

DEMOCRACY AND HUMAN RIGHTS

THE LGBTI MOVEMENT IN CYPRUS

Activism, Law, and Change Across the Divide

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This report assesses the extent to which LGBTI people in both parts of Cyprus enjoy the rights to equality and non-discrimination



The recognition of the LGBTI community as a legitimate political actor and the recognition of LGBTI rights has been a slow and difficult process on both sides of the divide.



European Union (EU) admission and its prospect, as well as the ensuing Europeanisation and other transnationalisation processes have brought about changes in political opportunity structures

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I

INTRODUCTION

Following the end of the British rule of Cyprus in 1960, the recognition of the Lesbian, Gay, Bisexual, Trans, and Intersex (LGBTI) community as a legitimate political actor and the recognition of LGBTI rights has been a slow and difficult process on both sides of the divide. The prevailing nationalist politics that emphasised the Cyprus problem as an ethnic issue since the 1960s have hindered civil society mobilisation on other issues – including issues of sexuality and gender non-conformity – that have been rendered as less politically important, if not as apolitical, when compared to the ‘Cyprus problem.’ Nationalistic discourses tend to enjoy more appeal in postcolonial, ethnically divided, and conflict-ridden contexts, like Cyprus, where the stakes of a widely shared national identity are particularly high. Cyprus’s historic turns – and the British colonisers’ discourses that fuelled interethnic hatred and nationalism and, for the first time, delegitimised sexual and gender nonconformity on the island – have rendered heterocentrism and cisgenderism as the *sine qua non* of the ethnic communities’ unity against internal and external enemies, while heterocentrism and cisgenderism’s privileging has underpinned legal, political, social, economic, and cultural mechanisms of lives’ regulation and hierarchisation on both sides of the divide (Kamenou, 2011; Kamenou, 2012; Kamenou, 2016; Kamenou, 2019a; Kamenou, 2019b; Kamenou, 2020).

Originally retained from the UK Criminal Law Amendment Act 1885, within the Criminal Code (Chapter 154) that governed the newly formed Republic of Cyprus (RoC), Articles 171 to 173 effectively criminalised and outlawed homosexuality and sexual acts between consenting males.¹ Following the establishment of the Turkish Cypriot administration in 1975, the same criminal code was adopted without any changes into the Turkish Cypriot Criminal Code.² In the Turkish Republic of Northern Cyprus³, Paragraph 154, Articles 171

to 173, remained the same without any amendments. Similarly, in the south, in relation to acts of same-sex sexual conduct, the transplanted Labouchere Amendment to the Criminal Law Amendment Act 1885 by the British colonisers has been left intact until the late 1990s.

However, like elsewhere, in Cyprus, European Union (EU) admission and its prospect, as well as the ensuing Europeanisation and other transnationalisation processes have brought about changes in political opportunity structures (Helfferrich & Kolb, 2001; Marks & McAdam, 1999). These changes facilitated LGBTI mobilization across the island and the formation of coalitions and joint actions between Greek-Cypriot and Turkish-Cypriot LGBTI organisations (Kamenou, 2011; Kamenou, 2012; Kamenou, 2016; Kamenou, 2019a; Kamenou, 2020).

1 See: Annex I.

2 See: Annex II

3 The Turkish Republic of Northern Cyprus (TRNC) is only recognised by the Republic of Turkey. While for Turkey and the Turkish Cypriots, Mustafa Akinci serves as President of the TRNC, the international community considers him the communal leader of the Turkish Cypriots. As the government of the Republic of Cyprus remains internationally recognised as the government of the whole of the island, the entire island is now considered to be a member of the European Union. However, the *acquis communautaire* is suspended in north Cyprus pending a political settlement to the Cyprus problem (see Protocol no. 10 of the Accession Treaty).

II

DECRIMINALISATION OF HOMOSEXUALITY IN CYPRUS

STEPS IN THE REPUBLIC OF CYPRUS

In the early 1980s, Alecos Modinos, a Greek-Cypriot gay rights activist decided to challenge the discriminatory Cypriot Criminal Code section. Due to the priority given to resolving the Cyprus problem, and the LGBTI-hostile environment that impeded collective mobilisation, Modinos lobbied for the decriminalisation of same-sex sexual conduct, but to no avail. Since no political party was willing to support his cause, on 25 May 1989, employing the right to individual petition afforded by Article 25 of the pre-1998 version of the European Convention on Human Rights (EConvHR), Modinos filed an application to the European Commission of Human Rights claiming that the maintenance in force of provisions of the Criminal Code of the Republic of Cyprus that criminalised private homosexual relations constituted an unjustified interference with his right to respect for private life under Article 8 of the Convention. Subsequently, the Commission referred the matter to the European Court of Human Rights (ECtHR), which led to a ruling on 22 April 1993 in favour of the plaintiff (*Case of Modinos v. Cyprus*, 1993).

Decriminalising same-sex sexual contact could no longer be avoided, since the Council of Europe (CoE) had warned the Republic of Cyprus that non-abidance with the ECtHR ruling would mean expulsion and jeopardise the enforcement of a 1996 ruling on the issue of the Turkish intervention and occupation. Consequently, in 21 May 1998, the Republic of Cyprus parliament was forced to decriminalise same-sex sexual contact amidst fierce opposition by the Orthodox Church of Cyprus, only days before the deadline of 29 May 1998 that the Council of Europe (CoE) had given the RoC to comply with the action ordered by the ECtHR (PlanetOut, 1998). It is important to note that 11 of the 56 members of the parliament walked out in protest of the vote, some joining the protesters outside the Parliament. The law was eventually passed with 36 votes in favour and 8 votes against. What is also important to note is that it took another two years to have deliberately offensive terms describing homosexual relations – ‘unnatural licentiousness’ – removed from the new legislation and after only further threats from the CoE. In 2002, parliament removed a further bone of contention, equalising the age of consent for heterosexuals and homosexuals to 17. Before that, heterosexual couples aged 16 and over were considered consenting adults while homosexuals

had to wait until they were 18 to remain within the law (Evripidou, 2013; Kamenou, 2011; Kamenou, 2012; Kamenou, 2016).

DECRIMINALISATION IN THE NORTH – THE LAST EUROPEAN TERRITORY TO DECRIMINALISE HOMOSEXUALITY

In the area under Turkish Cypriot administration in the north of the island, change took even longer to come. Same-sex sexual conduct was not decriminalised until 2014, making the northern part of Cyprus the last piece of European soil where homosexuality was legally defined as ‘unnatural licentiousness’, and ‘sodomy’ was penalised with imprisonment.

The dynamics created when the Republic of Cyprus started to formally negotiate its accession into the European Union in March 1998, with a prospect of joining in 2004, also created an opportunity for the prospect of re-unification of the island (Featherstone, 2000). The aim was for Cyprus to join the European Union as a unified country, under the United Nations-proposed comprehensive settlement Annan plan. The prospect of EU admission had a transformative impact on Turkish Cypriot society. Not being legally recognised as a state entity, the part of the island under Turkish Cypriot administration was prevented from being fully engaged with the international community. Hence, it was unable to keep abreast of international political, legal, social, and cultural changes. Therefore, the period before the Annan Plan referendum offered fertile ground to materialize change and transformation (Diez & Tocci, 2009)

Big rallies and political demonstrations called for the ousting of the old regime and for reunification of the island, which would bring the Turkish Cypriot community closer to the EU and the international community, as well as democratise political and legal institutions and processes (Kyris, 2011). In this conducive context for change, civil society organisations challenged the status quo and demanded change and more equality and rights for groups like women, LGBTIs, people with disabilities, and other marginalised groups flourished (Human Dignity Trust, 2019). This led to the formation of the first women’s rights organisation called Feminist Atelier (FEMA). FEMA had been advocating on gender issues and LGBTI

rights, and it is considered to be the first organised rights-based movement for LGBTI rights in the north.

