
Legislative Definitions around Learners' Needs

A snapshot of European country approaches



EUROPEAN AGENCY
for Special Needs and Inclusive Education



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A snapshot of European country approaches



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Editors: Marcella Turner-Cmuchal and Amélie Lecheval

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INTRODUCTION

The work of the European Agency for Special Needs and Inclusive Education (the Agency) focuses on supporting the development of inclusive education systems to ensure **every** learner's right to inclusive and equitable educational opportunities (European Agency, 2015a). This enhances learners' life chances and possibilities for actively participating in society.

The Agency's [2021 Key Principles report](#) stresses the importance of a clear understanding of the concepts encompassed by the goal of achieving all learners' rights to inclusive education:

Within legislation and policy, there must be a clear concept of equitable high-quality inclusive education, agreed with stakeholders. This should inform a single legislative and policy framework for all learners, aligned with key international and European-level conventions and communications, as the basis for rights-based practice (European Agency, 2021a, p. 12).

Agency work also acknowledges that every learner has their own unique experiences of discrimination and/or barriers to learning. All aspects of Agency work aim to consider everything and anything that can marginalise learners and increase their chances of exclusion (European Agency, 2021b). This requires a move away from a medical approach and labelling with separate provision for different groups, towards a rights-based approach that focuses on the barriers within the system (European Agency, 2022a).

Central to this commitment and understanding of inclusive education are the legal definitions or descriptions in policy that Agency member countries use to identify and potentially label learners to make additional provision and resources available for them based on their needs.

The Agency member country representatives highlighted this topic as a priority for further examination in Agency work. Accordingly, it was built into the *Multi-Annual Work Programme 2021–2027* (European Agency, 2021c). As a result, the Agency undertook a



desk research activity entitled [Legislative Definitions around Learners Vulnerable to Exclusion](#).

In line with this central commitment, this activity has focused on collecting and analysing information regarding legal definitions or descriptions used in Agency member countries. There was a specific focus on legislative definitions around **all** learners vulnerable to exclusion in education systems. The aim was to collect evidence on:

- How countries identify and label learners based on their needs and which legal definitions are being used.
- What these definitions may indicate in terms of an underlying approach to inclusive education systems.

This report presents the results of the desk research activity.

[Section 1](#) introduces developments in the thinking around learners' needs as the background and rationale leading to this activity.

[Section 2](#) presents the steps taken in the activity's analysis.

[Section 3](#) presents how countries identify and label groups of learners.

[Section 4](#) discusses possible developments in the thinking that guides legislation around learners' needs and what these may indicate in terms of an underlying approach to inclusive education systems within Agency member countries.



1. DEVELOPMENTS IN THINKING AROUND LEARNERS' NEEDS

Since the Agency's foundation in 1996, there have been key conceptual changes in countries' thinking behind and policy priorities for inclusive education (European Agency, 2022a). Across European countries, the debate about developing education systems that are equitable for all learners has moved from 'integration' (the mainstreaming of learners with special educational needs), to 'inclusion' (more focused on 'learning opportunities' for all learners), to the more current and broader understanding of inclusive education as an equitable and high-quality education for all learners (European Agency, 2022a; Murdoch, Bilgeri and Watkins, in press).

A first shift was from the concept of special educational needs (SEN) to special needs education (SNE). This represented a move away from focusing on the learner (special educational needs), towards a focus on the provision that learners who experience difficulties at school may need (special needs education). The term '**special needs education**' widened the focus beyond learners with disabilities to include learners who appeared to be failing in school for a wide variety of reasons – for example, children living in poverty or those from different linguistic or cultural backgrounds. Special needs education, however, continued to take a categorical approach underpinned by a medical model. This model still saw the deficit as being within the learner and as needing to be addressed through compensatory measures (Hurst, 2003; Bunbury, 2019).

There has never been an agreed definition of SEN or SNE that could be used across countries. The groups of learners considered as having **special needs** requiring additional provision to be made for them largely differ across countries.

In *Celebrating 25 years on the path to inclusive education*, the Agency acknowledges that:

... many countries continue to use categorical descriptions of disability or some process of classification to determine eligibility for services, to plan for special needs education and to gather data about the effectiveness of services provided (European Agency, 2022a, p. 58)



and that:

Inclusive education challenges the concept of special needs education as 'different from' or 'additional to' the education provided for most learners. Despite this, it has often replicated rather than replaced the structures and processes of special needs education (ibid., p. 60).

Hunt also criticises this, arguing that inclusive education 'requires the rethinking and reconceptualization of education and of ALL elements within it' (2020, p. 6). This emphasises the need to move away from categorising learners – potentially based on medical models – and having an overall focus on all **learners vulnerable to exclusion** from education (Ainscow et al., 2006).

Current Agency work focuses on supporting the development of **inclusive education systems** in its member countries to ensure every learner's right to inclusive and equitable educational opportunities. This aim is directed at **all learners**, while recognising the need to specifically address the particular needs of some **learners vulnerable to exclusion** from education.

Agency work also acknowledges that every learner has their own unique experiences of discrimination and/or barriers to learning. It therefore considers everything and anything that can marginalise learners and increase their chances of exclusion. There is increasing recognition of the need to take account of **intersectionality** – the interconnected nature of all social categorisations – when considering the needs of all learners (Nadan and Korbin, 2018). These categorisations may include, for example:

... gender, remoteness, wealth, disability, ethnicity, language, migration, displacement, incarceration, sexual orientation, gender identity and expression, religion and other beliefs and attitudes (UNESCO, 2020a, p. 4).

This way of considering inclusion in education requires a move away from categorising learners, towards a conceptualisation and approach that focus on the barriers some learners experience within the education system that may lead to their marginalisation and exclusion from learning opportunities.

The *Global Education Monitoring Report Summary 2020* highlights the complexity of these barriers. It emphasises a more normative view and states that:

Contextual factors, such as politics, resources and culture, can make the inclusion challenge appear to vary across countries or groups. In reality, the challenge is the same, regardless of context ...

Inclusion cannot be achieved one group at a time ... Learners have multiple, intersecting identities. Moreover, no one characteristic is associated with any predetermined ability to learn (UNESCO, 2020b, p. 11).

Social categorisations of learners and their needs may also form the basis for **anti-discrimination** legislation linked, for example, to international conventions such as the [Convention on the Rights of Persons with Disabilities](#) – CRPD (United Nations, 2006), the [Convention on the Rights of the Child](#) – CRC (United Nations, 1989), and to the Sustainable



Development Goals. These all highlight social categorisations and how education may address them (Hunt, 2020; Murdoch, Bilgeri and Watkins, in press).

The move in focus from a categorical approach, underpinned by a medical model within special needs education, towards a more normative view, focusing on the rights of every learner regardless of their circumstances, requires a necessary change in educational thinking and culture. In an education system aimed at achieving equity in education for all learners, the focus on learner categories and individual support – **categorical approach** – needs to change to a focus on increasing schools' capacity to respond to all learners' diverse needs – **rights-based approach** (European Agency, 2022a).

1.1 Essential terminology used in this report

Developments in thinking around inclusive education as an approach to high-quality education for **all** learners (European Agency, 2021a) lead to discussions around the need to identify learners' needs without using different labels (in particular, labels based on medical or deficit models). All countries are currently facing the problem of framing their legislation and policy so that it clearly aims to ensure the full participation of and raised achievement for all learners in a way that avoids labelling individuals or groups of learners. The dilemma of whether to use different labels or not is evident in countries' legislation and policy documents, implementation strategies and plans, and in their monitoring and data collection activities.

It is beyond the scope of the Legislative Definitions around Learners Vulnerable to Exclusion activity and this report to resolve this dilemma. Rather, the aim here is to explore it and provide concrete evidence of how countries are responding to it and reflecting this tension within their current legislation and policy documents.

Consequently, a main challenge during this activity was to identify and agree upon the terminology that should be applied consistently throughout the analysis and report.

The aim of this report, as the title reflects, is to identify evidence of the legislative definitions around learners' needs currently being used in countries. Throughout this work, the term '**learners' needs**' has been understood as a way to highlight a requirement for educational provision and/or support without applying a label based on an external factor that in some way describes or impacts upon an individual or group of learners. The use of the non-categorical term 'learners' needs' would be an **ideal** approach, which is in line with the Agency position on inclusive education systems (European Agency, 2022b).

However, the **reality** – as evidenced by analysing countries' legislative definitions or descriptions in policy around learners' needs – clearly indicates that the way legislation and policy documents describe learners' needs focuses less on learner requirements for provision and support, and more on externally generated labels that identify groups of learner characteristics.

A key task for this activity has been to systematically identify and categorise these labels. Sections 2.1 to 2.4 describe this task.



Throughout this report, the terms ‘**categories of groups of learners**’ and ‘**groups of learners**’ are used. These terms refer to the groups of learners identified through the analysis conducted in this activity. However, it must be made clear that references to categories of groups of learners throughout this document do not in any way endorse or promote the labelling of learners. The term ‘groups of learners’ has been applied as a way of investigating where and how country legislation and policy make distinctions between different groups of learners who may be vulnerable to exclusion.

The Agency also recognises that no ‘list’ can claim to be definitive. It is clear that there may be groups of or individual learners who are vulnerable to exclusion, but who are not included in the list used for the analysis and this report. In addition, individual learners may also belong to multiple groups identified in the list.

