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ASSOCIATIONS IN EUROPE*

**Campaign against fundamental freedoms:
bullying of Maltese candidate
for the European Commission**

**Maltese European Commission Candidate
Tonio Borg hearing
at the European Parliament 13 November 2012**

Elements of information

An aggressive campaign is currently being conducted to oust the catholic Maltese Commissioner designate Tonio Borg: LGBT, atheist secularist and pro-abortion lobbies attempt to discredit Tonio Borg based on his personal beliefs and opinions.

Fundamental rights such as freedom of conscience, belief and opinion are put at stake as the personal values of Mr Borg are depicted as incompatible with the European values.

However, the fundamental rights are the core values on which the European Union is founded and apply to all citizens, including European Commissioners.

Why does this process happen?

Following John Dalli's resignation as European Commissioner, a new Maltese Commissioner designate will be appointed by the European Council as Health and Consumer Protection Commissioner.

Every EU Member State is entitled to provide one Commissioner.

The European Parliament gives its approval of the commissioner designate following a public hearing of the competent parliamentary committees.

The candidate nominated by the Maltese Government is Tonio Borgⁱ, currently Deputy Prime Minister and Minister of Foreign Affairs of Malta, he is a member of the governing party PN (European Peoples Party).

What are the next steps?

On Tuesday 13 November a public hearing will take place in the European Parliament with the MEPs members of 3 parliamentary committees:

“Environment, Public Health and Food Safety” ([ENVI](#))ⁱⁱ,
Internal Market and Consumer Protection ([IMCO](#))ⁱⁱⁱ,
and Agriculture and Rural Development ([AGRI](#))^{iv}.

These are the committees concerned by the portfolio of the Commissioner for Health and Consumer Protection.

The hearing will last 3 hours, starting at 15.00. Members of the 3 Committees will take the floor to ask their questions to Mr Borg. It will be webstreamed [here](#).

The draft agenda of the hearing can be found [here](#). It is available in all languages of the EU [here](#).

Arising issues

The anti-values campaign in a nutshell:

- ✓ Fundamental rights such as freedom of expression, of religion and belief do not apply to a Commissioner designate according to the arguments put forward by the opponents to Mr Borg’s designation.
- ✓ The appointment of an EU Commissioner seems to be conditioned on his stand in favor of abortion and homosexuality whilst the EU institutions do not have any competence on abortion or the definition of marriage and family that are an exclusively national competency.
- ✓ Atheist secularists, gay and pro-abortion lobbies’ are aggressively intolerant and discriminating with regard to politicians who promote the respect of life from conception, marriage between a man and a woman and the family based on this marriage.
- ✓ Christian views are depicted as incompatible with European values and an obstacle to hold an important public office as EU Commissioner.

In detail

- ✓ The European Humanist Federation^v, the LGBT lobby (International Lesbian and Gay Association, ILGA - Europe^{vi}), and the International Planned Parenthood Federation (IPPF^{vii}) try to prevent the appointment of Mr Borg.

In a note published on 29 October^{viii} the two latter mislead decision makers in interpreting the **personal views of the candidate**, his political commitment in his Member State, his qualification as EU Commissioner and the current legal situation of the community *acquis*.

[European Humanist Federation President Pierre Galand:](#)

“We believe that this candidacy is clearly damaging for Europe and seriously concerning for the quality of health services enjoyed by those millions of European citizens. There are serious doubts as to whether Mr Tonio Borg shares this commitment. As Minister of Justice in Malta, he repeatedly and vigorously opposed women’s sexual and reproductive rights and even campaigned in 2004 to constitutionalize the abortion ban in his home country. In 2011, he also strongly opposed the legalization of divorce in Malta. In addition, he has openly expressed contempt for the LGBT community and opposed the recognition of the rights of homosexual co-habiting couples in the Maltese Parliament in 2009. Finally, as Home Affairs Minister, he clearly failed to protect the rights of illegal migrants. Despite several calls from human rights organizations, he oversaw in 2001 the deportation of more than 200 Eritreans back to Eritrea where several of them were eventually tortured and killed.”^{ix}

