

Proposal of resolution by Emmily Talpe, Paul Van Miert, Orry Van de Wauwer, An Moerenhout and Annick Lambrecht on taking concrete measures to protect and strengthen the European lgbtqi+-freedom zone

Text adopted in plenary session

The Flemish Parliament

- taking into account the following elements:

1° the policy note on foreign policy and development cooperation 2019- 2024 (Parl.St. VI.Parl. 2019-20, no. 122/1);

2° the policy note on equal opportunities, integration and civic integration 2019-2024 (Parl. St.VI.Parl. 2019-20, no. 141/1);

3° the Universal Declaration of Human Rights, adopted on 10 December 1948;

4° the International Treaty on Civil and Political Rights of 16 December 1966 and the International Treaty on Economic, Social and Cultural Rights of 19 December 1966, to which all European Member States are contracting parties;

5° Article 2 of the Treaty on the European Union;

6° the European Treaty for the Protection of Human Rights and Fundamental Liberties, adopted on 4 November 1950;

7° the Charter of Fundamental Rights of the European Union, signed and proclaimed by the Presidents of the European Parliament, the Council and the Commission on 7 December 2000 at the European Council in Nice;

8° the Communication from the European Commission entitled 'A Union of Equals: Strategy for equality for lhbtqi people 2020-2025' (COM(2020)0698) of 12 November 2020;

9° Regulation (EU, Euratom) 2020/2092 of the European Parliament and the Council of 16 December 2020 on a general system of conditionality for the protection of the Union budget (conditionality regulation with regard to the rule of law);

10° the resolutions of the European Parliament of 14 February 2019, 18 December 2019, 16 January 2020, 21 January 2021, 11 March 2021 and 8 July 2021;

11° the proposal for a resolution adopted in the Flemish Parliament concerning a strong signal against the continued violation of the fundamental human rights of the lgbtqi+-community in Chechnya (Parl.VI.Parl. 2018-19, no. 1894/1) of 18 February 2019;

12° the proposal for a resolution adopted in the Flemish Parliament concerning the possible introduction of the death penalty for homosexuality in Uganda (Parl. St. VI.Parl. 2019-20, no. 119/1) of 6 November 2019;

13° the proposal of resolution adopted in the Flemish Parliament on condemning and fighting public discrimination and hate speech against lgbtqi+-persons in the European Union and in the world (Parl. St. VI.Parl. 2019-20, no. 226/1) of 20 February 2020;

14° the proposal for a resolution adopted in the Flemish Parliament on violence and discrimination against lgbtqi+-persons (Parl.St. VI.Parl. 2020-21, No. 761/1) of 30 April 2021;

15° the proposal of resolution adopted in the Flemish Parliament on the rights of the lgbtqi+-community in Hungary (Parl.St. VI.Parl. 2020-21, no. 865/1) of 23 June 2021;

16° the UN report 'Violence and discrimination based on sexual orientation and gender identity during the coronavirus disease (COVID-19) pandemic' by Victor Madrigal-Borloz, the independent UN expert on violence and discrimination on the grounds of sexual orientation and gender identity, of 28 July 2020 (A/75/258);

17° the policy paper 'COVID-19: domestic violence against LGBTI people' by ILGA-Europe;

18° the ILGA-2021 Rainbow Europe Map, published on 17 May 2021;

19° the memorandum of 3 December 2020 by the Commissioner for Human Rights of the Council of Europe on the stigmatization of lgbti-persons in Poland;

20° the debate in the Current Affairs Committee of the Congress of Local and Regional Authorities of the Council of Europe and the subsequent 'Fact-finding report on the role of local authorities with regard to the situation and rights of LGBTI people in Poland' of 27 January 2021, and 'Protecting LGBTI people in the context of rising anti-LGBTI hate speech and discrimination: The role of local and regional authorities' of 10 February 2021;

21° the Council of Europe Declaration 'COVID-19: The suffering and resilience of the LGBT persons must be visible and inform the actions of States';

22° the report 'Combating rising hate against LGBTI people in Europe' by the Committee on Equality and Non-Discrimination of the Council of Europe of 27 September 2021;

23° the results of the survey 'Still a long way to go for lgbtqi+-equality', carried out by the European Union Agency for Fundamental Rights (FRA) and published on 14 May 2020;

24° the report 'The impact of COVID-19 on LGBTI persons: a call for policy makers' by çavaria;

- considering that:

1° rights of lgbtqi+-persons are human rights;