Other new civil society organisations also emerged to advocate for equality and human rights based on sexual orientation, gender identity and sex characteristics to demand ground-breaking legal changes. In 2008, the Initiative Against Homophobia (HOKI) presented a request to repeal sections 171, 172, and 173 of the Criminal Code along with a resolution to Fatma Ekenoglu, the then speaker of the Assembly of North Cyprus, stating that the rules 'provide the main framework for regulating discrimination against sexual orientation, and they have not been revised since British colonial time' (Johnson, 2012). Moreover, in February 2009, Michael Cashman, the then co-chair of the European Parliament's LGBTI Intergroup, visited the north and spoke at a seminar titled 'EU's role and LGBTI Rights' organised by HOKI (Human Dignity Trust, 2019).

Despite civil society efforts towards LGBTI equality that were supported by some influential international political actors, the persecution of homosexual men continued. In 2010, two men were arrested, under Article 171 of the Criminal Code. In July 2011, two more men were arrested under Article 171, being accused of engaging in 'carnal acts against the order of nature'. In October 2011, three men, one of whom was a former Minister of the RoC, were arrested and detained on charges of 'unnatural intercourse.' HOKI raised alarm about the arrests which led to protests from Members of the European Parliament. Michael Cashman called for the release of those arrested and detained under the said Article 171 of the Criminal Code. Immediately after these incidents, on 25 October, the leader of the Socialist Democracy Party (TDP) took initiative and the TDP submitted a bill to the assembly to reform the criminal code (Kıbrıs Postası, 2011).

In 2011, Marina Yannakoudakis, who was a member of the European Parliament's High-Level Contact Group for Relations with the Turkish Cypriot Community campaigned for the decriminalisation of homosexuality in northern Cyprus and visited the island where she met with the main political parties and the Turkish Cypriot leader, Derviş Eroğlu. Yannakoudakis received assurances from Eroğlu that he would sign a repeal of the ban of homosexuality into law (Yannakoudakis, 2013).

A proposal to amend the 1959 Criminal Code was then introduced to the Assembly, which had it succeeded would have repealed articles 171 to 173 and addressed some of the other deficiencies in the sexual offence's provisions. This was accompanied by pledges of support and public commitments to reform the law. Unfortunately, this early attempt to reform the said law was unsuccessful.

In January 2012, the ECtHR agreed to examine a legal case, *H.Ç vs. Turkey* (H.Ç. v. Turkey, 2014). The applicant brought his case against the Government of Turkey as the competent authority in northern Cyprus, on the basis that the European Convention on Human Rights, to which Turkey is a party, prohibits criminalisation of sexual orientation by virtue of the

rights to privacy and family life, freedom from discrimination, and freedom from inhuman and degrading treatment.

In February 2012, another two men were arrested under Article 171 of the Criminal Code, which led to a protest by then the Co-chair of the European Parliament's Intergroup on LGBT Rights MEP Michael Cashman, who visited the island again in April 2012. Cashman met with local non-governmental organisations (NGOs) and senior politicians to talk about repealing the homophobic British Colonial Laws, as well as building pressure on the parliament to pass the proposed amendment bill (Jenkin, 2012). Yannakoudakis also paid another visit to the island in 2013 to try to revive the efforts to pass the bill that decriminalised homosexuality. By putting pressure on the authorities in the north, Yannakoudakis was instrumental in eventually overturning the anti-gay law (LGBT+ Conservatives, 2013).

The passage of reforms between 2013 and 2014 is best described as discontinuous, with changes in government both suspending and resurrecting the Amendment Bill. Re-emergence of the Republican Turkish Party (CTP) as the winner of the July 2013 general election proved decisive in reigniting the reform effort in December 2013 by the deputies. Three CTP party deputies in particular – Ms. Derya, Ms. Özdenefe, and Mr. Erhürman – played an important role in terms of enacting the Criminal Code Law 20/2014 ('Amendment Act') by February 2014. At that time, the route to the significant reforms of 2014 appears to have been influenced and guided by a variety of factors, mainly political climate and the emergence of an active civil society.

The historical and political context of north Cyprus certainly created an environment conducive and receptive to reform. The main drivers of the reform which placed them firmly and constantly on the legislative agenda were the efforts and strategy of domestic civil society, namely, LGBTI activists and organisations, human rights organisations, and their supporters. The political will and climate at the time were also very influential factors in realising the changes in 2014. Other important elements included the engagement from, but also with, the European and international community, litigation before the ECtHR, executing the changes as part of a package of reform, and the absence of organised opposition from faith groups (Human Dignity Trust, 2019).

III

FORMATION OF THE CYPRIOT LGBTI CIVIL SOCIETY

Following independence from Great Britain, there are differences and similarities to be noted between the two communities regarding the running of the state. In relation to both ethnic communities, the prevalence of nationalism and ethnicity-based conceptions of identity would not allow for other personal identities to emerge, while the events of 1963 and 1974 fuelled nationalist attitudes to such degree that it was considered anathema to talk about issues such as human rights and discrimination, if these were not immediately aligned to issues of ethnonational identity. This became particularly acute following the events of 1974 when even talking about the rights of LGBTIs seemed outrageous, distasteful, and downright immoral, considering the dire problems faced by the internally displaced people from both communities and the relatives of those gone missing. Inevitably, with the hard division of the population in the north and south, civil society was only able to operate inter-ethnically. Any co-operation on issues that were not strictly related to the Cyprus problem was limited (Kamenou, 2011; Kamenou, 2012; Kamenou, 2016; Kamenou, 2019a; Kamenou, 2019b; Kamenou, 2020).

SOUTH

In the RoC, the Church of Cyprus has historically assumed a central role in the country's social, political, economic, and cultural life. Moreover, through its politics and discourse, it has been a major force behind the shaping of the national identity of the Greek Cypriots as a gender- and sexuality-essentialist one. Given the very strong influence of the Church, it was almost impossible for LGBTI people to come out without being seriously negatively affected both socially and financially, as they would soon find themselves cast out from family and the rest of the society (Kamenou, 2011; Kamenou, 2012; Kamenou, 2019b; Kamenou, 2020).

It took many years following 1974 for the LGBTI community to start organising collectively. The first big step happened on 10 December 1987, on the International Human Rights Day, with the establishment of the Gay Liberation Movement (AKOK) by Alecos Modinos (Polycarpou, 2010). However, AKOK was never able to officially register and act as a recognised entity by the state as, according to Modinos, it was impossible to find the 20 members needed who were willing to sign their names to register with the authorities, even

though the movement joined the International Gay and Lesbian Association (ILGA) as a member organisation. The group would gather in private spaces and discuss day-to-day problems of the gay community and find ways of assistance, including the setup of the 'Gay Phone Line' LGBTI support line (Kamenou, 2012; Kamenou, 2020).

EU accession in 2004 forced the RoC to align national legislation with European Directive 2000/78/EC prohibiting discrimination in the workplace, including on grounds of sexual orientation. Nonetheless, despite some positive legal changes, state approaches to human rights remained limited as the concept of 'human rights violations' continued to stand primarily for the grievances suffered by Greek Cypriots as a result of the events that took place in 1974 (Kamenou, 2011; Kamenou, 2012; Kamenou, 2016; Kamenou, 2019a; Kamenou, 2019b; Kamenou, 2020).

With the support given by EU institutions and within an improved legal framework, the Cypriot civil society was able to reinvent itself and form local and international alliances more easily (ibid.). It was within this context and with the support of already established NGOs – and especially the Cyprus Family Planning Association (CFPA) – that a new generation of LGBTI activists started looking into ways to advance the rights of the community during informal meetings that started in November 2009 (Mantis, 2014).

The CFPA was instrumental for the setup of the LGBTI organisation, boosted by an open call for a research project that was open by ILGA-Europe, the European region of ILGA World, named the *7th Call for Proposals for the Human Rights Violations Documentation Fund*. The Fund supported small and medium-scale projects, up to €5000, funding the production of reports on the LGBTI situation in 2010 in Europe with a potential those to be later used for advocacy purposes (ILGA-Europe, 2009).

ILGA-Europe requested the active participation of LGBTI groups to finance this project. CFPA therefore helped gather Cypriot LGBTI activists from the south and, by December 2009, applied for this small project. This was done together with the yet anonymous group of LGBTI activists – simply named in the application as 'LGBTICY' (ILGA-Europe, 2009). CFPA produced a report, one of the very few with Cypriot LGBTIs actively involved at the time, titled *Sexual Orientation*

in Cyprus: *Mapping the Social Political Climate, Experiences, and Needs* (Kapsou, et al., 2011). The report was later printed with the financial assistance of ILGA-Europe, and amongst others was presented in the parliament, while it became a reference point for several advocacy steps in Cyprus.