[European Parliament LGBT Intergroup, ILGA Europe and IPPF:](#)

“Tonio Borg’s views on abortion, homosexuality and divorce are staunchly conservative and outdated. While not necessarily on topics of EU competence, he views his strong opinions as ‘issues of conscience’, which would prevent him from being an impartial commissioner—especially with the public health portfolio.”^x

- ✓ The attempts to blacklist Mr Borg are **anti-christian** and **do not respect the fundamental freedoms** laid down in [Art 10 of the EU Charter of Fundamental Rights](#):

Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

- ✓ The **LGBT** (lesbian, gay, bi and transsexual) lobby and the **International Planned Parenthood Federation** express concern about the positions taken by Mr Borg on **issues concerning family, marriage and abortion. Those “arising issues” are misleading.**

THIS IS TRUE

- ✓ According to the Code of Conduct for Commissioners^{xi} **[\(\(2011\) 2094\)](#) the personal views of a Commissioner shall not influence the decisions by the Commission:**

"Commissioners may be politically active; (...) Commissioners are expected to defend and support the decisions taken by the College. Their Commission duties must prevail over party commitment. In respect of the principle of independence that must guide the performance of their duties, Commissioners should abstain from making public statements or interventions on behalf of any political party or trade union of which they are members... This rule is without prejudice to the right of Commissioner to express their personal opinions."

- ✓ **The candidate has clearly stated his intention to respect the Code of Conduct for Commissioners**, namely in his written answers^{xii} to the questions of the European Parliament available in all EU languages [here](#).

FALSE ASSERTION:

- ✓ The above mentioned note^{xiii} published by the LGBT and IPPF lobby states: *"Tonio Borg supported Malta's incorrect transposition of the **Free Movement Directive** (2004/38/EC), for which the European Commission had started infringement proceedings because it explicitly excluded same-sex couples, breaching EU law."*

THIS IS TRUE:

- ✓ This is a false and misleading statement. **Malta's national law neither explicitly excludes same-sex couples, nor explicitly mentions them.** This is not an incorrect transposition of the Free Movement Directive as the directive does not foresee such an explicit mention especially for same sex couples. The assertion that the EU Commission took action against Malta at the European Court of Justice is not true. EU-Commissioner Viviane Reding responsible for the implementation of the Free Movement Directive explained the scope of Directive with regard to the mutual recognition of same sex couples ([Tuesday, 22 May 2012](#)): *"The question of recognition of marriages does not fall within the scope of the Free Movement Directive. In order to apply it correctly, Member States do not need to address the recognition of same-sex unions."*

THIS IS TRUE

- ✓ The **issues raised by the bullying LGBT lobby and the IPPF** related to family, definition of marriage and abortion are not part of the European Union's legal and political competency as laid down in the EU Treaty, but clearly **fall within the competency of the Member States only**. The **principle of subsidiarity** applies to all these areas.
- ✓ The legal quotes and answers from the European Commission to questions from the European Parliament below clearly state the **national character** of these issues.

The definition of "marriage" is not a competency of the EU Commission:

EU Charter of Fundamental Rights, Art 9 - Right to marry and right to found a family

*The right to marry and the right to found a family shall be guaranteed **in accordance with the national laws** governing the exercise of these rights.*

Art 81 of the Treaty on the Functioning of the European Union (TFEU)^{xiv}

3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament. The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament. The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision.

European Parliament: [Fight against homophobia in Europe \(debate\), 22 May 2012](#)

The question of recognition of marriages does not fall within the scope of the Free Movement Directive. In order to apply it correctly, Member States do not need to address the recognition of same-sex unions. They need simply to grant entry and residence to the couples in question and to their family members, including spouses and partners, irrespective of their sexual orientation. This means that all Member States are obliged to grant the right of residence to a Union citizen's spouse regardless of sexual orientation, but the host Member State is under no obligation to recognise the marriage under its national law.