2° lgbtqi+-is about the identity of a person and is not an ideology;

3° Flanders has always played a pioneering role internationally with regard to social acceptance and equal opportunities and rights for lgbtqi+-persons, but that the battle is far from being won;

4° the right to equal treatment and non-discrimination is a fundamental right enshrined in the EU Treaties and the Charter, which must be fully respected;

5° all European Member States have the task and obligation under international law and the EU Treaties to ensure that fundamental rights are respected, guaranteed, protected and upheld;

6° fighting inequality in the EU is a shared responsibility which requires joint efforts and measures at every level of governance, and in which local and regional authorities play an important role;

7° the resolution of the Congress of Local and Regional Authorities of the Council of Europe of 25 January 2021 refers to the responsibilities of local authorities in protecting the rights of lgbtqi+-persons;

8° The ILGA-2021 Rainbow Europe Map reveals a widespread and almost complete stagnation in the area of human rights of lgbtqi+-persons;

9° The ILGA-2021 Rainbow Europe Map shows that Belgium is in second place for the fourth time, but that Poland has, for the second year in a row, the lowest score on lgbtqi+-rights of all EU Member States;

10° in 2019 about a hundred Polish municipalities and provinces declared themselves to be lgbtqi+-free zones, but that since the EU's threat to withhold funds and subsidies, several Polish provinces and municipalities have withdrawn their declaration of being lgbtqi+-free zones;

11° in 2020, the municipal council of the Hungarian town of Nagykáta decided to ban the distribution of so-called lgbtqi+-propaganda and thus became the first Hungarian lgbtqi+-free zone;

12° Hungary adopted a law in June 2021 that makes it illegal to promote lgbtqi+-values to minors, prohibiting all references to LGBT people in spaces where minors may be present. Hungary has chosen to introduce these measures in a law on child abuse. This stigmatises lgbtqi+-persons by associating paedophilia with the lgbtqi+-community;

13° in August 2021 the Hungarian Prime Minister Viktor Orbán issued a decree that restricts the sale of children's books that feature lgbtqi+-persons. From September onwards, these books may no longer be sold within a 200-metre radius of schools or churches, and they may no longer be displayed in shop windows or in visible places in bookshops;

14° On 27 October 2021, the Italian Senate rejected a bill that punishes lgbtqi+-hate crimes;

15° a bill 'Stop lgbtqi+' has been introduced in the Polish parliament, which prohibits pride marches and other lgbtqi+-gatherings, and the Polish Parliament decided, after a vote on 29 October 2021, to continue working on this legislation;

16° Rainbow Hub, the Bulgarian lgbtqi+-centre in Sofia, was looted and vandalised on 30 October 2021 during a trans community event. The Bulgarian public prosecutor submitted a request to lift the legal immunity of the far-right presidential candidate Boyan Rasate after he was accused of being part of the group responsible for that attack;

17° in June 2020, the Romanian Senate adopted a bill that would ban activities related to gender identity theory in an educational context. However, the Romanian President has refused to

promulgate the law and the Romanian Constitutional Court declared in December 2020 that the law is incompatible with the constitution;

18° the war in Ukraine has led to a large stream of refugees, including lgbtqi+-persons, fleeing the Russian aggression;

19° various international media report that trans persons and nonbinary persons from Ukraine are being held back at the border and they experience great difficulty in fleeing Ukraine;

20° effective control mechanisms in the Member States with regard to the rule of law and democracy are of crucial importance for the protection of the rights of lgbtqi+-individuals;

21° it is not about an ideological struggle between Western and Eastern Europe, but about the violation of fundamental rights and freedoms;

22° the discrimination of lgbtqi+-persons is part of a more general deterioration of democracy, the rule of law and fundamental rights in the Member States concerned;

23° the European Commission has initiated infringement proceedings against Hungary for its anti-lgbtqi+-legislation and against Poland for not reacting sufficiently against the lgbtqi+-free zones;

24° The President of the European Commission Ursula von der Leyen stated in the State of the Union 2020 that lgbtqi+-free zones are inhumane zones that do not belong in the European Union;

25° the President of the European Commission Ursula von der Leyen stated in the State of the Union 2021 that Europe is united in freedom and diversity, and that we are societies based on democracy and common values, but failed to refer to the fact that Europe is also an lgbtqi+-freedom zone;

26° the Commission work programme for 2022 'Making Europe stronger together' does not refer to concrete actions to make the European Union truly an lgbtqi+-freedom zone;

