

## **Working Paper**

Research Group EU/Europe  
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and Security Affairs

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# The Dynamics of the Queer Movement in Turkey before and during the Conservative AKP Government

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## Introduction

Since 2002, the conservative Justice and Development Party (*Adalet ve Kalkınma Partisi – AKP*) single-handedly runs the government in Turkey. At the same time, lesbian, gay, bisexual, trans, and intersex persons (LGBTI or queer) have become increasingly visible and have begun to assert themselves in various state and non-state areas. LGBTI visibility reached its highpoint during the Gezi protests that took place in the summer of 2013 around Taksim Square in Istanbul, when LGBTI activists joined the protest along with other civic initiatives, political parties, and national and international human rights organizations. This cooperation made it possible for the queer movement to voice its concerns in the agendas of political parties, human rights organizations, and (research) institutes, and to demand recognition and acceptance for the queer movement at the civic level.

In western societies the question has been raised of how this was all possible in light of the political agenda of the AKP, founded by today's president Recep Tayyip Erdoğan. LGBTI people and the ruling party are seen as opponents, foreign to one another, with each rejecting the other. In fact, LGBTI people do not feel represented by the AKP, and the AKP does not take their demands seriously. For example, police used water cannons to disperse the most recent LGBTI Pride Parade in Istanbul in June 2015, which has been harshly criticized by human rights organizations in Turkey and in Europe.

In this sense the queer movement reflects the dynamic of Turkish civil society in an exemplary way. The experiences of the movement show that, even in the Turkey of the AKP, there is a willingness and potential for social transformation and further democratization.

This working paper outlines the current situation, demands, and social status of the LGBTI community in Turkey and poses the following questions:

How can the emergence of the queer movement in Turkey be explained, and what phases of development has the movement gone through? How can we assess the legal situation of LGBTI people in Turkey today? What laws is the sustained discrimination based on? What are the demands that the movement's representatives

bring to civil society and to politics? How do the established political parties react to LGBTI demands? What successes can the LGBTI community point to in local government and party politics? Finally, we must pose the question of how Europe should behave with regard to the asymmetrical relations between the conservative government and politically active minorities – who despite everything are still widely discriminated against.

## 1. The History of the Queer Movement

The queer movement in Turkey can be understood as a liberation movement that considers discrimination in its many dimensions. Accordingly, it not only works against homophobia, but also against racism, discrimination against women, and inequalities based on social groupings and social strata. As a liberation movement, it advocates for equal treatment and equal rights for all disadvantaged groups, as well as for their social participation and appropriate political representation. The queer movement in Turkey thus not only sees itself as lesbian, gay, trans, or intersexual, but is marked by a wide variety of identities and belongings. Queer persons who are active in the movement work in solidarity, for instance, with feminists, anti-militarists, leftists, workers, Kurds, member of non-Muslim minorities such as Armenians, and other underprivileged groups in order to demand equal rights and to represent common interests and goals.

Nonetheless, the movement has the primary goal of increasing and normalizing the visibility of queer persons at all levels of society. At least by 2013, during the Gezi protests around Taksim Square in Istanbul, the movement has managed to articulate its presence in the public sphere. This was also the first time that the movement received international attention.

The reasons behind the movement's concentration in Istanbul are primarily historical. In 1914 the pioneer of research on homosexuality in Germany, Magnus Hirschfeld, described Istanbul as the homeland of a European *Urning Colony*.<sup>1</sup> At the time there existed *historical locales of homosexual pleasures*, including a famous male brothel, which was ironically called the "Ottoman Bank".<sup>2</sup> The *Ottoman Bank* was also visited by European homosexuals, who met with Ottoman male prostitutes without having to fear arrest, persecution, or imprisonment. Since homosexual relations were liable to criminal prosecution in Germany, France, and England at the beginning of the 1900s,<sup>3</sup> homosexual men from these and

other countries had fled to Istanbul.<sup>4</sup> In contrast to these countries, Istanbul was a city of "sexual" freedoms and an attraction for many Ottoman homosexuals and transsexuals. Historical documents indicate, for instance, that prostitution by young men was legalized in the Ottoman Empire, although they were required to pay taxes on their (sex) work.<sup>5</sup> The situation of homosexuals and transpersons deteriorated, however, with Europeanization during the reform process at the end of the nineteenth century in the Ottoman Empire, and with the founding of the Turkish Republic, when, under European influence, homosexuality and transsexuality began to be proscribed.<sup>6</sup> The restructuring of important areas of society and the political system according to European models during the end phase of the Empire, the adoption of European political and "civilizing" concepts such as the nation, the nation state, and civil marriage; and the continuation of this civilizing restructuring in the newly founded Republic had mostly negative effects on the lives and relationships of homosexual and trans persons. The history of the early Europeanization of Turkey is thus also the history of discrimination against homosexuality. Ironically, the first queer movements were emerging in Europe at the same time, aimed at eliminating legal persecution and abolishing anti-homosexual laws. A well-known example of this was Paragraph 175, which remained in effect in Germany until 1994 and which penalized homosexual relations: "Unnatural fornication, whether between persons of the male sex or of humans with beasts, is to be punished by imprisonment; a sentence of loss of civil rights may also be passed."<sup>7</sup> Even though no such law existed in the history of the Ottoman Empire, and in fact still does not exist in contemporary Turkey, discrimination against LGBTI persons has made itself felt, in part due to European influence. But queer organizations also arose in

1 Magnus Hirschfeld, *The Homosexuality of Men and Women*, Amherst 2000.

2 See footnote 1.

3 Laws stipulating homosexuality as a criminal offense were abolished in England in 1967 and in Germany in 1994.

4 See footnote 1.

5 Kahraman Gür, "Osmanlı'da Eşcinsellik Çalışılması", website of the queer organization KaosGL, September 13, 2010, <http://kaosgl.org/sayfa.php?id=4128> (last viewed on August 26, 2015).

6 See footnote 5.

7 Cited in Zülfükar Çetin, *Homophobie und Islamophobie: Intersektionale Diskriminierungen binationaler schwuler Paare in Berlin*, Bielefeldt: transcript, 2012.

exchange with Europe, but above all as resistance to discrimination.

### 1.1. The 1970s

The newly founded Republic and its institutions were absorbed with the overriding goal of Europeanizing society, with the goal of establishing a “modern”, secular, Turkish national society with an ideological basis not in religion, but in Enlightenment ideals. The guidelines were the principles of Mustafa Kemal Atatürk, namely populism, nationalism, secularism, statism, revolutionarity, and republicanism. In the new society the nuclear family was to play a central role. The emancipation of women and their participation in economics, science, technology, and other areas of society were both required and supported. The Republic thus placed great value on a gender politics that was supposed to lead to equality between men and women. For instance, women already had the right to vote and to run for office in 1934. The progressive nature of this politics becomes clear if we keep in mind that such reforms were still quite unimaginable in many European societies in the 1930s. Deviations from the heterosexual binary gender system took a back seat to this ambitious project and were largely ignored. In contrast to many other European countries at the time, the Republic of Turkey did not make homosexuality a criminal offense, but simply ignored lesbian, gay, bisexual, trans, and intersex persons altogether until the 1960s. Until the 1960s LGBTI persons enjoyed great freedoms. They could, for instance, publicly perform in theatres, music venues, and nightclubs. A prime example of this is the enormously famous singer Zeki Müren, whose songs and effeminate appearance remain in the public memory to this day, which is why Müren still functions as a model for many LGBTI persons. Even though Müren never joined any political movement, he was very significant for the later queer movement because he called heteronormative gender images into question with his actions, his speech, and his art. The wide social recognition of Müren at the time can be seen in the fact that he was not only called the “Sun of Art”, but also “Pasha” (a military dignitary). But he was not the only one. In the 1960s a

queer scene developed in the Beyoğlu district of Istanbul, which already had a long history, even at the time,<sup>8</sup> and which could enjoy its freedoms until well into the 1970s. Eyewitnesses from the time report that they could work as singers and sex workers during the 1970s in the red light district around Abanoz Street in the bordellos and nightclubs of Beyoğlu without any problems. One of the first bordellos in the new Republic, where trans sex workers were also active, was opened in 1973.<sup>9</sup> At the time, transsexuals even came to work as sex workers in the city from other countries like France, Italy, or the USSR.<sup>10</sup> Medical care was provided for, and their safety was largely assured. Although there were sporadic “controls”, no one yet spoke of police repression.<sup>11</sup>

This situation changed for the worse, however, after a new government came to power in 1974. The Republican People’s Party (CHP) won that year’s elections, but had to enter into a coalition with the pro-Islamic National Salvation Party (MSP) in order to form a government. The overall political climate had an immediate effect on trans persons and other queers.

In the coalition the MSP was given control of the Ministry of the Interior, which had jurisdiction over civil status and registration and supervision of regional authorities. They also exercised control over the police, the administration and security of the provinces, and the coast guard. LGBTI persons therefore also fell under the areas of jurisdiction and scope of duties of the Ministry of the Interior, and they became the target of repressive politics immediately thereafter.

In the end the coalition only held for ten months, but it was long enough to close down the bordellos and clubs in Abanoz Street. This period is marked by massive police repression, especially against transgender sex workers. The Directorate of Public Order and Security (*Asayış ve Emniyet Müdürlüğü*) proceeded with a comprehen-

<sup>8</sup> See footnote 1.

<sup>9</sup> Yonca Cingöz in a conversation with one of the oldest living trans sex workers “Deniz Anne”; *Yine olsa yapardım, ruhumda var* June 7, 2007, <http://www.kaosgl.com/sayfa.php?id=1210> (last viewed on September 27, 2015).

<sup>10</sup> Esmeray, Belgin Çelik, “Abanoz’dan Tarlabası’na Travesti ve Transseksüeller”, in *Kaldırım* 2011, <http://panel.stgm.org.tr/vera/app/var/files/u/n/unknown-parameter-value.pdf> (last viewed on September 27, 2015).

<sup>11</sup> See footnote 10.

sive and coordinated campaign against LGBTI persons.<sup>12</sup> Even the possibilities for effeminate men and trans persons to earn a living was limited by the police during these years. In contrast to earlier periods, they now could only work under certain conditions and were restricted to bars and taverns.<sup>13</sup> The authorities embarked on a systematic campaign of persecution, which led to Istanbul's queers being driven away not only from their workplaces, but also from their homes. Despite or perhaps as a result of police repression, a collective political identity began to form in parts of the Turkish queer community. LGBTI persons began organizing campaigns to fight against institutional repression and for their liberation and their right to exist not only in Istanbul, but also in Izmir and Ankara. The first queer group was organized in Ankara under the name *Şarololar Derneği*.<sup>14</sup> It was a first attempt for a queer association to appear publicly. For unknown reasons, it did not succeed. In Izmir the activist İbrahim Eren made an attempt to organize LGBTI persons.<sup>15</sup> As part of the Health and Environment Association in Izmir (*İzmir Çevre Sağlığı Derneği*) he conducted therapeutic individual and group discussions with lesbians and gay men in his home.

This development in Turkey was most likely also influenced by the Stonewall Riots that took place in 1969 in New York City. The queer community there had defended itself against police brutality; by now their resistance has become fixed in the collective memory of queer communities all over the world. In Turkey there were a number of financially independent and well-connected LGBTI persons who were influenced by Stonewall and who wanted to become active in the liberation struggle. They took part in leftist initiatives, publicly discussed the living conditions of LGBTI persons, and supported concrete steps to help form an organized movement.

Today, activists and other observers see in the repression that set in at the time the seed for the political movement of queer persons in Turkey.

<sup>12</sup> Siyah Pembe Üçgen, *80'lerde Lubunya Olmak, Sihay-Pembe Üçgen*, Izmir 2011.

<sup>13</sup> See footnote 10.

<sup>14</sup> Arslan Yüzcün, *Türkiye'de Eşcinsellik (Dün, Bugün)*, İstanbul 1986.

<sup>15</sup> Deniz Yıldız, "Türkiye tarihinde eşcinselliğin izinde eşcinsellik hareketinin tarihinden satır başları-1:80'ler". In: *KaosGL*, 2007, No. 92, pp. 48–51.

The beginnings of the movement are therefore dated in the 1970s, an assumption that will be followed here, even if there are very few written sources documenting it.

## 1.2. The 1980s

The attempts to organize in the 1970s were abruptly ended with the military coup on September 12, 1980. In its aftermath, the activities of numerous associations and unions were restricted<sup>16</sup> and all political parties were banned.<sup>17</sup> The leaders of the three largest parties were constrained with a political ban. The parliament was dissolved and only convened again after the elections in 1983. The army installed a cabinet of technocrats.<sup>18</sup> Freedom of assembly, association, press, and speech were each drastically restricted. Furthermore, arbitrary arrests, mass usage of torture, and denaturalization were the order of the day. 517 death sentences were imposed and 50 of these were executed.<sup>19</sup> Schools and universities were subject to massive militarization.

When the Kurdish Workers Party (*Partiya Karke-rên Kurdistan*, PKK) took up their "armed struggle for the liberation of Kurdistan" in 1984, this process was further intensified. The attempts by then Prime Minister and later President Turgut Özal (1983-1993) to deescalate the Kurdish conflict did little to alleviate the repression.<sup>20</sup> The military regime primarily targeted leftist and

<sup>16</sup> Abdolvahap Akıncı, "Türk Siyasal Hayatında 1980 Sonrası Darbeler ve E-Muhtıra", in: *Trakya Üniversitesi Sosyal Bilimler Dergisi*, December 2013, Vol. 15, No. 2, pp. 39–58.

