School's Out (SOT)

National Report – Belgium

Gathering data of good practices in Europe on LGBTI teacher training and inclusive school policies; country policies, good practices and recommendations

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1. Methodology

This report presents an overview of the national context within Belgium, with regard to education, legislation and LBGTI-inclusion, and consists of a desk research and an interview-analysis. The aim of the desk research was to gather information on the national context of Belgium. The desk research covers the Belgian school system, legislation, case law and good practices. The interviews were used to identify good practices among stakeholders as well as to understand the knowledge of stakeholders with regard to LGBTI-related topics. This research was conducted as part of the European Project School's Out (SOT), which aims to increase knowledge of teachers on how to include LGBTI topics in classes and how to react to LGBTI bullying in school. This project also aims to provide a more systematic and evidenced approach on how schools can achieve an LGBTI inclusive school environment. Ultimately, this project aims to safer and more inclusive LGBTI schools where LGBTI students are more open to report harassment and bullying.

The desk research was based on primary and secondary sources, which provide a clear overview of the national context in Belgium, existing legislation and good practices. Additionally, we have reached out to several institutions for additional information. The results of the desk research were then used to interview three stakeholders. The interviews were conducted in the second part of this research. The interviewees were invited based on their position within the Belgian school context. First of all, the stakeholder V.L. was interviewed, who is the head advisor of a Flemish network for schools. Secondly, the stakeholder D.G. was interviewed, who is the president of a Flemish organization that aims to stop bullying. Lastly, the stakeholder C.C. was interviewed, who is the coordinating a Flemish school group. These stakeholders are all part of different organizations in Belgium. As such it was possible to create a complete and diverse analysis of good practices.

The interviews were conducted online, due to the current COVID-19 pandemic. All three interviews were recorded and the interviewers took additional notes[1]. A significant difficulty with online interviews was that the quality of the interview in part depended on a stable internet connection. This was not always the case. The stakeholders were contacted based on the personal connections of the members of the Belgian team. The invitations and additional communications, such as an information and consent sheet were sent via email. A standardized model with questions was used to conduct the interviews. This model was translated to Dutch and adapted to the regional context. None of the changes had a significant impact on the meaning of the questions.

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[1] Prior to the commencement of the interview, the interviewer got the informed consent from the interviewee, after explaining the research in terms of the Information Sheet translated in each language of the project. Stakeholders have freely agreed to take part in the research. Anyhow, to ensure anonymity and confidentiality of data, the transcript/records/factsheets of the interviews are safely stored by each partner; their outputs have been processed, analyzed and treated by associating a code to each intervened stakeholder."

Nonetheless, not every question was relevant for every stakeholders. As such, not all the questions from the standardized model were answered by all the stakeholders. The interviewees were comfortable with answering the questions and often offered additional information.

2. Desk research

2.1 School System

Introduction to the school system in Belgium

The Belgian school system differs per Belgian region. As Belgium is split up in three regions, this report will solely focus on the Flemish region. As such, the research discussed is only applicable to Flanders.

The educational system in Belgium will be discussed in this report, but beforehand it is important to note the following. The Belgian school system is based on the right of freedom of education. Freedom of education is a constitutional right, which is guaranteed in article 24 of the constitution (European Commission, n.d.; Vlaamse Overheid, n.d.[a]). As a result, there are no restrictions on who is allowed to start a school or other educational institution. This, however, does not mean the Flemish Government is not involved. The Flemish Government is obliged to organize undenominational education (Eurydice, n.d.). Additionally, in order to ensure the quality of education in Flanders, the Flemish Government has developed a system of 'recognition'. As such, only schools or institutions that are recognized by the Flemish Government are allowed to issue official study certificates or are eligible to receive subsidy from the Flemish Ministry of Education and Training. This system of recognition also ensures the quality of the Centrum voor Leerlingenbegeleiding (CLB), which is the center for student guidance (Vlaamse Overheid, n.d., a). A few schools are not officially recognized by government. As a result, these schools do not receive funding from the Flemish government (Eurydice, n.d.).

The educational system of Flanders consists of several types of education, as well as various networks in which education is organized. The first type of education and training is organized by the government. This is also known as the network of official education, or '*officieel onderwijs'* in Dutch. The second type of education and training is organized by a private person or organization. This is also known as the network of catholic education, or '*vrij onderwijs*' in Dutch (Eurydice, n.d.). Education in Belgium is compulsory from the age of 5 until the age of 18. This however does not mean that children are obligated to attend school, which is why parents have the possibility to homeschool their children (Eurydice, n.d.).

Types of education

As aforementioned, Belgium has two types of education: public and private education. These two types of education are organized in so-called networks, which are further split into groups. Additionally, the Belgian school system also differentiates between primary, secondary and higher education.

Public education

Organizations that offer public education are organized in several networks. The first network that is part of public education is government-provided education, which are also known as state schools.

This network is organized under the name Flemish network for schools[2], or *gemeenschapsonderwijs* in Dutch. The network GO! offers both primary and secondary education, as well as adult education centers (Eurydice, n.d.). This network accounts for 15 to 20 percent of all education.

The second network is government-aided public education, also known as subsidized public schools. This network is organized by municipalities or provinces under the name OVSG (*Onderwijssecretariaat van de Steden en Gemeenten van de Vlaamse Gemeenschap)*[3] (Eurydice, n.d.).

Private education

Private education consists of two categories, either education affiliated with a religion as well as so-called method schools. These types of education are both known as government aided private education. Government-aided private education is a third network within the Belgian school system. Schools that are part of this network are also known as subsidized private schools, which are organized by a private person or organization. This network is the biggest of all three, often organized by an organization affiliated with the Catholic Church. Schools that are part of this network are often organized under the name Catholic education Flanders (*Katholiek Onderwijs Vlaanderen* in Dutch[4]), formerly known as the Flemish Secretariat of the Catholic Education (*Vlaams Secretariaat van het Katholiek Onderwijs*; VSKO). Additionally, there are eight schools affiliated with the Protestant Church, which organize under the name Schools with the Bible (*Scholen met de Bijbel* in Dutch), as well Jewish schools, which organize under the name Jesjiva.

Furthermore, there are so-called method schools, which are not affiliated with a religion. These schools use, for example, the Steiner, Freinet or Montessori educational method (Eurydice, n.d.).

Pupil Guidance Center

Additionally to the different types of education, Flanders also has so-called pupil guidance centers, the aforementioned Centrum voor Leerlingenbegeleiding (CLB)), which are funded by the Flemish Government (Eurydice, n.d.). These guidance centers offer services such as guidance, information and advice, which are free of charge (Eurydice, n.d.). Furthermore, as of September 2018, every school is obligated to have a policy in place around the guidance of its students. This policy focusses on four specific domains, which are the school career, learning and studying, socio-emotional development, and preventative healthcare (European Commission, n.d.; Onderwijs Vlaanderen, n.d.).

