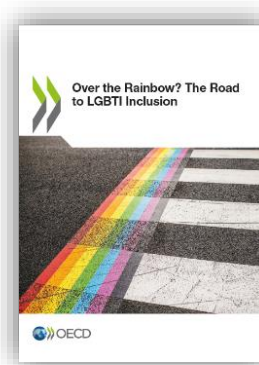




Ensuring that LGBTI people – i.e. lesbians, gay men, bisexuals, transgender and intersex individuals – can live as who they are without being discriminated against or attacked should concern us all. Discrimination against LGBTI people remains pervasive. It harms the LGBTI population, but also the wider society. It lowers investment in human capital due to bullying at school, as well as poorer returns on educational investment in the labour market. It reduces economic output by excluding or under-valuing LGBTI talents in the labour market and impairing their mental and physical health, hence their productivity. The report **Over the Rainbow? The Road to LGBTI Inclusion** provides a comprehensive overview of the extent to which laws in OECD countries ensure equal treatment of LGBTI people, and of the complementary policies that could help foster LGBTI inclusion.



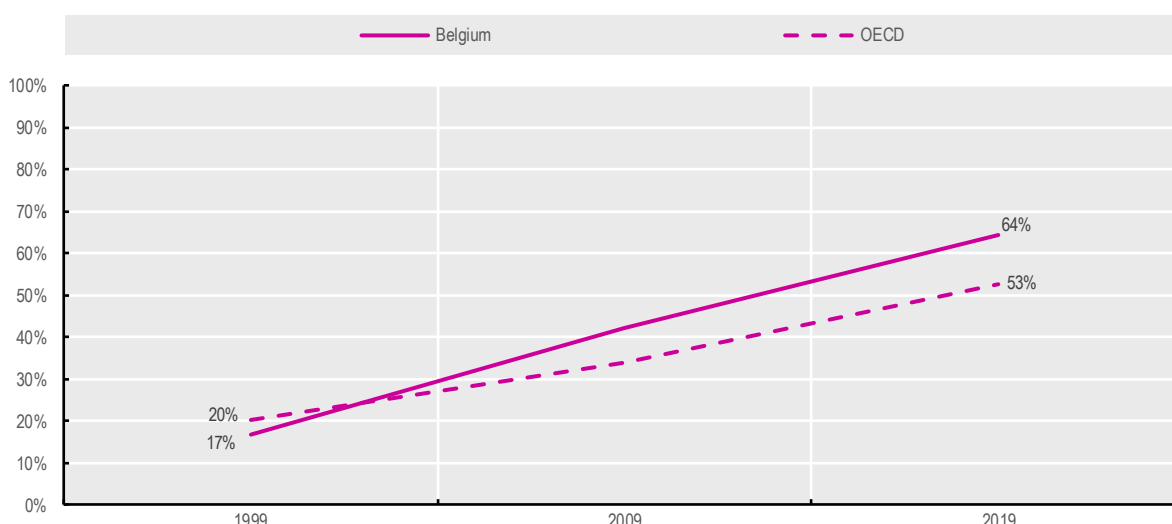
Legal LGBTI inclusivity in Belgium

Levels and trends in legal LGBTI inclusivity

Legal LGBTI inclusivity is defined as the share of laws that are in force among those critical to ensure equal treatment of LGBTI people. Belgium is one of 17 countries in the OECD that have most legal protections for sexual and gender minorities. These countries are characterised by an above-average performance regarding both their level of legal LGBTI-inclusivity as of 2019 and their progress in legal LGBTI-inclusivity between 1999 and 2019 (Figure 1).

Figure 1: Legal inclusion of LGBTI people in Belgium has improved at a sustained pace over the past two decades

Evolution of legal LGBTI inclusivity between 1999 and 2019 in Belgium and OECD-wide



Note: Legal LGBTI inclusivity refers to the percentage of LGBTI-inclusive laws that have been passed, among a basic set of laws defined based on international human rights standards.