<sup>17</sup> See the resolution of the BDP MP Sarri Salik from October 14, 2011 on the website of the Turkish Parliament, <http://www.tbmm.gov.tr/d24/10/10-0115.pdf> (last viewed on September 29, 2015).

<sup>18</sup> On April 24, 1983 the Political Parties Act was rewritten (see *Siyasi Partiler Kanunu*, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2820.pdf>). Immediately thereafter on May 20, 1983 the Motherland Party (Anavatan Partisi, ANAP) was founded. On November 6, 1983 ANAP managed to win the first parliamentary elections after the coup with 45% of votes and to form a government.

<sup>19</sup> Official website of the Turkish Parliament (TBMM): Report of the Research Commission of the National Assembly, "Series number 376, vol. 1". [https://www.tbmm.gov.tr/sirasayi/donem24/yil01/ss376\\_Cilt1.pdf](https://www.tbmm.gov.tr/sirasayi/donem24/yil01/ss376_Cilt1.pdf) (last viewed on September 25, 2015).

<sup>20</sup> Gülistan Gürbey, "Der Kurdenkonflikt" Website of the Bundeszentrale für politische Bildung, August 12, 2014, [www.bpb.de/internationales/europa/tuerkei/185907/der-kurdenkonflikt](http://www.bpb.de/internationales/europa/tuerkei/185907/der-kurdenkonflikt) (last viewed on August 29, 2015).

rightist political organizations that had led armed struggles before the coup and that were responsible in the 1970s for numerous politically motivated assassinations. Sustained police, legal, and military repression led to numerous activists fleeing to Europe and the USA, where they joined anti-military, environmental, and feminist movements, which provided them with insights into these new social movements. This was also the case for many members of the queer movements. The experiences of these temporary exiles would later become significant for the new social movements in Turkey. The military coup largely annihilated the radical left, temporarily debilitated the radical right, and thus unwittingly opened up public and political space for new social movements, among which was the queer movement.

LGBTI persons were also affected by the repressive measures of the military regime, and they were driven out of first Ankara and then Istanbul.<sup>21</sup> In 1981 50 to 60 trans sex workers were “deported” by train from the urban districts of Istanbul to the outskirts of the city.<sup>22</sup> Some were arrested while working in the red light district, but others were taken from their homes and initially brought to the police station *Sansaryan Han* in Sirkeci, where other political prisoners were also being held.<sup>23</sup> Kept in custody for several days, they were subjected to psychological and physical torture. In order to humiliate the prisoners, their heads were shaved.<sup>24</sup> Following this they were transported out of the city from the Istanbul main station *Haydarpaşa*. On March 19, 1981 the Minister of the Interior issued a performance ban on (effeminate) men and so-called transvestites, who worked in the night-clubs wearing women’s clothing. Due to the personal fate of Bülent Ersoy, Turkey’s most famous trans singer, this ban was highly publicized. To circumvent the ban, Ersoy underwent sex reassignment surgery in London on April 14, 1981 (from male to female), after which she petitioned to have her civil status changed; she

wanted to have her new, female gender recognized. The petition was immediately denied and Ersoy would continue to be treated as a “man in woman’s clothing” or as a transvestite. When Ersoy sought to appear in Istanbul in a woman’s outfit on June 13, 1981, the Istanbul governor upheld the performance ban, justifying his actions with recourse to the law about the duties and responsibilities of the police.<sup>25</sup> While Bülent Ersoy was fighting for her individual right to have her civil status changed and to get her female gender recognized, other trans people were resisting collectively. The police measures immediately threatened their livelihoods and put them at risk of losing their jobs and homes.<sup>26</sup> This repressive situation resulted in individual and collective acts of defence and protection, which led to political organizing by trans persons, lesbians, and gay men. LGBTI persons first sought support from feminist and leftist groups as well as from human rights organization. They began to appear, albeit in still quite small numbers, in the public sphere, organizing demonstrations against police brutality, protesting at the unemployment office to create jobs for trans persons, and collecting signatures for the introduction of new laws that would legalize gender reassignment surgery.

Under the government of Turgut Özal the performance ban was lifted for Bülent Ersoy on January 7, 1988. New regulations also permitted her to have her civil status changed. In Turkish law gender reassignment measures were legalized for the first time by an addendum to Article 29 of the civil code. This addendum allowed for the possibility of having the entry in the civil status registry altered after a successful gender reassignment.<sup>27</sup> Article 29 section II of the civil code reads:

“If after birth there is a change of sex, the necessary alteration will be made in the civil status register provided the change of sex has

25 Michelle Demishhevich, “Bir trans kadın gazetecinin kaleminden bir türlü temizlenemeyen toplumumuzun yakın geçmişine bakışlar”. Website of the LGBTI Platform, January 1, 2008, <http://platform24.org/lgbti/668/-nefrete-inat-yasasin-hayat> (last viewed on September 27, 2015).

26 See footnote 25.

27 Yeşim M. Atamer, “Transsexualität. Staatsangehörigkeit und Internationales Privatrecht”, in: Jürgen Basedow und Jens M. Scherpe, eds., *Transsexualität, Staatsangehörigkeit und internationales Privatrecht: Entwicklungen in Europa, Amerika und Australien*, Tübingen 2004, pp. 74-79.

21 See footnote 15.

22 See footnote 15.

23 Tayfur Cinemre, “Kızıldere Katliam’ın 38. Yılı Cihan Alptekin’le Sansaryan Han’da 43 Gün”, news website Bianet from November 3, 2010, <http://bianet.org/biamag/diger/121084-cihan-alptekinle-sansaryan-handa-43-gun> (last viewed on September 29, 2015).

24 See footnote 15.

been confirmed by the attestation of at least one medical commission. If the person concerned is married, the spouse must be involved in the judicial proceedings and it is for the court to decide who should have custody of any children of the couple; the marriage is dissolved with effect from the day the ruling on the change of sex is handed down.”<sup>28</sup> This addendum was a first step in Turkish law for trans persons who could now call on legal provisions.<sup>29</sup>

The resistance on the part of trans people and other queers in the 1980s, however, was not limited to direct, timely, and short-term actions against violence and repression. In 1987 some lesbians and gay men attempted to form a party with other leftist activists, the Radical Democratic Green Party (*Radikal Demokratik Yeşil Parti, RDYP*), which was explicitly meant to campaign for the rights and issues of LGBTI people.<sup>30</sup> This was widely discussed in public, in the political parties, and in the parliament. This led to a public engagement with homosexuality in general, and the political parties found themselves compelled to make public their positions in relation to homosexuality.

The centre-right Motherland Party (*Anavatan Partisi, ANAP*) argued that homosexuals should undergo medical treatment and then be integrated into society. Their competitor party on the centre right, the True Path Party (*Doğru Yol Partisi, DYP*) saw homosexuality merely as a deviation from the social norm. The Democratic Left Party (*Demokratik Sol Parti, DSP*) spoke out against discriminating against homosexuals and for normalization, with the argument that it was a result of a biological disorder. Based on their assessments of homosexuality as illness, immorality, or biological deformation, none of these parties was able to gain anything positive from or for homosexuals.

Only the Social Democratic Populist Party (*Sosyaldemokrat Halkçı Parti, SHP*) did not take a

<sup>28</sup> Unless otherwise noted, this and all other translations of Turkish legal documents were made with the aid of the author.

<sup>29</sup> Yeşim M. Atamer, “Transseksüellerin Türk Hukukundaki Durumu”. Website of the gay organizations Lambda, Istanbul, September 21, 2009, <http://www.lambdaistanbul.org/setkinlik/transseksuellerin-turk-hukukundaki-durumu/> (last viewed on September 27, 2015).

<sup>30</sup> Sezen Yalçın, “Siyasetin o biçimi: LGBTİ hareketinin anaakım siyasetle imtihanı”, in: *Birikim*, No. 308, 2014, pp. 6–11.

position explicitly against founding such a party. It nonetheless balked at the idea of a law specifically to protect and guarantee equal rights for LGBTI persons, since the Constitution already guaranteed the equality of all citizens.<sup>31</sup>

Independently of the discussions within the established parties, the second half of the 1980s saw the further institutionalization of LGBTI initiatives and the founding of the party RDYP. The initiators published the newspaper “Green Peace”, which also contained a column with the title *Gey Liberasyon*.<sup>32</sup>

This initiative sought to work with the German Green Party and promoted the project on an international scale. While the project eventually failed, the initiators found other way to articulate their demands.

For instance, trans sex workers organized themselves into collective housing, where they could motivate each other politically. In fact, even these unofficial associations became the targets of police violence. Using the law about the duties and responsibilities of the police, trans people were arbitrarily arrested or committed to psychiatric institutions and specialized hospitals for sexually transmitted diseases.<sup>33</sup> As a reaction to police raids against trans people there was a collective protest in 1987 instigated above all by trans sex workers as well as some lesbians and gay men and supported by the initiative “Radical Democratic Green Party.” On April 29, 1987 37 trans persons, lesbians, and gay men began a ten-day hunger strike in Gezi Park by Taksim Square.<sup>34</sup> The protesters managed to get support not only from those initiatives already mentioned, but also from neighbours and a few famous artists and intellectuals. The hunger strike is seen as a turning point in the contemporary queer movement. It is considered one of the most important public protests in the history of the politicization of LGBTI persons in Turkey.

Institutionalization in the legal sense could still not be completed in the eighties, which is why LGBTI persons at the time were also not in any position to do lobbying, to carry out social

<sup>31</sup> See footnote 15.

<sup>32</sup> See footnote 15.

<sup>33</sup> See footnote 15.

<sup>34</sup> Elif Ince, *LGBTİ*: “Kaldırımın altından gökkuşağı çıkıyor”, December 8, 2014, <http://www.bianet.org/bianet/lgbti/160544-lgbti-kaldirim-altindan-gokkusagi-cikiyor> (last viewed on September 27, 2015).

projects such as awareness training, or to take action in court cases. In this sense, the queer community had no institution “of its own”, which campaigned for its rights and demanded them from the wider society and the state. Due to the lack of institutionalization, it was hardly possible for the queer groups existing at the time to take legal action human rights violations at the national or international level.

### 1.3. The 1990s

While the queer movement in the 1980s was strongly shaped by trans people, the 1990s were characterized largely by activism dominated by gay men, who concentrated on institutionalizing the movement. In the 1990s the demographic shift away from rural locations and toward urbanization continued unabated; the number of students sharply increased, and neoliberal working conditions became ubiquitous. The relation of civil society to western countries increasingly took on greater significance. With the support of European queer organizations queer groups were able for the first time to found lasting associations.<sup>35</sup> A queer group was founded under the name Rainbow '92 (*Gökkuşacağı '92*).<sup>36</sup> The German initiative *Schwule International* initiated a collaboration with other queer groups in Istanbul to organize a lesbian-gay parade in 1993 on the occasion of Christopher Street Day. This suggestion emboldened the Turkish groups to decide to organize their first public events, such as *Pride*.<sup>37</sup> The attempt failed, however, when it was banned by the governor of Istanbul, claiming that it would run counter to the customs and values of Turkish society. After this ban the Commission for Human Rights of the European Parliament took up the discrimination of LGBTI persons in Turkey for the first time in their annual progress report. Furthermore, the ban prompted various queer groups to come together into a new initiative with the name *LambdaIstanbul*.<sup>38</sup> In 1994, one year after the launch of *Lamb-*

*daIstanbul*, the initiative *KaosGL* was founded in Ankara, kicking off its political work with an LGBTI newspaper. At this point in time *LambdaIstanbul* was a member of ILGA (*International Lesbian and Gay Association*). Both initiatives received additional support from Turkish non-governmental organizations such as the Association to Combat AIDS (*AIDS Savaşım Derneği*), the feminist group “*Mor Çatı*” (“Purple Roof”) and the Human Rights Association (*İnsan Hakları Derneği, İHD*).<sup>39</sup>

In the second half of the 1990s efforts were concentrated on topics that would determine the political agenda of the queer movement over the course of the next few years: institutionalization in the form of legal personality, that is, as an association, and public relations work in the sense of public visibility in the wider society. The fact that it was mainly middle-class gay men who were active led to debates about representational politics within the queer community, for neither lesbians nor trans people felt adequately represented. The blanket designation of LGBTI persons as “homosexual” was not accepted in particular groups in the community, and queers began to differentiate among themselves. In 1995 Turkey’s first lesbian initiative was founded, *Venus’in Kızları* (*Daughters of Venus*).

The differentiation within the movement, however, did not prevent the various groups from carrying out joint actions. For instance, groups such as *KaosGL*, *Sappho’nun Kızları*, *Bursa Spartaküs* as well as an LGBTI association from Germany, *Schwule International*, organized lesbian-gay celebrations in Istanbul and Ankara between 1998 and 2004, which took place twice a year.<sup>40</sup> Alongside these activities activists were also able to start a public radio especially for LGBTI, to publish political texts, to mobilize non-governmental organizations, and to attract the attention (again) of political parties.

In 1996 the Second United Nations Conference on Human Settlements (UN-HABITAT II) convened in Istanbul. As part of the preparations, “cleansing operations” were carried out in central parts of Istanbul, targeting socially underprivileged groups who were classified as threatening or dangerous due to their ethnic backgrounds, but

<sup>35</sup> See footnote 15.

<sup>36</sup> See footnote 15.

<sup>37</sup> See footnote 15.

<sup>38</sup> *LambdaIstanbul*. *Özetle LambdaIstanbul ne yaptı?* <http://www.lambdaistanbul.org/s/hakkinda/ozetle-lambdaistanbul-ne-yapti/> (last viewed on September 27, 2015).