Based on this, and supported by several other allies too, the LGBTI group started organising and, through a number of meetings throughout 2010 decided to register the group officially as the first LGBTI group in the RoC and produced the constitution of the then Accept – LGBT Cyprus (Accept).⁴ Accept submitted its application for registration to the authorities on 26 October 2010 and eventually received approval to register as an NGO (*Somation*) on 8 September 2011. The approval was not a straightforward process, as the state requested the views of several possibly affected stakeholders, amongst them the Church of Cyprus, something that infuriated the group and led to the request for support from political allies to progress its application (Kamenou, 2016).

NORTH

Following the results of the 2004 Annan Plan referendum and the failed attempt at reunification, the local civil society started to regroup around personal rights. In 2007, Homofobiye Karşı İnsiyatif, Initiative Against Homophobia (HOKI) was founded as the island's first LGBTI organisation aiming to tackle homophobia and advocate for the abolishment of the criminalisation of homosexuality in the north. HOKI initially cooperated with FEMA, a feminist organisation that was mainly working for the protection of women's rights. This was initially done by attending the 8 March International Women's Day demonstration, raising in such a way the visibility of LGBTI rights. Both organisations gradually increased their collaboration to combine forces to fight for the decriminalisation of homosexuality. In 2012, HOKI changed its name to Queer Cyprus Association (QCA). QCA primarily advocated for abolishing the articles of the penal code which criminalised homosexuality at the time, raising awareness on LGBTI rights and developing international and European links and networks.

Shortbus Movement was an organisation established in 2008 to work for LGBTI rights. It was a civil society initiative consisting of human rights activists and dedicated volunteers who believed that all people are equal, irrespective of sexual orientation, gender identity, sex, or any other status. The group aimed to support all the individual or organisational activities of the LGBTI Turkish-Cypriot community. Its objectives included empowering and mobilising members of the LGBTI community by increasing awareness through sharing related information, providing informational, educational, psychological, and legal services to the LGBTI community, and organising and/or supporting LGBTI, gender equality, and hu-

man rights thematic cultural events – for example, it organised queer movie nights, as well as visibility and networking events.

Envision Diversity Association (Envision) was founded in 2015 with the same aims – i.e., to promote diversity, human rights, and intersectional gender equality. Envision has been actively working on LGBTI mental health, sexual health, awareness raising on LGBTI rights, and advocating for trans rights. Envision has organised two conferences on LGBTI mental health, held trainings on sexuality and gender for university students, presented public seminars on LGBTI rights, and other similar activities.

Below are some notable activities organised by these and other groups working on LGBTI rights in the north:

- a. 2007: FEMA, public figures, lawyers and activists gathered to establish HOKI at the Primary Teachers Union.
- b. 2008: Shortbus held movie screenings at the first LGBTI-friendly space, Cadı Kazanı, the first LGBTI-themed movies that have been ever screened in the north part of Cyprus.
- c. Famagusta Youth Organisation (MAGEM) held a movie night screening the documentary *My Child*, in which the parents of LGBT individuals in Turkey recount their personal experiences. These parents were the members of Families of LGBTs in Istanbul (LISTAG), a voluntary support and solidarity group for families and friends of LGBT people in Istanbul since January 2008. During the documentary screenings, many families were able to interact with each other and discuss shared experiences. Moreover, the screenings afforded LGBTI people and their families the opportunity to create networks among themselves.
- d. 2010-2012: In 2010, HOKI co-organised an international conference, titled 'Solidarity and Networking Conference Cyprus 2010,' in co-operation with Accept and ILGA-Europe and hosted by the Journalists Union (more below). The event emphasised that homosexuality was criminalised under law in the north and reiterated that the criminalisation of homosexuality constituted a violation of human rights. In July 2011, two men were arrested and charged with the offense of 'unnatural intercourse.' HOKI publicised the case and others followed suit, including LGBTI organisations in Greece, Malta, Turkey, Albania, and Cyprus, who supported HOKI and reiterated calls for a change in the law. HOKI also put forward that, in their reporting, the media in the north normalised attitudes of hatred and fed homophobic reports and comments to the public. In December 2010 and January 2011, HOKI and Accept co-hosted ILGA-Europe's family exhibition titled 'Different Families, Same Love' in Nicosia, both north and south (Queer Cyprus, 2011). The opening of the event attracted a range of media including state television, with the exhibition receiving positive press coverage and providing different and positive facets of the LGBTI community to the general public.
- e. 2015-2018: Envision Diversity has been established to

⁴ The group was later renamed to Accept – LGBTI Cyprus to reflect the emphasis needed on the intersex community as well, following the guidelines of ILGA-Europe, the Brussel's based Pan-European LGBTI organisation.

work on wider issues of sexuality, gender, and human rights through an intersectional approach. Envision has worked in various areas, mainly sexual health, gender-based violence, and LGBTI rights.

Sexual health awareness was one of the main aims of Envision Diversity. This was pursued through a video campaign that aimed to raise awareness, which was distributed online. Moreover, leaflets on sexual health were written and distributed to the public, and several high school visits were done to inform students on sexual health. In subsequent years, Envision Diversity organised a mental health conference in association with the Turkish Psychology Students Working Group, which included a one-day seminar on sexualities and LGBTI mental health, as well as a workshop on psychodrama focusing on sexual orientation and gender identity (SOGI) (Envision Diversity, 2018).

In 2016, Envision proposed to the Ministry of Education a pilot project to screen the *My Child* documentary and to deliver a series of SOGI modules in five high schools in five different districts. The proposal was rejected by the Ministry without a proper explanation being provided beyond a vague statement that the proposal is inappropriate and does not abide by established moral standards. Envision then took the case to the Ombudsman's Office in north Cyprus, which ruled that this is a gross discrimination and advised the Ministry of Education to take immediate actions and steps to rectify the situation. Moreover, it has also recommended that sexual education and SOGI classes and modules are introduced into the secondary education curriculum (Ombudsman, 2017).

In June 2017, Envision collaborated with the Post Research Institute to commemorate the Stonewall Uprising with a day full of events including a live performance by Turkish Cypriot actress and activist Oya Akin narrating the experiences of a family whose child came out as a trans woman. In 2017, Envision also held several exhibitions with the theme 'One Love' at the Home Gallery and Bedesten in Nicosia, one of which was visited by Espen Barth Eide, the former UN Secretary General's Special Adviser on Cyprus.

To sum, Envision also organised a variety of public awareness events in collaboration with local authorities – such as the Kyrenia municipality and the Nicosia Turkish municipality – and universities in different cities – such as the Girne American University and the Middle East Technical University. Other Envision activities on SOGI included a symposium in October 2018, public seminars, and awareness workshops at universities. Envision also organised the German Queer Film Festival, in association with the German Embassy (Kıbrıs Gazetesi, 2018).

Furthermore, in November 2017, Queer Cyprus Association undertook a project called 'Unspoken'. The project aimed to strengthen the dialogue in the northern part of Cyprus on issues regarding LGBTI rights. The two-year project was supported by the European Union under 'Cypriot Civil Society in Action Program' and was implemented by the Cyprus Community Media Centre in collaboration with Thomson Foundation and the Queer Cyprus Association (Queer Cyprus, 2017).

IV

JOINING FORCES – COMMON WORK

With an already established civil LGBTI movement in the north, cooperation with the organised LGBTI movement in the south started with the establishment of Accept – LGBTI Cyprus as of 2010. In Cyprus, as elsewhere, the fundamental rights multilevel protection system in Europe has enhanced political opportunities for national and transnational mobilisation around sexual and gender equality under the umbrella of transnational NGOs, and particularly ILGA-Europe, which is assisting activists in advancing their cause at the national level through Brussels (Kamenou, 2012; Kamenou, 2016; Kamenou, 2019b; Kamenou, 2019b).