Source: OECD (2020), Over the Rainbow? The Road to LGBTI Inclusion, Chapter 3. [Download data from [Statlink](#)]



Legal LGBTI inclusivity in Belgium has increased nearly fourfold over the past two decades (Figure 1). As of 2019, Belgium performs better than the OECD average concerning laws protecting LGBTI individuals against violence as well as persecution abroad (Figure 2). The *Law of 25 February 2003* criminalises hate crime and hate speech explicitly based on sexual orientation, and transgender individuals are explicitly protected against such acts since the early 2010s. Moreover, persecution (or a well-founded fear of persecution) based on sexual orientation and gender identity is explicitly recognised as a valid reason for granting asylum since the *Law of 8 May 2013*.

Belgium’s achievements in addressing the unique challenges faced by same-sex couples and transgender individuals have also been extraordinary (Figure 2). In 2003, Belgium became the second country worldwide to legalise same-sex marriage after the Netherlands. On top of being granted full legal recognition of their partnerships, Belgian same-sex couples are also treated on an equal footing relative to different-sex couples concerning access to adoption and assisted reproductive technology. Moreover, Belgium is one of 15 OECD countries that have abolished medical requirements initially attached to legal gender recognition. Since the *Law of 25 June 2017* that came into force in 2018, the change of gender marker for transgender people is based on self-determination.

How could Belgium further improve legal LGBTI inclusivity?

Belgium’s efforts to address barriers to the inclusion of intersex individuals more specifically have been more modest. Belgium is not one of the eight OECD countries that allow for a non-binary gender option in the civil registry to ensure recognition of transgender and/or intersex individuals who do not self-identify as either female or male. By alleviating the pressure to assign an intersex baby into one of these two categories, this legal provision would also contribute to reduce the perceived need for unconsented medically unnecessary sex-normalising interventions on intersex minors – noting that Belgium has not taken any other significant steps towards postponing these interventions (Figure 2). Therefore, further improving legal LGBTI inclusivity in Belgium could entail: (i) granting transgender and intersex individuals access to a non-binary gender option in the civil registry; and (ii) engaging in preparatory steps aimed at gathering support among all stakeholders (intersex people, parents, medical practitioners, etc.) for guidelines banning unconsented non-vital medical interventions on intersex minors.