<sup>39</sup> See footnote 38.

<sup>40</sup> Deniz Yıldız, “Türkiye tarihinde eşcinselliğin izinde eşcinsellik hareketinin tarihinden satır başları-2:90’lar”, In: *KaosGL*, 2007, No. 93, pp. 46–49.

also sexually marginalized persons.<sup>41</sup> Istanbul was to be presented as a metropolis inhabited by average middle-class Turkish citizens in nuclear families, living in “appropriate” residential areas with modern shopping centres. Trans and other sex workers, along with street vendors, homeless people, and drug users were driven out of the city’s central districts. The police raids began on May 21, 1996 under the direction of the current mayor Nusret Bayraktar.<sup>42</sup> Ülker Street and its immediate vicinity were the hardest hit, in which Roma and Sinti, Kurds, small-time merchants and street vendors, the unemployed and homeless, single women and men, trans and other sex workers, as well as pimps lived. Although protests against the police violence could not hinder these actions, they did draw attention once again to the plight of the affected communities.

#### 1.4. The 2000s

After Turkey was officially recognized as a candidate for joining the European Union at the EU Summit in Helsinki in 1999, international expectations rose with regard to reforms aimed at improving due process and the conditions for minorities and for civil society in general. Ankara reacted by passing a series of so-called “harmonization packages”.<sup>43</sup>

The legal and constitutional changes proposed included above all those concerning freedom of thought and expression, the prevention of torture, the freedom and security of the individual, the right to privacy, the inviolability of the home, the freedom of communication, the freedom of residence and movement, the freedom of association and gender equality. At the level of civil society, changes were to be instituted in the areas of gender equality, protection of children and the infirm, as well as freedom of assembly.

These EU-based developments in Turkey had an immediate effect on the queer movement and its mobilization and had a positive influence on its development:

- ▶ The movement grew considerably during this time. The initiatives toward institutionalization increased and contacts to NGOs, individual MPs, and political parties in general were intensified.
- ▶ In this phase the movement above all strove for visibility in the public sphere, as well as in local and parliamentary politics. Other important goals included the struggle against institutionalized discrimination by the police and judges, as well as protection at the legal level, for instance through constitutional changes or penal measures against discrimination and violence based on sexual orientation and identity.
- ▶ Furthermore, the queer movement established solidarity for the first time with other social movements within the anti-militaristic and feminist spectrum, the environmental movement, and the Kurdish and workers’ movements, forming alliances with them. For example they supported the workers’ demonstrations at the May Day demonstrations in Ankara on May 1, 2001.

The parliamentary elections in autumn 2002 led to the Freedom and Development Party (AKP) taking power for the first time. Due to the heavy fragmentation in the party system and an extreme majority voting system, the AKP was able to win an absolute majority in the parliament with only 34.2%<sup>44</sup> of votes, which was to fundamentally alter the political and economic situation of the country in the long term. The AKP, which presented itself – despite its Islamist roots – as a conservative-democratic party, declared the fulfilment of the political criteria from Copenhagen as part of its program. In its election platform in 2002 it called for a comprehensive reform to the constitution, meant to guarantee rights to all sections of the population regardless of their “differences”.<sup>45</sup> Then Minister President Erdoğan publicly argued for the constitutional

<sup>44</sup> The results of the parliamentary elections in 2002 on the new website NTV, <http://arsiv.ntv.com.tr/modules/secim2007/secim2002/> (last viewed on August 26, 2015).

<sup>45</sup> AKP, election platform, *Everything for Turkey*, Ankara 2003 on the website of the Parliament, [https://www.tbmm.gov.tr/eyayin/GAZETELER/WEB/KUTUPHANEDE%20BULUNAN%20DIJITAL%20KAYNAKLAR/KITAPLAR/SIYASI%20PARTI%20YAYINLARI/200304063%20AK%20PARTI%20SECIM%20BEYANNAMESI%202002/200304063%20AK%20PARTI%20SECIM%20BEYANNAMESI%202002%200000\\_0000.pdf](https://www.tbmm.gov.tr/eyayin/GAZETELER/WEB/KUTUPHANEDE%20BULUNAN%20DIJITAL%20KAYNAKLAR/KITAPLAR/SIYASI%20PARTI%20YAYINLARI/200304063%20AK%20PARTI%20SECIM%20BEYANNAMESI%202002/200304063%20AK%20PARTI%20SECIM%20BEYANNAMESI%202002%200000_0000.pdf) (last viewed on July 28, 2015).

<sup>41</sup> Pınar Selek, *Maskeler Süvariler Gaclar*, Istanbul 2007.

<sup>42</sup> See footnote 40.

<sup>43</sup> Republic of Turkey, Ministry of Foreign Affairs, Secretariat General for EU Affairs, “Political Reforms in Turkey”, 2007, <http://www.ab.gov.tr/files/pub/prt.pdf> (last viewed on December 29, 2015).

protection of all sections of the population, including LGBTI persons. In a television appearance shortly before the parliamentary elections of 2002 he explicitly stated that homosexuals should not only have rights and basic freedoms, but should also enjoy guaranteed legal protection.<sup>46</sup> The platform in 2007 also cited the goal to reform the constitution, which was meant to be achieved by the 100th anniversary of the republic (2023).

The one-party government of the AKP brought political stability and led to an economic boom. In a rapid reform process a series of harmonization packages were passed as part of the EU accession process,<sup>47</sup> which influenced the next elections in July 2007 in favour of the AKP.<sup>48</sup>

The AKP was given credit for the path they were taking by large parts of the society. Along with the leading oppositional party, the Republican People's Party (CHP), business leaders, academia, civil society, and the majority of the population endorsed joining the EU. This phase was extremely significant for the societal and legal situation of LGBTI persons. For example, in November 2004, as part EU negotiations, the Turkish Associations Law was reformed. Before the legal reform queer groups either had to organize as student initiatives at universities, or under the umbrella of the left-wing parties, such as the Freedom and Solidarity Party (*Özgürlük ve Dayanışma Partisi, ÖDP*), human rights organizations, feminist groups, or trade unions. Now interest groups could found associations with significantly less bureaucratic efforts.

The (old) Associations Law, adopted in 1983, not only had codified restrictions, but also maintained strict control of the associations and all of their activities. It forbid associations from any political work, lobbying, and representation.<sup>49</sup> "Limitations on the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group are removed with the new law. Although constitutional prohibitions which could be used to

restrict the establishment of certain kinds of association are invoked in the new law, recent practice suggests that associations are increasingly permitted to open, even when established on the basis of currently prohibited categories."<sup>50</sup> The new act was limited to setting the framework for founding associations and only contains 40 articles, whereas the old Associations Law consisted of 97.<sup>51</sup> It lifted a number of restrictions that were introduced after the military coup in 1980, thus alleviating the difficulties of organizing associations, platforms, and foundations in civil society.<sup>52</sup> It does not explicitly provide for any restrictions with regard to founding LGBTI organizations, but the criterion of "protecting public morals and social order" remains hanging like a Damocles sword.

Immediately after the passage of this act, the LGBTI organization *Bursa Regenbogen (Bursa Gökkuşluğu LGBTT Derneği)* was founded. In 2005 the lesbian and gay initiative called *KaosGL* was registered as an association. One year after *KaosGL* another LGBTI association was founded in Istanbul with the name *LambdaIstanbul*.<sup>53</sup> Unofficially the two groups had been active since the 1990s, fighting discrimination against LGBTI people in the public sphere. This positive development was solely due to the EU accession process and was not any indication of a tolerant LGBTI policy in the AKP government. This could be seen in the party's position in the discussion about the new criminal code (*Türk Ceza Kanunu*), which was adopted as part of the negotiations around EU accession in 2004.<sup>54</sup> Queer initiatives such as *KaosGL* and *LambdaIstanbul* had established contact with parliamentarians and had pointed out the need for constitutional and legal protective regulations for LGBTI persons in the face of vio-

<sup>46</sup> Gülsüm Depeli, *Anayasa Yazım Sürecine LGBT Müdahilliğinin Merkez Medyadaki Görünümü*, Hacettepe Üniversitesi, İletişim Fakültesi, Ankara 2013.

<sup>47</sup> Günter Seufert, "Türkei", in: *Jahrbuch der Europäischen Integration* 2010.

<sup>48</sup> Günter Seufert, "Türkei", in: *Jahrbuch der Europäischen Integration* 2003/2004.

<sup>49</sup> Şerafettin Gökalp, "Yeni Dernekler Kanunu", in: *TBB Dergisi*, No. 58, 2005.

<sup>50</sup> Commission of the European Communities, Regular Report on Turkey's progress towards accession, 2004, [http://www.ab.gov.tr/files/AB\\_Iliskileri/Tur\\_En\\_Realitons/Progress/Turkey\\_Progress\\_Report\\_2004.pdf](http://www.ab.gov.tr/files/AB_Iliskileri/Tur_En_Realitons/Progress/Turkey_Progress_Report_2004.pdf) (last viewed on December 29, 2015).

<sup>51</sup> See footnote 50.

<sup>52</sup> Heinrich Böll Stiftung, *Politischer Jahresbericht, 15. Juli 2004 - 15. Juli 2005, Länderbüro Türkei*, 2005, [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/weltweit/Istanbul2005.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/weltweit/Istanbul2005.pdf) (last viewed on September 29, 2015).

<sup>53</sup> See footnote 38.

<sup>54</sup> Mehtap Söyler, "Der demokratische Reformprozess in der Türkei", in: *Aus Politik und Zeitgeschichte*, 39-40/2009.

lence and discrimination.<sup>55</sup> The Grand National Assembly of Turkey (TBMM) was receptive to the demands and they were adopted into the proposed law. But the AKP Minister of Justice at the time, Cemil Çiçek, rejected the provision. In his opinion the use of “gender” as a category of protection already included “sexual orientation and identity”, and thus an explicit mention of these was not necessary.<sup>56</sup> Çiçek thus blocked the legal protection of LGBTI persons.<sup>57</sup> Another example of the AKP’s anti-LGBTI policies was the legal action against the ban on *LambdaIstanbul* in 2006. Muammer Güler, the governor of Istanbul, who had been appointed by the AKP government, had banned the association on the grounds that it “violated public morals and contravened Turkish family structures”.<sup>58</sup> The protracted suit against the the ban lasted two years. The Civil Court of Istanbul followed the argumentation of the Minister of Justice on May 29, 2008 and held up the ban.<sup>59</sup> *LambdaIstanbul* filed an appeal against the closure. During this period the group’s members and activists were carrying on a signature drive. They received support from EU parliamentarians, national and international non-governmental organizations, and individual Turkish politicians such as Sebahat Tuncel from the pro-Kurdish Democratic Society Party (*Demokratik Toplum Partisi, DTP*) and Ufuk Uras from the Freedom and Solidarity Party (*Özgürlük ve Dayanışma Partisi, ÖDP*).<sup>60</sup> In April 2009 the decision came down in favour of the association. The lawsuit contributed significantly to the visibility of LGBTI people and to solidarity with them.<sup>61</sup>

55 Volkan Yılmaz, Hilal Başak Demirbaş, “Türkiye Büyük Millet Meclisinde Lezbiyen, Gey, Biseksüel ve Trans hakları Gündeminin ortaya çıkışı ve gelişimi: 2008-2014”, in: *Alternatif Politika*, Vol. 7, No. 2, June 2015.

56 Emir Çelik, “LGBT'lere Bir Ayrımcılık da, 'Ayrımcılıkla Mücadele Taslağı'nda”, March 3, 2011, <http://www.bianet.org/english/azinliklar/127614-lgbt-lere-bir-ayrimcilik-da-ayrimcilikle-mucadele-taslagi-nda> (last viewed on September 27, 2015).

57 See footnote 55.

58 Human Rights Watch, *Kurtuluşumuz İçin bize bir yasa gerek*, Ankara, 2008, <http://www.hrw.org/reports/2008/turkey0508/turkey0508tuweb.pdf> (last viewed on September 29, 2015).

59 Fırat Söyle, “*LambdaIstanbul'a Karşı Kapatma Davası Kronolojisi*”, April 29, 2009, <http://www.bianet.org/bianet/toplumsal-cinsiyet/114196-lambdaistanbula-karsi-kapatma-davasi-kronolojisi> (last viewed on September 29, 2015).

60 SPoD, *Yerel Siyasette LGBTİ Hakları*, Istanbul 2014.

61 See footnote 60.

The first term of AKP government was thus marked by developments that had both positive and negative implications for the queer movement. In 2007 there were elections for the Turkish Parliament at which the AKP was able to gain 46% of votes, significantly higher than at the previous election. But the successes were not only landing on the conservative side. The LGBTI movement made visible gains in mobilization, consolidation, and social acceptance. While the AKP was managing to win over more and more voters, LGBTI initiatives were becoming more and more visible in the public sphere. Parallel to the political presence and dominance of the AKP, LGBTI persons were increasingly laying claim to rights and status. Despite the conservatism of the AKP – in a kind of emancipatory counter reaction – queer groups were being organized at universities, in the areas of health and education, or on the job market. The more visible the LGBTI movement became, the stronger the AKP politicians reacted to it.