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[2] https://www.g-o.be/

[3] https://www.ovsg.be/

[4] https://www.katholiekonderwijs.vlaanderen/

The stages of education

The Belgian education system exists of several stages, which are spread out over several different schools and institutions (Eurydice, n.d.). These stages are presented in the overview below, as published by the platform of the European Commission, Eurydice[5]. Please note that, as the target group of the Project School's Out is students until the age of 18, higher education will not be discussed.

Elementary education

Elementary education consists of pre-school education [*kleuteronderwijs*] and primary education (*lager onderwijs*). As education is not mandatory until the age of 5, pre-school education is not an obligation. Nonetheless, most children do participate in pre-school education.

Primary education

Primary education [*basis onderwijs*] is meant for children aged 6 to 12 and consists of six subsequent school years. After successfully completing primary education, children are granted a certificate.

Secondary education

Secondary education [*secundair onderwijs*] starts when children are 12 years old and usually ends when the pupils are 18 years old. This form of education has several levels and types, and consists of three grades. Each grade consists of two years. After a student has finished their secondary education, they receive a certificate which grants unrestricted access to higher education.

The first grade of secondary education is based on a common curriculum. After the first grade, students choose the type of education they want to follow. As of the second grade, secondary education offers four different types of education. A pupil chooses between one of the following types of education:

1. **General secondary education** [*Algemeen Secundair Onderwijs (ASO)*], which focuses on broad general education. It does not prepare pupils for a specific profession, but rather lays a firm foundation for higher education.
2. **Technical secondary education** [*Technisch Secundair Onderwijs (TSO)*] focusses in particular on general and more technical or theoretical subjects. This type of education also contains practical training. After finishing their education, a student is allowed to practice a profession or can transfer to higher education.
   Secondary education in the arts [*Kunstsecundair Onderwijs (KSO)*] combines a broad general education with an active practice of art. After secondary education in the arts, a student is allowed to practice a profession or can transfer to higher education.

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[5] https://eacea.ec.europa.eu/national-policies/eurydice/

 Vocational secondary education [*Beroepssecundair Onderwijs (BSO)*] is a practical-oriented type of education in which the student receives general education, but where the focus primarily lies on learning a specific profession.

Special needs education

Besides the aforementioned primary and secondary education, Flanders also offers special needs primary and secondary education (*buitengewoon onderwijs)*. This type of education is meant for children who need temporary or permanent specific support, because of a physical or mental disability, serious behavioral or emotional problems, or severe learning disabilities. On March 12, 2014, the Flemish Parliament approved a parliamentary act on measures for students with special needs, called the *'M-decreet'*. This act was designed to make education more inclusive. The act contains measures which allow pupils with specific educational needs to participate fully, effectively and on equal terms in regular schools and classrooms.

The following graph shows the duration and types of education, both primary and secondary, of Flanders (Eurydice, n.d.).
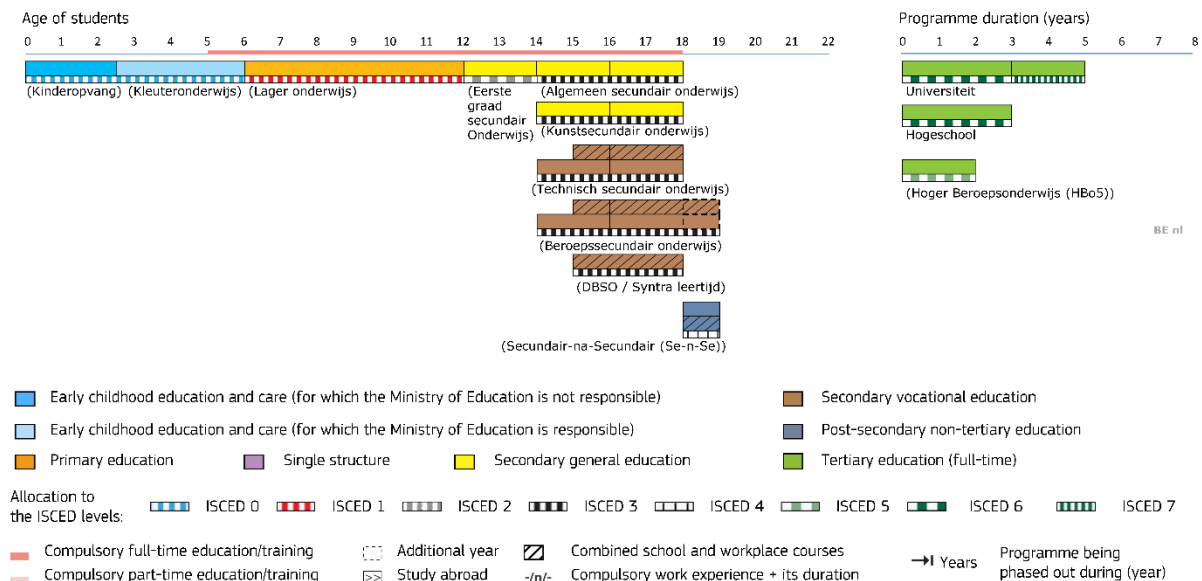
"Systematic Structure of the National Education System". Source: Eurydice 2020/21

Bullying

The Flemish Umbrella Organization "Kies Kleur tegen Pesten", which can be translated loosely as Stand Up against Bullying, states on their website that one in six children in Flanders is the victim of bullying

(Kies Kleur Tegen Pesten, n.d.). According to the organization, bullying remains one of the biggest problems in the development of children and youth. This is also true for cyberbullying. Nonetheless, a study conducted by the University of Ghent in 2018, showed that (cyber)bullying is declining amongst Flemish teenagers of 11-18 years. The results of this study have been compared to a similar study conducted in 2014. The most recent study showed that 16 percent of the teenagers had encountered bullying in the recent months before the study, compared to 19 percent in 2014. Additionally, 8 percent of the teenagers had encountered cyberbullying, although the statistics for girls between 13-14 are higher with 12 percent. In general however, almost half of high school students (48 percent) have said they have been (cyber)bullied before (Boon, 2020; De Morgen, 2018).

Every year, the Flemish Week against Bullying is organized in order to inspire those who work with children to create a bully-free environment. The organization also offers tips to schools, youth- and sports club to create a plan to prevent bullying. More on schools and bullying can be found in section 2.2.