Policies to foster LGBTI inclusion in Belgium, beyond LGBTI-inclusive laws

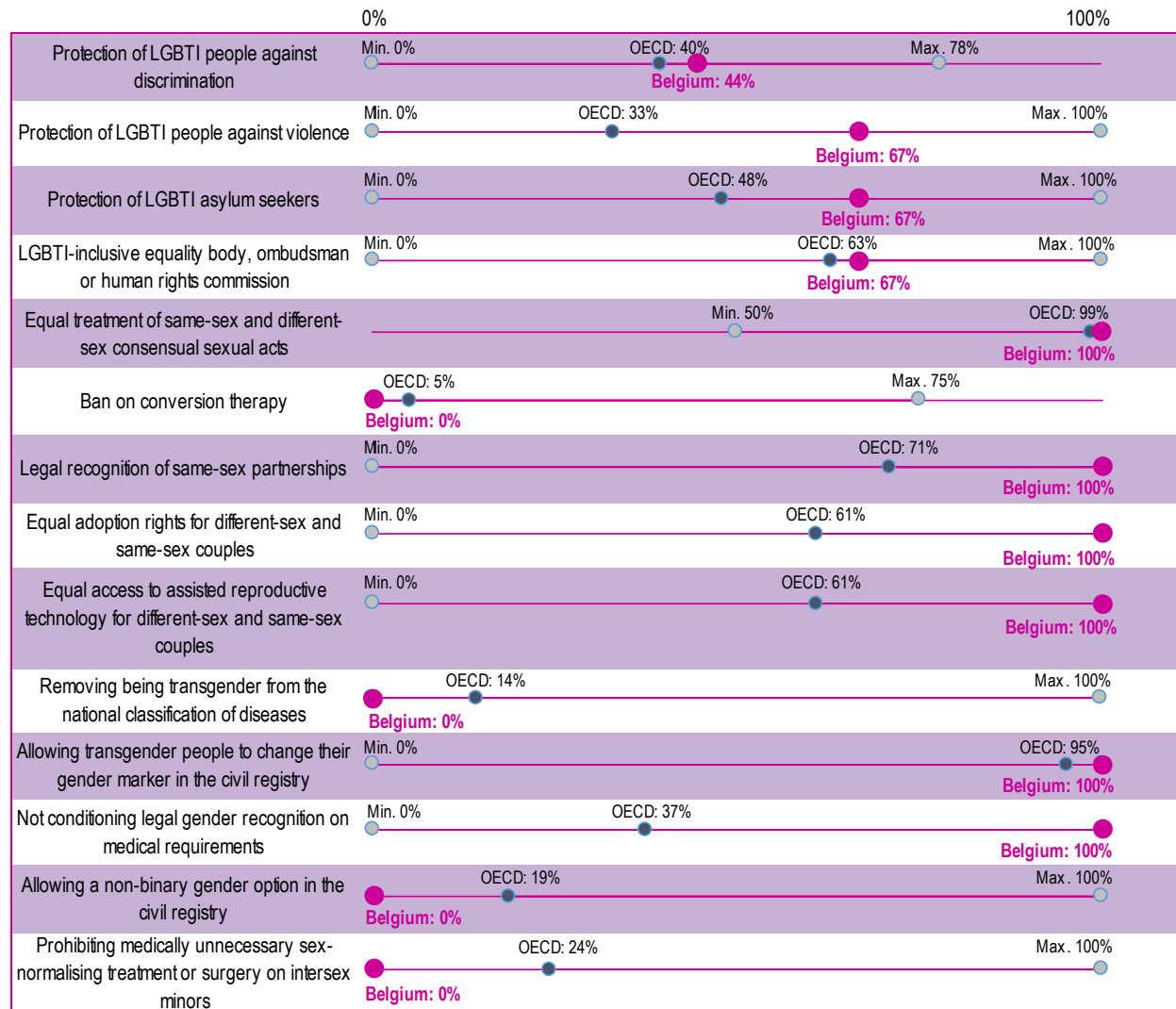
LGBTI-inclusive laws should come along significant efforts to make LGBTI individuals better represented and visible in national statistics. Without appropriate data collection, policymakers aiming to improve LGBTI inclusion will continue to do so with little if any relevant information. As of 2018, Belgium does not include questions on self-identification as heterosexual, homosexual, or bisexual in nationally representative surveys. It does not collect information on the share of transgender and intersex people among the adult population either.

It would also be important that Belgium be or remain active in the following complementary policy areas that are viewed as key by ongoing national actions plans aimed at strengthening LGBTI inclusion:

Policy #1	Policy #2	Policy #3
Enforcing LGBTI-inclusive antidiscrimination, hate crime/hate speech and asylum laws, e.g. through training police officers on properly dealing with hate crimes targeting LGBTI people	Fostering a culture of equal treatment in education, employment and healthcare, beyond enforcing laws prohibiting discrimination in these fields, e.g. through a whole-school approach to tackle LGBTI-phobic bullying	Creating and maintaining popular support for LGBTI inclusion, e.g. through well-designed awareness-raising activities among the general public.

Figure 2: How Belgium compares

Legal LGBTI inclusivity as of 30 June 2019 in Belgium and OECD-wide, by component



Note: Figure 2 presents the components that serve to compute the average level of legal LGBTI inclusivity reported in Figure 1 as of 30 June 2019. The component “Protection of LGBTI people’s civil liberties” is missing since it shows no cross-country variation: no legal provision in OECD countries explicitly restricts the rights to freedom of expression, peaceful assembly, and association of sexual and gender minorities. Legal LGBTI-inclusivity attached to each component can vary between 0% and 100%. For instance, a level of legal LGBTI inclusivity in Belgium equal to 44% regarding the protection of LGBTI people against discrimination means that four of the nine antidiscrimination provisions critical to protect LGBTI people are in force in Belgium as of 2019. “Min.” refers to the score of the bottom-performing OECD country(ies) while “Max.” refers to the score of the top-performing OECD country(ies). These values are specified except when they coincide with the score of Belgium. Source: OECD (2020), *Over the Rainbow? The Road to LGBTI Inclusion*, Chapter 3. [Download data from [Statlink](#)]

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