Parliamentary questions, 2 July 2010, [P-4250/2010](#)

Answer given by Mrs Reding on behalf of the Commission

*"No existing EU legal instrument or adopted Commission proposal in the area of judicial cooperation in civil matters contains a definition of 'marriage'. If the term 'marriage' is needed to be interpreted for the purposes of applying an EU legal instrument in the area of judicial cooperation in civil matters, **it would be for the courts in the Member States** and ultimately the Court of Justice of the European Union to interpret this term."*

On Abortion:

"The Commission does not assume any positions in favor or against abortion, due to the fact that there is no community legislation in this respect."

Parliamentary question, 2 December 2011, [E-009068/2011](#)

Answer given by Mrs Reding on behalf of the Commission

“The Commission acknowledges the differences in national policies and laws with regard to abortion. According to the Treaty of the European Union and the Treaty on the Functioning of the European Union, the EU has no competences on abortion policy at national level and can therefore not interfere in Member States' policies in this area. The Commission has not funded studies on consequences of legislation on abortion in the Member States.”

Parliamentary questions to the COUNCIL, 30 November 2009, [E-5125/2009](#),

Reply

The Council would point out that the issue of abortion is the responsibility of the individual Member States, the scope of Community action on health issues being strictly defined by Article 152 of the EC Treaty.

Questions parlementaires, Commission européenne, 11 septembre 2007, [E-3087/2007](#)

Réponse donnée par M. Frattini au nom de la Commission

(...) La légalisation de l'avortement relève de la compétence des États membres, seuls compétents pour légiférer dans ce domaine. (...)

Question to the Commission, [H-0239/07](#), Debates, Thursday, 26 April 2007,

Answer

“The Commission does not assume any positions in favour or against abortion, due to the fact that there is no community legislation in this respect.”

Parliamentary questions to the COUNCIL, 19 March 2007, [E-4955/2006](#),

Reply

“Concerning the right to abortion, the Council would inform the Honourable Member that the issue of abortion from a legal point of view falls under the competence of the individual Member States.”

Questions parlementaires, 6 avril 2006, [E-0720/2006](#)

Réponse donnée par M. Frattini au nom de la Commission

« La Communauté ne dispose d'aucune compétence pour légiférer dans les domaines cités par l'Honorable Parlementaire, tels que l'avortement, l'euthanasie ou le «comptage d'avions». Elle se doit par ailleurs de respecter strictement le principe de subsidiarité. »

The beginning of human life: Human life begins at fertilization as confirmed by the **European Court of Justice** in its Judgment C-34/10 “Oliver Brüstle v Greenpeace eV.” of the Grand Chamber of 18 October 2011:

"The concept of a human embryo applies from the fertilization stage to the initial totipotent cells and to the entire ensuing process of the development and formation of the human body."

Contact in Brussels for further information:

Maria Hildingsson, Secretary General FAFCE

m.hildingsson@fafce.org

Tel. +32 4 70 20 39 18

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http://www.europarl.europa.eu/meetdocs/2009_2014/documents/envi/dv/2012/2012111/20121113_cv_borg_en.pdf

ii <http://www.europarl.europa.eu/committees/en/envi/home.html>

iii <http://www.europarl.europa.eu/committees/en/imco/home.html>

iv <http://www.europarl.europa.eu/committees/en/agri/home.htm>

v <http://humanistfederation.eu/>

vi <http://www.ilga-europe.org/>

vii <http://www.ippfen.org/en>

viii <http://www.statewatch.org/news/2012/nov/ep-new-com-borg-nomination-note.pdf>

ix <http://humanistfederation.eu/why-tonio-borg-must-not-be-the-next-european-commissioner-for-health-and-consumer-protection/>

x <http://www.statewatch.org/news/2012/nov/ep-new-com-borg-nomination-note.pdf>

xi http://ec.europa.eu/commission_2010-2014/pdf/code_conduct_en.pdf

xii

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/envi/dv/2012/2012111/20121113_borg_questionnaire_en.pdf

xiii <http://www.statewatch.org/news/2012/nov/ep-new-com-borg-nomination-note.pdf>

xiv <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:EN:PDF>