

Legal and Policy Goals critical for LGBTI Equality

National Action Plans matter

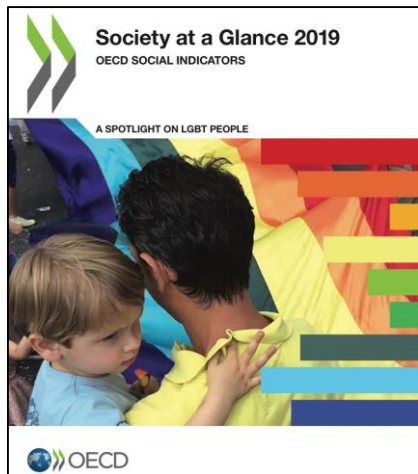
5 May 2021 – Digital event “Towards the full recognition of
LGBTI rights across Europe” (BMFSFJ)

Panel 2 “How can strategic goals be achieved on a national
level”

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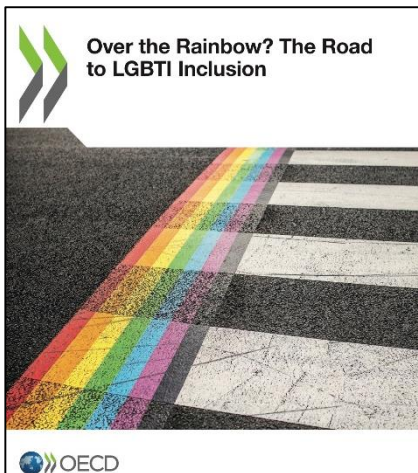
Background

- The OECD work on LGBTI inclusion was initiated following a **call to action** by 12 member countries. The OECD has published **two major outputs** thus far :



- The special chapter of the 2019 edition of the OECD flagship publication *Society at a Glance* focuses on the **challenges** faced by sexual and gender minorities:

“Anti-LGBTI discrimination continues to hamper the economic prospects and mental health of millions in OECD countries”



- The 2020 report *Over the Rainbow? The Road to LGBTI Inclusion* focuses on the **solutions** by identifying:
 - The **legal goals** to be pursued to foster LGBTI equality (and the extent to which these goals are achieved in OECD countries);
 - The **policies** that must be implemented, on top of passing LGBTI-inclusive laws, to fully achieve LGBTI equality

National Action Plans matter

- Our 2020 report suggests that National Action Plans (NAPs) do **matter**: NAPs contain **concrete goals** and **clear timelines** that help national public authorities make significant progress towards LGBTI inclusion.

*“They help to put good intentions into practice and make LGBTI equality a reality”
(ILGA EUROPE)*

- As an illustration, OECD countries with an ongoing NAP aimed at LGBTI equality in 2019 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 over the past two decades
 - An **active involvement** in the implementation of **complementary policies** critical to achieve LGBTI equality
- Let’s take a closer look at our 2020 report’s main findings and also briefly discuss the **way forward** to ensure that **well-designed NAPs are more widely adopted**.

Legal goals critical for LGBTI equality

Equal treatment of LGBTI people entails passing:

GENERAL PROVISIONS

1. Protection of LGBTI people against discrimination
2. Protection of LGBTI people's civil liberties
3. Protection of LGBTI people against violence
4. Protection of LGBTI people fleeing persecution abroad
5. Existence of an LGBTI-inclusive equality body, ombudsman or human rights commission

GROUP-SPECIFIC PROVISIONS

LGB-SPECIFIC PROVISIONS

1. Equal treatment of same-sex and different-sex consensual sexual acts
2. Legal recognition of same-sex partnerships
3. Equal adoption rights
4. Equal access to assisted reproductive technology
5. Ban on conversion therapy