DECEMBER 2010: SOLIDARITY AND NETWORKING CONFERENCE

In October 2009, ILGA-Europe held its Annual European Conference in Malta. There, Alecos Modinos was honoured by the international organisation for his contribution to the European LGBTI movement. It was at this event that the decision to set up a regional Mediterranean Network within ILGA-Europe was made, as an initiative of the Maltese LGBTI organisations at the Conference.

Originally, the countries in this network were Malta, Greece, Albania, and Turkey. In the forthcoming months, with the establishment of Accept – LGBTI Cyprus (Accept), the Maltese LGBTI groups extended an invitation to the Cypriot LGBTI groups, Greek-Cypriot Accept and Turkish-Cypriot HOKI to join and set up a forthcoming networking meeting for all the international organisations in Cyprus at the end of 2010, as this was envisioned to help the Cypriot LGBTI movement.

Accept and HOKI had several meetings on planning the event and decided to seize the opportunity and make the meeting as open to participation as possible. The aim was to provide visibility and galvanise support of local stakeholders. The two organisations approached the Representation of the European Commission in Cyprus and the Office of the European Parliament in Cyprus for support, which offered practical assistance, mainly by holding the event for free at the EU House in Nicosia and publicly addressing the support of the EU institutions for the rights of the LGBTI community in Cyprus. As a venue, the EU House was a safe space where the organisations could meet and holding the event there made the authorities, on both sides of the island, to take it seriously.

In December 2010, the event ‘Solidarity and Networking Conference Cyprus 2010’ took place as the first joined event of the two organisations. The event was very successful and helped raise awareness for the LGBTI community across Cyprus. In the south, the main objective was to help push for the registration of Accept by the authorities and open the dialogue for a Civil Union law. It was supported by the Municipality of Nicosia and Mayor Eleni Mavrou, who opened the photo exhibition “Different Families – Same Love”, which was originally presented ILGA-Europe in the European Parliament in Brussels. In the north a press conference was held with the presence of both ILGA-Europe and Accept, raising the issue for the need of decriminalisation.

OCTOBER 2012: ‘TOWARDS INCLUSION: HEALTHCARE, EDUCATION AND THE LGBT COMMUNITY’

The cooperation between the two organisations continued with the next big event, a bi-communal conference organised by Accept and the rebranded Queer Cyprus. This was made possible with the financial and organisational support of the Embassy of the United States of America (USA) in Cyprus, which facilitated the meetings. Titled ‘Towards Inclusion: Healthcare, Education and the LGBT Community,’ the conference was primarily aimed to raise awareness and develop the capacities of health care professionals, such as doctors, nurses, psychologists, social workers, and educators in formal and non-formal educational contexts, such as teachers, university academics, and social scientists and students, with regards to their interaction with the LGBTI community in Cyprus in the areas of health care and education (Accept – LGBTI Cyprus & Queer Cyprus, 2012). The conference was held in the buffer zone at the Home for Cooperation, in English, and presentations and conference material were translated into Greek and Turkish. Speakers from both sides of the island attended, as well as speakers from Greece, Turkey, the USA, and the United Kingdom. The event was co-organised by the European Commission Representation in Cyprus and supported by the Embassy of the Netherlands in Cyprus.

CYPRUS PRIDE 2014

The year 2014 proved to be a very important year for the LGBTI movement in Cyprus. Following the decriminalisation of homosexuality in the north, the two groups were finally able to actualise the LGBTI community's long-held dream to raise LGBTI awareness through the organisation of the first Cyprus Pride. Long discussions between Accept – LGBTI Cyprus and Queer Cyprus unearthed the realities of the island's division and highlighted how difficult it would be to hold a joint march. Originally, the two groups envisioned a march from one side of the island to the other. However, unfortunately, the reality was that the two groups did not have enough clout to be able to achieve such a feat, particularly given concerns that a significant part of the Cypriot society opposed the organisation of a Cyprus Pride.

Holding two separate marches on the same date that would finish and meet in the buffer zone was also not favoured, as Accept – LGBTI Cyprus was concerned that only a small percentage of the Greek-Cypriot marchers would be willing to walk into the buffer zone. If this were to happen, then the emphasis of this important event would shift: Instead of constituting a seminal political act by the LGBTI community, there was a fear that the Cyprus Pride would end up being treated as yet another bicomunal event related exclusively to the Cyprus problem. Furthermore, Queer Cyprus preferred attending an event on the International Day Against Homophobia, Biphobia and Transphobia 2014 (IDAHOBIT) on 17 May, co-organised with other Turkish Cypriot organisations like the Mağusa Gençlik Merkezi/ Famagusta Youth Centre (MAGEM), anti-fascist groups, and demilitarisation groups.

Eventually, Accept – LGBTI Cyprus and Queer Cyprus agreed to hold these two events with the official start of the two-week-long Cyprus Pride celebrations starting with the Rainbow Walk in the north on 17 May, leading to the Cyprus Pride March 2014 on 31 May. During the two weeks of the event, several other separate and joined events, such as film screenings in the buffer zone, were also organised. The first Cyprus Pride's motto was Same Love – Equal Rights (Ίδια Αγάπη – Ίσα Δικαιώματα, Aynı aşk - Eşit haklar) (Accept – LGBTI Cyprus, 2014). Accept – LGBTI Cyprus addressed the crowd in Büyük Han in the north on 17 May, and Queer Cyprus addressed the crowd in Eleftheria Square in the south on 31 May.

The event was fiercely opposed by the Church of Cyprus that issued a statement condemning homosexuality. The statement was read in all of the Churches in the south and signatures were requested demanding the authorities to cancel the event (Psillides, 2014). However, despite the Church's opposition, the event ran smoothly and was well attended by members of the LGBTI community, allies, and a number of national and international political and institutional actors and very importantly the popular Cypriot singer Anna Vissi. Accept even estimated that due to the attitude of the Church, about 90% of the participants were supporters and not members of the LGBTI community, i.e. people who wanted to express their reaction to the attitude of the official church.

This displayed the need for a change in the treatment of human rights for everyone in Cyprus, signaling that although in Cyprus social justice continues to be a work in progress, social and political conditions at the time were favourable for LGBTI equality mobilisation (Kamenou, 2016; Kamenou, 2019b; Kamenou, 2020).

Since 2014, the two sides have held separate events for the Cyprus Pride. Accept – LGBTI Cyprus has attended all the events in the north and included them in the published programme of the Cyprus Pride held in the south. In 2016, Queer Cyprus, Envision Diversity, and MAGEM issued a joint call to form the 17th of May Organisation Committee. Eleven civil society organisations and the Gender Equality Platform representing 21 political parties, trade unions, and civil society organisations in north Cyprus formed this Committee and co-organised a series of events for the third Pride March in the north during the week of International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) 2016.

JOINT MEETINGS AND EVENTS

In the following years, Accept – LGBTI Cyprus, Envision Diversity, and Queer Cyprus co-organised several smaller-scale cultural and social events, such as, in 2018, when Accept and Envision Diversity co-organised the German Queer Film Festival, in collaboration with the German Embassy in Nicosia. The organisation of this event was particularly important as the movies screened during the festival were the movies that had been banned by the District Governorship at the Pink Life Queer Fest film festival in Ankara.

RAINBOW MEETINGS

The Rainbow Meetings, organised by Accept, Queer Cyprus and Envision Diversity, were monthly LGBTI-support-group events that took place at the Home for Cooperation in the buffer zone. These meetings were open to everyone on both sides of the island. They aimed to create a safe and confidential space for LGBTI people and allies to gather and discuss topics and issues of concern, such as coming out, life before and after coming out, family and relationship issues, etc. Moreover, afterwards, QCA and Accept collaborated in the Open-Door Festival – a civil society festival organised as part of an EU-funded project called Civic Space – and organised a bi-communal Rainbow Gathering, which was held at the Home for Cooperation.

OCTOBER 2019: UNITED BY COLOURS

To re-invigorate their collaboration and joint events, on 5 October 2019, Accept – LGBTI Cyprus and Queer Cyprus held an event in the buffer zone at the Home for Cooperation. During this event, a new memorandum of understanding about how the two organisations can effectively work together was announced and it is expected to be signed within 2020.

