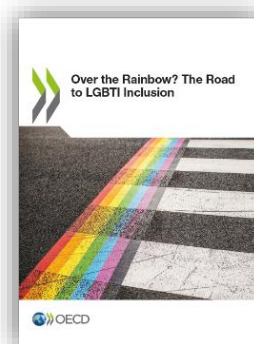




Ensuring that LGBTI people – i.e. lesbians, gay men, bisexuals, transgender and intersex individuals – can live as who they are without being discriminated against or attacked should concern us all. Discrimination against LGBTI people remains pervasive. It harms the LGBTI population, but also the wider 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.



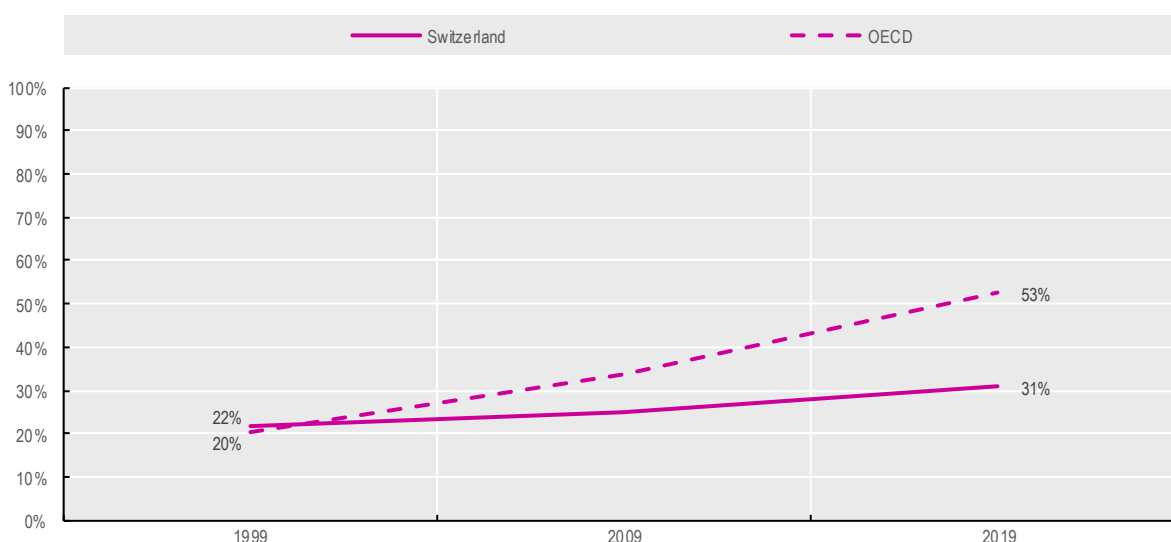
Legal LGBTI inclusivity in Switzerland

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. Switzerland is one of 14 countries in the OECD where this share is still moderate. These countries are characterised by a below-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 Switzerland has only modestly improved over the past two decades

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



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 Switzerland has improved over the past two decades, but at a modest pace (Figure 1). As of 2019, Switzerland performs better than the OECD average concerning the protection of intersex minors against unconsented medically unnecessary sex-normalising treatment or surgery (Figure 2). In 2012, the *Swiss National Advisory Commission on Biomedical Ethics* issued an opinion that created a shift in the medical perspective towards intersex people, in Switzerland and abroad. Based on the observation that “[a]n irreversible sex assignment intervention involving harmful physical and psychological consequences cannot be justified on the grounds that the family, school or social environment has difficulty in accepting the child’s natural physical characteristics”, this opinion urges medical practitioners to postpone medically unnecessary sex-normalising treatment or surgery on intersex minors until they can provide informed consent.

However, as of 2019, Switzerland is falling behind regarding other LGBTI-inclusive laws such as legal provisions explicitly protecting LGBTI individuals against discrimination, violence, as well as persecution abroad, or laws addressing the unique challenges faced by same-sex couples (Figure 2).

How could Switzerland further improve legal LGBTI inclusivity?

Switzerland has shown major recent achievements concerning the protection of LGBTI individuals against discrimination and violence. In a referendum in February 2020, 63.1% of Swiss voters approved the prohibition of discrimination and hate speech based on sexual orientation – the provision in the *Swiss Penal Code* resulting from this approval will come into force on July 1, 2020. However, contrary to the situation in a majority of OECD countries, no national equality body, ombudsman or human rights commission is in charge of enforcing these legal changes. Moreover, although Switzerland was the first country to pass a registered partnership law by referendum in 2005 which granted same-sex couples the same pecuniary rights as married couples, same-sex partners are still not given access to joint adoption or to medically assisted insemination (Figure 2). Therefore, further improving legal LGBTI inclusivity in Switzerland could entail: (i) creating a national human rights institution in charge of enforcing legal protections of LGBTI individuals; and (ii) treating same-sex couples on an equal footing relative to different-sex couples concerning access to civil marriage, adoption and assisted reproductive technology.

