

Education Sector Responses to Violence and Discrimination Based on Sexual Orientation and Gender Identity/Expression

Povzetek

Odzivi izobraževalnega sektorja na nasilje in diskriminacijo na podlagi spolne usmerjenosti in identitete/izraza

Nasilje na podlagi spolne usmerjenosti in identitete oz. izraza je oblika spolnega nasilja, ki prizadene tiste, ki so ali pa jih družba dojema, kot da so lezbijke, geji, biseksualne ali transseksualne osebe. V zadnjem desetletju sta se ta oblika nasilja in njen vpliv začela tudi v Evropi pripoznavati kot pomemben pojav v izobraževalnem sektorju. Številne države so se, da bi opozorile na diskriminacijo in zlorabe, usmerjene na spolne manjšine v šolah, odzvale z različnimi ukrepi, predvsem na ravni šolskih politik. Da bi dobili vpogled v to dogajanje ter oblikovali podlago za oceno prihodnjih trendov, je Svet Evrope naročil celostno raziskavo o tem, kako izobraževalni sistemi ustvarjajo varno okolje za učečo se LGBT-populacijo. Izhajajoč iz ključnih ugotovitev te študije so v članku predstavljeni podatki o naravi in vplivu nasilja na podlagi spolne usmerjenosti in identitete oz. izraza. Bralec se seznanja z ukrepi držav članic EU na področju varnosti šolajočih se lezbijk, gejev, biseksualnih in transseksualnih oseb, tako na nacionalni ravni kot na ravni posameznih šol, tematiziramo pa tudi pozitivne učinke inkluzivnih šolskih politik.

Ključne besede: LGBT-mladina, varne šole, šolsko nasilje, inkluzivne politike

Jasna Magić, dr., je raziskovalka in svetovalka z več kot petnajstletnimi izkušnjami v kvalitativnem raziskovanju, oblikovanju anket, analizi, evalvaciji in svetovanju deležnikom na področju zločinov, storjenih iz sovraštva, ter intimnega nasilja nad populacijo LGBT. Trenutno živi in dela v Združenem kraljestvu, kjer raziskuje predvsem intimno nasilje in sodeluje pri razvoju politik na tem področju. (jasnamagich@gmail.com)

Abstract

Violence based on sexual orientation and gender identity/expression is a form of gender-based violence that targets those who are, or are perceived to be, lesbian, gay, bisexual or transgender. In the last decade, education sectors in Europe have started to increasingly acknowledge and recognise this form of violence and its impact in schools. Furthermore, a number of states have developed a range of responses, predominantly on the level of policy, to address discrimination and abuse targeting sexual and gender minorities in schools. To review the situation in Europe and to produce a baseline for assessing future trends, the Council of Europe commissioned a comprehensive study examining how education systems work to create safe learning environments for LGBT students. Drawing on the key findings of the aforementioned study, the article outlines data on the nature and impact of violence based on sexual orientation and gender identity/expression, advances knowledge on how the member states address the safety of lesbian, gay, bisexual and transgender students in national and school-level policies and discusses positive outcomes of an inclusive school policy.

Keywords: LGBT youth, safe schools, school violence, inclusive policy

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Context and Background

European institutions and education stakeholders are slowly beginning to recognise violence on the basis of sexual orientation, gender identity and expression (SOGIE-based violence). The Council of Europe, Europe's leading human rights organisation, with 47 member states, have developed and proposed several tools to fight discrimination against LGBT people in educational settings.¹ Most notable are the Committee of Ministers recommendation CM/Rec(2010) (CoE, 2010) and Resolution 2097(2016) (Parliamentary Assembly, 2016), both of which call on member states to promote respect and inclusion of LGBT persons in schools.

Furthermore, in 2016, the Council of Europe commissioned and published the first comprehensive European review on how education sectors in Europe respond to SOGIE-based violence (Magić and Selun, 2018). The study draws on data from 35 member states and has also benefited from collaboration with civil servants, academics and community advocates.² The researchers also relied on an advisory body which included representatives from civil society organisations from Poland, Ireland and the United States, as well as European and international organisations including IGLYO (The International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Youth and Student Organisation), ILGA-Europe (The European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association) and UNESCO. Their advice and feedback considerably strengthened the validity of the main findings.