V

CURRENT LEGAL FRAMEWORK

INTERNATIONAL BENCHMARK – ILGA-EUROPE ANNUAL RAINBOW INDEX

ILGA-Europe's annual Rainbow Europe map has been produced by the European organisation since 2009. It displays the state of laws and policies that affect LGBTI people in 49 countries in Europe at the time of issue each year. Since 2011, the map has morphed into an index that ranks European countries, using an awarded point-system for LGBTI laws passed in those countries. It is considered the most accurate European benchmark against which countries may measure their performance with regards to enacting legal measures that protect the lives of the LGBTIs in their countries. Together with the Rainbow Europe index, ILGA-Europe has been issuing its Annual Report highlighting major events that took place in the preceding year with regards to the LGBTI community in each country.

For Cyprus, the index has been reflecting only the RoC's legal framework since 2011, while the Annual Report has been referencing steps that have been made in both communities – i.e., both in the north and the south of the island. In 2011, the RoC ranked 40th amongst 50 European states, which then also included the Vatican. At the same time, it ranked last of all the then 27 EU-member countries (ILGA-Europe, 2011).

By May 2019, the Republic of Cyprus ranked 32nd amongst 49 European states with a total mark of 22.7% in all areas examined. Amongst EU-member states, the RoC ranked 23rd (ILGA-Europe, 2019). Although the Republic of Cyprus managed to improve its position in these rankings, it could be argued that it has not gone far enough in addressing LGBTI legal inequalities. Although the legal, political, social, economic, cultural, and other particularities of each country in these rankings affect differently its ability to enact LGBTI legislation, important comparisons could be made: For example, Malta, another relatively newly established state that joined the EU in 2004, within 8 years, managed to move to the first place of the index with a total score of 90.4%, having legally covered most of the requirements measured by the ILGA-Europe index.

BREAKDOWN OF LEGAL RIGHTS IN EACH SIDE BASED ON ILGA-EUROPE CRITERIA

1. Equality and Non-discrimination

SOUTH

Constitution: The RoC does not specifically prohibit discrimination on grounds of sexual orientation, gender identity, or sex characteristics. Nevertheless, Article 28 (2) does prohibit discrimination 'based on community, race, colour, religion, language, sex, political affiliation, ethnic origin, social status wealth or any other reason' (Cyprus Bar Association, 2019).

Employment: Discrimination based on sexual orientation is prohibited since 1 May 2004 by The Equal Treatment in Employment and Labour Law of 2004 (58 (I)/2004) – i.e., the harmonisation law for EU Directive 2000/78/EC. This law does not specifically prohibit discrimination based on gender identity or sex characteristics, although it is considered to indirectly include these grounds.

Goods & Services: No law prohibiting discrimination of goods or services based on sexual orientation, gender identity, or sex characteristics exists.

Health: No law prohibiting discrimination in the provision of health services due to sexual orientation, gender identity, or sex characteristics exists.

Education: No law prohibiting discrimination in the provision of education due to sexual orientation, gender identity, or sex characteristics exists.

Equality Body Mandate: The Office of the Commissioner for Administration is acting as the National Antidiscrimination Body. It is officially mandated to oversee discrimination based on sexual orientation, but not gender identity or sex characteristics, although it has been acting against such types of discrimination and it is generally regarded to be responsible for addressing them.

Blood Donations: There is no prohibition for allowing blood donations due to sexual orientation, gender identity, or sex characteristics.

Gender Affirming Medical Procedures: There is no specific legislation prohibiting gender affirming medical procedures.

Military Service: Gay men are allowed to serve in the Greek-Cypriot National Guard. LGBTI soldiers who cannot cope due to poor mental condition can submit a request based on their mental health status, which is then evaluated under these conditions. Although for the time being it is not expressly forbidden for trans men to serve due to their gender identity, there is a provision for a compulsory exemption in the latest draft of the legal gender recognition draft bill currently examined by the Ministry of Interior as of December 2019.

NORTH

Constitution: Article 8 (1) of the constitution prohibits discrimination on any ground and declares that everyone is equal (Northern Cyprus Constitution, 1975).

Employment: Draft legislation prohibiting discrimination based on sexual orientation and gender identity has yet to be sent to the Legislative Assembly for Ratification.

Goods & Services: Under Article 174 of the Criminal Code, discrimination of access to the provision of public goods and services is prohibited and considered as a minor offence since 2014 (Criminal Code, Article 174 (amended 20/2014), 2014).

Health: There is no law prohibiting discrimination in the provision of health services due to sexual orientation, gender identity, or sex characteristics.

Education: There is no law prohibiting discrimination in the provision of education based on sexual orientation, gender identity, or sex characteristics.

Equality Body Mandate: The Ombudsman Office is a semi-autonomous institution that oversees public authorities' compliance with the existing legislation. It receives complaints and appeals from the public and organisations for the cases believed to amount to 'misconduct' by public authorities and institutions, which produce a harm to the interest of the public. It inspects, investigates, and produces reports about the services performed by the state organs, offices, organisations, and public institutions, and acts as a quasi-equality body.

Blood Donations: There is no official regulation or law pertaining to blood donations by LGBTI individuals but on the donation application form it is stated that those who are engaging in same-sex sexual activity cannot donate blood.

Gender Affirming Medical Procedures: There exists no specific legislation which bans gender affirming medical procedures. Although it is not advertised as a professional mental health practice in Cyprus, some non-mental health professionals (i.e., life coaches, spiritualists, religious officials etc.) and mental health professionals (i.e., psychiatrists and psychologists) practice some forms of medical procedures,

based on their personal views on gender and sexuality non-conformity.

Military Service: Gay men and trans people are not allowed to serve in the military. Being gay and/or trans is still classified as a mental illness in the regulations of Security Forces Command. This is confirmed after psychiatric diagnosis and tests by using old and biased manual mental diagnostics, which are nowadays dismissed by the international medical community.

2. Family

SOUTH

Marriage Equality & Civil Unions: Marriage between same-sex partners is not allowed in the Republic of Cyprus. Civil Unions have been allowed since 9 December 2015 (Νόμος που προνοεί για τη σύναψη Πολιτικής Συμβίωσης (N184(I)/2015), 2015), offering same-sex couples and married heterosexual couples equal rights, apart from the right to adoption.

Adoption: Joint or second-parent adoption is not allowed. Single-parent adoption, with no limitation on the sexual orientation, gender identity, or sex characteristics of the parent is allowed but generally not practiced.

Medically-Assisted Insemination: Not allowed for same-sex couples. It can be allowed to a single person following approval of an application by the Ministry of Health.

NORTH

Marriage Equality & Civil Unions: There is not law on same-sex marriage or civil unions in north Cyprus. The constitution declares that marriage is a union between a man and a woman (Northern Cyprus Constitution, 1975), therefore, a constitutional change would be needed in order to legalise same-sex marriage.

Adoption: Joint or second-parent adoption is not allowed by same-sex partners as the relevant law only permits those who are married to adopt, and as marriage is defined as a union between a man and a woman. Single parent adoption is regulated by the Adoption Law, but does not stipulate for sexual orientation, gender identity or sex characteristics (The Adoption Law , 1954).

Medical Assisted Insemination: It is not allowed for same-sex couples. It can be allowed to a single person following the approval of an application to the Ministry of Health.

3. Hate Crime & Hate Speech

SOUTH

Hate Crime Law: Sexual orientation and gender identity are expressly included in hate crime legislation as an aggravating factor. Sex characteristics are not expressly included but are implied.

Hate Speech Law: Sexual orientation and gender identity are expressly included in hate speech legislation. This is included in the Penal Legislation under article 99A (Ο περί Ποινικού Κώδικα Νόμος (ΚΕΦ.154/99Α) - Penal Legislation (Ch. 154/99A), 2015). Nevertheless, in the past, this prohibition has been deemed ineffective in providing adequate protection. Almost no cases can be brought to justice due to the request for proof of motive, which needs to prove hatred.

NORTH

Hate Crime Law: There is no separate law that regulates the prohibition of hate crimes based on sexual orientation or gender identity.