Starting in 2007, the second term of the AKP, these conflicts intensified. One example is the statements by Selma Aliye Kavaf, then AKP Minister for Family and Women, who called homosexuality a biological disturbance, causing an outcry among queers.<sup>62</sup> As a reaction to this discriminatory rhetoric by the AKP and its influence in the judiciary, in health care, and in public life, an alliance of several queer associations and organizations was formed in 2007 with the name *Platform for LGBTI Rights (LGBTİ-Hakları Platformu)*. It compiles, publishes, and disseminates annual reports on cases of discrimination, and organizes events to which party politicians are also invited. In 2008 representatives of the platform called for fundamental equality before the law, demanding amendments to Article 10 of the Turkish constitution. They advocated adding the terms “sexual orientation” and “sexual identity” to the classifications protected by the constitution. But the AKP did not wish to recognize LGBTI persons, who presumably were not consistent with the values and morals of Turkish society, as a protected class. This caused queer groups to intensify their political activity.

62 See footnote 55.

## 1.5. Post-Gezi

The year 2013 not only marked a turning point for queer organizations, but also for other movements and for broader segments of Turkish society. The mass protests around Gezi Park at Istanbul's Taksim Square, which was slated to lose ground to a large shopping centre, triggered one of the largest protest actions that the country has ever experienced. Events, demonstrations, and celebrations have been taking place at Taksim Square for many years. At the very latest since shots were fired on trade unionists on May 1, 1977, an action which led to the deaths of 34 people and which has not been settled to this day, the square has become the symbol of the workers' movement. But Taksim Square is not just a symbol for left-wing movements. It is also the location of the most well-known monument to Atatürk in the country and the large Atatürk Cultural Center (to some extent Istanbul's opera house), and this is also where the Islamist Prime Minister Necmettin Erbakan wanted to erect a large mosque during the nineties. The square is therefore the central location for the symbolic struggles between Islamists and secularists.

Due to this historical backdrop, the adjacent Gezi Park maintains great significance as a public site. The mass protests of 2013 against the destruction of Gezi Park were significant for their opening of the queer movement to society, largely because a wide variety of groups from various movements joined forces there. LGBTI people were particularly visible in the conflict, actively taking part in resisting the neoliberal urban politics. During the protests they formed an LGBTI block, which organized its own demonstrations, rallies, and discussion events. The highlight of the activities by the LGBTI block was a demonstration on the occasion of CSD (*Christopher Street Day*), which was attended by around 100,000 people due to the influence of the Gezi protests.

The networks built up by this provided LGBTI activists access to areas that had previously been denied them. LGBTI people began to play a part in local politics. At the same time the academic fields of "Queer Studies" and "Gender Research" were being introduced into certain universities in Istanbul and Ankara.

There was also progress in the engagement with political parties. A group of CHP deputies, including Binnaz Toprak, Rıza Türmen, Melda Onur, Mahmut Tanal, İlhan Cihaner, Hüseyin Aygün, and Aykan Erdemir were made aware of LGBTI rights and demands and were mobilized to act in favour of them.

One important result of these efforts is the short resolution submitted by CHP MP Mahmut Tanal, who advocated for the explicit inclusion of LGBTI persons in anti-discrimination provisions. Queer caucuses were formed in the BDP. At the municipal level as well there were positive developments to be observed, such as the introduction of a polyclinic for LGBTI persons and sex workers in the Istanbul neighbourhood of Şişli.<sup>63</sup> During and after the Gezi protests numerous new queer organizations were founded in several regions in Turkey, with or without the status of legal personality. These groups include, for instance, the "Trans Solidarity Center" (*Trans Dayanışma Derneği - T-DER*) and "Red Umbrella" (*Kırmızı Şemsiye*) in Ankara, as well as *Queer Adana*, *Mersin LGBT 7 Renk*, *İskenderun Özgürlüğün Renkleri LGBT or Dersim Roştıya Asmê (Ay Işığı) LGBTİ* in Tunceli in Anatolia. Today there are an estimated fifty queer organizations in Turkey, although the majority of these lack the status of legal personality. In the run up to the municipal elections of 2014 representatives from the association SpOD and the "LGBT Platform for Political Representation and Participation" (*LGBT Siyasi Temsil ve Katılım Platformu*) met with the president of the CHP Kemal Kılıçdaroğlu, the vice-president Gürsel Tekin, and CHP MP Melda Onur. At this meeting Kemal Kılıçdaroğlu promised to nominate LGBTI candidates for municipal elections, at least in the larger cities of Istanbul, Ankara, and Izmir.<sup>64</sup>

<sup>63</sup> Çiçek Tahaoğlu, "Şişli Belediyesi'nden LGBTİ'lere Sağlık Hizmeti", October 15, 2014, <https://m.bianet.org/bianet/saglik/159200-sisli-belediyesi-nden-lgbti-lere-saglik-hizmeti> (last viewed on September 27, 2015).

<sup>64</sup> SpOD, "SpOD ve LGBT Siyasi Temsil ve Katılım Platformu Temsilcileri CHP Genel Başkanını Ziyaret Etti". November 2014, Website of the SpOD, <http://www.spod.org.tr/turkce/spod-lgbt-ve-lgbt-siyasi-temsil-ve-katilim-platforumu-temsilcileri-chp-genel-baskani-kemal-kilicdaroglunu-ziyaret-etti/> (last viewed on September 1, 2015).

## 2. Demands of the Queer Movement<sup>65</sup>

Today the demands of the movement are above all focused on reforming the Constitution, the Criminal Code, the Labour Law, and the Civil Code. All the laws mentioned here have already been altered once or in some cases many times as part of the negotiation for EU accession both before and during the period of AKP government.

### 2.1. Reforming the Criminal Code, Articles 3 and 122

Article 3 paragraph 2 of the Turkish Criminal Code (TCK) of September 26, 2004 reads: “Neither discrimination can be made between the persons in respect of races, language, religion, sects, nationality, colour, sex, political tendencies etc. nor a person can be subject to special and different treatment before the laws and courts.”<sup>66</sup>

In May 2013 Article 122 of the TCK was added, which penalizes hate crimes for the first time.

“1) Any person who discriminates on the basis of hatred for individuals because of their race, nationality, colour, gender, political opinion, religion, or sect, and therefore

- Prevents the sale or transfer of movable or immovable property,
- Refuses to render a public service,
- Rejects a person for employment,
- Prevents a person from performing an ordinary economic activity

is sentenced to imprisonment from one to three years.”<sup>67</sup>

This change to the criminal code along with the articles cited above regulate the struggle against

<sup>65</sup> This chapter is primarily based on conversations with experts in Turkey who deal with LGBTI topics in academic scholarship, politics, and the legal field. The interviewees include representatives of LGBTI associations, LGBTI persons active in local and party politics, and scholars. The interviews were carried out in Turkish in November 2014 in Istanbul and in February 2015 in Ankara at the following associations: Trans Dayanışma Derneği – T-DER, HDP, Istanbul LGBT, CHP, LambdaIstanbul, KaosGL, HDK, SPoD, and Amargi.

<sup>66</sup> Turkish Criminal Code 2004, <http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr113en.pdf> (last viewed on December 29, 2015).

<sup>67</sup> Turkish Criminal Code, quoted from the archives of the Official Gazette, translated from the Turkish with the aid of the author, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf> (last viewed on September 27, 2015).

discrimination in public and economic areas and formulate the statutory offense of hate crime offense for the first time. However, even the most recent changes to the Turkish Criminal Code in March 2014 failed to incorporate the terms “ethnic affiliation” or “sexual orientation and identity” into the catalogue of criteria. Because of this, it is only with difficulty that Roma, Kurdish, and LGBTI persons can plead for their rights in the face of discrimination or hate crimes.<sup>68</sup> For instance, the dismissal of a gay teacher was justified with reference to public social morals and his sexual orientation could be represented as “contrary to social values”. Similar strategies can be used to assign guilt to trans sex workers as well. In a reverse move, transphobic violent criminals use such value judgments to escape punishment. The terms “morality” and “social order” are firmly rooted in the Constitution and are often applied against LGBTI persons in court cases. The lack of an explicit mention of sexual orientation as a basis for the prohibited discrimination grants the courts broad discretionary powers, which they often use against LGBTI persons. Another disadvantage for LGBTI persons is that since the introduction of the term hate as a basis for discrimination and a motivation for violence, there have been no guidelines implemented for acquiring statistics on such crimes,<sup>69</sup> which leads to arbitrary interpretation and registration of criminal acts.

A first advance in civic society towards introducing the statutory offense of hate crimes occurred between June 2011 and December 2012 in collaboration with 70 non-governmental organizations and two political parties, the CHP and the BDP.<sup>70</sup> Under the leadership of the “Association for Social Change” (*Sosyal Değişim Derneği*) an initial alliance was formed with the name

<sup>68</sup> European Commission, *Turkey 2014 Progress Report*, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (last viewed on September 27, 2015).

<sup>69</sup> KaosGL, (*Annual Report 2014*) *Cinsel Yönelim ve Cinsiyet Kimliği Temelli İnsan Hakları İzleme Raporu*, [http://www.kaosgldernegi.org/resim/yayin/dl/lgbt\\_\\_nsan\\_haklar\\_\\_raporu\\_kaosgl\\_2014.pdf](http://www.kaosgldernegi.org/resim/yayin/dl/lgbt__nsan_haklar__raporu_kaosgl_2014.pdf) (last viewed on July 31, 2015).

<sup>70</sup> Hasan Sınar, *Türk hukukunda nefret suçlarına ilişkin yasal düzenleme çalışmaları (Legislative Efforts Regarding to the Hate Crimes in Turkish Law in the Light of the Hate Crimes Legislations in Comparative Law)*, 2013, <http://dSPACE.marmara.edu.tr/bitstream/handle/11424/2258/5000001567-5000000716-PB.pdf?sequence=1> (last viewed on August 2, 2015).

“Hate Crimes Law Platform” (*Nefret Suçları Yasası Platformu*), which was joined by Alevi, Kurdish, leftist, feminist, and anti-military associations, human rights organizations, individuals, and LGBTI groups. The platform formulated a total of 21 suggestions for changes to the law. In its proposal the alliance also classified criminal acts against LGBTI persons as hate crimes.<sup>71</sup> The suggestions for changes to the law proposed by the alliance were brought up for discussion in the parliament on December 3, 2012 by the CHP MP Aykan Erdemir.<sup>72</sup> Even though the terms “sexual orientation and identity” still do not exist as protected categories in the law, there have been further positive developments since 2014 with regard to the legal recognition of discrimination against LGBTI persons. For instance, the Constitutional Court has recognized public defamation of LGBTI persons as a hate crime. Two of the parties represented in parliament, HDP and CHP, have introduced further suggestions into Parliament for related changes to the law in 2014 and 2015, and have also made a motion to examine the situation of LGBTI persons.

Queer organizations have not tired of registering cases of discrimination against LGBTI persons and annually documenting them.<sup>73</sup> The goal of this documentation is to persuade the government and the Parliament to recognize them and to develop methods to record them and classify them. Following the specifications of the OSCE the term “hate crime” should be defined as follows:

*“A) any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence is selected because of a real or perceived connection, attachment, affiliation, support, or membership of a group as defined in part B.*

*B) A group may be based upon a characteristic common to its members, such as real or perceived “race”, national or ethnic origin, language, colour, religion, sex, age,*

*mental or physical disability, sexual orientation, or other similar factor.”<sup>74</sup>*

Criminal acts such as property damage, theft, physical violence, harassment, bodily injury, sexualized violence, attempted murder, or murder should be registered and recognized as hate crimes against LGBTI persons.<sup>75</sup>

Terms such as “public morality” and “social order” contained in legislation should be struck from the laws, because these are often interpreted by judges, lawyers, and the police to disadvantage LGBTI persons and to turn victims into perpetrators.

## 2.2. Equal Treatment Requirement in Article 5 of the Labour Law

Another legal regulation that forbids discrimination is in Article 5, paragraph 1 of the Turkish Labour Law<sup>76</sup> of May 22, 2003 and took on its current state on February 6, 2014. According to the law, “No discrimination based on language, race, colour, sex, disability, political opinion, philosophical belief, religion and sect or similar reasons is permissible in the employment relationship.”

This law is also part of the reforms carried out as part of the EU accession efforts. Previously, Article 18, the current form of which had already been codified in February 2009, prohibited businesses with more than 30 employees from terminating dependent employees on the basis of “race, colour, sex, marital status, family responsibilities, pregnancy, national extraction or social origin, religion, political opinion, and similar reasons”. A ban on unequal pay and treatment on the basis of gender can be explicitly found in Article 5, sections 4 and 5 of the law.<sup>77</sup>

Although this law represents great progress, discrimination on the basis of age, of ethnic and cultural background, and of sexual orientation and identity are not explicitly named. This impedes queer movements from taking legal action against discrimination in employment. Queer

<sup>71</sup> Sosyal Değişim Derneği, *Nefret Suçları Yasa Kampanyası*, 2013, <http://www.sosyaldegisim.org/kampanyalar/kampanyalar/nefret-suclari-kampanyasi/> (last viewed on August 2, 2015).

<sup>72</sup> See footnote 71.

<sup>73</sup> Senem Doğanoglu, *Adaletin LGBT Hali*, LGBT Hakları Platformu, 2009, [http://www.kaosgidernegi.org/resim/kutuphane/dl/adaletin\\_lgbt\\_hali.pdf](http://www.kaosgidernegi.org/resim/kutuphane/dl/adaletin_lgbt_hali.pdf) (last viewed on August 1, 2015).

<sup>74</sup> Hate Crimes in the OSCE Region – Incidences and Responses, <http://www.osce.org/odihr/40203?download=true> (last viewed on December 29, 2015).

<sup>75</sup> See footnote 74.