A consideration of the critical issues around who is and is not identified within different categorical systems and approaches leads to discussions around how legislation and policy that aim to meet **all** learners’ needs can take a non-categorical approach to identifying learner requirements for support. [Section 4](#) of this report presents indications of this direction of travel in legislation and policy development.





2. THE LEGISLATIVE DEFINITIONS ACTIVITY

Based on these developments in the thinking around inclusive education, in autumn 2021 it was agreed that the Agency would conduct a desk research activity focused on the legislative definitions on learners' needs. From autumn 2021 to autumn 2022, an Agency staff team carried out the activity, with input from the Agency member countries.

All Agency member countries are committed to working towards the ultimate vision of equitable and high-quality education for all learners, which respects their unique experiences and learning needs (European Agency, 2015a). Countries do so in different ways, depending on their past histories and current contexts. Inclusive education systems are seen as a vital component within the wider aspiration of more socially inclusive societies that all countries align themselves with, both ethically and politically (Council of the European Union, 2010; Meijer, 2010; European Agency, 2018).

In education, the work of the European Union (EU) and that of the United Nations organisations working on the Sustainable Development Goals (SDGs) are clearly aligned. The European Commission closely monitors these goals, within and across the EU member states (European Commission, 2021). Here, there has been demonstrable progress towards [SDG 4 \(quality education\)](#) targets due to increasing participation in three areas: early childhood education, basic and tertiary education, and adult learning. However, overall progress in the five years to 2021 has been deemed 'moderate' (Murdoch, Bilgeri and Watkins, in press).

However, the *Global Education Monitoring Report Summary 2020*, which focuses on monitoring progress towards SDG 4 commitments in relation to inclusion in education, states that globally:

Laws tend to target specific groups at risk of exclusion in education. The broad vision of including all learners in education is largely absent from national laws. Only 10% of countries reflected comprehensive provisions for all learners in their general or inclusive education laws. More commonly, legislation originating in education ministries concerns specific groups. Of all countries, 79% had laws referring to education for people with disabilities, 60% for



linguistic minorities, 50% for gender equality and 49% for ethnic and indigenous groups (UNESCO, 2020b, p. 15).

The report also states that globally:

Discrimination, stereotyping and stigmatization mechanisms are similar for all learners at risk of exclusion. While 68% of countries have a definition of inclusive education, only 57% of those definitions cover multiple marginalized groups (ibid., p. 10)

Given this situation, the Legislative Definitions activity has aimed to examine where legislation in Agency member countries stands in relation to this broad vision of including all learners in educational opportunities alongside their local community peers. Specifically, this activity examines how Agency member countries legally define and describe learners' needs in terms of considering them as groups of **learners with special needs** or **learners vulnerable to exclusion**. It also considers how learners' needs are defined and/or described within **anti-discrimination legislation** and **legislation for inclusive education**, and explores the concept of **intersectionality**.

To examine the legal definitions around learners' needs across countries, the Agency team collected and analysed country-specific and wider information in line with the four steps outlined below.

2.1 Collection of information on legislative definitions used in countries

During autumn 2021, the Agency team drafted an [information-gathering template](#) to collect data (see Annex). The template included questions where, in relation to the respective question focus, countries could either:

- provide their **self-assessment** of the issue through a multiple-choice question or
- include **extracts from policy documents providing evidence** on what their policy states.

The questions in the template aim to identify whether legislative definitions or descriptions in policy exist in relation to:

- learners with special needs;
- learners vulnerable to exclusion;
- anti-discrimination legislation;
- legislation for inclusive education;
- the concept of intersectionality.



For all questions in the template, the Agency team members drafted responses by extracting information from existing sources and reports that had been approved by Agency country representatives or were publicly available.

The extracts were from reports from the following Agency activities:

- [Country Policy Review and Analysis](#)
- [Changing Role of Specialist Provision in Supporting Inclusive Education](#)
- [European Agency Statistics on Inclusive Education](#)
- [Supporting Inclusive School Leadership](#).

In addition, country information was extracted from the [Agency country information pages](#), [Eurydice](#) and the [Global Education Monitoring Report, 2021, Central and Eastern Europe, Caucasus and Central Asia: Inclusion and education: All means all](#) report and country profiles (UNESCO, Network of Education Policy Centers and European Agency, 2021). The extracts included texts from policy and legislation and were used to answer the template's various questions.

In total, Agency team members drafted 35 country reports for the Agency member countries and jurisdictions taking part in the activity: [Austria](#), Belgium ([Flemish community](#) and [French community](#)), [Bulgaria](#), [Croatia](#), [Cyprus](#), [Czech Republic](#), [Denmark](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Greece](#), [Hungary](#), [Iceland](#), [Ireland](#), [Italy](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Malta](#), [Netherlands](#), [Norway](#), [Poland](#), [Portugal](#), [Serbia](#), [Slovakia](#), [Slovenia](#), [Spain](#), [Sweden](#), [Switzerland](#) and United Kingdom – UK ([England](#), [Northern Ireland](#), [Scotland](#) and [Wales](#)).

These draft reports were sent to Agency country representatives for revision and approval of both the multiple-choice questions and extracts provided.¹

The first steps in analysing the approved country reports were to:

1. collate the responses to the multiple-choice questions;
2. go through all the country reports and identify how learners' needs were mentioned within legislation.

The second task is described in more detail below and in the following sections.

Each mention of a learner's need was recorded consistently across the reports. This recording process was used to generate a long list of possible coding terms relating to **categories of learner needs**. During this process, it became evident that the way learners' needs were described focused less on their requirements for provision and support, and more on labels for groups of learners. Consequently, the analysis considered **categories of groups of learners** from that point on.

The Agency team then reviewed and merged the potential coding terms into a final list of categories that represented the different groups of learners identified in the legislative

¹ At the time of this activity, there was no country representative for Slovakia to validate the report. However, the report has been included in the analysis as all information used was validated in previous Agency activities.



definitions or descriptions in policy across countries. As countries sometimes used very different terminology, different Agency team members cross-checked the country reports to ensure consistency in the coding of the terms.

[Table 1](#), column 1, presents the categories of groups of learners found in the country data.

2.2 Collection of information on categories of groups of learners identified within European and international policy documents

In addition to analysing the categories of groups of learners found in the country reports, the Agency team analysed European and international policy documents to identify which categories they use. The aim was to both align the categories found in the country reports and identify categories that may be missing.

The team used the following documents in this step:

- [Strength through Diversity](#) (OECD, 2021)
- [Brussels Declaration](#) (UNESCO, 2018)
- [Education and Training Monitor 2021](#) (European Commission, 2021)
- [Global Education Monitoring Report 2020: Inclusion and education: All means all](#) (UNESCO, 2020a) and the corresponding [report summary](#) (UNESCO, 2020b).

The *Brussels Declaration* was a key document for checking which groups the analysis in this activity should consider. It underpins work linked to the Sustainable Development Goals and refers to groups of learners vulnerable to exclusion:

Particular attention will be given to those in vulnerable situations, persons with disabilities, indigenous peoples, those in remote rural areas, ethnic minorities, the poor, women and girls, migrants, refugees, and displaced persons, whether as a result of conflict or natural disasters (UNESCO, 2018, p. 2)

Another important document was the conceptual framework for *Promoting inclusive education for diverse societies* (Cerna et al., 2021), particularly its reference to different groups and the presentation of the concept of intersectionality between dimensions of diversity (for example, special education needs, gender or ethnic groups) and overarching factors (socio-economic status and geographic location).

This analysis of European and international policy documents led to the following list of categories: age and ageing, ethnic minorities, gender, gender identity, migrants, persons with disability, persons in remote rural areas, psychological or socio-emotional issues, refugees and displaced persons, poor, result of conflict or natural disasters, school leavers and drop-out, women and girls.

[Table 1](#), column 2, presents the categories of groups of learners found in the European and international policy documents.



2.3 Identifying the final categories used in the analysis

The list of categories identified in European and international policy documents was mapped against and combined with the categories of groups of learners identified during the collection of information on legislative definitions used in countries. While there was an overlap, the country data specifically mentioned groups that were not included in the additional policy documents reviewed. These groups were added and included for the next step of the analysis work.

The final list covers all groups of learners who are mentioned in Agency member countries' policy and legislation and/or European and international policy documents and were therefore included in the activity analysis.

[Table 1](#), column 3, presents this final list of groups of learners.

Table 1 describes all the categories of groups of learners identified in the different steps of the analysis.