Hate Speech Law: Amended Criminal Code, Section 154, Article 171(1) and 171 (2) prohibit hate speech based on sexual orientation and gender identity. In addition to this, Article 172 of the same law prohibits economic and psychological violence based on prejudice and hate (Penal Legislation (Ch. 154/171(1),171 (2),172), 2014).

4. Legal Gender Recognition & Bodily Integrity

SOUTH

Legal Gender Recognition: There is currently no law covering legal gender recognition, although there are policies set in place allowing for a trans person to change their gender and name on their national identification card (ID) only, based on self-determination and without the need of any surgical interventions. A draft bill that will clarify the procedure in full for all official documents, is currently being prepared by the Government and it is envisioned that this will reach the Parliament in the beginning of 2020 for voting.

De-pathologisation: Currently, no law exists. Nevertheless, recent policies put in place by the Ministry of Interior specifically state that no medical intervention is needed to change the gender on a trans person's ID. In the Legal Gender Recognition draft bill currently proposed by the Ministry, this is also noted in a similar way.

Access to and Cost Coverage for Trans-specific Healthcare (TSHC): The state currently covers the costs for hormone treatments when a trans person requests those. As no gender affirming procedures are carried in Cyprus, the state is obliged by EU law to send trans persons abroad to complete their treatment. Unfortunately, the current law specifically prohibits this.

NORTH

Legal Gender Recognition: It is possible to change one's documents based on a proven medical/surgical operation. Existing Article 33(3) of Act 2/1975 of Births and Deaths was changed by Amendment Law 9/2004 to allow those who go through gender affirming surgery to re-register themselves with their re-assigned biological sex category. The corresponding article reads as follows: *'Documenting gender physical transformation of a person with a medical report*

and approval of such transformative operation by the Ministry of Health Dr Burhan Nalbantoglu Hospital Committee on Health, and given that the person submits an application with all the certifications his or her name and gender will be amended in the Registry by a public official assigned by the Population Head Clerk Office with a payment of current fees determined by the relevant Ministry' (Birth and Death Legislation, 2/1975-(Article 33(3) amended by 9/2014)).

Depathologisation: Although expression of gender identity for trans individuals has been removed as a pathology from the World Health Organisation catalogue of mental health pathologies, in its recent edition ICD-11, it is still considered to be a psychological disorder or gender dysphoria pathology in northern Cyprus under the Mental Health Legislation.

Access to, and Cost Coverage for Trans-specific Healthcare (TSHC): Gender affirming surgery is not provided by state hospitals. Although some individuals might have social insurance and are qualified for such surgery, there is no such service provided under the national health service in state hospitals.

5. Civil Society Space

SOUTH

Civil society organisations dealing with LGBTI issues can operate freely and in recognition of their social importance. Since 2018, the Government has also provided funding towards the cost of organising the Cyprus Pride, while the Pride is placed under the auspices of the President of Cyprus. Additionally in 2019, for the first time, the government financially supported ILGA-Europe to assist its important role in educating local civil society activists throughout Europe, including Cyprus. Additionally, the Ministry of Health has been working closely with human immunodeficiency virus (HIV) prevention organisations to fund specific HIV-related actions within the LGBTI community. Finally, during the IDAHOBIT in 2019, the Ministry of Foreign Affairs raised the rainbow flag, a first for a ministry in the Republic in the Republic. The rainbow flag was also raised in several Cypriot Embassies around the world showing the support of the Cypriot Government to the rights of the LGBTI community internationally.

NORTH

Civil Society organisations on LGBTI issues must apply to the District Office with the names of the founding members for registration and approval of establishment. The names are delivered in a sealed envelope and stamped by the District Office. The new members' list is delivered each year and the same process is repeated. Nevertheless, this situation discourages individuals to become active members, as they may prefer to stay anonymous and fear that they may lose this anonymity. The EU has provided funds for projects to the Turkish Cypriot community through the EU Aid Programme and through smaller initiatives. Some foreign missions also provide small financial support. Ministries do not fully cooperate on LGBTI-related issues. The Ombudsman Office has

issued a report on a case brought by Envision Diversity against the Ministry of Education for rejecting to run a pilot programme on the sexual education and rights of LGBTI students at secondary education.

6. Asylum

SOUTH

Persecution based on sexual orientation and gender identity are included in the current legislation as reasons allowing migrants to seek asylum in the RoC, in case they fear for their lives in their countries of origin (Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000) - The Refugee Law of 2000 (6 (I) / 2000), 2000).

NORTH

There is no general law which lays the rules and procedures allowing migrants and refugees to seek asylum in case they face prosecution and fear for their lives in their countries of origin, irrespective of the reason.

VI

NEXT STEPS FOR LGBTI EQUALITY

On both sides of the island, the current legal framework is characterised by the lack of legislation pertaining to the rights of the LGBTI community, as well as by discrimination due to sexual orientation, gender identity, and sex characteristics. Due to the current political realities, the division of the island and lack of a negotiated settlement on of the island, the two ethnic LGBTI communities are forced to advocate separately in order to influence decision-makers in the south and the north of the island so as to meet minimum international standards in relation to LGBTI rights – as these are reflected in the ILGA-Rainbow Europe Index. Although each side has turned its focus to specific goals, certain commonalities exist with respect to the set goals and objectives of the LGBTI community. These can be summarised as follows:

1. Trans and Intersex Rights – Legal Gender Recognition

Many trans people face problems in their daily lives, because their legal gender, as this appears on their IDs and other official documents, does not match their gender identity. Picking up a parcel at the post office, applying for a job, boarding a plane, or lodging a complaint can become a repeated source of harassment, unfounded suspicion, and even violence. The purpose of gender recognition procedures is to overcome these types of gross discrimination and marginalisation, by granting official legal recognition to trans individuals' gender identity. Gender recognition is more than an administrative act: it is essential for many trans people to be able to live a life of dignity and respect (TGEU - Transgender Europe, n.d.).

SOUTH

The push for a law that would allow trans and intersex people to change their gender on their official documents based on self-determination, without the need for any invasive procedures began by Accept – LGBTI Cyprus in 2013. It was highlighted publicly for the first time during the 2015 Cyprus Pride Festival, which had the slogan 'Free To Be' (Kamenou, 2020). In 2016, the organisation requested the assistance of the SOGI Unit of the Council of Europe (CoE) for more local research to be carried out regarding trans people. CoE then funded two research papers: one on the legal rights of the trans internationally in relation to the rights enjoyed in Cyprus and another one on the social realities of trans people in the RoC. Additionally, in 2017, it tasked legal experts from Malta

and Cyprus to draft a bill, which was presented to the President of Cyprus in November of the same year and formed the basis for an official draft bill by the Ministry of Justice and Public Order in May 2018. In 2019 it was moved under the competency of the Ministry of Interior. Since then, the draft bill has gone through several transformations, based on the requests of the Legal Services, as well as based on the outcomes of a public consultation process. The Government's aim is to get the bill to the Cyprus Parliament in the beginning of 2020, envisioning this will be voted by the Parliament within the year.

The draft bill is based on self-determination and, as such, requires that no medical interventions of any sort are requested by the people that would like to make use of the rights offered. It stipulates that the state is obliged to change the gender and name of a person on all their official documents and provides the tools for people to ask for changes on their documents by other public or private institutions. Civil society has requested for a no-gender marker to be introduced, but this was rejected during the discussion of the bill, as it was deemed to interfere with existing legislation that offers special rights to individuals based on their gender, such as the age of retirement for women.

NORTH

The relevant TRNC Law, as per the amendment in 2004 by 9/2004 to the existing Article 33(3) of Act 2/1975 of Birth and Death, allows those who go through a gender re-assignment medical procedure to re-register themselves but it falls short of providing full provisions, as defined within the relevant international law and human rights instruments. Therefore, the TRNC:

- a. Should remove the existing legal stipulations which require pathologisation and sterilisation for trans or gender-non confirming citizens.
- b. Should remove the stipulations which require trans individuals to either register as male or female, and introduce legislation which recognizes non-binary gender markers, as well as relevant laws to regulate identity cards with no gender marking, in line with the principle of freedom of gender expression.
- c. Should introduce legislation which allows freedom in gender identity expression for trans individuals, as well as a law that protects the rights if intersex people.