<sup>76</sup> The Turkish Labour Law 2003, [www.mevzuat.gov.tr/MevzuatMetin/1.5.4857.pdf](http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4857.pdf) (last viewed on September 17, 2015).

<sup>77</sup> See footnote 76.

organizations are therefore demanding appropriate reforms. To this end they are cooperating with opposition parties such as the CHP and the HDP. The pro-Kurdish People's Democratic Party (HDP) expressly names the struggle against discrimination on the basis of sexual orientation and identity in their party platform.

Turkey did in fact sign the *European Social Charter*<sup>78</sup> in 2004, ratifying it in 2006, but even in the revised version of the *Charter* the ban on discrimination in Part V Article E is not sufficiently explicit in its formulation: *"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."*<sup>79</sup> Since the formulation is relatively open, even in the *Social Charter*, it is difficult to take action against discrimination on the basis of sexual orientation and identity. On March 31, 2010 the European Commission, of which Turkey is a member, adopted recommendations on ways to fight discrimination on the basis of sexual orientation and gender identity, including in the workplace.<sup>80</sup> According to these recommendations, *"Member states should ensure the establishment and implementation of appropriate measures which provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public as well as in the private sector. These measures should cover conditions for access to employment and promotion, dismissals, pay and other working conditions, including the prevention, combating and punishment of harassment and other forms of victimization."*<sup>81</sup> Such recommendations, however, are not legally binding for the member states due to the Constitution the European

<sup>78</sup> The European Social Charter was adopted in 1961 and revised in 1996. The European Committee for Social Rights makes decisions about whether the situation in individual states complies with the European Social Charter, the Additional Protocol of 1988, and the Revised European Social Charter.

<sup>79</sup> The European Social Charter: <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007cf93> (last viewed on December 29, 2015).

<sup>80</sup> Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, <https://wcd.coe.int/ViewDoc.jsp?id=1606669> (last viewed on December 29, 2015).

<sup>81</sup> See footnote 80.

Commission. Of more significant relevance are therefore the European Union's non-discrimination directive, which is legally binding both for member states as well as for Turkey, which has sought to join the EU (then EWG) since 1959. The guidelines of the directive 2000/78/EG from November 27, 2000 establish a general framework for realizing equal treatment in occupation and employment (Official Journal L 303 p. 16). It is one of the most elementary components of the European Union's policies of equality.<sup>82</sup> In this directive the prohibition of discrimination with regard to sexual orientation and identity is expressly named. In chapter 1 article 1 of the guidelines we read: *"The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment."*<sup>83</sup> This definition would be binding for Turkey if EU accession negotiations were resolved in favour of accepting Turkey.

### 2.3. Discrimination in the Civil Code of November 22, 2001, in the version from May 15, 2014, Article 40

*"Any person who wishes to alter his or her sex may request permission for alteration of gender by applying to the court in person. Aside from being transsexual in nature, the applicant must have reached the age of eighteen years and be unmarried, and must furthermore document the necessity of gender alteration in respect to his or her mental health and must certify his or her permanent infertility through a report from a board of health provided from a medical education and research hospital.*

*In case of confirmation through an official board of health report that a gender alteration surgery has been materialized appropriate to the medical purpose and procedure in parallel with given permission, it may be decided to carry out the required correction in civil status registers by the court."*<sup>84</sup>

<sup>82</sup> The Council Directive 2000/78/EG from November 27, 2000 establishing a general framework for equal treatment in employment and occupation, *Official Journal L 303* from December 02, 2000, pp. 0016–0022.

<sup>83</sup> See footnote 82.

<sup>84</sup> Translation from the Turkish modified with the aid of the author.

The article allows for gender reassignment operations under unnecessarily complicated conditions.<sup>85</sup> For one thing the requirement to prove one's permanent inability to procreate forces the applicant to submit to sterilization, which is a breach of human rights. In addition, the obligatory proof of them being "transsexual in nature" and of "sex reassignment being necessary to their mental health" leads to pathologizing the trans persons.

Another problem field can be seen in relation to transpersons who have had their sex reassignment operations outside of Turkey and without authorization by any Turkish court, following which they apply for a change in their personal status within Turkey.<sup>86</sup> As a rule the courts reject such applications.

The requirement of being unmarried is also experienced as problematic by those affected, for some applicants are still married during the application process and also wish to remain married after the operation. Since Turkish national law only provides for marriage between men and women, as well as families consisting of mother-father-child, all other people that do not fit this officially sanctioned concept of marriage and family are excluded.

Because of the pathologizing and marginalizing effect of Article 40 of the Civil Code, queer organizations have campaigned for its reform, above all associations of transpeople such as *Pink Life (Pembe Hayat)* and the *Trans Advisory Center (T-Der, Trans Danışma Merkezi Derneği)*. For instance, T-Der was able to convince CHP politician Mahmut Tanal to bring up a parliamentary resolution about sex reassignment operations at the Ministry of Health and at the Ministry for Family and Society in 2014.<sup>87</sup> These resolutions were formulated and presented on the basis of research on sex reassignment operations carried out by T-Der. They thematise complications in operations, problematize the small number of qualified doctors, investigate the number of successfully completed sex reassignment operations, present the rates of successful and faulty operations in state hospitals, as well as aspects

<sup>85</sup> Hakan Ataman, *LGBTI Hakları, İnsan haklarıdır*, Ankara 2009.

<sup>86</sup> See footnote 29.

<sup>87</sup> T-Der, *CHP Milletvekili Mahmut Tanal İle Ofisimizde Görüşme Gerçekleştirdik*, 2014, <http://549d7f9935b61.mailerlite.com/c7t0v9> (last viewed on August 5, 2015).

regarding human rights. The government has so far reacted neither to the resolution nor to the report by T-Der.

#### 2.4. Discrimination by the Military Conscription Law

Another example of legal discrimination is the unequal treatment of gay and bisexual men in the Turkish Armed Forces (TSK).

The Turkish Army sees male homosexuality as an illness and as abnormal behaviour. The Conscription Law, reformed on January 30, 2003, classifies homosexual relations during military service as a punishable offense that would destroy the discipline and order of the army. Homosexual men are thus excluded from the army. Nonetheless, according to the legal regulation, homosexuality must be proven by psychological tests and treatments as well as sometimes with visual "proofs";<sup>88</sup> the precise form of such proof, however, is not stipulated. The corresponding treatment and tests are carried out as a rule by military hospitals or institutes at state universities. The findings are decisive for removal from the armed forces or for exemption from the general military service. They assume that proof is necessary that the person's sexual orientation or identity is clearly recognizable in all areas of his life. This entails significant problems for those affected, since they are compelled to codify their homosexuality as a psychosexual disturbance, which is then officially recorded and can often result in barriers to access in the job market later in life.

The global discussion about homosexuality in the army is heavily influenced by developments in the USA. Until 2010 gay soldiers in the US Army had to conceal their homosexuality according to the motto 'Don't Ask, Don't Tell.' Anyone acting in defiance of this regulation and publicly disclosing his or her homosexuality could anticipate being discharged. From 1993 to 2010 there were a total of 13,000 soldiers who were discharged from the army for violating this provision. Gay and lesbian organizations in the USA therefore battled for many years to get this regulation abolished, which was realized in 2011

<sup>88</sup> KaosGL, *Escinseller için Askerlik, Escinseller ve Askerlik Sorunları ve Bu Konu ile İlgili Yasal Mevzuat*, Ankara 2014.

under Barack Obama. While gay men and lesbians in the USA were fighting for the right to serve in the army and were speaking of the exclusion of homosexuals, in Turkey the topic had a quite different tenor. Many homosexual men problematized compulsory military service and protested against it. The first paragraph of the military service law reads: *“Every male Turkish citizen is obliged to perform his military service in accordance with the law.”*<sup>89</sup>

Although there are currently no concrete statistics available, in Turkey there is a large number of gay and trans persons who wish to be exempted from military service because they fear discrimination and violence within the army. Article 72 of the Constitution states that “National service is the right and duty of every Turk [regardless of gender]” and names the armed forces as the primary institution for this service.

The “Turkish Armed Forces’ Health Eligibility Regulations” (*Türk Silahlı Kuvvetleri Sağlık Yeteneği Yönetmeliği*) of November 24, 1986<sup>90</sup> defines the criteria for exclusion from military service. The criteria for dismissing gay and trans persons are also delineated in these guidelines. Homosexuality and transsexuality are accepted reasons for “elimination” (from the viewpoint of the military) or for “exemption” (from the viewpoint of the gay men and transpersons) from military service.

Homosexuality and transsexuality are named in Article 17, paragraph 4 of the guidelines, which assumed their current form on January 13, 2013. They are called “sexual identity and behavioural disorders” and categorized there under the rubric of “health and illness of the psyche”<sup>91</sup> In order to be exempted from military service on the basis of homosexuality according to the guidelines, “a medical evaluation must be provided, indicating that the sexual identity and sexual behaviour appears to a high degree in all areas of life and has caused or will cause un-

healthful effects in the military environment.”<sup>92</sup> The pathologizing character of this regulation, the designation of homosexuality as a “deformation of sexual identity and sexual behaviour”, but also the formally unclear process of exclusion on the basis of medical and psychiatric treatment are the bases for critique from queer organizations. They demand the deletion of this section, an end to the pathologizing and marginalizing of homosexuality and transsexuality that results from it, and furthermore the lawful possibility of “refusing military service on the grounds of conscience” (*Vicdani Red Yasası*). This has not yet happened, so the majority of gay men and transpersons have to endure the process of exclusion and to accept a certificate of incompetence (pink document), which stigmatizes them for life as deviant or psychosexually disturbed.

## 2.5. The Specific Demand “Equality before the Law”: Changes to Article 10 of the Constitution

The preamble to the Turkish Constitution, which provides the framework for understanding all of its articles, commits the citizen and the nation to a particular cultural (Turkish) identity and the state organ to a particular variety of Turkish nationalism, namely the nationalism of Atatürk. It limits the exercise of all the basic rights and liberties to within the boundaries of this ideology, the exact meaning of which is never defined and which thus gives great interpretive power to the state and government elite, leading to a significant restriction of basic rights, the extent of which is dependent on the political situation at hand.

So, for instance, we read in paragraph 5 of the preamble, which has already been reformed under pressure from the EU: *“No protection shall be accorded to an activity contrary to Turkish national interests, Turkish existence and the principle of its indivisibility with its State and territory, historical and moral values of Turkishness; the nationalism, principles, reforms and civilizationism of Atatürk.”*<sup>93</sup>

Paragraph 6 of the preamble reads: *“Every Turkish citizen has an innate right and power, to lead an*

<sup>89</sup> Article 1 of the Turkish Conscription Law, <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.1111.pdf> (last viewed on August 31, 2015).

<sup>90</sup> Turkish Armed Forces’ Health Eligibility Regulations (for Recruits) (*Türk Silahlı Kuvvetleri Sağlık Yeteneği Yönetmeliği*) <http://www.mevzuat.gov.tr/MevzuatMetin/3.5.8611092.pdf> (last viewed on August 5, 2015).

<sup>91</sup> See footnote 90.

<sup>92</sup> Article 17, paragraph 4 section D of the Turkish Armed Forces’ Health Eligibility Regulations (for Recruits).

<sup>93</sup> The Turkish Constitution, [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf).

*honourable life and to improve his/her material and spiritual well-being under the aegis of national culture, civilization, and the rule of law, through the exercise of the fundamental rights and freedoms set forth in this Constitution, in conformity with the requirements of equality and social justice.*"<sup>94</sup>

It is thus not an exaggeration to claim that the Constitution of the Republic of Turkey serves first and foremost to protect the Turkish state and the Turkish nation imagined by it from the individual and from social groups, and not to protect the individual and the society from the state and the government. In contrast, queer organizations demand that the state primarily protect the basic rights and liberties of individuals and should reform the constitution to reflect this.<sup>95</sup> Along with liberal forces, but also Kurdish and other minorities, the queer movement demands the removal of all these ideological provisos from the Constitution, or better yet: a new constitution, which would follow a different logic and focus on the basic rights and liberties of the citizen. All changes to the Constitution enacted by the AKP to date have not altered the logic of the existing constitution and have not solved the problem of discrimination.

Telling examples of the reforms made by the AKP government during the first legislation period are the changes made to Article 10 of the Constitution on May 7, 2004, which compels the state to implement equality between men and women (see the additional articles to the 7/5/2004-5170/1 and 12/9/2010-5982/1)<sup>96</sup>. Another early change to the Constitution concerned the abolishment of the death penalty, which was welcomed by numerous left-wing and democratic intellectuals and groups. The changes to Article 90 prioritized the regulations of international treaties over national laws.

In its second governing period, the newly elected Minister President Erdoğan began discussions with the PKK, which were only moderately successful. The Kurdish question, however,

put the necessity of a change to the Constitution back on the agenda again. Recognized constitutional lawyers worked on a proposed constitution on commission of the AKP under the direction of Professor Dr Ergun Özbudun. Organizations such as the business association *TÜSİAD* and the labour union association *DISK* came up with suggestions and reform packages and even with complete proposed constitutions.<sup>97</sup> The Union of Turkish Bar Associations (*Türkiye Barolar Birliği*) also presented a notable proposal for a new constitution.<sup>98</sup> Furthermore, other civic agents such as human rights organizations, women's organizations, and LGBTI associations took part in the constitutional discussion. The AKP, however, did not propose any new constitution, but on March 30, 2010 submitted a further proposal for alterations to the existing constitution, which was primarily concerned with reconfiguring the judiciary. Since the AKP did not possess the necessary two-thirds majority, the changes could only be passed with a three-fifths majority and needed a referendum to validate them. In the referendum of September 12, 2010 on implementing the constitutional changes, the AKP proposal was accepted with 58% of votes.