The study was published as a report titled *Safe at School: Education Sector Responses to Violence Based on Sexual Orientation, Gender Identity/Expression or Sex Characteristics in Europe* (Magić and Selun, 2018) (hereafter referred to as the Council of Europe Study). The report provides insights into the nature, scope and impact of SOGIE-based violence and highlights best practice interventions addressing and responding to this violence in schools. The main analysis also proposes a framework for the education sectors to plan, develop and implement effective responses and endorses a comprehensive, whole-school intervention as most effective in promoting the social and emotional wellbeing of students. This framework conceptualises a SOGIE-inclusive policy as a first step to safeguarding the health and wellbeing of LGBT students.

¹ UNESCO defines educational settings as "an establishment whose primary activity is education. These include: schools (from pre-primary levels through primary grades onto secondary schooling); colleges; universities; and other places of learning that provide tertiary or higher education." (UNESCO, 2016: 10) In this article, the term "schools" is used with reference to all educational settings, unless specified otherwise.

² The author would like to acknowledge that the study commissioned by the Council of Europe built on the 2016 global study, commissioned by UNESCO titled *Out in the Open: Education Sector Responses to Violence Based on Sexual Orientation and Gender Identity/Expression*. The researchers drew on the regional data already reviewed by the UNESCO study and adopted the same methodological approach, theoretical framework and terminology.

Drawing on data collected for the Council of Europe study, this article summarises data on the nature and impact of SOGIE-based violence in schools, advances knowledge on SOGIE-inclusive policies in Europe and discusses the positive outcomes of an inclusive school policy.

SOGIE-Based Violence in Schools across Europe

SOGIE-based violence is a form of gender-based violence that targets those who identify as, or are perceived to be, lesbian, gay, bisexual and/or transgender (Leach et al., 2014). It can manifest itself as physical, and/or psychological violence, including verbal and emotional abuse, and sexual violence, including sexual coercion and harassment (Minton et al., 2008; Passani and Debicki, 2016; Takács, 2009). In education, this violence typically occurs in or around school and on the way to and from school.

Research from Europe and beyond continuously indicates a significant number of LGBT students feel unsafe at school due to anti-LGBT name-calling, bullying, harassment, physical violence and other aspects of the hostile social climate in many schools (Barron, 2015; Formby, 2013; IGLYO and OBESSU, 2006; Takács, 2006). The largest LGBT survey in Europe to date, carried out by the Fundamental Rights Agency, with over 93,000 respondents, found that 91% of all respondents had experienced negative comments or witnessed negative attitudes or conduct during their schooling before the age of 18. Furthermore, 67% disclosed that they always hide their sexual orientation and/or gender identity in school (FRA, 2013). FRA (2016) also found that most European countries lack objective information about sexual orientation and gender identity in the curriculum and do not provide adequate training for staff on the rights and needs of LGBT students. In addition, most schools do not specifically refer to LGBT students in anti-violence or anti-bullying policies. Consequently, a large number of LGBT students can feel vulnerable, isolated and invisible (Magić and Maljevac, 2016). A negative school climate can also impact on students' self-esteem and mental and physical health and may result in, for example, lower academic achievement and an increased risk of dropping out (Formby, 2013; O'Higgins-Norman, 2009).

Most recent studies examining the experiences LGBT youth (Hamm et al., 2015; Tokunaga, 2010) have also examined violence and harassment perpetuated by use of communication technology, known as cyberbullying. Although most cyberbullying incidents occur outside of the school environment, research notes that the effect of such bullying will often have repercussions spilling over into the school setting.

SOGIE-based violence adversely impacts on the mental and physical health of those involved and may, among other things, result in students internalising problems, feeling unsafe at school (Bradlow et al., 2017), experiencing a

higher degree of isolation, loneliness anxiety and stress (Makuchowska (ed.), 2011; Kuyper, 2015), having lower levels of self-esteem and sense of “belonging” at school (Aerts et al., 2012; Cox et al., 2010; Hamm et al., 2015). In addition, cyberbullying may lead to more frequent attempts at self-harm and suicidal ideation (Hatzenbuehler and Keyes, 2013; Ploederl et al., 2010). Finally, this violence may have a negative impact on educational achievement. Several studies suggest it may lead to lower motivation and lower participation in class or school activities (Bradlow et al., 2017; Formby, 2013), poorer academic results and retention rates (Grossman et al., 2009; Higgins et al., 2016) and lower school attendance or dropping out of school (Higgins et al., 2016; Ryan and Rivers, 2003).