27° the European Union Agency for Fundamental Rights, in its report of 14 May 2020 on the basis of a survey of more than 140,000 participants shows that little or no progress has been made over the past seven years but that there are significant differences between the European Member States;

28° proceedings against Hungary and Poland are ongoing under Article 7 of the Treaty on European Union, these so-called Article 7 procedures have so far not led to any concrete results, no progress is being made and the situation in these Member States only worsens;

29° eighteen Heads of State or Government declare, at the meeting of the European Council in June 2021, that they would continue the fight against discrimination of the lgbtqi+-community;

30° the policy note 2019-2024 on Foreign Policy and Development Cooperation explicitly recognises that Flemish parliamentary diplomacy is to become a component of the international policy on human rights and women's rights, more specifically by giving a place to Flemish parliamentary activity within the Council for Europe;

- recognises and reaffirms that the European Union is a lgbtqi+-freedom zone;

- strongly condemns all forms of violence against lgbtqi+-people, discrimination of lgbtqi+-people and violations of the rights and freedoms of lgbtqi+-persons, both active violations and tolerations of violations, by governments, states or authorities;

- points out that the Council's failure to make effective use of Article 7 of the Treaty on European Union undermines the integrity of common European values, mutual trust and the credibility of the Union as a whole and calls for progress in the ongoing proceedings;

- calls upon the European Commission:

1° to remain particularly vigilant, as guardian of the Treaties, against the decline of social acceptance and of the rights and freedoms of the lgbtqi+-community in the European Member States;

2° to take action whenever Member States violate the European values of Article 2 of the Treaty on the European Union, more specifically in the event of any Member State which leads to discrimination against the lgbtqi+-community through the application of the rule of law mechanism and initiating infringement proceedings;

3° to implement, as a matter of priority and effectively, the European Strategy for Equality of lgbtqi+-Persons 2020-2025, to communicate clearly and transparently on the measures taken, including by means of public campaigns, and to inform the Flemish Parliament accordingly;

4° to work together with the Council on the horizontal Anti-Discrimination Directive, in particular the proposal of 2 July 2008 for a Council Directive on the principle of equal treatment of persons irrespective of religion or belief, disability, age or sexual orientation, as a matter of urgency;

5° to work effectively towards better European legislation on anti-discrimination, by explicitly mentioning transgender and intersex people persons among other things;

6° effectively review the 2009 guidelines on free movement as a matter of priority in 2022, as set out in the European Commission's LGBTIQ Equality Strategy 2020-2025, initiating legislation on the mutual recognition of relationships, and to recognise and reflect the diversity of families and thus contribute to facilitating the exercise of the right free movement for all families and single person households, including rainbow families and single person households belonging to the rainbow community;

7° to analyse the survey results and recommendations in the report 'A long way to go for LGBTI equality' by the European Union Agency for Fundamental Rights of 14 May 2020, and to report on how to put them to use and what concrete measures will be taken, and to inform the Flemish Parliament;

8° in the light of the current influx of refugees due to the war in Ukraine to take strict care that lgbtqi+-refugees - in particular trans persons - are admitted to the European territory, and that the rights and freedoms of lgbtqi+-refugees in all European Member States are respected and to take the necessary steps in case of discriminatory measures;

9° to submit a report to the Flemish Parliament on the state of affairs of the Article 7 proceedings against Hungary and Poland;

10° to take the initiative, by analogy with the annual national report on the rule of law, to prepare an annual national report on the state of fundamental rights and liberties and the observance and protection of fundamental rights as laid down in Article 2 of the Treaty on European Union in the European Member States, with a specific chapter devoted to the rights and freedoms of lgbtqi+-persons;

- calls upon the Commission to examine this resolution in the context of the political dialogue and to indicate how it intends to take it into account;

- calls upon the Flemish Government:

1° in international fora and in bilateral discussions

(a) to condemn systematically and strongly all possible violations and curtailments of the rights and liberties of lgbtqi+-persons;

(b) to advocate that the social acceptance of lgbtqi+-persons be actively promoted and to be a pioneer in providing good practices in order to assist other countries and regimes in this respect;

c) to advocate the decriminalisation of the lgbtqi+-community, in combination with the introduction of anti-discrimination and protection measures;

2° to see if, and in which way, as a result of concrete facts, lgbtqi+-organisations in other countries, both within and outside the EU, can be supported in actions to counter discrimination against the rainbow community and to promote their social acceptance and integration;

- asks the President of the Flemish Parliament to forward this resolution to the Commission and the European Parliament.

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