In the parliamentary elections in June 2011 the AKP won 49.83% of the votes and thus achieved the absolute majority to form a government for the third time. In September 2011 the newly re-elected AKP government made another attempt at writing a new constitution. The Parliament set up the Constitutional Commission (*Anayasa Uzlaşma Komisyonu*), made up of members from all parties represented in the Parliament. It met under the direction of the AKP Minister of Justice Cemil Çiçek.<sup>99</sup> As concerns the Turkish ethno-nationalist specifications, the Republican People's Party (CHP) and the Nationalist Movement Party (MHP) worked together to block any changes. The commission was therefore not able

<sup>94</sup> See footnote 93.

<sup>95</sup> SPoD, *LGBT Yurttaşların Yeni Anayasaya Yönelik Talepleri*. SPoD Anayasa Çalışma Grubu Raporu, 2009, <http://www.spod.org.tr/turkce/eskisite/wp-content/uploads/2012/06/SPoD-Anayasa-Raporu.pdf> (last viewed on September 9, 2015).

<sup>96</sup> Turkish Constitution, [https://www.tbmm.gov.tr/anayasa/anayasa\\_2011.pdf](https://www.tbmm.gov.tr/anayasa/anayasa_2011.pdf) (last viewed on September 17, 2015).

<sup>97</sup> Friedrich Ebert Foundation, *Die Verfassungsreform 2010*, No. 17, <http://library.fes.de/pdf-files/bueros/tuerkei/07351-20100721.pdf> (last viewed on July 28, 2015).

<sup>98</sup> *Türkiye Cumhuriyeti Anayasa Önerisi 2007*, Türkiye Barolar Birliği Yayınları: 131, Kanunlar dizisi: 4, Web archive of the Turkish Parliament, <https://yenianayasa.tbmm.gov.tr/docs%5Ctbb.pdf> (last viewed on July 28, 2015).

<sup>99</sup> Denge ve Denetleme Ağı İzleme Grubu, *Yeni Anayasa Yapım Sürecinde Şeffaflık ve Katılım izleme raporu*. İPM/İPC, İstanbul 2013.

to agree to any consistent proposal, which is why the Constitution from 1982 is still valid.

As concerns the specific demands of the LGBTI community, the pro-Kurdish Peace and Democracy Party (BDP) and the Kemalist Republican People's Party (CHP) supported the queer groups' demands to include sexual orientation and identity in Article 10 of the proposed constitution, but without success.

### 2.5.1. Equality before the Law –

#### Article 10 of the Constitution

*“Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.”*<sup>100</sup>

This article was amended on May 7, 2004 as follows:

*“Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice.”*

On September 1, 2010 the following was added:

(7/5/2004-5170/1 Art): *“Measures taken for this purpose shall not be interpreted as contrary to the principle of equality.”* A further addendum (12/9/2010-5982/1 Art.) on September 12, 2010 was formulated as follows:

*“Measures to be taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for the invalid and veterans shall not be considered as violation of this principle of equality. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities are obliged to act in compliance with the principle of equality before the law in all their proceedings.”*<sup>101</sup>

In order to realize the principle of equality for homosexuals and transpeople as well, the “LGBTI Constitutional Committee” (*Anayasa LGBTI Komisyonu*)<sup>102</sup> was founded in 2007, followed by the “Rainbow Coalition against Discrimination” (*Ayrımcılığa Karşı Gökkuşaklı Koalisyonu*)<sup>103</sup> in 2011. These umbrella groups incorporated several queer organizations from cities such as Istanbul, Ankara, Izmir, and Diyarbakir. They called on the

Great National Assembly and its presidium, the parliamentary Constitutional Committee, as well as politicians from various parties to ensure the equality of all people before the law in the Constitution, including LGBTI people. Since Article 10 does not name LGBTI persons as a protected group on their own, queer organizations have confronted the government with increasing force since 2008<sup>104</sup> and have thus been able to count more allies from the opposition parties (such as the CHP, the BDP, and currently the HDP) with every passing year. The goal is to add the category “sexual orientation and identity” to Article 10. This demand on the part of the queer initiatives, however, was rejected by the parliamentary Constitutional Committee in a meeting on September 13, 2012. The attitude of the AKP was made quite clear by then representative Mustafa Şentop, who said that he did not want to state any formulation in reference to homosexuals in any part of the Constitution.<sup>105</sup> The Nationalist Movement Party (MHP) held the same opinion. By contrast, others vehemently advocated for the demands of the queer organizations, including Rıza Türmen, former judge at the *European Court for Human Rights* and MP for the CHP, as well as Özgür Sevgi Göral (BDP).<sup>106</sup> The queer initiatives furthermore demanded the removal of the terms *general morals*, *public order*, and *decency* from the Constitution.

The untenable and thus arbitrarily interpretable terms “general morals” (*genel ahlak*) and “public order” (*kamu düzeni*) appear in the Constitution ten and 16 times respectively. The police, public prosecutors, and judges use them to a large extent to criminalize LGBTI people. For instance, the associations *KaosGL*, *LambdaIstanbul*, and *Pink Life (Pembe Hayat)* were indicted with the argument of “endangering the public morals of society”. The Department of Associations had had the initiative *LambdaIstanbul* seized by the police department in Istanbul. The equivalent department in Ankara indicted *KaosGL* on the basis of

<sup>100</sup> See footnote 96.

<sup>101</sup> See footnote 96.

<sup>102</sup> *Toplumda sadece heteroseksüeller yaşamıyor, Yedi Örgüt “Anayasa LGBTI Komisyonu”nu Kurdu*, November 19, 2007, <http://bianet.org/bianet/toplumsal-cinsiyet/102983-yedi-orgut-anayasa-lgbti-komisyonu-nu-kurdu> (last viewed on August 13, 2015).

<sup>103</sup> *KaosGL, Ayrımcılığa Karşı Gökkuşaklı Koalisyonu Kuruldu!*, April 15, 2011, <http://www.kaosgl.com/sayfa.php?id=6768> (last viewed on August 13, 2015).

<sup>104</sup> *Türkiye’de LGBTİ Hareketi ve Siyaset*, 2014, <https://meclistelgbiti.wordpress.com/siyasette-lgbtiler/turkiyede-lgbti-hareketi-ve-siyaset/> (last viewed on July 6, 2015).

<sup>105</sup> *Kim daha eşit?*, 2014, <http://zihniminkadrajı.blogspot.de/2012/09/herkes-esit-heteroseksueller-daha-esit.html#.VcNYSEa8T95> (last viewed on August 6, 2015).

<sup>106</sup> *TBMM, 1 Nolu Yazım Tutanakları*. Protocols of the Parliamentary Legal Commission, No. I, <https://yenianayasa.tbmm.gov.tr/tutanak.aspx> (last viewed on August 6, 2015).

Article 56 of the Civil Code, which forbids the founding of associations that violate “the public morals”. According to the Department of Associations in Ankara both the name as well as the charter of the association *KaosGL* contravene this article.<sup>107</sup> The public prosecutor’s office rejected the indictment, however, finding that there was no valid basis for closing the association.<sup>108</sup> Similar legal attempts to close down groups have been made against the groups *Pink Life (Pembe Hayat)* in Ankara in 2006 and *Black-Pink Triangle (Siyah-Pembe Üçgen)* in Izmir in 2010. Not only are queer associations threatened by the arbitrary interpretation of this evaluative term of morals and decency, but also persons who are recognized, perceived, or imagined to be lesbian, gay, transsexual, or bisexual.

Against the backdrop of the discussions about changing the Constitution, ten MPs from the CHP at the Great National Assembly on February 25, 2015 proposed comprehensive changes to the law to improve the situation of LGBTI persons. The primary concern criminal, labour law, civil service law, and the disciplinary law of the Turkish armed forces.<sup>109</sup> These proposed changes were justified by the CHP MP Mahmut Tanal, a lawyer, with the explanation that LGBTI citizens often have to battle discrimination in the area of work, in health care, in education, in the public and private service sector, and in public agencies. As a reference Tanal pointed to the obligation for national laws to conform to international human rights agreements and to the Universal Declaration of Human Rights of 1948.<sup>110</sup> The proposals of the CHP provide for the following changes:

Article 5 of the Labour Law, “Principle of Equality in Employment”, should be expanded to include the term “*sexual orientation and gender identity*”. In addition, the prescribed damages, that is, the compensation, should be raised from

<sup>107</sup> “*Kaos GL Derneği Kapatılmak İsteniyor!*”, May 19, 2005, <http://www.savaskarsitlari.org/arsiv.asp?ArsivTipID=9&ArsivAnaID=28614> (last viewed on August 6, 2015).

<sup>108</sup> KaosGL, “*Kaos GL Derneği Sizi Çağırıyor!*”, <http://www.kaosglderneği.org/kaosgl.php> (last viewed on August 6, 2015).

<sup>109</sup> KaosGL, “*CHP’den LGBT’ler için İş Kanunu teklifi*”, February 26, 2015, <http://www.kaosgl.com/sayfa.php?id=18835> (last viewed on August 13, 2015).

<sup>110</sup> Deniz Gök, *CHP’li Tanal’dan LGBTİ Hakları İçin 22 Maddelik Yasa Teklifi*, February 11, 2015, <http://onedio.com/haber/chp-li-tanal-dan-lgbti-haklari-icin-22-maddelik-yasa-teklifi-452176> (last viewed on August 13, 2015).

four to twelve month’s pay in order to effectively prevent discrimination at the workplace.

In the case of discrimination, the employer or the acting managerial head should pay the employee a fine amounting to 5,000 Turkish lira.<sup>111</sup>

The article of the Criminal Code on penalizing hate crimes should be expanded to including “*sexual orientation and gender identity*” and integrated into the Labour Law, so that hate crimes are not only forbidden in employment, but also during the application process, the conclusion of a work contract, during training and promotion in employment and in the termination of employment.

The sexual orientation, gender identity, or gender of the civil servant should be protected as part of basic rights and not – as was previously the case – be assessed as a characteristic for (in-) discipline.

If a civil servant is confronted with unequal treatment on the basis of sexual orientation, gender identity, or gender, the stipulations of civil service law should be applied with regard to discharging from civil service and the article on hate crimes in the Criminal Code should be applied (against the discriminating person).

## 2.5.2. Further Demands with regard to the Constitution

Further demands concern anchoring the right of conscientious objection and protecting the private sphere in the Constitution, as well as practically implementing the priority of international treaties and agreements over national law. In questions of human law and basic liberties Article 90 of the Constitution contains provisions resulting from ratified international treaties and contracts over national laws. For instance, according to Article 4, section 3 of the 2011 Convention of the Council of Europe on preventing and combatting violence against women and domestic violence (Istanbul Convention): “*The implementation of the provisions of this Convention by the Parties, in particular measure to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender*

<sup>111</sup> This amounts to roughly 1560 Euros (exchange rate from October 28, 2015).

identity, age, state of health, disability, marital status, migrant or refugee status or other status.”<sup>112</sup>

Together with the other 37 member states of the Council of Europe, Turkey also ratified this convention and published it on November 11, 2011 in the Official Gazette (*Resmi Gazete*). Bülent Arınç, then Deputy Prime Minister in charge of human rights, declared on January 27, 2015 at a meeting of the UN Human Rights Council that the rights of LGBTI persons were guaranteed by the Istanbul Convention and that no discriminatory elements against LGBTI persons existed in national law.<sup>113</sup> At this meeting 11 member states of the UN Human Rights Council passed recommendations on abolishing discrimination on the basis of sexual orientation and identity.<sup>114</sup> According to the report of the 21st working group of the Human Rights Council there was a total of 51 cases of violence and discrimination against LGBTI persons in Turkey between January 2010 and June 2014 whose perpetrators had not been convicted.<sup>115</sup> In the relevant court cases the discrimination was either trivialized or the intention of the perpetrators was relativized. Often a reversal of the victim-perpetrator relationship can be observed, in which the LGBTI persons are turned into the perpetrators and charged with responsibility for the incident, for instance by claiming that they provoked the perpetrator. According to the UN report Turkey does not sufficiently apply the convention that it ratified.<sup>116</sup>

## 2.6. Demands with regard to due process

Among judges and public prosecutors there is a tendency to interpret laws to the disadvantage of

<sup>112</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011, [https://www.coe.int/t/DGHL/STANDARDSETTING/EQUALITY/03themes/violence-against-women/Conv\\_VAW\\_en.pdf](https://www.coe.int/t/DGHL/STANDARDSETTING/EQUALITY/03themes/violence-against-women/Conv_VAW_en.pdf) (last viewed on December 29, 2015).

<sup>113</sup> “Deputy PM Bülent Arınç’s Statement on LGBT at the Universal Periodic Review”, <http://lgbtnewsturkey.com/tag/evrensel-periyodik-inceleme/> (last viewed on August 9, 2015).

<sup>114</sup> See footnote 113.

<sup>115</sup> 21. EPI Çalışma Grubu, *Türkiye Cumhuriyeti, Birleşmiş Milletler Evrensel Periyodik İnceleme Sunumu, Oturumu, Birleşmiş Milletler İnsan Hakları Konseyi*, <https://lgbtnewsturkey.files.wordpress.com/2014/11/epi-lgbt.pdf> (last viewed on September 8, 2015).

<sup>116</sup> See footnote 115.