Research Methods, Data Collection and Analysis

The study uses a combination of methods including a desk-based narrative review, and a mixed-method design for collecting primary data (expanded in full in Magić and Selun, 2018):

- The desk-based literature review included 312 online resources, published between January 2007 and October 2017, written in English or French. A review of materials included national or regional laws and policies referring to LGBT and education; peer-reviewed literature or evidence reviews; original research and evaluation reports; and pedagogical guides, manuals and toolkits. Researchers sought information from all 47 Council of Europe member states and prioritised data from countries where the area of SOGIE-based violence in education is under-researched.
- An online survey distributed among 122 national civil servants across Council of Europe member states. This includes 91 members and one observer of the Council of Europe’s Steering Committee for Education Policy and Practice (CDPPE), and 30 members of the Governmental LGBTI Focal Points Network from Council of Europe member states. Responses from 35 member states were received: Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxemburg, Moldova, Montenegro, the Netherlands, Norway, Portugal, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom. The survey was based on a template developed by UNESCO (2016) and gathered data on the nature and prevalence of: SOGIE-based violence, inclusive policies, curricula, staff training and support, student support, information and partnerships with civil society and monitoring and evaluation.
- Twelve semi-structured interviews with education-sector civil servants from 12 different member states. Participating countries included: Albania,

Belgium, Denmark, France, Iceland, Ireland, Malta, Montenegro, the Netherlands, Portugal, Serbia, and the United Kingdom. The interviews provided a deeper insight into the themes derived from analysing the online survey or uncovered by the desk-based literature review of online resources.

Data from the interviews and online surveys was analysed by means of an open coding method (Thody, 2006), which allowed the researchers to identify recurring themes and topics related to state responses to SOGIE-based violence. Researchers summarised all notes into memos which typically contained a short description of the themes that emerged. The memos further facilitated a cross-comparison of the data from the interviews, desk-based review and online surveys.

Responding to SOGIE-Based Violence in the Council of Europe Member States

Drawing on a theoretical framework proposed by UNESCO (UNESCO, 2016; 2017), the study suggests that the most effective responses to SOGIE-based violence in schools consist of a number of mutually reinforcing elements, which form a comprehensive or whole-school approach. This approach most typically includes six mutually supportive interventions:

1. national and school-level policies to prevent and address SOGIE-based violence;
2. curricula and learning materials supportive of diversity;
3. support and training for educational staff, especially teachers;
4. support for students;
5. partnerships with civil society, in part to inform about SOGIE-based violence; and
6. monitoring violence and evaluating responses.

However, data gathered through interviews with education sector officials suggests that interventions preventing and/or addressing SOGIE-based violence in schools are neither universal nor linear in their development and implementation. Education sectors design and introduce responses at different paces, with the progress depending on a range of factors, most often availability of resources, cultural context and political will. Even though a number of education sectors demonstrated some form of responses, these mostly remain unsystematic and, where they exist, they vary greatly in their scope.

A comprehensive approach to SOGIE-based violence was found in six member states: Belgium (regionally), Ireland, the Netherlands, Norway, Sweden and the United Kingdom.

Reviewing individual responses, the study also found that:

- 32 member states as well as Kosovo have enacted laws or policies on sexual orientation in education, and 24 member states as well as Kosovo have adopted laws or policies on gender identity/expression in education;
- 26 member states have curricula featuring sexual and gender diversity;
- 24 member states have provided or started providing training or support on sexual orientation or gender identity/expression to teachers and other staff;
- 16 member states have provided or started providing support to students affected by SOGIE-based violence;
- 22 member states have partnered with civil society to prevent and address SOGIE-based violence in education; and
- 11 member states have monitored SOGIE-based violence, and/or evaluated responses to it.

Finally, in 12 member states,³ no responses were found. Lack of political will in combination with a conservative and anti-gender movement (ILGA-Europe, 2017) have been cited to affect the development of inclusive interventions. For example, two member states, Lithuania and the Russian Federation, directly outlaw the discussion of sexual orientation or gender identity in objective or positive terms, either in public or in the presence of minors. In 2010, Lithuania amended its Law on the Protection of Minors against the Detrimental Effect of Public Information to outlaw sharing or discussing information that would “promote” (speak objectively or positively about) sexual relations or other concepts of family other than heterosexual relations (Republic of Lithuania, 2009). In addition, in 2013, the Russian Federation amended its federal Law on the Protection of Children from Information Liable to Be Injurious to their Health and Development to prohibit any discussion of LGBTI issues in the presence of minors (Human Dignity Trust, 2014).

Safeguarding the Rights of LGBT Students at the Level of Policy-Making

Education sectors in Europe address the situation of LGBT students across policy in different ways. Most typically, policies that specifically enumerate SOGIE characteristics broadly fit within the following approaches:

1. national anti-discrimination or equality legislation applicable to education;
2. national education policy or action plan; and
3. anti-violence or anti-bullying school-level policies.