Table 1. Categories of groups of learners identified throughout the analysis

Groups of learners identified in country data	Groups of learners identified in European and international policy documents	Groups of learners used for the analysis
Addiction and substance abuse	Not named	Addiction and substance abuse
Age; late entry to school; grade repetition	Other dimensions of diversity: age and ageing (OECD)	Age-related issues
Delinquent behaviour; young offenders; involvement or inclination to engage in criminal activity; youth in juvenile detention centre	Not named	Delinquent and criminal behaviour
<p>Learners with additional support needs; developmental difficulties; difficulty in learning; failing to do homework; gifted learners; learners with special educational needs; learners with learning difficulties; dyspraxia; dyscalculia; dyslexia; attention deficit hyperactivity disorder (ADHD)</p> <p>Sensory impairment; speech impairment; movement-related learning impairment; children with intellectual disability; visual impairment; hearing impairment; children/young people who have been admitted to hospital, a residential setting or who are staying in a preventorium; moderate or severe intellectual disabilities; learners with an illness or who are convalescent; autism spectrum disorder; neurodevelopmental disorders; chronic health issues; physical condition; physical disability; psychological difficulties; behavioural difficulties; in care; multi-sensory impairment</p>	<p>Persons with disability (<i>Brussels Declaration, 2018</i>)</p> <p>Other dimensions of diversity (OECD)</p>	Disabilities, special needs and learning difficulties



Groups of learners identified in country data	Groups of learners identified in European and international policy documents	Groups of learners used for the analysis
<p>Learners who are exposed to the threat of damage to their physical, mental, moral, intellectual and social development</p> <p>Victim of violence and exploitation; victim of domestic violence; victim of psychological, physical or sexual abuse; parental neglect and abandonment; crisis or traumatic experience</p> <p>Humanitarian crisis that has affected not only EU member states</p> <p>Learners with parents who are war veterans or displaced</p>	<p>Result of conflict or natural disasters (<i>Brussels Declaration, 2018</i>)</p>	<p>Experience of crisis or trauma</p>
<p>Gender, gender identity or sexual orientation</p> <p>Marital status, maternity, pregnancy or paternity</p>	<p>Women and girls (<i>Brussels Declaration, 2018</i>)</p> <p>Other dimensions of diversity: gender, gender identity (OECD)</p>	<p>Gender, gender identity, LGBTQI+ (lesbian, gay, bisexual, transgender, queer/questioning, intersex) or gender-related issues</p>
<p>Rural areas; children and young people living in deprived areas; limited access to tertiary education; learners who attend school in areas with low educational quotient</p>	<p>Persons in remote rural areas (<i>Brussels Declaration, 2018</i>)</p>	<p>Living in remote, rural or disadvantaged areas</p>
<p>Displaced; refugees; asylum seekers; foreign minors</p> <p>Stateless children who are on the child protection register</p> <p>Persons who have been granted international protection</p> <p>Migrant learners; newly arrived learners</p>	<p>Refugees and displaced persons (<i>Brussels Declaration, 2018</i>)</p> <p>Other dimensions of diversity (OECD)</p> <p>Migrants (<i>Education and Training Monitor 2021</i>)</p> <p>Migrants (<i>Brussels Declaration, 2018</i>)</p>	<p>Migrants, refugees and newly arrived</p>



Groups of learners identified in country data	Groups of learners identified in European and international policy documents	Groups of learners used for the analysis
Cultural diversity; ethnic or cultural minorities; language minorities; religion and beliefs; Roma and traveller community; learners with severe ignorance of the language of learning; bilingual learners; second language learners; disadvantaged children/young people (both native and from ethnic minorities); linguistic and cultural disadvantages; different social, linguistic and cultural backgrounds; learners who are non-native speakers	Ethnic minorities (<i>Brussels Declaration, 2018</i>)	National minorities and cultural diversity
Early school leavers; expulsion; learners with multiple grade retention years; risk of drop-out; learners reported because of repeated absences or tardiness; lack of school attendance and continuity; risk of out of school; transition to labour market	School leavers, drop-out (<i>Education and Training Monitor 2021</i>)	Out of education



Groups of learners identified in country data	Groups of learners identified in European and international policy documents	Groups of learners used for the analysis
<p>Disadvantaged learners; social background; at-risk families; adverse environmental factors; social exclusion; social-economic; learners with disadvantaged socio-economic background; socially unstimulating backgrounds; learners with socio-economically disadvantaged status; socially disadvantaged learners; learners at risk of social disadvantage</p> <p>Learners from lower socio-economic backgrounds; learners from low-income families; children living in poverty; lacking financial resources; child neglect resulting from the financial situation of the learner and their family</p> <p>Learners in situation of socio-educational vulnerability</p> <p>Special personal circumstances; children from families that are given some form of social protection; orphans or children under the protection/supervision of the social welfare services; learners who are looked after by a local authority or who have been adopted; children in care; learners who experience begging or homelessness</p> <p>Learners with parents with health issues; children of seriously ill parents; family environment that may harm the child’s development; learners who are living with parents who are abusing substances; learners who are living with parents who have mental health problems; children without parental care</p> <p>Children of parents in military</p> <p>Single-parent families; children from large families; parents’ educational level</p>	<p>Poor (<i>Brussels Declaration, 2018</i>)</p>	<p>Socio-economically disadvantaged background</p>
<p>Social-emotional challenges; learners with social-emotional problems; children/young people with an emotional or behavioural disorder who do not have an intellectual disability</p>	<p>Other dimensions of diversity: individual well-being (OECD)</p> <p>Psychological or socio-emotional (<i>Education and Training Monitor 2021</i>)</p>	<p>Socio-emotional difficulties</p>



2.4 Cross-country analysis

Using the agreed list, the Agency team analysed the information collected from the Agency member countries to identify which of the categories of groups of learners are officially identified within country legislation or policy.

Quantitative data was collected consisting of the number of countries that mention specific groups of learners within the evidence from extracts or from the responses to the multiple-choice questions.

As a final step, the Agency team looked at the categories of groups of learners evident in country reports to explore the possible approaches to and underlying conceptual basis for identifying learners' needs across Agency member countries. Specifically, the team examined:

- **possible** developments in thinking around legislative definitions linked to groups of learners with particular special needs;
- movements towards broader legislative definitions linked to learners vulnerable to exclusion within legislation for anti-discrimination and/or inclusive education;
- the concept of intersectionality.

[Section 3](#) presents the results of this analysis.





3. GROUPS OF LEARNERS WHO ARE INCLUDED IN COUNTRY LEGISLATIVE DEFINITIONS AND POLICY

This section presents the country findings regarding:

1. Legislative definitions or descriptions in policy relating to learners with special needs
2. Legislative definitions or descriptions in policy relating to learners vulnerable to exclusion
3. Anti-discrimination legislation
4. Legislation or policy for inclusive education
5. Legislation or policy that considers issues around intersectionality.

The first four sub-sections include analysis results presented as:

- a summary of how many countries use the different categories of groups of learners in their legislation or policy;
- a chart showing how many groups of learners are found in legislation across Agency member countries;
- a table of which Agency member countries identify specific groups of learners;
- a summary statement relating to the groups of learners identified in country legislation and what this may indicate regarding the possible approaches and underlying conceptual basis for identifying learners' needs.

As different information on the concept of intersectionality was collected, this section includes details of quantitative data collected and a short summary statement.

All data is based on the information collected from 35 Agency member countries and jurisdictions (see [list in section 2.1](#)).



Data linked to all questions was not collected for all countries. As a result, the total number of responses varies throughout the reported results. Each of the five sections directly relates to different sections in the [information-gathering template](#) presented in the Annex.

3.1 Legislative definitions or descriptions in policy relating to learners with special needs

For the purposes of the analysis work, a **learner with special needs** is understood as a learner who:

... for a wide variety of reasons, require[s] additional support and adaptive pedagogical methods in order to participate and meet learning objectives in an education programme. Reasons may include (but are not limited to) disadvantages in physical, behavioural, intellectual, emotional and social capacities ([UNESCO Institute for Statistics, 2012](#), p. 83).

3.1.1 Countries with definitions of special needs in their legislation or policy

The country information provided evidence of the existence of legal definitions around special needs. Table 2 presents the results.

Table 2. Countries with definitions of special needs in legislation, policies and programmes

Statements	Evidence	No evidence
There is a legal definition of special needs.	29: Austria, Belgium (Flemish community), Belgium (French community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, Serbia, Slovakia, Slovenia, Spain, Switzerland, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales)	6: Iceland, Ireland, Netherlands, Poland, Portugal, Sweden
Laws and policies describe what special needs means.	33: Austria, Belgium (Flemish community), Belgium (French community), Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Portugal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales)	2: Croatia, Poland



Statements	Evidence	No evidence
Strategies and programmes describe what special needs means.	19: Belgium (Flemish community), Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Latvia, Luxembourg, Malta, Norway, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales)	16: Austria, Belgium (French community), Bulgaria, Cyprus, Denmark, Greece, Iceland, Ireland, Italy, Lithuania, Netherlands, Poland, Portugal, Serbia, Slovakia, Slovenia

The country information provided evidence of whether legal definitions or descriptions of special needs specify particular groups of learners:

Table 3. Countries indicating groups of learners in legislation around special needs

Countries that indicate groups of learners in legal definitions or descriptions of special needs	Countries that do not indicate groups of learners in legal definitions or descriptions of special needs
31: Austria, Belgium (Flemish community), Belgium (French community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Serbia, Slovakia, Slovenia, Spain, Sweden, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales)	4: Ireland, Malta, Portugal, Switzerland

3.1.2 Groups of learners with special needs identified in legislation or policy

Countries were also asked to provide evidence of which groups of learners with special needs are specified in their legal definitions. This evidence was then analysed using the groups of learners identified in step 4.

[Figure 1](#) shows the number of countries that provided evidence of the different groups of learners specified within their legislative definitions or descriptions in policy of learners with special needs. The groups of learners are on the vertical axis and the numbers of countries identifying these groups within their legislative definitions or descriptions in policy are on the horizontal axis.