- d. Should introduce legislation in order to bring the current law in line with standards defined by ICD-11 on expression of gender identity and remove provisions that render gender identity expression as a pathology. Legislation pertaining to the reproductive rights of people having undergone gender affirming medical processes must be enacted and sterilisation as a prerequisite for legal recognition should be abolished, in line with relevant international and human rights laws.

2. Trans and Intersex Rights – Provision of Gender Affirming Surgeries by the State

Requests have been made for gender affirming surgeries to be fully covered by the respective authorities in both the south and the north. Although in the RoC some trans-specific healthcare is provided in the form of access to hormones and psychological therapy, the authorities in both communities will not cover the costs for a trans person to have gender affirming surgery if the person wishes to have such a surgery. Considering that such surgeries do not take place anywhere in Cyprus, the cost of such surgeries undertaken abroad should be covered by the state.

3. In Vitro Fertilisation (IVF)

SOUTH

The current legal framework prohibits same-sex couples to proceed with IVF and only allows IVF for opposite-sex couples. Accept – LGBTI Cyprus has previously commented on this discrimination that particularly negatively affects lesbian couples and has requested a change of the law.

NORTH

IVF is not fully regulated in north Cyprus. Therefore, access to IVF for lesbians and automatic parenthood for both spouses after birth should be fully recognized.

4. Marriage Equality

SOUTH

Civil unions were legally recognised by the RoC in 2015. Although the law gives to couples in civil unions (including same-sex couples) rights equal to those enjoyed by married couples, it does not allow for adoption. The law also allows recognition of the status of a couple when a civil union has been conducted abroad, but does not recognise civil marriages for same-sex couples. Same-sex couples who were married abroad have sometimes been asked to divorce and then conduct a civil union if they want their rights to be covered – for example, for the non-Cypriot partner to be allowed to stay and work in Cyprus, or to secure inheritance rights of a couple. Such requests violate the principle of equity and as such same-sex couples should be granted the right to civil marriage.

NORTH

The constitution of north Cyprus declares that marriage is a union between a man and a woman. In most European countries and some other countries (e.g., Taiwan and Uruguay) same-sex marriage or civil partnership is legally recognised. Legislation should be introduced to enable legal recognition of same-sex couples in north Cyprus.

5. Adoption

Adoption by same-sex couples is currently prohibited in both the south and the north, disregarding the best interest of the child. Single parent adoption is allowed in the RoC, but this is extremely rare. Single parent adoption is also allowed in north Cyprus, but it is hardly ever practiced. Adoption rights for same-sex couples should therefore be granted in both sides of the island.

6. Homophobic and Transphobic Hate Speech and Hate Crime

SOUTH

In the RoC, homophobic and transphobic hate speech has been criminalised since 2015, and homophobic and transphobic violence is a reason for additional penalties imposed by the courts since 2017.

In 2016, Accept – LGBTI Cyprus requested that the public homophobic remarks of the Archbishop of Cyprus were put under investigation under this law, but the Attorney General disregarded these requests. Later, in 2019, an investigation was started following a public outcry over the homophobic remarks made by the Bishop of Morphou, but this did not result in a case being taken to court (Hatzivasilis, 2019). Between 2015 and 2019, this was the only case of public homophobic rhetoric that was ever investigated by the police. Thus, it could be argued that the current law does not protect the LGBTI community against homophobic statements, as it makes it almost impossible to prove the motive requested for an incriminating judgment. Therefore, there is a need to alter this law to make it functional for its purpose.

NORTH

Although the Amended Penal Code in 2014 introduced articles on prohibition of hate speech and hate crimes based on sexual orientation and gender identity, there has not been any legal case brought against anyone promoting homophobia or blatantly committing acts of hate speech.

7. Employment

SOUTH

The current laws of the RoC prohibit discrimination based on sexual orientation since 1 May 2004. Nevertheless there is a need to specifically prohibit discrimination based on gender identity or sex characteristics. Efforts were made by Accept as far back as 2015, requesting for a more inclusive support by the Trade Unions. This was envisioned in the form of train-

ings to employees and employers, as well as better representation of the LGBTI community within organisations, but no significant steps were made.

NORTH

Existing legislation pertaining to employment, in both public and private sectors, does not contain specific legal provisions for minimum protections against discrimination in work life, nor does it prohibit harassment (of any form) based on sexual orientation and gender identity. One of the main short- and mid-term goals of the Turkish-Cypriot LGBTI community is to advocate for change in national law to bring it in line with international and European standards on the issue of the protection of LGBTIs in employment. Some goals and suggestions are:

- a. Legislation prohibiting discrimination based on sexual orientation and gender identity. The proposal which is currently under examination by the Legal Affairs Committee of the Legislative Assembly should be ratified and entered into force as soon as possible.
- b. Draft Anti-discrimination law, which combined various EU Equality Directives, providing access to the provision of public goods and services, which was drafted in 2014, must be introduced to the Legislative Assembly to be legislated at the earliest possible.
- c. Trans individuals face heavier discrimination in employment. Therefore, laws must be introduced to offer protection from discrimination based on gender identity.

8. Forced 'Conversion Therapy'

Forced 'conversion therapy' is banned in some countries and, in recent years, court cases have strictly prohibited imposed medical procedures for gender-nonconforming people to bodily fit within the binary gender system (BBC News, 2016). In Cyprus, legislation prohibiting forced 'conversion therapy' should be introduced on both sides of the island.

9. Mental Health

Legislation defining mental health must be enacted, outlining specific ethical standards for mental health workers and clinical psychologists when working with LGBTI individuals. Conversion therapies, whereby LGBTI people are put under a psychological process to reverse their sexual orientation or gender identity by mental health workers and clinical psychologists should be banned.

10. School and Education

LGBTI individuals experience bullying and harassment the most in schools. LGBTI individuals also face discrimination and tacit marginalisation (Ethemmer, 2018). In some cases, violent attacks might occur, which threaten the life and safety of LGBTI individuals (Ethemmer, 2014). International law and human rights standards, as well as gender policies necessitate the establishment of safe zones and gender inclusive school environments and curricula, as well as the introduction of anti-bullying and anti-harassment legislation (Çavuşoğlu, 2007). In recent years, countries are adopting educational policies which set the standards to provide LGBTI assertive counselling and inclusion of LGBTI history into their secondary school curriculum. In line with these trends, legislation must be introduced that prohibits LGBTI discrimination, bullying, and harassment, and policies must be adopted to build a gender-inclusive school environment as well as gender-centred curricula.

11. Military Service

In north Cyprus, gay men and trans people are not allowed to serve in the military. Being gay or trans continues to be identified as a mental illness in the regulations of the Security Forces Command. A law must be introduced to enable LGBTI individuals to serve in the military without discrimination. For those who prefer to opt out from military service, a conscientious objection law must be introduced.

VII

FINAL REMARKS AND CONCLUSION

This report assesses the extent to which LGBTI people in Cyprus enjoy the rights to equality and non-discrimination. It does so by providing a summary of the lived experiences of sexuality- and gender-nonconforming people and by presenting and evaluating the framework of laws, policies and institutions established to combat discrimination and promote equality and social justice for all.

In relation to LGBTI rights and social status, currently, north Cyprus is far from meeting regional and international standards. Progress in relation to LGBTI equality is further complicated by the fact that the TRNC is a self-proclaimed state, not legally recognised by the international community of states. Therefore, although dedicated to social justice and democratic values, LGBTI activists and civil society in the north are faced with additional difficulties in finding support against the persecution and inequalities they are faced with in regional and international systems, which tend to be state-centred.

North Cyprus is divided and caught between two worlds as far as LGBTI equality and non-discrimination are concerned: On one hand, there are those actors who support the reunification of the island, the end of the current political stalemate, Europeanisation, democratisation, and a more liberal approach in relation to LGBTI rights. On the other hand, there are those actors who align with the nationalist status quo and with the objectives of far-right political forces and oppose LGBTI legal and substantive equality. In the north, discussions about LGBTI equality and non-discrimination have been profoundly influenced by these competing visions and sets of discourses, as well as the prospect of becoming an EU member in 2004, which was a critical turning point in the political arena. The prospect of EU admission and of the island's reunification enabled civil society and social movement formation, as well as the development of the LGBTI rights movement.