2.2 Legislation
Introduction

The gay and lesbian movement in Belgium is considered to be one of the most successful activist movements of Belgium. The institutionalized LGBTI movement received its first financial grants from the Belgian government in the 1970s, albeit relatively limited at the time (Borghs, 2016). Nowadays, the Flemish umbrella organization çavaria is one of the biggest LGBTI organizations in Europe. Additionally, Belgium has various ministries for equal opportunities at different levels of its political system to work at LGBTI-issues (Borghs, 2016).

ILGA-Europe annually publishes a legal index of LGBTI equality that ranks all European countries on a scale of 0 percent (gross violation of human rights, discrimination) to 100 percent (respect of human rights, full equality). Belgium held the second place with a score of 73,24 percent, after Malta with 89,1 percent and before Luxemburg with 72,95 percent in the most recent ranking (ILGA-Europe, 2019). It is interesting to note that back in 2016, according to Borghs (2016), Belgium was in second place as well, but scored 81,85 percent.

Legislation

Those who identify as LGBTI in Belgium are largely accepted, as long as they are not too visible. Heteronormativity and cisnormativity remain the standard. As a result, most cases of homophobia, transphobia and intersexphobia are cases of indirect discrimination (Mills, 2020). Violent attacks however, do still occur, albeit seldom. Two gay men - Ihsane Jarfi and Jacques Kotnik – were murdered in an anti-LGBTI hate crime in April 2012. Similarly, a gay man was murdered in March 2021. It has yet to be determined however, if this was an anti-LGBTI hate crime or a crime unrelated to homophobia. Nonetheless, inclusive legislation is in place.

One of the first times legislative progress was made, was on 23 November 1998, when the law on legal cohabitation was implemented[6] (Mills, 2020). In 2003, Belgium adopted general anti-discrimination legislation[7], although this law was superseded in 2007 (Borghs, 2018, Unia, 2003). This legislation, which includes federal laws, decrees and ordinances, recognizes 19 criteria, which are considered possible grounds for discrimination. These 19 criteria form the basis of three laws, which are the gender law, the racism law and the discrimination law (Safe to Be, n.d.). The law considerably exceeds the requirements set by the European Union directives with regard to discrimination (Borghs, 2016). As a result, discrimination based on one or more of these criteria is prohibited and punishable. Sexual orientation as well as gender are mentioned as two of the criteria (Unia, n.d.).

Furthermore, marriage equality was also achieved in 2003. Belgium was the second country, after the Netherlands, where legislation was changed in order to allow people of the same-sex to marry, regardless of their sexual orientation[8]. The law was approved 13 February 2003, but came into effect 1 June 2003 (Mills, 2020). The demands to legalize adoption by gay and lesbian couples were realized in 2006[9]. A year later, on 10 May 2007, a law was passed combatting discrimination between women and men. This law prohibits any form of discrimination based on sex. Discrimination based on gender reassignment, gender identity and gender expression is equated with this. Both direct and indirect discrimination, ordering discrimination, intimidation and sexual harassment are explicitly prohibited[10] (Instituut voor de Gelijkheid van Vrouwen en Mannen, n.d.).

In 2008, a decree called equal opportunities and equal treatment (*het Vlaamse gelijkekansen-en gelijkebehandelingsbeleid)* was approved[11]. Article 17 of this decree defines intimidation or harassment (as translated from Dutch to English) as 'occurring in the event of unacceptable behavior related to one or more of the characteristics listed in Article 16§3 [of the decree], and which has as its object or effect that the dignity of the person is affected and a threatening, hostile, offensive, degrading or hurtful environment is created' (Unia, 2008). Seven years later in 2014, a law on the official gender registration of transgender people was passed, with the prerequisite however, of infertility treatment (Mills, 2020). This law was changed in 2017.

The procedure for co-motherhood became the next lobbying priority for the LGBTI movement. On 1 January 2015, "automatic parenthood" was achieved: as a result, lesbian co-mothers have the

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[6] http://www.ejustice.just.fgov.be/mopdf/1999/01/12_1.pdf#Page14
[7] https://www.unia.be/files/Documenten/Wetgeving/Wet_van_25_februari_2003_ter_bestrijding_van_discriminatie_13pg.pdf
[8] http://www.ejustice.just.fgov.be/cgi_loi/arch_a1.pl?language=fr&value=&cn=2003050831&caller=archive&la=F&ver_arch=001
[9] https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=06-06-20&numac=2006009465
[10] https://igvm-iefh.belgium.be/sites/default/files/downloads/file_nl_84_-_wet_10_mei_2007_discriminatie_vrouwen_en_mannen.pdf
[11] https://codex.vlaanderen.be/PrintDocument.ashx?id=1017082&datum=&geannoteerd=false&print=false

same rights as fathers in heterosexual relationships. On 25 June 2017 the law on gender registration was passed, which removed the condition of enforced infertility of transgender people who want to officially change the gender marker and name on their passport[12]. The law came into effect on January 1st 2018, (çavaria, 2020, Fedweb, 2017). Finally in February 2020, the criterion "sex characteristics" was included into the anti-discrimination laws, meaning that from this moment onwards, intersex people will be explicitly protected by Belgian law against discrimination (Junes, 2020).

The Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia 2020, mentions several resolutions and other actions undertaken by Belgium authorities in 2019. On 27 March 2019 for example, the Flemish Parliament unanimously approved a Resolution condemning violence against LGBTQI people in Chechnya and urging the Belgian government to provide international protection to victims. The Flemish parliament also introduced mandatory education on gender and sexual identity for first grade students in high schools, the fulfilment of which will be monitored by school inspections (ILGA Europe, 2020). To this day however, there is no legal framework for surrogate motherhood which leaves providing this possibility up to the discretion of hospitals (Mills, 2020).

Bullying and cyberbullying

As previously discussed, to discriminate against a person is prohibited and punishable by law in Belgium (Safe to Be, n.d.). Additionally, the term 'hate crime' is legally acknowledged in Belgium. A hate crime is considered to be a crime committed with a motive of hatred, disdain or hostility to a protected identity feature. As such, 'hate speech' is acknowledged as an offense. Hate speech is defined as an 'incitement crime' that calls others to action. The perpetrator tries, consciously and with malicious intent, to induce others to discriminate, hate or use violence against specific persons or groups. This must be done in public, although posts in a Facebook group are also included under the definition, even when the group is secret or private. The European project "Speak Out: Tackling anti-LGBT hate speech and hate crime" is a good resource for information with regard to hate speech and hate crime online, both on a national and international level. Specific legislation however, with regard to (cyber)bullying, does not exist yet despite the notion that cyberbullying within classrooms and on schools is on the rise (Vlaamse Overheid, n.d., c). This is confirmed by Annelies D'Espallier, Ombudswomen Gender with the Flemish Government, who stated in an email that there is little to no registration of bullying within the context of education. Part of the reason why, is because schools are expected to tackle the issue individually. Nonetheless, according to the Civil Code, generally speaking the responsibility for bullying or damages caused because of bullying behaviour, lies with parents. This is based on the assumption that parents have the power to prevent their children's actions, when

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[12] https://igvm-iefh.belgium.be/sites/default/files/downloads/transwet-nl.pdf

underage. Legislation with regards to cyberbullying is not as clear, however the same principle applies (Cyberpesten doe je niet, n.d.).