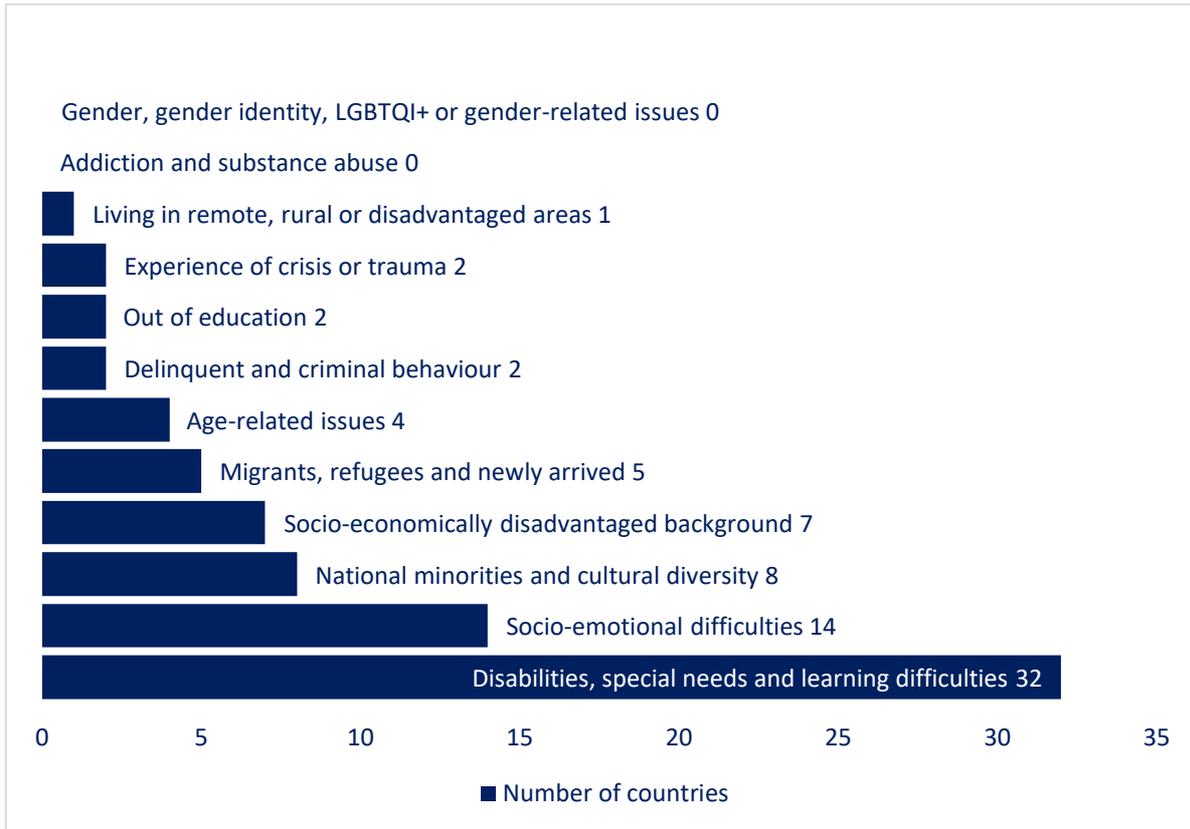


Figure 1. Number of countries in which particular groups of learners with special needs were identified

3.1.3 Countries identifying groups of learners with special needs

Table 4 presents detailed information on the groups of learners identified in the country legislative definitions or descriptions in policy around learners with special needs.

Table 4. Groups of learners with specific special needs identified in countries’ definitions or descriptions

Group of learners	Number of countries	Countries mentioning respective groups
Addiction and substance abuse	0	No information found
Age-related issues	4	Hungary, Poland, UK (Northern Ireland), UK (Wales)
Delinquent and criminal behaviour	2	France, Greece



Group of learners	Number of countries	Countries mentioning respective groups
Disabilities, special needs and learning difficulties	32	Austria, Belgium (Flemish community), Belgium (French community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Serbia, Slovakia, Slovenia, Spain, Sweden, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales)
Experience of crisis or trauma	2	Greece, Poland
Gender, gender identity, LGBTQI+ or gender-related issues	0	No information found
Living in remote, rural or disadvantaged areas	1	Spain
Migrants, refugees and newly arrived	5	Norway, Poland, Spain, Sweden, UK (Scotland)
National minorities and cultural diversity	8	Czech Republic, Estonia, Italy, Lithuania, Norway, Poland, UK (Scotland), UK (Wales)
Out of education	2	Serbia, UK (Scotland)
Socio-economically disadvantaged background	7	Belgium (Flemish community), Italy, Poland, Serbia, Slovakia, Spain, UK (Scotland)
Socio-emotional difficulties	14	Belgium (Flemish community), Bulgaria, Croatia, Cyprus, Estonia, Finland, Greece, Lithuania, Poland, Serbia, Slovenia, UK (England), UK (Northern Ireland), UK (Scotland)

3.1.4 Summary of groups of learners with special needs identified in legislation or policy

Most countries (32) use the label of **learners with disabilities, special needs and learning difficulties** in policy and legislation addressing learners with special needs. Some countries refer to **socio-emotional difficulties** (14), **national minorities and cultural diversity** (8) or **socio-economically disadvantaged background** (7). Only a few countries include categories addressing learners who are **migrants, refugees and newly arrived** (5), have **age-related issues** (4), have **experience of crisis or trauma** (2), are **out of education** (2), show **delinquent or criminal behaviour** (2), or are **living in remote, rural or disadvantaged areas** (1).

This suggests that, for most countries, legislation and policy relating to special needs take a categorical approach, underpinned by a medical model, to labelling learners' needs.



Although some countries – for example, Switzerland – do define learners with special needs, no categories of groups of learners were evidenced within their data. Some countries – for example, Portugal – do not have a legislative definition of special needs and did not list any groups of learners.

3.2 Legislative definitions or descriptions in policy relating to learners vulnerable to exclusion

Within this activity, **learners vulnerable to exclusion** encompasses all learners whose educational experience is ‘impacted upon by a number of pressures, forces, levers, discriminations and disadvantages’ (European Agency, 2021b, p. 6). These learners may or may not fall into categories of special needs and a special type of provision may or may not be available to support them.

Countries may not always have an official definition of learners vulnerable to exclusion. However, groups of learners that are mentioned in different legal documents as receiving support and not identified as learners with special needs have been considered here.

3.2.1 Countries with definitions of learners vulnerable to exclusion in their legislation or policy

The country information provided evidence of the existence of legal definitions around learners vulnerable to exclusion. Table 5 presents the results.

Table 5. Countries with definitions of learners vulnerable to exclusion in legislation, policies and programmes

Statements	Evidence	No evidence
There is a legal definition of learners vulnerable to exclusion from education.	13: Belgium (Flemish community), Bulgaria, Cyprus, Finland, Greece, Hungary, Latvia, Lithuania, Luxembourg, Slovenia, Spain, Sweden, UK (Scotland)	22: Austria, Belgium (French community), Croatia, Czech Republic, Denmark, Estonia, France, Germany, Iceland, Ireland, Italy, Malta, Netherlands, Norway, Poland, Portugal, Serbia, Slovakia, Switzerland, UK (England), UK (Northern Ireland), UK (Wales)
Laws and policies describe what learners vulnerable to exclusion from education means.	14: Belgium (Flemish community), Bulgaria, Cyprus, Estonia, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Serbia, Spain, Sweden, UK (Scotland)	21: Austria, Belgium (French community), Croatia, Czech Republic, Denmark, Finland, Germany, Iceland, Ireland, Italy, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Switzerland, UK (England), UK (Northern Ireland), UK (Wales)



Statements	Evidence	No evidence
Strategies and programmes describe what learners vulnerable to exclusion from education means.	15: Estonia, Germany, Greece, Hungary, Ireland, Latvia, Luxembourg, Norway, Poland, Serbia, Slovenia, Spain, Sweden, UK (England), UK (Scotland)	20: Austria, Belgium (Flemish community), Belgium (French community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Iceland, Italy, Lithuania, Malta, Netherlands, Portugal, Slovakia, Switzerland, UK (Northern Ireland), UK (Wales)

3.2.2 Groups of learners vulnerable to exclusion identified in legislation or policy

The country information collected evidence to see if legal definitions of learners vulnerable to exclusion from education specify particular groups of learners.

Table 6. Countries indicating groups of learners in legislation around learners vulnerable to exclusion

Countries that specify learners vulnerable to exclusion from education in legal definitions or descriptions	Countries that do not specify learners vulnerable to exclusion from education in legal definitions or descriptions
29: Austria, Belgium (Flemish community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Norway, Poland, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, UK (Northern Ireland), UK (Scotland), UK (Wales)	6: Belgium (French community), Luxembourg, Malta, Netherlands, Portugal, UK (England)

Countries were also asked to provide evidence of learners vulnerable to exclusion from education being specified in legal definitions. This evidence was then analysed using the groups of learners identified in step 4.

[Figure 2](#) shows the number of countries that provided evidence of the different groups of learners being specified within their legislative definitions or descriptions in policy of learners vulnerable to exclusion from education. The groups of learners are on the vertical axis and the numbers of countries identifying these groups within their legislative definitions or descriptions in policy are on the horizontal axis.