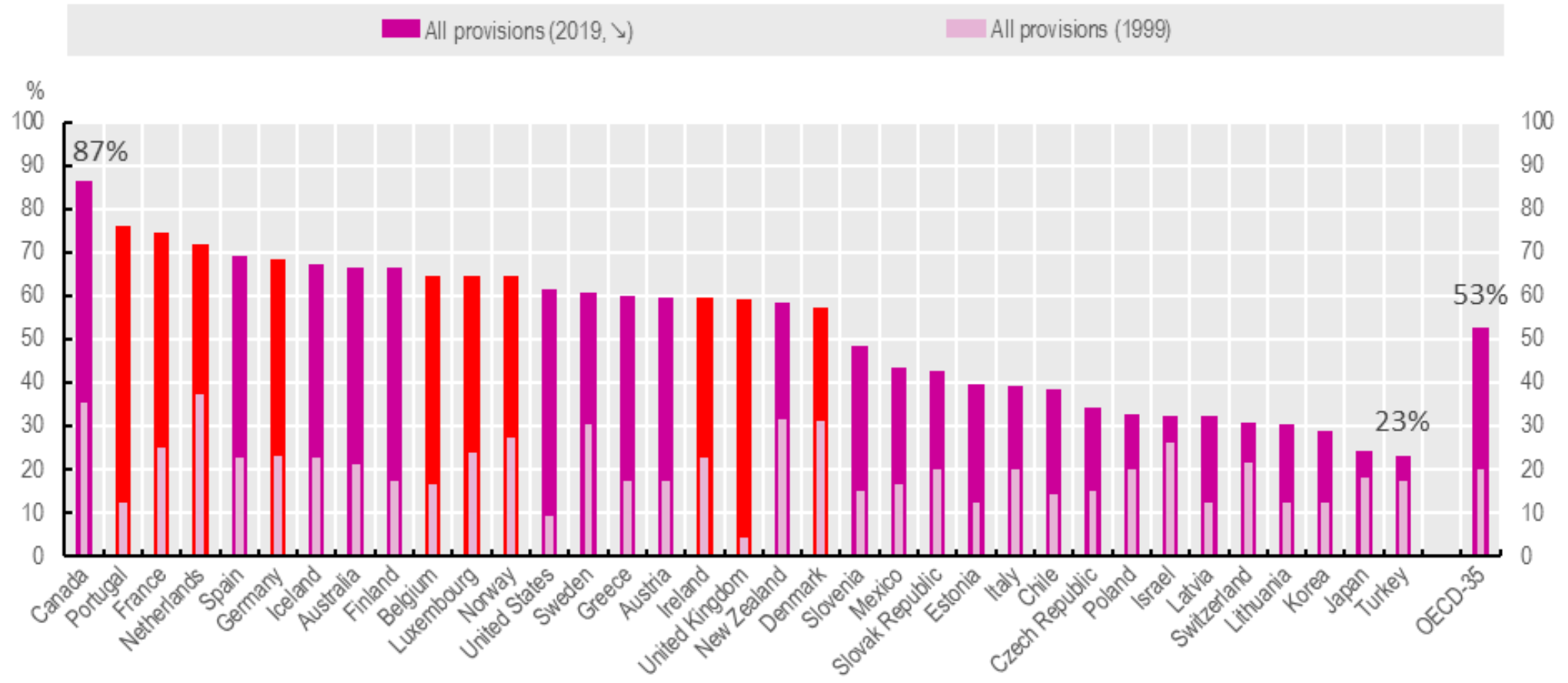
TI-SPECIFIC PROVISIONS

1. Being transgender not categorised as a mental illness
2. Legal gender recognition (LGR)
3. No medical requirement attached to LGR
4. Availability of a non-binary gender option
5. Postponing medically unnecessary sex-normalising treatment on intersex minors

All OECD countries covered in the report have been making progress over the last two decades

- This is particularly the case of countries with an ongoing NAP aimed at LGBTI equality.

% of LGBTI-inclusive laws that have been passed



Policy goals critical for LGBTI equality

Three main categories of policies

- Guidelines by international and national human rights stakeholders highlight **several policy goals** critical to achieve LGBTI equality.

Policy #1	Policy #2
Enforcing LGBTI-inclusive antidiscrimination, hate crime/hate speech and asylum laws	Fostering a culture of equal treatment in education, employment and healthcare, beyond enforcing laws prohibiting discrimination in these fields
Policy #3	
Creating and maintaining popular support for LGBTI inclusion, which entails well-designed awareness-raising activities and that government and public authorities lead through exemplary conduct	

- OECD countries with an ongoing NAP are **all** actively engaged in implementing at least some components of these three categories of policies.

The way forward

Better assisting countries in devising their NAP through cross- and within-country benchmarking

- Of course, for a NAP to emerge, **political will** is necessary.
- But countries also need to understand **which concrete goals should be in their NAP**:
 - How do they fare with respect to LGBTI-inclusive laws and policies in absolute and relative terms?
 - Which approaches do or do not work?
- ⇒ Need for **completing the OECD cross-country benchmarking** by analysing how each country compares not only wrt laws but also wrt policies critical for LGBTI equality
- ⇒ Need for **helping countries implement rigorous impact evaluation** so as to evaluate what works and in which context
- **Within-country benchmarking** is also critical in federal countries where several strategic laws and policies are regulated at the subnational level
 - **Germany** is the first federal country to engage in such an in-depth and path-breaking analysis with the help of the OECD



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