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

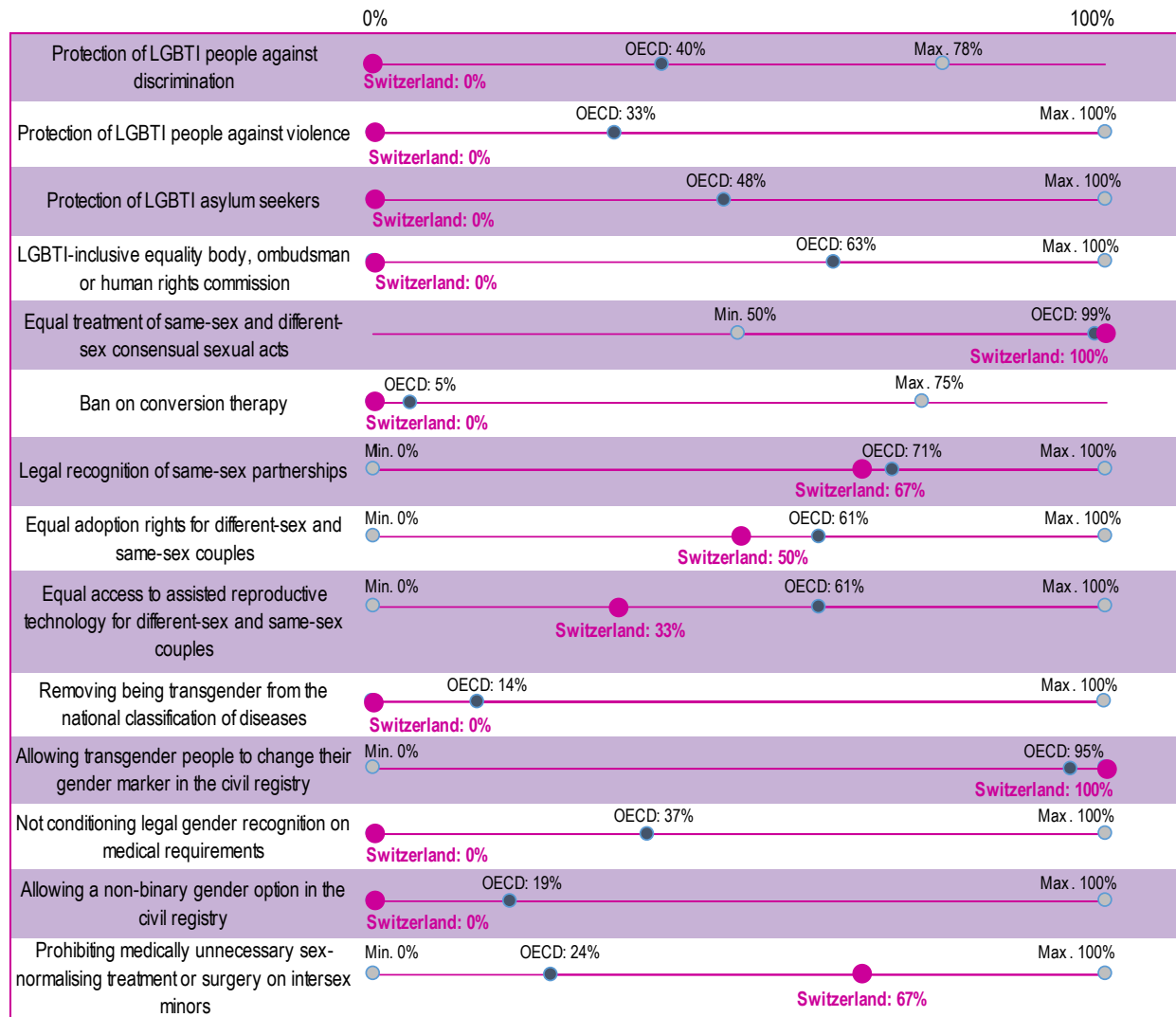
LGBTI-inclusive laws should come along significant efforts to make LGBTI individuals better represented and visible in national statistics. Without appropriate data collection, policymakers aiming to improve LGBTI inclusion will continue to do so with little if any relevant information. As of 2018, Switzerland 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 Switzerland 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 Switzerland compares

Legal LGBTI inclusivity as of 30 June 2019 in Switzerland 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 Switzerland equal to 0% regarding the protection of LGBTI people against discrimination means that none of the nine antidiscrimination provisions critical to protect LGBTI people are in force in Switzerland 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 Switzerland.

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

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