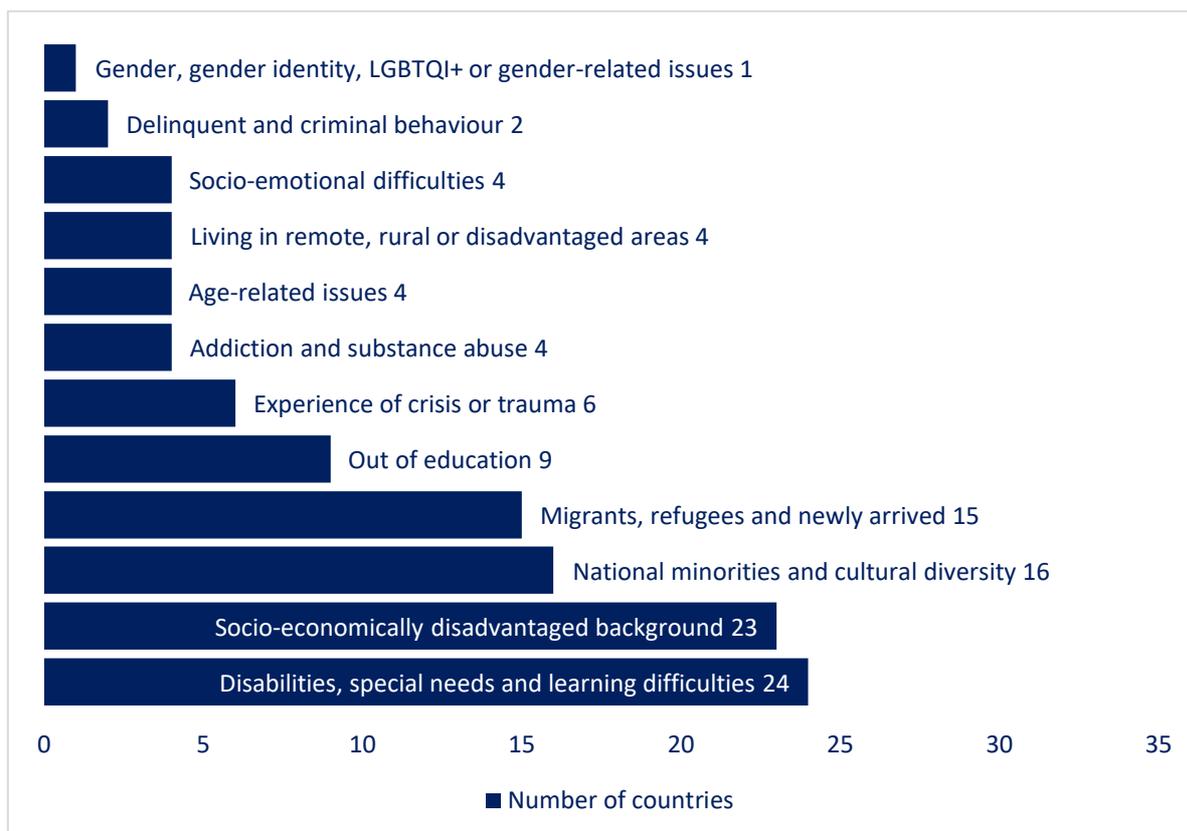


Figure 2. Number of countries in which groups of learners vulnerable to exclusion were identified in legislation or policy

3.2.3 Countries identifying groups of learners vulnerable to exclusion

Table 7 presents detailed information on groups of learners identified in the relevant countries' legislative definitions or descriptions in policy around learners vulnerable to exclusion.

Table 7. Groups of learners vulnerable to exclusion identified in countries' definitions or descriptions

Group of learners	Number of countries	Countries mentioning respective groups
Addiction and substance abuse	4	Austria, Lithuania, Slovenia, UK (Scotland)
Age-related issues	4	Cyprus, Estonia, Slovakia, Switzerland
Delinquent and criminal behaviour	2	Czech Republic, Lithuania
Disabilities, special needs and learning difficulties	24	Austria, Belgium (Flemish community), Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Poland, Serbia, Slovakia, Slovenia, Spain, Sweden, UK (England), UK (Scotland), UK (Wales)



Group of learners	Number of countries	Countries mentioning respective groups
Experience of crisis or trauma	6	Bulgaria, Croatia, Lithuania, Poland, Serbia, Slovenia
Gender, gender identity, LGBTQI+ or gender-related issues	1	Estonia
Living in remote, rural or disadvantaged areas	4	Croatia, Denmark, Greece, UK (Scotland)
Migrants, refugees and newly arrived	15	Austria, Belgium (Flemish community), Croatia, France, Germany, Greece, Iceland, Latvia, Poland, Serbia, Slovakia, Slovenia, Sweden, UK (Northern Ireland), UK (Scotland)
National minorities and cultural diversity	16	Austria, Belgium (Flemish community), Croatia, Estonia, France, Greece, Norway, Poland, Serbia, Slovakia, Slovenia, Spain, Switzerland, UK (England), UK (Northern Ireland), UK (Scotland)
Out of education	9	Austria, Germany, Greece, Hungary, Latvia, Luxembourg, Serbia, Slovakia, UK (Scotland)
Socio-economically disadvantaged background	23	Austria, Belgium (Flemish community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Germany, Greece, Iceland, Italy, Latvia, Lithuania, Luxembourg, Poland, Serbia, Slovakia, Slovenia, Spain, Switzerland, UK (Northern Ireland), UK (Scotland)
Socio-emotional difficulties	4	Iceland, Poland, UK (Scotland), UK (Wales)

3.2.4 Summary of learners vulnerable to exclusion identified in legislation or policy

More countries (30) provided evidence of learners vulnerable to exclusion being described in legislation or policy documents than indicated there was a legal definition (13), laws and policies (14) or strategies and programmes (14).

Of those that did provide evidence, most countries use the labels learners with **disabilities, special needs and learning difficulties** (24) or **socio-economically disadvantaged background** (23) in policy and legislation addressing learners vulnerable to exclusion. Some countries refer to **national minorities and cultural diversity** (16), **migrants, refugees and newly arrived** (16) or **out of education** (9). Only a few countries include labels addressing **experience of crisis or trauma** (6), **age-related issues** (4), **addiction and substance abuse** (4), **living in remote, rural or disadvantaged areas** (4) or **socio-emotional difficulties** (4).

While these are presented as distinct categories of learners' needs, the Agency recognises that, on an individual level, there are likely to be overlaps with different groups.

This suggests that the categorical approach to labelling groups of learners vulnerable to exclusion is equally prevalent as the rights-based approach focusing on the circumstances of learners with socio-economically



disadvantaged backgrounds. This shows that countries are using categorical approaches (groups), but there is a movement away from a purely medical model (labels around disabilities and special educational needs) when considering learners vulnerable to exclusion.

3.3 Anti-discrimination legislation

Legislation, strategies and programmes covering anti-discrimination and equal rights initiatives also impact upon learners' educational opportunities and experiences.

Therefore, data was also collected to identify whether anti-discrimination and equal rights legislation in Agency member countries addresses different groups of learners in the education system. [Table 8](#) presents detailed information on groups of learners identified in the relevant countries' anti-discrimination legislation.

3.3.1 Countries with anti-discrimination legislation addressing groups of learners

Countries were asked whether anti-discrimination and equal rights legislation addresses different learner groups present in the education system.

Table 8. Countries indicating groups of learners in anti-discrimination legislation ²

Countries that indicate that anti-discrimination and equal rights legislation addresses different learner groups present in their education system	Countries that do not indicate that anti-discrimination and equal rights legislation addresses different learner groups present in their education system
26: Austria, Belgium (French community), Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Norway, Poland, Serbia, Slovakia, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Wales)	8: Bulgaria, France, Iceland, Luxembourg, Netherlands, Portugal, Slovenia, UK (Scotland)

3.3.2 Groups of learners identified in anti-discrimination legislation

[Figure 3](#) shows the number of countries that use the indicated labels for groups of learners within their anti-discrimination policies. The groups of learners are on the vertical axis and the numbers of countries identifying these groups within their legislative definitions are on the horizontal axis.

² No information was provided for Belgium (Flemish community); therefore the maximum possible count was 34 countries.