LGBTI and queer organizations. Queer organizations see the courts as being under the influence of the conservative government and demand more independence and neutrality from the courts. One way to achieve this would be by reorganizing the “Supreme Board of Judges and Prosecutors” (HSYK). Through the referendum on the changes to the Constitution from September 12, 2010, the governing AKP party assumed increased influence over the composition of the HSYK and its working organization. A new constitution would have to reregulate the election of members of the HSYK and roll back the government’s influence over the board.

## 2.7. Demands with regard to the political system

The nationwide 10% election threshold prohibits smaller parties, which campaign for the rights of ethnic and other minorities, from entering Parliament. The parties include the Democratic Left Party (DSP), the Democratic Society Party (DTP), the Freedom and Solidarity Party (ÖDP), the Labour Party (EMEP), the Socialist Democracy Party (SDP), and the Peace and Democracy Party (BDP).<sup>117</sup> All these parties campaign for the rights of LGBTI persons, cooperate with queer organizations, and formulate common goals and demands. For this reason and also for general democratic considerations, queer organizations demand the abolition of this threshold.

## 3. Representation of the Queer Movement in Political Parties in Municipal Politics and the Parliament

As discussed in the first chapter, members of the queer community took part in the initiative to found the “Radical Democratic Green Party” (RDYP) in 1987. In the same year queer groups also made attempts to create contacts with established parties, but this was not successful.<sup>118</sup> Furthermore, queer groups made efforts during the 1990s either to become part of a political

<sup>117</sup> See footnote 60.

<sup>118</sup> Sezen Yalçın, Volkan Yılmaz, “Gezi Protestolarından Yerel Seçimlere LGBTİ Hakları Hareketi ve Yerel Siyaset”, in: *İktisat Dergisi*, No. 525, 2013, pp. 84–94.

party themselves or to make contacts in political parties and unions and to convince them to campaign for LGBTI issues.

The Freedom and Solidarity Party (ÖDP), which was founded in 1996, was the first political party in Turkey to include the battle against discrimination on the basis of sexual orientation and identity in their party platform.<sup>119</sup> The stated position, from the same year, was that “every form of oppression against various sexual tendencies must be combatted”.<sup>120</sup> In 1999 the ÖDP was the first party to nominate a transwoman, Demet Demir, as candidate for a district assembly (Beyoğlu-Istanbul). Another example of a coalition of marginalized groups can be found in the pro-Kurdish Democratic People’s Party (*Demokratik Halk Partisi – DEHAP*). They included the struggle against discrimination on the basis of sexual orientation and identity in their party platform in 2003. Another party that was open to LGBTI issues was the Social Democratic Populist Party (*Sosyaldemokrat Halkçı Parti – SHP*), which nominated an openly gay man, Arslan Yüzgün, as candidate for a parliamentary election in the same year. In 2007 the ÖDP once again nominated Demet Demir – this time even as a direct candidate – for the parliamentary elections; in 2009 two transwomen ran in the municipal elections, Belgin Çelik for the ÖDP in Beyoğlu and Demet Demir again for the ÖDP, this time in Anatolian Isparta.

Especially the pro-Kurdish party DEHAP and its successor party (which was founded due to the repeated ban on pro-Kurdish parties) gradually developed into representatives of the queer movement in party politics. From 1990 until the founding of the Democratic Society Party (DTP) in 2005 a total of seven pro-Kurdish parties were banned with the accusation of separatism or were forced to close, which was always followed by the founding of a new party.<sup>121</sup> When the

**119** See footnote 60.

**120** Idil Engindeniz Şahan, “1990’lardan günümüze siyasi partilerin LGBT’yle imtihanı. ‘Bir el havada ne kadar kalabilir ki...’”, in: *Birikim*, No. 308, December 2014.

**121** The pro-Kurdish parties from 1990 to 2005: *Demokratik Toplum Partisi (DTP)*, *Halkın Emek Partisi (HEP)*, *Özgürlük ve Demokrasi Partisi (ÖZDEP)*, *Demokrasi Partisi (DEP)*, *Halkın Demokrasi Partisi (HADEP)*, *Demokratik Halk Partisi (DEHAP)*, *Demokratik Toplum Partisi (DTP)*, in *Bianet*, 1990’dan Bugüne, *HEP’ten DTP’ye Kürtlerin Zorlu Siyaset Mücadelesi*, December 12, 2009, <http://bianet.org/bianet/siyaset/117387-1990dan-bugune-hepten-dtpe-kurtlerin-zorlu-siyaset-mucadelesi>

association *LambdaIstanbul* was facing closure in 2006 and 2009, it received support from the DTP (especially from Sebahat Tuncel) and from the ÖDP (especially from Ufuk Aras). In both parties it was Kurdish and leftist feminists in particular who campaigned for LGBTI issues. In 2008, for instance, Sebahat Tuncel put forth a parliamentary resolution regarding LGBTI rights to the Ministry of Justice. In the Parliament, Ufuk Aras problematized the ban’s basis in offense and “endangerment of the Turkish family”.<sup>122</sup>

In fact it was the image of the nation as *Turkish* and *heterosexual* put forth by the AKP that caused those Kurds and queer persons excluded from the nation to come together as political allies.

In order to meet the election threshold for a party to enter parliament, several opposition parties (DTP, ÖDP, EMEP [Labour Party], and SDP [Socialist Democracy Party]) formed an electoral coalition. The candidates from these smaller parties appeared as independent candidates, but under the common banner of “The Thousand Hope Candidates” (*Bin Umut Adayları*) and were supported by their common members and sympathizers.<sup>123</sup> One of the independent candidates for Istanbul, the political scientist and professor Baskın Oran, was supported in particular by queer organizations and individuals in his election campaign. For his campaign slogan not only emphasized the necessity of broad solidarity, but explicitly named homosexuals as one group to form solidarity with: “Turks will defend Kurds, Kurds will defend Armenians, Armenians will defend Roma, Roma will defend Circassians, Circassians will defend the unemployed, the unemployed will defend women, women will defend Alevis, and the Alevis will defend the homosexuals.”<sup>124</sup> The “independents” were able to enter parliament with 22 representatives.<sup>125</sup> In the discussion about constitutional reforms queer organizations appeared in public along with a variety of civic organizations and parties.

(last viewed on August 10, 2015).

**122** See footnote 60.

**123** Selahattin Gün, “Türkiye’de seçim sonuçları ve Bin Umut Adayları”, August 14, 2007, website of the pro-Kurdish party PWD, [http://www.pwdnerin.com/makale/selahattin\\_gun/turkiyede-secim-sonuclari-ve-bin-umut-adaylari](http://www.pwdnerin.com/makale/selahattin_gun/turkiyede-secim-sonuclari-ve-bin-umut-adaylari) (last viewed on August 10, 2015).

**124** See footnote 60.

**125** See footnote 123.

Recently other political parties, such as the “Greens and the Left Party of the Future” (*Yeşiller ve Sol Gelecek Partisi*), the “Democratic Party” (*Demokrat Parti*), the pro-Kurdish “Peace and Democracy Party” (*Bariş ve Demokrasi Partisi, BDP*), and also the pro-Kurdish “People’s Democratic Party” (*HDP*) have included the struggle against discrimination on the basis of sexual orientation and identity in their party platforms.<sup>126</sup> One of the large civic alliances on the leftist and Kurdish spectrum that has also included participation by queer organizations is the “People’s Democratic Congress” (*Halkların Demokratik Kongresi, HDK*), which was founded in Ankara in 2011. In its charter and platform the HDK abides by the struggle against all forms of discrimination, bringing more than 30 groups, initiatives, and parties together to fight discrimination against specific groups as well as to enter into broad alliances.<sup>127</sup> Along with the BDP and the HDP, parliamentarians from the CHP also campaigned for recognition of sexual orientation and identity as a category for constitutional protection during the reform discussion, and have supported the queer movement, even if the CHP’s party platform does not yet provide for any measures in this regard.

As for the current positions of the various political parties on the situation of LGBTI people, the following summary can be given:

### 3.1. CHP – Republican People’s Party

The Republican People’s Party sees itself as a Kemalist and social-democratic party in Turkey. The party charter, last ratified in 2014, does not explicitly mention LGBTI rights, but individual CHP representatives have campaigned for these rights in Parliament and have also provided support to LGBTI initiatives in municipal politics.

In its platform for the parliamentary elections of 2015 the CHP for the first time explicitly recognized sexual orientation and identity as worthy of protection. It is mentioned in three spots of the platform:

*“The politics of the CHP, based on rights and freedoms, lays the foundation for a democratic understanding of citizenship. It is the only forms of politics that protects citizens from all ethnic, religious, class, and sexual oppression, establishing solidarity with the disadvantaged groups.”<sup>128</sup>*

*“By means of legislation and sanctions we will resolutely combat every form of discrimination on grounds of sexual orientation and identity.”<sup>129</sup>*

*“We will ensure that Istanbul becomes a city in which people of every religion, sect, ethnic group, as well as a sexual orientation and identity can live in freedom.”<sup>130</sup>*

In contrast to the period before the Gezi protests in 2013, in which there was insufficient attention paid by the party to LGBTI initiatives and their demands, the CHP campaigned for LGBTI rights both at the municipal elections in 2014 and at the parliamentary election in 2015. In the municipal elections of 2014 the party nominated four openly LGBTI candidates. This occurred at the initiative of the LGBTI organizations that the CHP had been working with since the Gezi protests. Although the party did not nominate any LGBTI candidates for the parliamentary elections in 2015, it did include their demands in the party platform. Parliamentarians like Binnaz Toprak, Rıza Türmen, Melda Onur, Mahmut Tanal, İlhan Cihaner, Hüseyin Aygün, and Aykan Erdemir led discussions within the party and in Parliament about constitutional protection against discrimination and violence on the basis of sexual orientation and identity. Already in 2012 the CHP representative Melda Onur had submitted a parliamentary resolution to the Ministry of Justice about the situation of LGBTI inmates. In 2013 59 CHP representatives submitted another resolution in which the particular situation of LGBT persons in judiciary institutions, health care, and other state agencies was raised again.

In preparation for the municipal elections of 2014 the Istanbul Social Policies, Gender Identity and Sexual Orientation Studies Association (*Sosyal Politikalar Cinsiyet Kimliği ve Cinsel Yönelim Çalışmaları Derneği, SPoD*) wrote a *Protocol on LGBTI Friendly local Politics* and called on all political parties appearing in these elections to sign it.

<sup>126</sup> See footnote 120.

<sup>127</sup> Homepage of HDK, <http://www.halklarindemokratikkongresi.net/hdk/bilesenler/497> (last viewed on August 10, 2015).

<sup>128</sup> Party platform of the CHP, 2015, p. 20, translated from the Turkish with the aid of the author.

<sup>129</sup> See footnote 128, p. 33.

<sup>130</sup> See footnote 128, p. 161.

This agreement stipulated that the newly elected mayor also act to the benefit of LGBTI people in the areas of work, health, housing, and access to public services and goods. A total of 40 mayoral candidates from seven cities signed the *Protocol*. Three CHP candidates, namely Murat Hazinedar (*İstanbul-Beşiktaş*) Hayri İnönü (*İstanbul-Şişli*), and Aykurt Nuhoglu (*İstanbul-Kadıköy*), publicly declared that they would conduct LGBTI friendly local politics if elected. All three were elected and have begun to implement the agreement. The association SPoD has documented the activities of the newly elected mayors and noted the following:

- ▶ The district Beşiktaş provided space for events as part of LGBTI Pride Week and other LGBTI events.
- ▶ An equality committee was set up to solidify the collaboration between the queer organizations and the district offices.
- ▶ Training in LGBTI sensitivity was offered to employees of the district office of Beşiktaş.
- ▶ The employees of the health offices of Şişli were also offered sensitivity training on LGBTI topics.
- ▶ The mayor of Şişli intensified the exchange with queer organizations.
- ▶ In Şişli a polyclinic specially for LGBTI persons was set up, in which testing and treatment for illness can be carried out anonymously and free of charge.

### 3.2. BDP – Peace and Democracy Party

The pro-Kurdish BDP, which was founded as the successor party to the also pro-Kurdish DTP, can be designated as even more progressive and open to LGBTI topics than the CHP. In nearly all their official texts the BDP expresses its pursuit of plurality, democracy, human rights, as well as equality and consideration of minority rights. The BDP therefore also shows solidarity with LGBTI people in its party platform, promising that “discriminatory and repressive laws that promote discrimination against persons based on their sexual orientation will be repealed.”<sup>131</sup>

<sup>131</sup> Buğra Tokmakoğlu, *Party Platform of the BDP*, February 16, 2010, <http://www.kaosgl.org/sayfa.php?id=4324> (last viewed on August 12, 2015).

The BDP is one of the few parties that, even before its founding, called for “equality before the law” and thus for the expansion of Article 10 of the Constitution to include sexual orientation and identity. In 2003, long before the wider discussion in Turkey about the Constitution, the preceding pro-Kurdish Democratic People’s Party (*Demokratik Halk Partisi, DEHAP*) took up the necessity of changing Article 10 of the Constitution in its party platform. At the time it read: “Article 10 of the Constitution will be expanded to include sexual orientation. In order to combat discrimination and to realize this change, all legal texts that promote the discrimination will be repealed.”<sup>132</sup>

With regard to LGBTI rights, the BDP, along with the CHP, brought up the demands of queer organizations in Parliament, positioning itself against the AKP and the MHP. Furthermore, the parliamentarians of the BDP were engaged in the “People’s Democratic Congress” (HDK), which was founded in 2011 as an alliance between several civic organizations and a few leftist liberal parties.

