of Procedure,

A. whereas on 16 December 2010, the Seimas postponed a vote on draft legislation that would amend the Penal Code and the Code of Administrative Offences to punish the "public promotion of homosexual relations" with a fine of between 580 and 2,900 Euros,

B. whereas on 8 December 2010 the Committee on Education and Culture of the Seimas also deleted sexual orientation from the list of grounds deserving protection under the equal opportunities of the Law on Education,

C. whereas the draft amendment to the Penal Code and the Code of Administrative Offencesis contrary to Article 25 of the Constitution of the Republic of Lithuania which says that "the human being must not be hindered from seeking, receiving and imparting information and ideas", and Article 29 which states "all persons shall be equal before the law, the court, and other State institutions and officials. The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views",

D. whereas the latest report from the Fundamental Rights Agency on'Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity'of November 2010 concludes that "The amendments could potentially criminalise almost any public expression or portrayal of, or information about, homosexuality",

E. whereas in June 2009 the Seimas overwhelmingly voted to amend the "Law on the Protection of Minors against the Detrimental Effect of Public Information",

F. whereas this resolution was triggered by a series of worrying events such as the adoption of the Law on the Protection of Minors from the Detrimental Effects of Information, the attempted prohibition by local authorities to hold equality and gay pride marches, the use by leading politicians and parliamentarians of inflammatory or threatening language and hate speech,

G. whereas Vice-President of the European Commission Viviane Reding, High Representative of the European Union Catherine Ashton, President of the European Council Herman van Rompuy and President of the European Parliament Jerzy Buzek univocally condemned against any kind of homophobia and discrimination on grounds of sexual orientation on May 17, 2010, International Day against Homophobia,

H. whereas homosexuality was declassified as a mental illness in 1990, whereas no credible research indicates that educating children and young people about homosexuality may affect their sexual orientation, whereas education about homosexuality encourages tolerance and accepting differences,

1. Reaffirms that EU institutions and Member States have a duty to ensure that human rights are respected, protected and promoted in the European Union, as provided for by the European Convention of Human Rights and the European Charter of Fundamental Rights and Article 6 of the Treaty on the European Union, and without distinction on grounds of sexual orientation;

2. Calls on the Seimas to reject draft amendments to the Penal Code and the Code of Administrative Offences, and include sexual orientation under the list of protected grounds in the Law on Education;

- 3. Acknowledges the firm stand taken on several occasions by President of Lithuania Dalia Grybauskaitė, speaking against draft homophobic legislation as being harmful, not only for Lithuanian citizens, but also for the image of Lithuania as homophobic vis-à-vis the rest of Europe;

4. Commands the bilateral action taken so far by the European Commission; asks the Commission to take firm immediate action should amendments to the Penal Code and the Code of Administrative Offences pass;

5. Instructs its President to forward this resolution to the Council, the Commission, Member States and candidate countries governments and parliaments, the President and Parliament of the Republic of

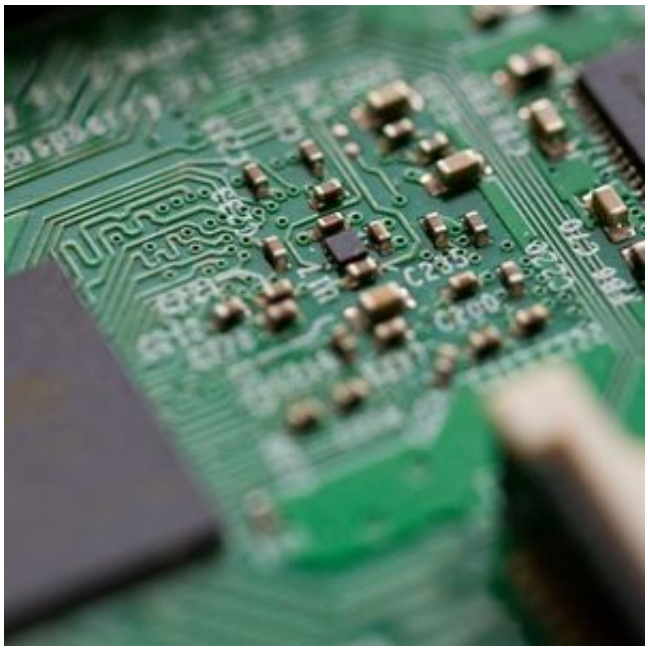
Lithuania, the Agency for Fundamental Rights, and the Council of Europe Commissioner for Human Rights.

[1] P7_TA(2009)0019
[2] P6_TA(2006)0018, P6_TA(2006)0273, P6_TA(2007)0167

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