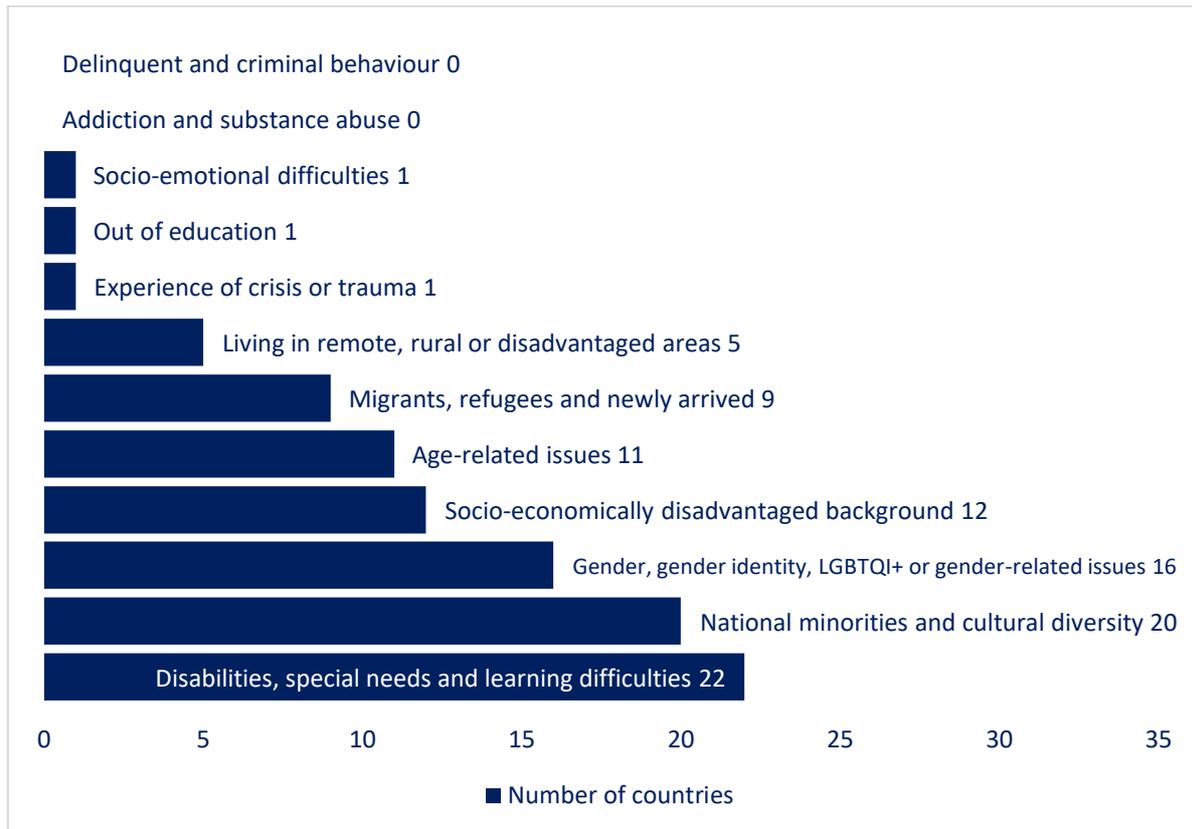


Figure 3. Groups of learners in anti-discrimination legislation

3.3.3 Countries identifying groups of learners in anti-discrimination legislation

Table 9. Groups of learners identified in anti-discrimination legislation in specific countries

Group of learners	Number of countries	Countries mentioning respective groups
Addiction and substance abuse	0	No information found
Age-related issues	11	Estonia, Finland, Germany, Hungary, Latvia, Malta, Poland, Serbia, Sweden, UK (England), UK (Wales)
Delinquent and criminal behaviour	0	No information found
Disabilities, special needs and learning difficulties	22	Austria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Lithuania, Malta, Norway, Poland, Serbia, Slovakia, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Wales)
Experience of crisis or trauma	1	Serbia
Gender, gender identity, LGBTQI+ or gender-related issues	16	Cyprus, Croatia, Czech Republic, Estonia, Finland, Germany, Latvia, Malta, Norway, Poland, Serbia, Spain, Sweden, UK (England), UK (Northern Ireland), UK (Wales)



Group of learners	Number of countries	Countries mentioning respective groups
Living in remote, rural or disadvantaged areas	5	Cyprus, France, Latvia, Serbia, Spain
Migrants, refugees and newly arrived	9	Czech Republic, Finland, Germany, Italy, Latvia, Lithuania, Poland, Serbia, Spain
National minorities and cultural diversity	20	Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Hungary, Ireland, Latvia, Lithuania, Norway, Malta, Poland, Serbia, Slovakia, Spain, Sweden, UK (England), UK (Northern Ireland), UK (Wales)
Out of education	1	Serbia
Socio-economically disadvantaged background	12	Belgium (French community), Cyprus, France, Hungary, Italy, Latvia, Lithuania, Malta, Norway, Poland, Serbia, Spain
Socio-emotional difficulties	1	Serbia

3.3.4 Summary of groups of learners identified in anti-discrimination legislation

According to the data, anti-discrimination legislation in Agency member countries focuses mainly on learners with **disabilities, special needs and learning difficulties** (22), **national minorities and cultural diversity** (20) and **gender, gender identity, LGBTQI+ or gender-related issues** (16).

Fewer countries provided data on anti-discrimination legislation, although most have such laws in place. All Agency member countries have ratified the CRC and the [CRPD](#). Most member countries have signed the Optional Protocol to the CRPD, which establishes an individual complaints mechanism for those who feel their rights under the CRPD have been denied.

The low number of countries identifying anti-discrimination legislation that impacts on learners vulnerable to exclusion from education seems inconsistent with the ratification of international conventions (CRPD and CRC). It is possible that, in the given context, anti-discrimination policy and legislation are considered separate to education policy and legislation in the Agency member countries.

Anti-discrimination legislation and policy exist in all Agency member countries, suggesting that, in general, all countries are committed to a rights-based approach. However, based on the information collected, it is unclear how strongly anti-discrimination legislation is considered within the education field.



3.4 Legislation or policy for inclusive education

The Agency views **inclusive education** as:

... a systemic approach to providing high quality education in mainstream schools that effectively meets the academic and social learning needs of all the learners from the school’s local community ([European Agency, 2015b](#), p. 2).

In inclusive education:

Learners are placed at the centre of a system that needs to be able to recognise, accept and respond to learner diversity. Inclusive education aims to respond to the principles of efficiency, equality and equity, where diversity is perceived as an asset. Learners also need to be prepared to engage in society, to access meaningful citizenship and to acknowledge the values of human rights, freedom, tolerance and non-discrimination (Soriano, Watkins and Ebersold, 2017, p. 6).

3.4.1 Countries with definitions of inclusive education

The country information collected evidence of legal definitions. Table 10 presents the results.

Table 10. Countries with definitions of inclusive education in legislation, policies and programmes

Statements	Evidence	No evidence
There is a legal definition of inclusive education.	19: Bulgaria, Croatia, Denmark, Estonia, France, Germany, Greece, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Norway, Portugal, Serbia, Slovenia, Spain, UK (Scotland)	16: Austria, Belgium (Flemish community), Belgium (French community), Cyprus, Czech Republic, Finland, Hungary, Italy, Netherlands, Poland, Slovakia, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Wales)
Laws and policies describe what inclusive education means.	20: Bulgaria, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta, Norway, Portugal, Slovenia, Spain, Sweden, UK (England), UK (Scotland)	15: Austria, Belgium (Flemish community), Belgium (French community), Croatia, Cyprus, Czech Republic, Italy, Latvia, Netherlands, Poland, Serbia, Slovakia, Switzerland, UK (Northern Ireland), UK (Wales)



Statements	Evidence	No evidence
Strategies and programmes describe what inclusive education means.	14: Estonia, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Poland, Serbia, Spain, Sweden, UK (Scotland)	21: Austria, Belgium (Flemish community), Belgium (French community), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Slovakia, Slovenia, Switzerland, UK (England), UK (Northern Ireland), UK (Wales)

The country information provided further evidence of whether legal definitions and descriptions of inclusive education refer to **all learners**. Two additional approaches were used to gather this data, as explained below:

- Self-assessment by countries
- An additional Agency team analysis.

Self-assessment by countries as to whether legal documents on inclusive education in their respective countries refer to all learners

In the self-assessment, countries had the option to indicate whether legal documents related to inclusive education refer to **all learners**, **specific learner groups** or **both all learners and specific learner groups**. Table 11 presents the results.

Table 11. Countries whose inclusive education legislation addresses specific learner groups or all learners

Mention in inclusive education policy	Number of countries	Countries
Specific learner groups	12	Belgium (Flemish community), Croatia, Cyprus, Denmark, Greece, Hungary, Ireland, Netherlands, Slovakia, Switzerland, UK (Northern Ireland), UK (Wales)
All learners	10	Bulgaria, Czech Republic, Iceland, Malta, Norway, Poland, Portugal, Sweden, UK (England), UK (Scotland)
Both all learners and specific learner groups	11	Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Serbia, Slovenia, Spain
No data provided	2	Austria, Belgium (French community)



Agency team analysis of all definitions and descriptions of inclusive education provided in legislation

The analysis focused on how **inclusive concepts**, such as **all learners, equal opportunity/equality** or **diversity**, are included in the countries' legal definitions of inclusive education.

Table 12. Key concepts underpinning inclusive education within legislative definitions or descriptions in policy

Mention in the legislation	Number of countries	Countries
All learners, every learner, every child, every learner, everyone, each child or learner, all persons, all children, all students	18	Bulgaria, Czech Republic, Denmark, Estonia, France, Germany, Greece, Iceland, Latvia, Lithuania, Luxembourg, Malta, Norway, Poland, Portugal, Spain, Sweden, UK (Scotland)
Equal opportunities, equalities, equal access to education	6	Czech Republic, Estonia, France, Greece, Iceland, Luxembourg
Diversity, social diversity	3	France, Lithuania, UK (Scotland)

3.4.2 Groups of learners identified in inclusive education legislation or policy

Countries were also asked to provide evidence of groups of learners being specified in legal definitions around inclusive education. Labels referencing different groups of learners were found in 11 countries' evidence of legislation around inclusive education. These groups of learners were analysed as in the previous sections on learners with special needs and learners vulnerable to exclusion.

[Figure 4](#) shows the number of countries that provided evidence of different groups of learners being specified within their legislative definitions or descriptions in policy of inclusive education. The groups of learners are on the vertical axis and the numbers of countries identifying these groups within their legislative definitions or descriptions in policy are on the horizontal axis.