For the 2014 municipal elections the BDP nominated one LGBTI candidate, Elif Tuna Şahin. Five of its mayoral candidates signed the *Protocol on LGBTI friendly local Politics* written by the association SPoD. One of these candidates, Yüksel Mutlu, managed to win the election for district mayor in Mersin-Akdeniz, a district with 276,000 inhabitants. In conversations with queer organizations like SPoD and Mersin LGBT, Yüksel Mutlu stated his willingness to promote LGBTI events in the spaces of his district. In 2014 the BDP changed its name to the “Democratic Regions Party” (*Demokratik Bölgeler Partisi, DBP*) and altered its political focus. Since the founding of the HDP (People’s Democratic Party) in 2012, which is also considered pro-Kurdish, the BDP has concentrated on local politics in the Kurdish regions, while the HDP is oriented toward parliamentary politics with a general Turkish perspective.

### 3.3. HDP – People’s Democratic Party

At its congress on June 22, 2014, the HDP defined itself as a political party “in which all the oppressed and exploited, all underprivileged and

<sup>132</sup> See footnote 120.

ignored peoples and communities of faith, women, workers, farmers, youth, the unemployed, the retired, people with disabilities, LGBTI persons, migrants, displaced persons, intellectuals, writers, artists, and scholars, as well as all others who show solidarity with these groups, can come together.”<sup>133</sup>

The HDP was founded in May 2012 as a party political organ of the HDK (People’s Democratic Congress). Its task was conceived as representing the goals and interests of the HDK in municipal and parliamentary politics.<sup>134</sup> For the 2014 municipal elections the HDP nominated five LGBTI candidates. Before the local election 29 mayoral candidates of the HDP had signed the protocol of the SPoD on LGBTI friendly local politics.

In its platform for the 2014 municipal elections the party explicitly turned to the problems of LGBTI persons in the areas of work, housing, health, and education. As part of their election campaign “Right to the City” (*şehir hakkı*) the Istanbul HDP mayoral candidates Sırrı Süreyya Önder and Pınar Aydınlar, in cooperation with LGBTI organizations, promised to establish special homes for those affected by homophobic and transphobic violence, to be financed with state funds.<sup>135</sup> Furthermore, the HDP’s party platform called for enacting anti-discrimination regulations on the local level, as well as a for ensuring LGBTI participation in the district assemblies.<sup>136</sup> The HDP led its campaign for the 2015 parliamentary elections under the motto “We into the Parliament” (*Biz’ler Meclise*). Its platform centred on topics such as social and union rights, political freedoms, conscientious objection to military service, women, youth, the Kurdish question and the peace process with the PKK, as well as the reform of the judiciary. It promised to safeguard the rights of LGBTI persons to equality and a dignified life. A new con-

<sup>133</sup> Party Platform of the HDP 2015, translation from the Turkish made in collaboration with the author, <http://www.hdp.org.tr/images/UserFiles/Documents/Editor/HDP%20Se%C3%A7im%20Bildirgesi%20Tam%20Metin.pdf> (last viewed on August 13, 2015).

<sup>134</sup> See footnote 133.

<sup>135</sup> KaosGL, “HDP İstanbul Adayları: LGBTİ Sığınakları Kurulacak”, March 19, 2014, <http://kaosgl.org/sayfa.php?id=16096> (last viewed on September 4, 2015).

<sup>136</sup> Sosyal Değişim Derneği, “Yerel Seçimlere 10 Kala LGBTİ’ler”, <http://www.sosyaldegisim.org/2014/03/yerel-secimlere-10-kala-lgbtiler/> (last viewed on August 12, 2015).

stitution should not only recognize all the population groups in Turkey, but also LGBTI people. Discrimination in the area of education, health, housing, work, etc. should be penalized according to the HDP platform in order to guarantee LGBTI persons legal protection.<sup>137</sup>

For the 2015 parliamentary elections the HDP was the first party to nominate an openly gay man, Barış Sulu, as candidate for a parliamentary mandate, thus taking a step in the direction of enacting its platform and its charter. The candidacy of Barış Sulu was positively received in the queer scene in Turkey and leftist-democratic circles. In an interview Barış Sulu said that he did not wish to run in the new elections, although the party had asked him to do so again.

### 3.4. AKP – Justice and Development Party

In contrast to the parties presented so far, the AKP has not yet taken up LGBTI topics, either in its charter or in its platform. The charter has a conservative character, which stresses “public morals and the propriety of the individual” as well as “national values”.

On the contrary, in the campaigns for the local and parliamentary elections in 2014 and 2015 AKP politicians have spoken out against LGBTI persons being nominated for political positions. The governing mayor of Ankara, Melih Gökçek, in an TV program in 2014, spoke against the idea of “*a gay ever holding the office of mayor in Turkey*”.<sup>138</sup> Similarly, President Erdoğan objected to the HDP nominating a gay candidate shortly before the parliamentary elections of 2015. This would not even be considered by his party.<sup>139</sup>

### 3.5. MHP – Nationalist Movement Party

The Nationalist Movement Party is an extreme right-wing party with its core values based on nationalism, national unity, and Turkish com-

<sup>137</sup> See footnote 136.

<sup>138</sup> “Melih Gökçek: İnşallah bizim Türkiye’de gay belediye başkanı olmayacak ve olmamalı”, news website t24, April 2, 2012, <http://t24.com.tr/haber/okandan-melih-gokceke-sok-gay-sorusu,200832> (last viewed on August 13, 2015).

<sup>139</sup> KaosGL, “Cumhurbaşkanı Erdoğan: ‘Biz eşcinsel aday göstermeyiz’”, May 28, 2015, <http://www.kaosgl.com/sayfa.php?id=19519> (last viewed on August 13, 2015).

monality. The MHP neither recognizes LGBTI persons nor does it respect them. The party suppressed LGBTI topics in their charter<sup>140</sup> as well as in their platform.

During the course of the discussions about constitutional reform the MHP not only categorically rejected all the requests for dialogue by queer organizations, but also vehemently positioned itself against all the demands of LGBTI organizations with regard to constitutional changes.

None of the candidates from either the AKP or the MHP signed the *Protocol* of the SPoD on establishing LGBTI friendly local politics.

#### 4. Conclusion

At least since the 2014 municipal elections political activity and intervention by LGBTI persons in local and parliamentary politics can no longer be overlooked. The reasons for their engagement in local politics are primarily:

First, the necessity of sensitizing society by actions and activities on a local level, and of creating an LGBTI friendly climate. Second, the necessity of supporting and encouraging LGBTI persons who have suffered discrimination on the local level. Third, the necessity of forming, strengthening, and mobilizing local networks among themselves and with other organizations, institutions, and individual persons, as well as taking part directly in local political decision-making.

Furthermore, and above all, queer organizations call on political parties to speak directly with LGBTI persons and to develop common strategies to combat discrimination on a local level. The *Protocol for LGBTI friendly local Politics* is a good example of this.

On the parliamentary level, queers demand equality before the law and concrete access to existential social welfare provisions in the areas of health, education, housing, and employment, to name only a few. The reference to the principle of equality justifies demands for abolishing access barriers for LGBTI persons in all the areas named. The insistence on the principles of

equality and non-discrimination opens the queer movement up to solidarity with other disadvantaged groups such as Kurds, Armenians, Roma, and Sinti. In order to realize these principles in Turkey it will be necessary both to pass a new constitution as well to make changes to a number of laws, first of all amending the anti-discrimination law.

At the beginning of the 2000s the movement developed a new dynamic, expanding throughout the entirety of Turkey. At the same time the AKP government was cementing its power with its conservative, patriarchal, Sunni-nationalist politics. The parallel strengthening of the movement and the AKP government seems contradictory at first glance. These developments can be explained by the fact that the AKP had unwittingly facilitated the institutionalization of the queer movement by passing the Associations Law of 2004. The sometimes extremely conservative rhetoric of the AKP is also directed against LGBTI people and in this way has contributed significantly to the mobilization of the movement and the emergence of new groups. Unlike earlier governments the AKP took up LGBTI topics, assuming a moralizing and negative attitude toward them, and thus trying to depoliticize queer issues. Queers responded politically in the first place, scandalizing the discriminatory behaviour and creating a counter-public through social media like Facebook and Twitter.

Through the Gezi protests in 2013 the movement garnered a great deal of attention both in Turkey and in Europe at large. The protests not only contributed to giving queers in Turkey visibility, but also encouraged them to be more self-confident in their political claims and demands to the political parties. Representatives of the movement were therefore able to exert influence on the municipal elections in 2014, so that today a handful of openly LGBTI persons work in municipal administrations and can be engaged there for equal treatment in social issues.

The parliamentary elections on June 7, 2015 also demonstrated the new visibility and strength of the queer movement, which was able to convince several parties to take up LGBTI topics in their party and election platforms and to facilitate political participation by nominating a number of LGBTI persons. Additionally, dozens

<sup>140</sup> Election platform of the MHP 2015, [http://t24.com.tr/files/20150503162014\\_mhp\\_secim\\_beyannamesi\\_2015\\_ozet.pdf](http://t24.com.tr/files/20150503162014_mhp_secim_beyannamesi_2015_ozet.pdf) (last viewed on August 13, 2015).

of queer associations, organizations, and student initiatives have won increased support from accredited and established parts of civil society such as human rights organizations or universities. All these developments at the local, parliamentary, and civic level show the dynamic process of Turkey and the indispensable contribution of social movements towards democratizing society.

The queer movement in Turkey has shown that the different social movements based in the various underprivileged minorities can form alliances to achieve common goals. The philosophy of the People's Democratic Party (HDP) largely reflects the political goals of the queer movement: the HDP aims for an alliance of all discriminated/oppressed minorities, which together can form a majority in relation to the conservative ruling party (AKP).

In light of the AKP's undemocratic politics in this regard, it can be determined that civil society in Turkey today forms the main argument for the European Union not simply to break off accession negotiations with Turkey. At the same time, the EU can and should increase their commitment to LGBTI rights, not just in Turkey, but also in the member states of the EU. For also within the EU member states the rights of LGBTI people are not consistently regulated, which is why candidate countries cannot be confronted with concrete expectations. This inconsistency must be ended so that candidates, such as Turkey, can be required to deal with the situation of LGBTI rights according to EU standards as a prerequisite to EU entry. As of now, the inconsistency of LGBTI politics within the EU can be used as a resource to legitimate deficiencies elsewhere. For example, never in the history of Turkey have homosexuality and transsexuality been against the law, while in several European countries they can still be penalized to various degrees. The social situation of LGBTI people are different in the individual EU member states. In order to be able to confront Turkey with concrete demands that relate to the needs of queer organizations there, the EU itself must improve the social and political situation for LGBTI persons in their member states, striving for consistency as much as possible. Without the support of the European Union, small and discriminated minorities in the candidate coun-

tries, such as the LGBTI minority, cannot achieve any fundamental improvement in their situation. The EU should therefore continue to expand its cooperation with local civil society and become more involved in local expectations.

## Abbreviations (Turkish-English)

AKP	Adalet ve Kalkınma Partisi	Justice and Development Party
ANAP	Anavatan Partisi	Motherland Party
BDP	Barış ve Demokrasi Partisi	Peace and Democracy Party
CHP	Cumhuriyet Halk Partisi	Republican People's Party
CSD		Christopher Street Day
DBP	Demokratik Bölgeler Partisi	Democratic Regions Party
DEHAP	Demokratik Halk Partisi	Democratic People's Party
DEP	Demokrasi Partisi	Democracy Party
DISK	Türkiye Devrimci İşçi Sendikaları Konfederasyonu	Confederation of Revolutionary Workers' Unions of Turkey
DSP	Demokratik Sol Parti	Democratic Left Party
DTP	Demokratik Toplum Partisi	Democratic Society Party
DYP	Doğru Yol Partisi	True Path Party
EMEP	Emek Partisi	Labour Party
EU	European Union	
HADEP	Halkın Demokrasi Partisi	People's Democracy Party
HDK	Halkların Demokratik Kongresi	People's Democratic Congress
HDP	Halkların Demokratik Partisi	People's Democratic Party
HSYK	Hakimler ve Savcılar Yüksek Kurulu	Supreme Board of Judges and Prosecutors
ILGA		International Lesbian and Gay Association
LGBTI		Lesbian, Gay, Bisexual, Transgender, and Intersex
MHP	Milliyetçi Hareket Partisi	Nationalist Movement Party
MSP	Milli Selamet Partisi	National Salvation Party
ÖDP	Özgürlük ve Dayanışma Partisi	Freedom and Solidarity Party
OSCE		Organisation for Security and Co-operation in Europe
PKK	Partiya Karkerên Kurdistan	Kurdistan Workers Party
RDYP	Radikal Demokratik Yeşil Parti	Radical Democratic Green Party
SDP	Sosyalist Demokrasi Partisi	Socialist Democracy Party
SHP	Sosyaldemokrat Halkçı Parti	Social Democratic Populist Party
SPoD	Sosyal Politikalar Cinsiyet Kimliği ve Cinsel Yönelim Çalışmaları Derneği	Social Policies, Gender Identity and Sexual Orientation Studies Association
TCK	Türk Ceza Kanunu	Turkish Criminal Code
TBMM	Türkiye Büyük Millet Meclisi	Grand National Assembly of Turkey
T-DER	Trans Dayanışma Derneği	Trans Solidarity Center
TÜSIAD	Türk Sanayicileri ve İşadamları Derneği	Turkish Industrialists and Businessmen Association
USSR		Union of Soviet Socialist Republics