However, notwithstanding this milestone in LGBTI politics and mobilisation, authorities in the north have taken only few and minor steps to improve the life conditions of LGBTI people. Introduced legislation that pertains to sexual and gender-identity equality often falls short of established international and regional standards. Hence, LGBTI people in the north continue to face discrimination and violation of their basic human rights. In sum, they are excluded from concep-

tions of citizenship as they are legally, socially, politically, economically, and culturally relegated as second-class citizens and as marginal others. Authorities in the north must therefore introduce legal changes and support civil society initiatives that aim to substantially tackle homophobia, biphobia, transphobia and other forms of stigmatisation within society, to eliminate all forms of discrimination in all areas of life, and to create a just society for all.

Similarly, in the RoC, LGBTI politics have been shaped within a socio-political environment marked by the dynamics of the multilevel and cross-level interplay between local and EU norms and discourses regarding nationhood, gender, and sexuality. Since its creation, through its politics and the employment of discourses and practices promoted by EU institutions and transnational LGBTI NGOs, Accept has been successful at achieving recognition of some LGBTI rights. Moreover, it has made important steps towards increasing social awareness about LGBTI inequalities, and about the need for these inequalities to be addressed. Important in this process has been the employment of opportunities and tools afforded to local activists as a result of the RoC's EU admission and Europeanisation processes. As this report demonstrates, when national and transnational discourses and paradigms are critically employed by local actors, they help cultivate reflexivity and an intersectional consciousness that instigates intersectional LGBTI political praxis. This politics is progressively gaining ground and emasculates intra-ethnic and inter-ethnic in-group divisions, the privileging of heterosexuality and cisgenderism, and essentialist notions of nationhood, ethnic identity, and collective self.

Nonetheless, despite recent legal and policy developments that may point to a willingness to accommodate calls for LGBTI equality and to treat LGBTI issues as political issues, politics in Cyprus is still premised on heterocentric and ciscentric notions and practices. The procrastination in enforcing hate speech law in relation to homophobic and transphobic statements made by prelates of the Orthodox Church of Cyprus is indicative of this phenomenon, as well as of the fact that, in the RoC, the concept of human rights violations continues to be defined by the grievances suffered by the ethnonational community at the hands of its ethnonational enemy, while the human rights violations by the state and the ethnonational community against its gender- and sexuality-nonconforming members are not acknowledged.

However, it is not all doom and gloom. Sexuality and gender remain zones of management, containment, regulation, and conformity, but also of resistance. Even in places that are characterised by ethnic divisions and conflict, like Cyprus, LGBTI activism that transcends ethnic and other divisions has the ability to destabilise discourses of sterile groupism and national exclusivity, and to promote more collective and inclusive understandings of identity and citizenship. In Cyprus, like elsewhere, gaps in national legal and policy LGBTI protection frameworks and resistance to LGBTI equality by powerful socioeconomic, political, and institutional actors have contributed to the creation of spaces for the collective resignification of LGBTI politics in ways that challenge intersectional injustice and reinforce interethnic and transnational LGBTI mobilisation. Such LGBTI mobilisation and political organising become possible by the space that opens up when national and transnational discourses and paradigms merge, cross, or collude (Kamenou, 2011; Kamenou, 2012; Kamenou, 2016; Kamenou, 2019a; Kamenou, 2019b; Kamenou, 2020).

The insights offered here might aid LGBTI activists, law- and policy-makers, and scholars to explore and address in a more nuanced way the complex processes of LGBTI agency and politics formation, and might underpin the development of legal frameworks and policies that are context-appropriate and fundamentally transform LGBTI lives. Furthermore, these

insights could be useful towards decolonising subjugated knowledge, enabling new political possibilities, and developing practices that acknowledge LGBTI people as constructors of their places within their cultures. The lessons learned by studying the LGBTI movement in Cyprus and its interaction with the social, political, and cultural environment within which it is situated are all the more important as they are transferable to other nationalism- and conflict-ridden societies, where LGBTI equality and opportunities for the exercise of LGBTI agency are far from given. Unfortunately, the awakening of nationalist forces and the rise to power of forces inimical to hard-won, yet tenuous, LGBTI equality achievements imperils these opportunities, even where they were once considered a given.

As an allegedly liberal and democratic state, the RoC should acknowledge the links between anti-LGBTI propaganda and attempts to erode democratic principles and, thus, step up its efforts towards both legally and substantially recognising and protecting the human rights of the LGBTI community. In order for the Cypriot LGBTI movement to remain meaningful to those it is supposed to be representing, local grassroots actors need to engage with, and bring to the political forefront, issues of intersectional marginalisation, so that the concept of activism consists of multiple voices and perspectives beyond rigid identities, privilege, and markers of hierarchical differentiation.

ANNEX I

Excerpt from the Criminal Code of the Republic of Cyprus, in effect from 1960 to 1998, criminalising homosexuality. Where acts against 'Unnatural Offences' were defined by the Criminal Code (Chapter 154 of the Laws) as follows:

Criminal Code (Chapter 154)

Article 171,

Any person who –

- (a) has carnal knowledge of any person against the order of nature; or
- (b) permits a male person to have carnal knowledge of him against the order of nature, is guilty of felony and is liable to imprisonment for five years.

Article 172,

Any person who with violence commits either of the offences specified in the last preceding section is guilty of a felony and is liable to imprisonment for fourteen years.

Article 173,

Any person who attempts to commit either of the offenses specified in section 171 is guilty of a felony and is liable to imprisonment for three years, and if the attempt is accompanied with violence he is liable to imprisonment for seven years.

ANNEX II

Excerpt from the Criminal Code of the Turkish Cypriot administration, in effect from 1975 to 2014, criminalising homosexuality. Where acts against "Unnatural Offences" were defined by the Criminal Code (Chapter 154 of the Laws) as follows:

Criminal Code (Chapter 154)

Article 171,

Any person –

- (a) who enters into a sexual intercourse with another person; or
- (b) who consent to a male for sexual intercourse against the order of nature will commit a serious crime and could be punished with 5 years' imprisonment.

Article 172,

Those who commit any felonies mentioned in Article 171 by using force (violence) could be punished with 14 years of imprisonment or

Article 173,

Those who attempt to commit felonies mentioned in Article 171 above will commit a serious crime and could be punished with three years imprisonment.

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THE LGBTI MOVEMENT IN CYPRUS

Activism, Law, and Change Across the Divide

In Cyprus, colonisation, ethnic division, and the influence of conservative socio-political actors have stalled the creation and development of an LGBTI movement. The admission of the Republic of Cyprus to the European Union in 2004 has brought about changes in political opportunity structures that facilitated the mobilisation of LGBTI groups on both sides of the island that remains divided across ethnic lines. Taking advantage of the tools and opportunities afforded to them by European institutions and regional umbrella LGBTI organisations, Greek-Cypriot and Turkish-Cypriot LGBTI activists have pushed for the recognition of LGBTI rights in the south and in the north of the island respectively, and have joined

efforts for LGBTI equality beyond ethnic lines. Nonetheless, in Cyprus, LGBTI equality remains a work in progress. In the north, even though homosexuality has been decriminalised, after the dissipation of the mid-2000s momentum and of the prospect of island's reunification and the admission of the north to the EU, the progress of LGBTI rights has been sluggish, trapped into changing political discourse and hampered by structural rigidities. In the Republic of Cyprus, LGBTI activists have been somehow more successful at achieving positive legal changes, like the decriminalisation of homosexuality, homophobic and transphobic hate speech legislation, same-sex civil unions and a draft bill on legal gender recognition. How-

ever, on both sides of the island, decision-makers have been slow – if not reluctant – to align national legislation with EU and international legal standards. Moreover, state/authorities-initiated attempts at tackling LGBTI social and cultural marginalisation have been limited. However, it is not all doom and gloom as, since the early-2010s, a pan-Cypriot LGBTI movement is in the making that progressively increases its efforts not only for LGBTI legal recognition, but also for substantive equality and intersectional justice beyond ethnic, class, race, sexual orientation, gender identity, sex characteristics and other hierarchisations.