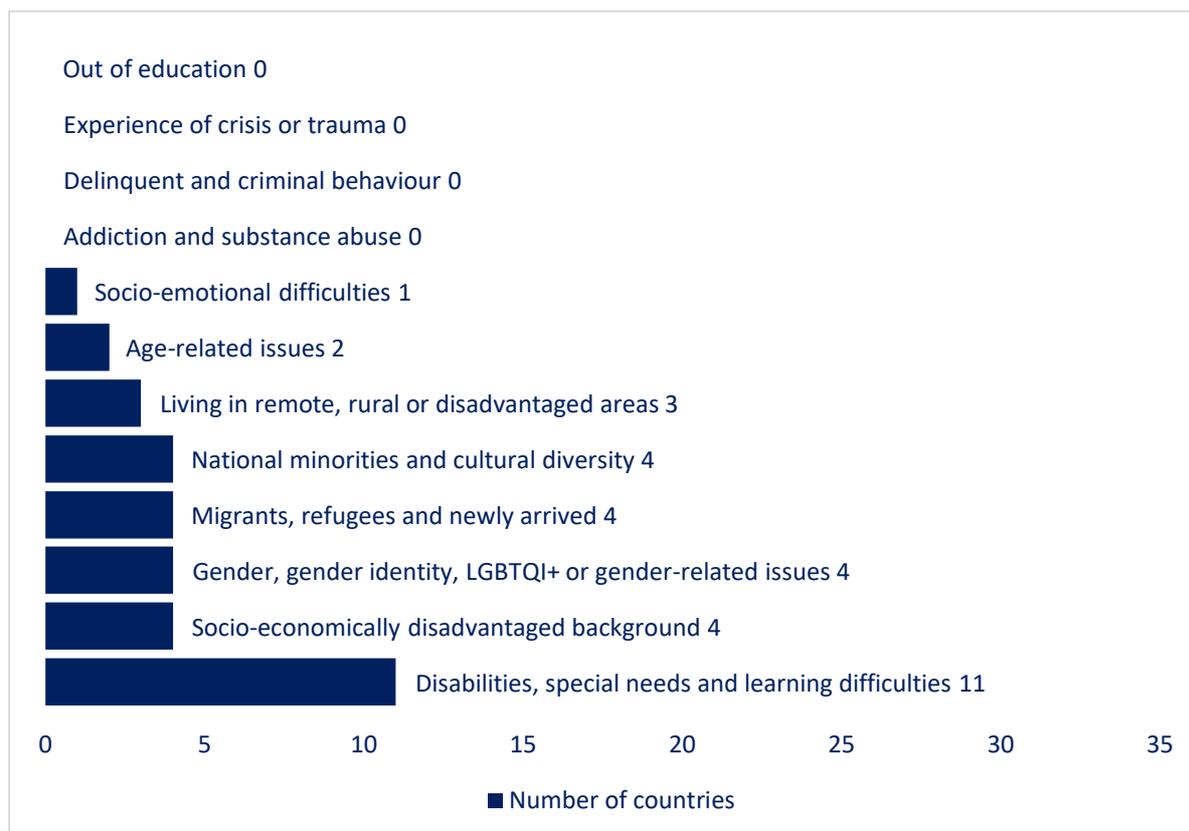


Figure 4. Number of countries in which groups of learners were identified in inclusive education legislation and policy

3.4.3 Countries identifying groups of learners in inclusive education

Table 13 presents detailed information on groups of learners identified in the relevant countries' legislative definitions or descriptions of policy on inclusive education.

Table 13. Groups of learners identified in legislative definitions or descriptions in policy around inclusive education in specific countries

Group of learners	Number of countries	Countries mentioning respective groups
Addiction and substance abuse	0	No information found
Age-related issues	2	Malta, Poland
Delinquent and criminal behaviour	0	No information found
Disabilities, special needs and learning difficulties	11	Estonia, France, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, Poland, Slovenia, Spain
Experience of crisis or trauma	0	No information found



Group of learners	Number of countries	Countries mentioning respective groups
Gender, gender identity, LGBTQI+ or gender-related issues	4	Czech Republic, Estonia, Malta, Slovenia
Living in remote, rural or disadvantaged areas	3	Estonia, France, Malta
Migrants, refugees and newly arrived	4	Estonia, Latvia, Malta, Slovenia
National minorities and cultural diversity	4	Estonia, Latvia, Malta, Slovenia
Out of education	0	No information found
Socio-economically disadvantaged background	4	Estonia, France, Latvia, Malta
Socio-emotional difficulties	1	Germany

3.4.4 Summary of groups of learners identified in inclusive education legislation or policy

When considering the self-assessment from countries, definitions of inclusive education are almost equally distributed among addressing **specific learner groups**, **all learners** or **both all learners and specific learner groups**.

From analysing the terminology in the evidence provided, 18 countries mention terms such as **all learners**. Of these, six include terminology related to **equal opportunities**, while three mention **(social) diversity** in their legal definitions.

Fewer countries (12) name specific learner groups in their legal definitions of inclusive education. For those that do, the most commonly mentioned is **learners with disabilities**, **special needs and learning difficulties**.

The analysis suggests that legislative definitions around inclusive education include both a categorical and a rights-based approach across and within countries. Some countries do not label specific learner groups in their definitions of inclusive education. Portugal, for example, is taking a totally non-categorical approach within its legislation for inclusive education. These countries have an approach that is most closely in line with the Agency position on inclusive education systems.



3.5 Legislation or policy that considers issues around intersectionality

Intersectionality is the understanding that a person or group of people is affected and impacted upon by a number of pressures, forces, levers, discriminations and disadvantages. It considers everything and anything that can marginalise learners and increase their chances of exclusion (European Agency, 2021b). This includes, but is not limited to:

... gender, remoteness, wealth, disability, ethnicity, language, migration, displacement, incarceration, sexual orientation, gender identity and expression, religion and other beliefs and attitudes (UNESCO, 2020a, p. 4).

The Agency addresses intersectionality as one of six parameters to guide the implementation of its future activities and processes (European Agency, 2021b). Therefore, this activity analysed how many countries consider intersectionality in their legislation around learners vulnerable to exclusion.

The data collection for intersectionality only focused on investigating whether legislation addresses intersectionality at all.

3.5.1 Countries with definitions of intersectionality

Table 14 presents detailed information on countries that reported – by either replying to the multiple-choice question or supplying a definition – that their national legislation mentions intersectionality.

Table 14. Countries with definitions of intersectionality in legislation

Does legislation mention the term or concept of 'intersectionality'?	Number of countries	Countries
No information	18	Belgium (French community), Bulgaria, Croatia, Denmark, Ireland, Italy, Latvia, Lithuania, Netherlands, Norway, Portugal, Serbia, Slovakia, Slovenia, Spain, Switzerland, UK (England), UK (Wales)
No	11	Austria, Belgium (Flemish community), Cyprus, Czech Republic, Estonia, France, Iceland, Luxembourg, Malta, Poland, Sweden
Yes	6	Finland, Germany, Greece, Hungary, UK (Northern Ireland), UK (Scotland)



3.5.2 Summary of definitions on intersectionality

The data collection for intersectionality focused on investigating whether legislation mentions intersectionality at all. It did not include detailed extracts as for the previous four concepts of learners with special needs, learners vulnerable to exclusion, learners included in anti-discrimination legislation and learners included in legislation for inclusive education. Therefore, no conclusion can be reached on the overall groups of learners considered in the different references to intersectionality in Agency member countries' legislation.

Only six countries stated that their legislation refers to intersectionality.

Although five of the six countries provided details and references, it was not enough information to identify any country's overall approach.

Few countries mention intersectionality in their legislation. This may indicate that it is still a relatively new concept that is being discussed within different countries, but is not evidenced in legislation yet.





4. POSSIBLE DEVELOPMENTS IN THE THINKING UNDERPINNING LEGISLATION AROUND LEARNERS' NEEDS

The key conceptual changes in the thinking behind and policy priorities for developments in the journey towards inclusive education that is evidenced across Agency activities were the starting point for this activity. It was of central interest to consider the shift from a focus on special needs or special needs education, towards learners vulnerable to exclusion and inclusive education systems within Agency activities and then to provide evidence of how Agency member countries' national legislation around learners vulnerable to exclusion reflects this.

Building on this, the activity aimed to answer the following questions regarding legislative definitions around learners' needs:

- How do countries identify and label learners based on their needs and which legal definitions are being used?
- What may these definitions indicate in terms of an underlying approach to inclusive education systems?

This activity can only provide a snapshot of where Agency member countries currently stand in their legislative approaches towards groups of learners and risk factors that may affect learning opportunities. Accordingly, it is not possible to comment on 'trends' in approaches. However, there are some commonalities across countries that are relevant for future Agency activities with member countries.



4.1 Identification and labelling of learners in Agency member countries

Across countries' specific legislation addressing learners with special needs, learners vulnerable to exclusion, anti-discrimination and inclusive education, the label of disability and/or special needs remains the most prevalent. This label also includes the most subcategories of all groups of learners analysed – ranging from multiple physical disabilities to learning difficulties (see [Table 1](#)).

Although all Agency member countries are committed to the Agency position on inclusive education systems, these findings indicate that the categorical approach – underpinned by a medical model, which considers that learners have deficits that need addressing through compensatory measures – is still prevalent in the wording of legislation and policy (European Agency, 2022b).