Despite a lack of legislation, policies and frameworks are in place to prevent (cyber)bullying and other forms of unacceptable behaviors. The website of the Flemish Government especially offers a wealth of resources. There are about 215 publications on the subject of bullying, cyberbullying and (other) unacceptable behaviors. These publications offer advice and suggestions for policymakers, brochures, reports and press releases. The website of the Flemish Government for example offers a brochure which discusses bullying and violence in schools and how to adapt school policies (Vlaamse Overheid, 2009, b). Other resources that are published on the website of the Flemish Government include a policy document from 2009, titled: "Policy plan to prevent and combat violence, bullying and unwanted sexual behavior at school" (Vlaamse Overheid, 2009, a), a brochure from 2010, titled: "Stop Cyberbullying" (Vlaamse Overheid, 2010), as well as a brochure from 2015, titled: "Working on a connected school climate. How does your school team respond effectively to bullying?" (Vlaamse Overheid, 2015). In 2016, a press release was issued in which the Flemish Government collectively rejected and spoke out against bullying and other forms of violence against minors. This press release also made mention of the increase in cyberbullying and grooming. It was stated that the Flemish Government is committed to joint action to raise awareness and promote prevention and an adequate and appropriate response policy (Vlaamse Overheid, 2016). Nonetheless, Unia received only four complaints about discrimination within the educational system in 2019. The total amount of complaints they received with regard to education that year was 332 (Unia, 2019).

The website of the Flemish government additionally offers information on how to recognize when a student might be the victim of (cyber)bullying and other forms of unacceptable behaviors. The website also mentions ways for teacher to deal with these kinds of behaviors as well as preventative measures that can be taken to make the classroom a safe space (Vlaamse Overheid, n.d., [b]). Furthermore, as aforementioned, it is expected of schools to have a policy against (cyber)bullying and other forms of unacceptable behaviors in place. Several organizations are committed to ending bullying within schools, as for example the aforementioned organization 'Kies Kleur tegen Pesten' as well as the organization 'School zonder Pesten', which translates to School without Bullying. These organizations support schools and other institutions in creating policies around bullying.

2.3 Case Law and Good Practices
The Belgian judicial system is not based on case law or jurisprudence, unlike the Anglo-Saxon legal system. As such, court decisions do not change existing law. An exception of this is the Constitutional Court, yet court decisions from the Constitutional Court only nullify legislation, rather than serve as the basis for new legislation.

As such, instead of an overview of case law, this paragraph will present several cases and statistics that for example have been mentioned in the media over recent years. This will present an up-to-date overview and additionally shows how few cases are brought to court.

First of all, despite policies and regulations in schools with regard to (cyber)bullying and discrimination, Unia has more or less a hundred cases each year with regard to discrimination, hate crimes, and hate speech. Nonetheless, only few cases end up in court (Borghs, 2018). Another organization that receives cases with regard to discrimination, hate crimes and hate speech is *Het Instituut voor Gelijkheid van Vrouwen en Mannen* (IVGM), which translates to the Institute for Equality of Women and Men. Examples of cases that this institute has received are students whose school refused to give out a new diploma which displays the chosen name or change in registered gender marker, or schools where boys are not allowed to wear earrings or handbags, while girls were allowed. None of these cases have been brought to court.

What is more, often times cases of discrimination are often not reported. This is confirmed by statistics of Unia, which show that only four of 332 cases in 2019 mentioned sexual orientation in the complaint (Unia, 2019). It has also been stated previously that not many cases of discrimination, hate speech and hate crimes end up in court. Often, institutions favor an extrajudicial solution instead (Borghs, 2018). This is confirmed by institutions such as Unia and IVGM, as well as the by following statistics. During 2006 and 2010 only 48 cases around homophobia were brought to court. What is more, at the time, only four cases were prosecuted and in three of these cases, the criminal court delivered a verdict (Turtelboom, 2012). These numbers have gone up in recent years. Deputy Prime Minister and Minister of Justice Koen Geens wrote in an written answer to state senator Stephanie D'Hose, that in June 2020, 196 cases related to homophobia entered the correctional prosecutor's offices between 2017 and 2019. Additionally, between 2016 and 2018 almost 550 offenses of discrimination based on sexual orientation were recorded (Geens, 2020). The organization Het Centrum voor Gelijkheid van Kansen en Racismebestrijding (CGKR) reported in May 2018 that it had processed 125 cases of discrimination based on sexual orientation in that year. This is an increase of 38 percent over the past five years. These cases include 17 physical attacks, 42 public homophobic insults, 17 housing discrimination cases, and 31 online attacks (Unia, 2018). The year after, in 2019, the number of cases of discrimination based on sexual orientation had risen to 133 (Unia, 2019). The 196 court cases compared to the 550 recorded offenses of homophobia show how few cases of discrimination are brought to court.

Furthermore, it was not until 2014 when the first court case where homophobia was considered an aggravating circumstance, was reported. This is the aforementioned case of the murder of Ishane Jarfi and Jacques Kotnik. Three men were found guilty of murder, with homophobia as an aggravating circumstance. A fourth man was found guilty of manslaughter, with homophobia as an aggravating circumstance (De Standaard, 2014). Over the years, several other cases of discrimination

on sexual orientation and gender identity have been reported in newspapers. It appears however, that repercussions for the offenders are not common. In March 2011, an article in a local newspaper made mention of a legal basis to sue the leader of Sharia4Belgium, Fouad Belkacem, as his statements were considered hate speech against LGBTI-people. Fouad Belkacem, also known as Abou Imran had said in an interview a year earlier, that 'all gays should be sentenced to death'. The organization Het Centrum voor Gelijkheid van Kansen en Racismebestrijding (CGKR) filed a complaint as a response, stating that Belkacem's words were a violation of the Belgian anti-discrimination law (Unia, 2012). Another example is the case of a gay couple who in 2015 took their neighbors to court for homophobic hate speech. The prosecutor's office agreed that it was a case of homophobia, the Court of Appeal however, ruled that it was an ongoing neighbor's quarrel (Het Nieuwsblad, 2015).

