

Brussels,

February 27th 2013,

Concerns: competence between the EU and Member States in foreign policy

To whom it may concern:

1. With this letter ILGA-Europe wishes to contribute to the consultation process carried out by the Government of the United Kingdom in relation to reviewing the balance of competencies between the United Kingdom and the European Union in relation to the Foreign Policy Report. We have chosen to respond by providing a general input, reflecting on a variety of issues that are at stake for our organisation.
2. ILGA-Europe is the European Region of the International Lesbian, Gay, Bisexual, Trans & Intersex Association. It works for equality and human rights for lesbian, gay, bisexual, trans & intersex (LGBTI) people at the European level. Established in 1996 as a separate region of ILGA, ILGA-Europe is an international non-governmental umbrella organisation bringing together 391 organisations from 45 of the 49 countries in Europe. The organisation advocates for human rights and equality for LGBTI people at the European level, before organisations such as the European Union (EU), the Council of Europe (CoE) and the Organisation for Security and Cooperation in Europe (OSCE). As such, ILGA-Europe closely follows the human rights work of the European Union, both in its internal and external policies.
3. Ever since its establishment the EU has been building upon an important set of shared values. These values include respect to human rights. With the adoption of the Treaty of Amsterdam, the EU has committed to combat discrimination, including on grounds of sexual orientation. In more recent years the EU has also increasingly picked up the fight against discrimination on the basis of gender identity. The ratification of the Lisbon treaty has contributed to making this an important part of the EU's external strategy.
4. Within its larger human rights portfolio, the EU has successfully taken up the cause of defending human rights of LGBTI people. This is very much in line with the FCO's commitment to supporting human rights on grounds of sexual orientation and gender identity. The EU adds value by coordinating actions between member states on various levels, as well as by using various instruments the EU has at its disposal, including positions, human rights dialogues and financial instruments. Besides its external policy work, the European Union contributes to making significant advance for LGBTI people in EU accession and pre-accession countries. All countries of the Western Balkans except for FYR Macedonia have adopted comprehensive anti-discrimination laws inclusive of sexual orientation and gender identity as protected grounds largely because of the human rights conditionality for EU membership. At current times, similar progress can be observed through the European Neighbourhood Policy. Various other integration instruments, including Visa-Liberalisation policies also offer frameworks for dialogue.
5. In 2010 the then EU Working Party on Human Rights adopted a Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People. This Toolkit has effectively paved the way for EU missions and missions of EU member states to take up the cause of LGBTI human rights in third countries. In the Human Rights Strategy, the EU has committed to

upgrading this toolkit to Guidelines, adopted by the European Council, creating a document that is politically binding. The Guidelines can serve to facilitate dialogue and support human rights defenders on the ground. More broadly, in the strategy paper EU pledges to 'place human rights at the centre of its relations with all third countries, including its strategic partners'. This is a strong commitment and an important one in particular towards strategic partners such as Russia.

6. Under the leadership of the EEAS, the EU in past years has invested increased capacity in coordinating joint positions at multilateral organisations. Within the UN setting this has both positive and negative effects. At the one side, coordinating positions on behalf of larger groups of countries enables the EU to respond to similar cooperation initiatives arising in other regions (for instance, the African group and the group of Latin-American countries) by taking position on behalf of a large group of countries. This block-forming in return sometimes makes it harder to engage with other countries and regions.
7. Coordinating joint human rights work on EU level is highly important as it contributes to standard setting and raises the bar on human rights issues. The effect is often visible in countries where the EU engages in difficult human rights situations. We have seen positive effects of this in for instance Moldova (inclusion of a non-discrimination provision inclusive of sexual orientation in the labour code). Through EU cooperation, or sometimes separate multilateral cooperation between EU countries, we've also seen that increased joint responses are given to human rights violations targeted at LGBT people. Joining forces on this front is both effective for the resources of member states, as well as for civil society, which all can bring their messages across more efficiently.
8. As pointed out by our member organisation Stonewall, UK's engagement on LGBTI issues through the EU has also positive effects because it helps to diminish the effects of historic legacy, in particular where it relates to eras were a number of European countries colonized countries in the South.
9. The United Kingdom has had a championing role within the EU on promoting LGBTI human rights. It has made important contributions to the development of the abovementioned toolkit in 2010 and it has structurally supported the work on promoting human rights on grounds of sexual orientation and gender identity throughout the past years. It furthermore has been instrumental in developing the efforts of accession countries in developing equality measures. This for instance was the case in Croatia. Other examples can be observed at the role of the UK in supporting EU dialogue processes, for instance in relation to ACP countries.
10. In conclusion, the key point that ILGA-Europe aims to demonstrate through this submission is that it is the cooperation between the EU and countries that have a long tradition in promoting equality and human rights, such as the UK, that help LGBTI human rights progress on a global level.

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