³ Armenia, Azerbaijan, Greece, Latvia, Liechtenstein, Macedonia, Moldova, Monaco, Russia, San Marino, Turkey, Ukraine.

National anti-discrimination or equality legislation applicable to education

Currently, in 32⁴ Council of Europe member states, anti-discrimination or equality laws explicitly offer protection on the basis of sexual orientation or gender identity/expression indication. Of these, all 32 specifically prohibit discrimination on the basis of sexual orientation, while 24 prohibit discrimination based on gender identity/expression.

States may address the situation of LGBT students within the framework of a single law. For example, Albania, Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Slovenia prohibit discrimination within the general anti-discrimination legislation. While in Germany, Finland and the United Kingdom, LGBT students are protected within a national equality law.

In other countries, two pieces of legislation operate jointly to safeguard the rights of sexual and gender minorities. In Serbia, for example, anti-discrimination legislation, in conjunction with national education policy, guarantees equal rights of lesbian, gay and bisexual students in higher education. This national law, however, does not explicitly enumerate gender identity/expression as protected characteristics. Similarly, in Norway, the equality law, combined with the anti-discrimination law, mandates all educational institutions to develop interventions to prevent and address harassment and discrimination based on SOGIE.

National education policy or action plan

Data from interviews also suggest that in many cases national equality or anti-discrimination legislation serves as an impetus for area-specific policy-making. This may also include policies specific to the education sector.

Currently, 18⁵ member states explicitly prohibit violence based on sexual orientation and gender identity/expression in their national education policy. For example, in Portugal, the national Student Statute prohibits any discrimination on grounds of SOGIE in a school environment and, in Spain, the Law on Improving the Quality of Education views SOGIE-based discrimination as a serious offence. In federal states, such as Belgium, Germany and Spain, where education is de-centralised, individual regions have adopted their own inclusive education policies, as is the case, for example, for the city of Berlin in Germany and the Community of Madrid in Spain.

⁴ Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Kosovo, Lithuania, Luxembourg, Malta, Montenegro, the Netherlands, Norway, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

⁵ Albania, Belgium, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Malta, Montenegro, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom.

There is also a notable trend towards addressing the situation of LGBT students within broader national action plans or strategies. This is the case, for example, in Belgium, Denmark, Ireland, France, Malta, Portugal and the UK. In Germany, action plans setting out SOGIE-inclusive measures for the education sector were adopted by at least two regions, the state of Berlin and the region of North-Rhine Westphalia.

National action plans have also started to emerge in the Western Balkans. Albania and Montenegro have both included education as one of the areas within their national LGBT action plans. In addition, in Serbia the general anti-discrimination strategy explicitly refers to sexual orientation and gender identity and mandates specific actions in secondary schools and higher education.

Anti-violence or anti-bullying school-level policies

Data from interviews also suggests that for national and educational policies and action plans to have the desired effect, they need to be translated into measures and procedures at the level of schools.

Several individual educational institutions in various geographic settings across Europe have introduced inclusive anti-violence and anti-bullying policies. For example, the Faculty of Medicine at the University of Montenegro adopted a policy against discrimination for LGBT students and staff in 2014. In the Netherlands, all primary and secondary schools have a comprehensive social safety plan which, in most schools, includes explicit references to sexual orientation or gender identity/ expression. Similarly, in Ireland, Spain and the UK, equality legislation or a national strategy mandates all public and private schools to develop and promote SOGIE-inclusive anti-bullying policies.

To safeguard the health and wellbeing of transgender students, a primary school in Iceland adopted a gender-neutral policy in 2016, which among other things, mandates schools to remove gendered signs in bathrooms. In the same year, the University of Iceland changed registration procedures to allow transgender students to change their names on all documents. In 2015, the Maltese government introduced a comprehensive policy for transgender, gender-variant and intersex children in education. The policy, which is deemed among the most progressive in the world, highlights specific procedures schools need to adopt to protect students' privacy, such as: offer gender-neutral facilities, provide counselling and supportive information, and adopt inclusive policies and language. In the Netherlands, the Ministry of Education, Culture and Science produced guidance for universities in 2010, encouraging them to reflect students' self-determined gender accurately on diplomas. In addition, in Spain, the University Complutense of Madrid set up an LGBT support office in 2017, which supports transgender students seeking to change their name and gender on the register.