More recently, in December 2019, Het Instituut voor Gelijkheid van Vrouwen en Mannen (IGVM) received more than 1000 complaints against plastic surgeon Jeff Hoeyberghs, who, during a seminar at the University of Ghent, made sexist remarks. His remarks specifically were about the (power)dynamics between women and men. Hoeyberghs was sued by IGVM (Instituut voor Gelijkheid van Vrouwen en Mannen, 2019). IGVM also issued a press release in March 2020, stating that: "Although Belgium has passed legislation to increase the punishment for the most serious forms of hate speech, in reality, with regard to its written form, impunity is the norm" (Instituut voor Gelijkheid van Vrouwen en Mannen, 2020). With this press release IGVM advocates for stronger legislation when it comes to sexist, racist or transphobic hate speech.

As cases of discrimination and bullying based on SOGI do not often find their way to court, the inter-federal action plan of 2018-2019 mentions the justice-system as an area that can be improved upon. Several actions are proposed, based on four goals. The goals are to strengthen legislation, improve registration and follow up of homo- and transphobic crimes, raise awareness and to train those within the prisons as well as the magistrates of the prosecution offices (Demir, 2018). The action plan also makes mention of the goal to examine whether press offenses, motivated by homophobia and transphobia, can be brought before the criminal court instead of the Assize Court (Demir, 2018). Thus, it can be concluded that specific court cases of homophobia are limited in Belgium, specifically as few cases of discrimination and hate speech do not end up in court.

3. Qualitative interviews and analysis of collected data

3.1 Introduction

As part of this research, three interviews have been conducted. The interviews were conducted in February and March 2021, via the online platform Microsoft Teams. As the interviews were semi-structured, not every question has been asked to every interviewee, due to irrelevance. Additionally, a few questions that were not prepared beforehand, were also answered during the interviews. Furthermore, it is important to note that questions with regard to (cyber)bullying were often answered from a general perspective, rather than a LGBTI-perspective.

To guarantee anonymity, the stakeholders are referenced by their initials. Additionally, gender neutral language is used to throughout this report.

The first interview was with the stakeholder V.L., who is the head advisor of one of the Belgian networks for schools. The interview went smooth, in the sense that a lot of relevant information was discussed. A difficulty during the interview however, was the bad internet connection of the interviewee. This, at several instances, hindered the interview, as it limited the possibility of asking additional questions or discuss an answer in more detail. The interview focused mainly on discussing the position of LGBTI-students in school as well as the topic of bullying, but in a general sense. Interesting to note is that the stakeholder V.L. often used the term 'gender' when answering questions related to LGBTI-issues. When asked to clarify, V.L. stated that they use the term gender in 'the academic sense'. As such, their use of gender also refers to LGBTI, sexual orientation, gender expression and sex.

The second interview was with the stakeholder D.G., who is the president of a Flemish organization that aims to stop bullying. This organization is based on voluntary-work and connects other organizations who work with children and adolescents or around the topic of human rights. This network specifically consists of 20 affiliated associations. Çavaria is one of the organizations that is part of the network. The organization holds six meetings a year as organizes themselves in committees who focus on a specific topic. The interview went smooth and there were no considerable difficulties during the interview. The interview was mainly centered on the topic of bullying, specifically in the general sense. Additionally, legislation with regard to (cyber)bullying was also discussed.

The third interview was with the stakeholder C.C., who is the coordinating director of a Flemish school group. A school group is part of a network and clusters schools in a region. The interview went smooth and there were no considerable difficulties during the interview. During the interview, the topic of (cyber)bullying was discussed in relation to the measures taken by the school group.

All the interviews were of relevance to the project. The interviews highlighted different aspects, perspectives and approaches to the topics and are as such a great addition to the desk research. Whereas the desk research discuss legislation and LGBTI-discrimination in detail, the interviews highlighted the topic of (cyber)bullying.

For an analysis of the interviews, please refer to Annex 1.

3.2. Analysis of perspectives and knowledge of professionals regarding legislation and policy

The interviewees differed in their knowledge about an existing legislative framework with regard to discrimination and bullying. The stakeholders were aware that a legislative framework with regard to discrimination on the basis of sexual orientation and gender identity exists. V.L., from the Flemish network for schools, for example, stated that the existing framework for the network means that discrimination, in every form and on every basis, is not allowed. This is applied to the schools in their network. Similarly, V.L. stated that every form of education should be inclusive and that the Flemish network for schools aims to make their education as inclusive as possible. As such, discrimination is considered to be "not done" and this Flemish network for schools has a zero-tolerance policy in place.

The stakeholder D.G. of a Flemish organization that aims to stop bullying, offers a different perspective. D.G. stated that their approach is from a human rights perspective as well as the idea that discrimination is "just wrong". A legislative framework is therefore not the basis of their work. What is more, D.G. stated that a legislative framework should not be considered to be the most important, as it is often general instead of specific. Instead, a legislative framework should be a starting point to do the necessary work. Additionally, D.G. explains that according to them, it is preferable if legislation is general rather than specific. D.G. states that if inclusion is the goal, legislation should be inclusive as well, rather than having laws for specific groups. Nonetheless, if there is a specific or structural issue, legislation tailored to this issue can be of use. This is said from the perspective that a legislative framework should be in place, in order to provide a basis level of protection, however, more is necessary to solve certain issues. Equally as important are representation and attitudes of media, the discussion of topics in schools and organizations.

The stakeholder C.C. on the other hand, considers the legislative framework a way to regulate the integration and equality of LGBTI-people in society and to combat discrimination. C.C. also states that the legislative framework helps to include LGBTI-youth in schools and to inform students. Additionally, the legislative framework provides a tool to stand up against discrimination. An internal protocol however, to make the schools LGBTI-inclusive, does not exist yet.

The interviews showed how the interviewed stakeholders are aware of existing legislation, but in the broadest sense. All the stakeholders answered the question with regard to a legislation framework along the lines of 'I do not know the details, but discrimination is illegal and should not happen in schools'. The stakeholders often used general terms when answering questions, such as 'gender', while also referring to sexual orientation. The same is true when the legislative framework was discussed. As such, the stakeholders stated that discrimination in general is not allowed, but they were also aware that sexual orientation and gender identity are protected grounds. Two of the three interviewees also stated that bullying within the legislative frameworks falls into the category of harassment and stalking. Cyberbullying is more recent, although there are already some laws in place

with regard to aggression online. It appears that knowledge about a legislative framework with regard to (cyber)bullying is slightly less apparent. This might be, because legislation with regard to bullying in schools does not appear to exist. Rather, some general laws, as the aforementioned are in place, which are then applied to cases of bullying.

3.3. Concrete cases and internal procedures

The stakeholders come across cases of discrimination and bullying in various ways, as they are part of different organizations. V.L., for example, only deals with the most extreme cases of bullying. As head advisor of the pedagogical department however, the implementation of gender-inclusive policies is their main task. D.G. offers guidance and information to organizations, including schools. As such, their organization is a stakeholder that offers a perspective from the outside looking in. The organization does not keep track of the amount of cases of discrimination and bullying, or register them. C.C. as a director of a Flemish school group, is a stakeholder that has the most direct link to the schools. C.C. however, stated that within the school group, only a few of LGBTI-related cases of discrimination and/or bullying happen. Although this sounds hopeful, it is important to note that, according to V.L., often times cases of discrimination and bullying go unnoticed.

If cases of discrimination and bullying arise, there are some policies and approaches in place to handle this. The stakeholder V.L. however also states that, as a network they cannot force the schools to put policies in place. Additionally, it is stated that schools often deny that there is a problem or a need to discuss gender- and LGBTI-related topics. This implies a need for awareness about the impact of discrimination and bullying in schools, but also a lack of knowledge about the importance of these topics. On the other hand, however, the stakeholder V.L. points out that as an umbrella organization, they provide a standard school statute with rules, which includes gender in the anti-bullying section. Furthermore, creating awareness is what V.L. considers to be the best prevention strategy, specifically with regard to the teachers and other staff. The stakeholder D.G., in their analysis of successful measures and existing procedures, focusses more on how to handle a case of bullying. A great approach, according to D.G., is a restorative approach, with attention to all involved stakeholders. A similar approach is mentioned by the stakeholder C.C.. Their school group considers a case of bullying as a situation in which restoration is needed. Additionally, teachers and other staff are encouraged to step in when they are (made) aware of cases of bullying. To prevent discrimination, this school group aim to create a safe and inclusive school climate.

Thus, it can be concluded that the stakeholders value an inclusive school climate, as well as preventive and restorative measures. An obstacle in this is the constitutional right to freedom of education, which makes it hard for school networks, governments or other organizations to enforce policies and other measures. To offer guidance, however, is no problem, which is what the stakeholders focus on. Another obstacle would be a lack of knowledge about the importance of discussing gender- and LGBTI-topics.

3.4. Identified good practices

The interviewed stakeholders identified several good practices within their organizations. Throughout the interviews, the stakeholders also gave recommendations and suggestions for additional good practices. These suggestions can also be taken into account when developing the inclusive school cycle.

Annex 1 provides an overview of all the good practices.

Initiatives/projects on LGBTI inclusion in schools
Several initiatives and projects on LGBTI inclusion in schools were discussed. The Flemish network for schools created and uses a book titled 'Gender at school. A guide for a gender inclusive learning environment'. The book is a tool to facilitate conversations about gender in schools. The school group on the other hand have participated in two projects on LGBTI-inclusion in schools: 'School uit de Kast' and 'Paars'.

Teacher training courses
No specific teacher training courses were mentioned. The stakeholder D.G. stated çavaria is the organization that often trains schools and their staff. The stakeholder C.C. on the other hand stated that their school group does not offer trainings to their teachers.

LGBTI inclusive school policies
As aforementioned, the possibilities of implementing LGBTI-inclusive school policies are limited, due to the constitutional right to freedom of education. Nonetheless, inclusive policies can be suggested as a recommendation, while the inclusive school cycle program is developed.

Student participation projects
Student participation projects are limited. C.C. states that their school group encourages student participation and open conversations during classes. Furthermore, these schools also offer activities such as the visit of a transgender alumnus of the school or participating in activities from Amnesty International. The stakeholders V.L. and D.G. focused more on the responsibility of schools and teachers. As such, these stakeholders did not discuss student participation projects.

Anti-bulling policies and school initiatives (evidenced based)
V. L. stated that schools that are part of the Flemish network for schools often have a school statute that mentions bullying. C.C. mentioned that their school group has an anti-bullying policy. This anti-bullying policy is implemented by each school. In case bullying does happen, a step-by-step program is in place, as well as tips and tricks on how to handle the situation. The Flemish organization that aims to stop bullying has developed a tool: '*de anti-pest slang*', which translates as the anti-bullying snake.

This tool provides a step-by-step approach on how recognize and handle bullying and is based on a science. It is not possible however, to make the use of this tool obligatory. See annex 2 for the tool.

3.5. Understanding current expertise and training needs

Current expertise among teachers varies. The stakeholders all mentioned the importance of training teachers and other staff. Additionally, they stated that preventative measures are preferred over restorative measures. It was noted however, that these projects and trainings should have a long term effect. If the effect is short-lived, it is impossible to make a sustainable change. It appears that training teachers to prevent and recognize bullying is more common than training teachers to deal with sexual orientation and gender identity issues. V.L. for example, states that teachers at schools that create awareness of bullying, are likely prepared. To be completely prepared however, is impossible. The stakeholder C.C. states that the extent to which teachers are prepared to deal with (cyber)bullying depends on the school and their anti-bullying policy. D.G. on the other hand, mentions that the education of teachers barely covers the topic of (cyber)bullying. D.G. also refers to a research, that studied how teachers perceive their own readiness to deal with (cyber)bullying and how students perceive this. According to D.G., there is a big discrepancy between the perception of teachers and students on how they handle and are prepared to handle (cyber)bullying. A way to handle prevention of (cyber) bullying would be to have a school wide approach, rather than a policy based solely on individual cases.

As aforementioned, the topic of sexual orientation and gender identity is discussed less compared to (cyber)bullying. Although V.L. states that there is a growing awareness among teachers with regard to their own language or attitudes and how that affects their students, multiple examples exist of teachers who do not want or know how to discuss these topics. V.L. points out that often, schools do not recognize or admit that there is a lack of knowledge or of an inclusive school climate. Additionally, teachers are often asked to discuss so many topics, that choices have to be made. Gender is often not included on the list of priorities. This is confirmed by the stakeholders D.G. and C.C., who both state that training is available, but this is often merely a suggestion, or the topic is not discussed in detail. Training is either provided by the organizations themselves. Additionally, çavaria is suggested as an good organization to provide trainings.