Effect of a SOGIE-Inclusive School Policy on Student Wellbeing

Integrating specific references to SOGIE into broader policies challenges stereotypes related to LGBT issues and acknowledges that LGBT students are a valuable part of the school community. Where policies lack a clear reference, SOGIE-based violence may often be overlooked and remains unaddressed (Magić and Selun, 2018; UNESCO, 2016). Tackling the generic nature of policy response to SOGIE-based violence in the European region, the Fundamental Rights Agency (2016), for example, found that educational policies are inadequate and ineffective in dealing with bullying on the specific grounds of sexual orientation or gender identity.

Academic literature discussing implications of SOGIE-inclusive policies in Europe is still scarce. However, several studies, conducted across various geographic settings have linked policies that prohibit discrimination and bullying based on sexual orientation and gender identity/expression with multiple positive outcomes for students. For example, in Chile, Berger et al. (2017) found that students who were aware of having a SOGIE-inclusive anti-bullying policy reported less frequently hearing teachers or staff make homophobic comments. In an Australian study, Jones (2016) suggests that anti-bullying policies explicitly enumerating SOGIE protections may contribute to supportive educational environments by giving a clear indication to teachers and staff that SOGIE-based bullying is unacceptable. Research from the United Kingdom confirms that students in schools with inclusive anti-bullying policies report better health and academic outcomes than students in schools without policies (Ttofi and Farrington, 2010); they are also less likely to worry about being bullied and more likely to tell someone if they are bullied (Bradlow et al., 2017). In addition, evidence from the US suggests that LGBT students in school districts with inclusive policies reported greater school safety, less victimization based on their sexual orientation and gender identity/expression, and less social aggression than students attending schools with generic policies (Kull et al., 2016). Lesbian, gay, and bisexual students in more supportive educational environments also report a lower risk of suicide attempts (Hatzenbuehler and Keyes, 2013).

Moreover, Berger et al. (2017) suggest SOGIE-inclusive school policies might also give assurance to students that biased victimisation will be taken seriously and that teachers and staff are supported to follow a set of procedures to respond to it. This may be of particular importance as violence experienced by LGBT students is frequently minimised by victims as well as educational staff and acutely underreported. For instance, almost half (45%) of gay, lesbian, bisexual and transgender secondary school students in the United Kingdom who are bullied never tell anyone (Bradlow et al., 2017). Furthermore, in France, 82% of LGBT young people, who have been subjected to homophobic insults never reported the victimisation to any authority (Larchet, 2017).

Conclusion

The European regional study, commissioned by the Council of Europe, is the first comprehensive overview of how education sectors respond to SOGIE-based violence in Europe. The study provides a significant contribution to the efforts examining the situation of LGBT students in Council of Europe member states. Key findings bring together information on the nature and impact of SOGIE-based violence in Europe, applicable international and European legal frameworks and a summary of current responses implemented by the education sectors. With a focus on policy-level response, this article provides a summary of actions that safeguard LGBT students at the level of national and school policy. The article summarises a variety of approaches undertaken by member states to address the safety of lesbian, gay, bisexual and transgender students in national and school-level policies and lends further support to the argument that inclusive policies can contribute to a safer educational and social environment.

Although the increase of national policies, action plans and other strategy mechanisms to prevent and address SOGIE-violence and discrimination is positive, it is important to recall that policies alone are not enough. Without adequate dissemination and implementation of policy measures that include training of education staff, inclusive curricula and monitoring of violence, the policy framework may remain without effect. Future research should focus on and examine whether and how effectively policy responses, enumerating SOGIE characteristics in education, have been implemented across Europe.

Research Limitations

The following observation related to data analysis and key findings of this study should be considered.

Firstly, research on the experiences of LGBT students in the Council of Europe member states varies widely in quality, reliability of data and availability. The majority of the data is generated by small-scale studies, using non-random sampling methods, which means that the findings are not directly comparable nor can they be extrapolated and generalised to represent experiences of all LGBT students. Secondly, the authors relied on information and research available in English and only included resources that were publicly available online or provided by key informants. Finally, the information relating to SOGIE-inclusive policies, obtained by the online surveys and semi-structured interviews, demonstrated a great variance between the member states in understanding of the questions. In some cases, this may have led to conflicting information being provided by the respondent, as opposed to information obtained through the literature review. Where data was inconsistent or contradictory, the researchers initiated follow-up inquiries in an attempt to clarify the questions and re-assess the information provi-

ded. Where that was not possible, the data, considered erroneous, was consequently cross-referenced with sources identified via the literature review in order to establish accuracy and validity of data used.

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