Initiatives and projects that aim to promote LGBTI-inclusion are viewed as very useful by the interviewed stakeholders. The Flemish network for schools for example considers inclusivity as one of the key values, as well as tolerance and equality. V.L. states that if an inclusive society is the goal, students should learn more than math and languages. C.C. also listed several projects and campaigns that their school group has used to promote inclusivity and anti-bullying. As aforementioned however, projects and initiatives are the most useful if sustainable and durable change is created. Additionally, the stakeholders stated that projects and initiatives should be part of a school-wide, structural approach, such creating improved school policies, rather than organizing independent projects.

3.6. Recommendations for next project activities

Three good practices that have been identified in the interviews, are practices that could be relevant for the next step in the project. An activity, strategy and a tool are identified in the table below. For further information on the usefulness of these practices and other good practices, please refer to Annex 1.

Type (e.g. Program, Strategy)	Title	Organiser (NGO, Government…)	Target Group	Terms of usefulness
Activity	Projects such as 'Paars'	NGO's	Students	Projects that raise awareness of LGBTI-issues can be a fun and easy way to create inclusivity.
Strategy	Inclusive school policies	School Networks	Schools	Including an analysis of how inclusive current school policies are can be included in the development of the inclusive school cycle program.
Tool	The 'Anti-Pest Slang'	VLOR Vlaamse Onderwijsraad [Strategic advisory council for education and training]	Teachers and students	This tool might be easy to implement, or can be used to draw inspiration from.

Conclusions and Recommendations

The aim of this national report was to collect an overview of the national context in Belgium, with regard to education, legislation and good practices. The report contains two types of research. First, the results of a desk research are discussed and secondly the results of three interviews with stakeholders are discussed. This has resulted in an analysis of the position of those who identify as LGBTI in Belgium, as well as existing good practices.

The Belgian school system consists of various types of schools and education. A difference is made between primary, secondary and higher education as well as special education. Additionally, Belgium also recognizes the freedom of education as a constitutional right. As a result, schools are dispersed over networks and within those networks, schools are divided in groups. The network a school is part of, determines whether the education is considered as state education or as private education. The aforementioned constitutional right of freedom of education has a large impact on the way education is structured in Belgium. As a result, the Flemish government or other organizations do not have the authority to impose policy and regulations. This impacts how topics such as bullying and LGBTI-inclusion is discussed within schools. Additionally, it is stated that schools often deny that there is a problem or a need to discuss gender- and LGBTI-related topics. This implies a need for awareness about the impact of discrimination and bullying in schools, but also a lack of knowledge about the importance of these topics. This should be taken into account when the inclusive school cycle program is developed.

Bullying and cyberbullying is an example of a topic for which the Flemish government is unable to impose policy or other measures. One of the interviewed stakeholders, who works for of a Flemish organization that aims to stop bullying mentioned their work can be hindered if schools were to decline the implementation of preventative measures against bullying. Similarly, adopting an LGBTI-inclusive policy or an anti-bullying policy is up to the discretion of the schools. As such, this is an important aspect to remember when the inclusive school cycle program will be developed.

The legislative framework in Belgium with regard to LGBTI-rights is well developed. Additionally, Belgium is in the second place according to the legal index of LGBTI equality (ILGA-Europe, 2019). Furthermore, Belgium also has an extensive antidiscrimination law that prohibits discrimination on the basis of sexual orientation, transsexuality, gender identity, and gender expression. The law considerably exceeds the requirements set by the European Union directives with regard to discrimination (Borghs, 2016). This legislation, which includes federal laws, decrees and ordinances, recognizes 19 criteria, which are considered possible grounds for discrimination. These criteria form the basis of three laws, which are the gender law, the racism law and the discrimination law (Safe to Be, n.d.). Nonetheless, although homophobia, hate speech and other hate crimes are thus punishable by law, not many cases of LGBTI-phobia end up in court. This made it hard to identify specific case law. Additionally, legislation with regard to (cyber)bullying is limited.

The interviews that were conducted, presented an overview of different stakeholders and their perspective on the topics of discrimination, (cyber)bullying and LGBTI-inclusion, specifically in schools. An analysis of the conducted interviews highlighted several aspects which are important to keep in mind while the project continues. As aforementioned, the constitutional right to freedom of education was mentioned by the interviewees as an aspect that limits the authority of government agencies and other organizations to implement policies and regulations. As such, a school has to be willing to change a policy for example, otherwise no substantial changes will be made. A second aspect that stood out is that schools appear to pay attention to (cyber)bullying and preventative measures, but less so to the topic of SOGIESC. The combination of the two, measures to prevent (cyber)bullying based on SOGIESC, is even more limited. Nonetheless, schools appear to be willing to participate in projects about these topics. A downside to participating in a project however, is that the effect are often short-lived. Thus, going forward with the project, specific attention could be paid to bullying based on SOGIESC and how schools can play a role in this. Additionally, the inclusive school cycle program could be developed in such a way that it is as appealing to schools as participating a project, but simultaneously creating a long-term change. The interviewees also agreed that part of creating an inclusive school environment is based on the participation and knowledge of teachers. This confirms the aim of the project to focus on teachers and other staff. Important to note is that often LGBTI-related topics are not considered a priority. Part of the inclusive school cycle program could therefore be focused on highlighting why discussing these topics should be a priority. If the goal is to train teachers and other staff, they should understand the reason what the importance of an inclusive school climate is. How an inclusive school climate can be created, should accordingly be explained in a practical way, based on easily implemented tools.

Thus, it can be concluded that Belgium is doing well in several aspects with regard to the inclusion of those who identify as LGBTI. Nonetheless, not every school offers an inclusive school climate yet. As such, the development of a tool such as the inclusive school cycle program could prove to be very useful in making LGTI-related topics and the wellbeing of students a priority.

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Annex 1

Interview analysis

Name of the stake-holder	Name of the organization	Service provided	No. of people working or studying in the organization	Role of the person interviewed	Reported cases of discrimination based on SOGI (Y/N)	Reported good practices (Y/N and type)
V.L.	A Flemish network for schools	Pedagogical guidance within a Belgian network for schools.	The pedagogical department has 130 employees Number of students in the schools part of the network: 222269	Head advisor pedagogical department	None, as these cases are not registered within schools. It is assumed that there are many cases. The pedagogical department only deals with extreme cases.	Yes, five good practices within the network are mentioned. The good practices that are discussed vary from zero tolerance policies to education booklets and trainings, as well as including sexual orientation and gender in the new learning criteria for secondary education.
D.G.	Flemish organization against bullying in schools	Guidance and information around the topic of bullying. Assistance for	The organization is based on voluntary work. There are 20 affiliated organizations within the network.	President of the organization	None, as the network does not keep track of incidents. They are aware however of the link between identity,	Yes, the organization does recognize good practices within education. Their influence on schools and their policy however, is limited, due to the

					acceptance and suicide rates.	right of freedom of education. The good practices that are discussed are either trainings, as well as specific tools, designed to help schools in enforcing anti-bullying policies.
C.C.	School group	Education	Number of students: 4059 Number of staff: There are 692 teachers. Other staff such as leadership and support staff totals 390	Coordinating director	Only few and those are considered to be exceptions.	Yes, multiple good practices are identified within the schools. The identified good practices either relate to tackling (LGBTI-)discrimination or (cyber)bullying and how to prevent it from happening. The good practices vary from projects and workshops, to training and raising awareness.

Identification of best practices

Organization	Description of the good practice	What are the results of the practice? Could it be transposed into other countries?
Flemish network for schools	Zero tolerance policy with regard to bullying / discrimination among teachers	A zero tolerance policy might be useful, in that it sends clear signal that discrimination of any kind is not accepted. Depending on the context of another country and the willingness of schools, this might be a relatively easy measure to take and implement.
Flemish network for schools	Booklets about gender and how to create inclusive schools, as well as cyber bullying.	Booklets, and other informative material help teachers to include these topics in their lessons. Depending on the context of another country and the willingness of schools, this might be a relatively easy measure to take and implement.
Flemish network for schools	Gender is mentioned in the school regulations within the anti-bullying section.	Explicitly including gender (and sexual orientation) in school regulations and/or policies creates a basis for follow-up action in cases of discrimination and/or bullying. Depending on the context of another country and the willingness of schools, this might be a relatively easy measure to take and implement.
Flemish network for schools	There are trainings and webinars available for teachers and students about bullying.	By offering trainings, both for students and teachers, an opportunity is provided to create awareness and introduce tools to handle discrimination and (cyber)bullying.
Flemish network for schools	New learning criteria, which include gender and sexual orientation	These learning criteria are a good step in the right direction. As the learning criteria are mandatory for every school, regardless of their network, it provides an opportunity to discuss SOGIESC. Implementing this in other countries depends on their school system. If the school system has a similar structure of learning criteria, it might be possible to translate this good practices to other countries.
Flemish organization against bullying in schools	As of December 2019, a widely accepted and implemented tool at schools is the "anti-pest slang". See annex 2, for an example of the tool.	The tool, the 'anti-pest slang' is an easily accessible tool for schools to use. It creates awareness about bulling, both among teachers and students. It aims to help identify signals of bullying as well as tackling bullying. Depending on the context of another country and the

		willingness of schools, this might be a relatively easy measure to take and implement.
Flemish organization against bullying in schools	Gay-Straight alliances.	The benefit of having a GSA at school, is that it allows for conversations and creates awareness around the topic of LGBTI-issues, without being exclusive. Depending on the context of another country and the willingness of schools, this might be a relatively easy measure to take and implement.
Flemish organization against bullying in schools	Restorative Justice in case of bullying.	The organization focusses in case of bullying on restoration. They vouch for an approach of inclusion and conversation. The goal is to include all the stakeholders, both victims and perpetrators, and be inclusive as a way to inform and rebuild. The result of restorative justice is that there is a conversation about the topic and the case. It allows all parties to be a part of the solution. Depending on the context of another country and the willingness of schools, this might be a relatively easy measure to take and implement.
Flemish organization against bullying in schools	Week against Bullying	Every year, the organization organizes a one-week campaign against bullying. As a result, bullying is discussed both in the media as well as in schools. An event like this is an easy way to create awareness about bullying and the impact it has. It also pushes schools to discuss bullying and discrimination. Depending on the context of another country and the willingness of schools, this might be a relatively easy measure to take and implement.
Flemish organization against bullying in schools	Trainings and webinars	By training (future) teachers to tackle discrimination and bullying, they are prepared to handle incidents when they arise. Unfortunately, these trainings and webinars are not a standard practice. This good practice can be implemented in other countries, depending on the availability of trainings and training institutes. Additionally, the context and the willingness of schools plays a role as well.
School group	Projects and campaigns, such as:	Projects and campaigns are a great way to create awareness and provide tools for both teachers and students. A downfall might be

	Fair Play, a campaign that pays attention to sports and schools. Their goal is to be fair and fun. Workshops "School uit de kast" [School out of the closet]; Paars [Purple], a campaign that combines LGBTI-issues and education. The goal is to create awareness via the 'Paars' newspaper. Additionally, guides for teachers and lesson plans are also made available[13]. Bee Happy Bee Sweet; this is an anti-bullying campaign. Extracurricular activities, such as the visit of an alumnus, a transgender student Posters throughout the schools Additionally, there are existing initiatives and subsidies of cities and municipalities.	that the effects are short-term, whereas a long-term-effect is more sustainable. Nonetheless, a project does not need to be on a temporary basis, as is shown by the Fair Play campaign. This campaign is a part of school policy and ongoing. Implementation of similar campaigns and project might not be as easy to implement in other countries, compared to other good practices. To start a project or campaign, the necessary funds need to be available. Additionally, a project or campaign that is unable to have a sustainable impact might not be as useful compared to projects or campaigns that create change in the long term.
School group	*Schoolwide attention to discrimination and bullying* School wide approach: continuous awareness: a project or action is only temporary to create awareness; Attention to human rights	A school wide approach for good practices is useful, in that it creates awareness both among teachers and students. Additionally, it might help to have a long-term impact. As a result, a warm and safe school environment can be created, which makes it easier to report cases of discrimination and/or bullying. The same is true for having ongoing conversations and allowing for the possibility to have human rights and equality as part of the curriculum. As such, topics such as discrimination, bullying and human rights are part of the curriculum.

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[13] This is an example of the 2021-edition of the Paars newspaper.
https://www.paars.today/wp-content/uploads/2021/01/PAARS-krant-2021.pdf

	Regular mapping of well-being of students Open conversations during certain classes, such as Dutch, world religion courses as well as project based classes.	Via implicit and explicit teaching, the students get in touch with the topics and learn how to deal with it. This good practice is easily implemented in other countries, depending on the context and the willingness of schools. However, if these factors are not a problem, it should be relatively easy to start conversations or implement human rights into the curriculum.

Annex 2 – The 'anti-pest-slang'

The image shown below is the anti-pest-slang. This is a poster, which has been sent out among Flemish schools, as a tool against bullying. The 'snake' shows different aspects of an inclusive and bully-free school. From top to bottom, the following aspects are identified. 1). A warm and connective school climate. 2.) More well-being at school. 3). Prevent bullying. 4). Signify bullying. 5). Tackling bullying. 6). And then..?