However, when considering the data on legislative definitions or descriptions in policy around inclusive education and learners vulnerable to exclusion, rather than those around learners with special needs, the focus seems to widen and increasingly consider more potential barriers to a learner's inclusive and equitable learning experience. This applies across Agency member countries.

The analysis suggests that legislative definitions and descriptions in policy around learners with special needs focus more on disability. Meanwhile, those on learners vulnerable to exclusion focus equally on disability and socio-economically disadvantaged learners (including financial status, lower socio-economic background or disadvantaged backgrounds). This implies a possible overlap with other groups, such as migrants, refugees, newly arrived, national minorities and those with culturally diverse backgrounds. According to the *Global Education Monitoring Report 2020* (UNESCO, 2020a), these groups often find themselves in socio-economically disadvantaged situations.

This highlights that it is relevant and necessary to consider the intersectionality of learners' needs when discussing inclusive education, to account for all the different social categorisations or labels that may jointly affect learners and their vulnerability to exclusion.

4.2 Underlying approach to inclusive education systems

This activity's results indicate that, in most countries, legislation is still formulated in a way that considers learners as having deficits that require compensatory measures in provision. At the same time, countries are building their education systems' capacity to address and encompass all learners to prevent any factor that can marginalise them and increase their chances of exclusion.

Contrary to what the *Global Education Monitoring Report Summary 2020* states, this activity does not confirm that the 'broad vision of including all learners in education is largely absent from national laws' (UNESCO, 2020b, p. 15). The activity's analysis shows



that many Agency member countries can provide evidence that this vision is present in their legislation. However, at the same time, most countries' legislation still addresses specific groups of learners and their need for special provision, in effect taking a categorical approach.

It must be clearly highlighted that there are countries that rarely appear in this report's tables as identifying or labelling groups of learners. One country, Portugal, presents no evidence of groups of learners being identified at all, indicating a complete move away from categorical approaches towards learners' needs. Such a focus on learners' needs in general, and not on labelling groups of learners, indicates a move towards a rights-based approach.

[Figure 5](#) summarises the analysis presented in the previous sections. It shows that multiple marginalised groups are defined or named in legislation for education across different countries. This is most visible in legislative definitions around the concept of **learners vulnerable to exclusion** and the definitions of **inclusive education**. Here, a wide range of learners is considered to be affected by personal or social categorisations that might hinder their access to high-quality, equitable educational opportunities.

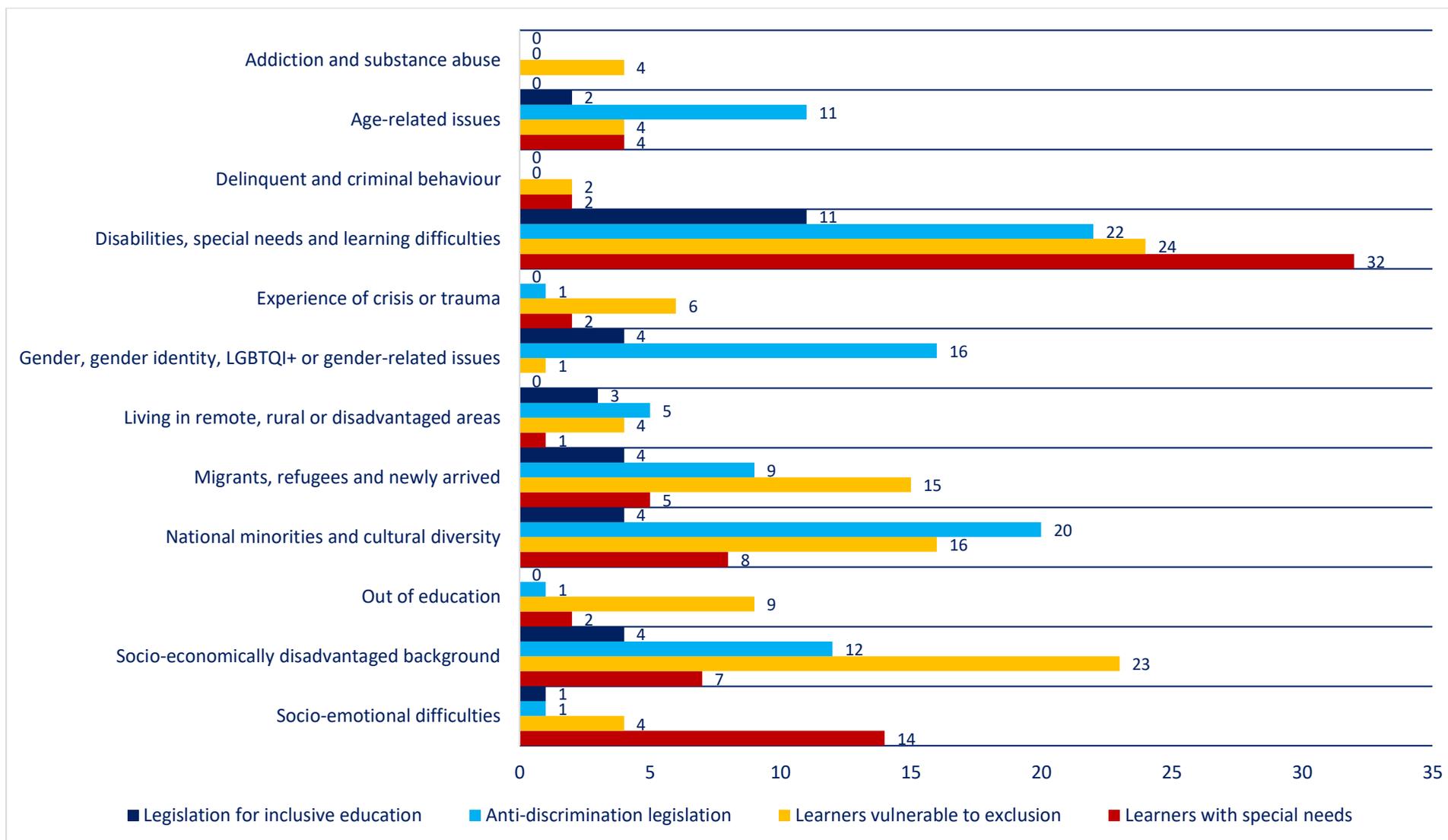


Figure 5. Number of countries in which groups of learners were identified or described in different areas of legislation and policy



The evidence presented in Figure 5 appears to indicate that countries are moving away from categorical approaches underpinned by medical models, towards other types of categorical approaches that consider wider social or circumstantial factors. Considering the evidence presented across all elements of the country information collected, it appears that policy and legislation around learners vulnerable to exclusion consider the concept of intersectionality – even if the term intersectionality is not specifically used.

All Agency member countries are committed to a rights-based approach, as demonstrated through their ratification of international conventions. However, based on the information collected, it is unclear how strongly anti-discrimination legislation is considered within the education sector.

This activity has shown that the conceptual thinking and terminology within Agency activities do reflect a shift in thinking about groups of learners. However, to a large extent, actual education legislation still strongly uses a categorical approach underpinned by a medical model. This activity shows that inclusive education is often interpreted as being a type of education specifically aimed at learners with disability and/or special needs, instead of an educational approach that caters for all learners, with all of their diverse and individual needs, by identifying and removing barriers to learning. These barriers include the potential legal barriers that fail to address discrimination and ensure all learners' full participation, as outlined in international legislation.

This approach focuses more on compensation 'with specific actions and provision when prevention and intervention are not enough to ensure learners' needs are adequately met in inclusive settings' (European Agency, 2016, p. 19). However, the aim is to move towards preventing educational exclusion before it happens (ibid).

Within Agency member countries, the categorical approach and the rights-based approach to providing equity in education for all learners currently seem to co-exist. This shows evidence of a direction of travel in line with the Agency's position on inclusive education systems (European Agency, 2022b).

4.3 Implications for Agency work with member countries

In the Agency's work with its member countries, a clear understanding of the concepts used is paramount to achieve the goal of meeting all learners' needs within inclusive education systems.

Within this activity, the term that covers the widest range of different groups of learners and all the factors that may negatively affect their learning opportunities is '**learners vulnerable to exclusion**'. This encapsulates the broad vision and rights-based approach of including all learners in inclusive education. While the term 'intersectionality' also aligns with this approach, it does not seem to be widely used. Therefore, using the term '**learners vulnerable to exclusion**' as the focus of all Agency activities aimed at supporting policy development work in its member countries would be in line with the Agency position on inclusive education systems.



Using terminology linked to special needs in activities aimed at fostering inclusive education policy and practice would not be in line with the rights-based approach to inclusive education systems. Instead, it potentially promotes a categorical approach to labelling learners.

The alternative is to focus on characteristics of inclusive education systems that build capacity to more effectively ensure all learners' rights to inclusive education are met.

Continued structured dialogue and open exchange with Agency member countries on further developing the rights-based approach to inclusion would also be in line with the Agency's future work (European Agency, 2021d).

Greater clarity on actual definitions and descriptions used in country policy and legislation linked to these areas would support the overarching premise of the *Multi-Annual Work Programme 2021–2027*. This premise is for the Agency to be an active agent for change, to foster and support policy development in its member countries and 'translate identified policy priorities for high-quality inclusive education for all learners into practical actions for implementation' (European Agency, 2021c, p. 5).



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ANNEX: INFORMATION-GATHERING TEMPLATE – LEGISLATIVE DEFINITIONS AROUND LEARNERS VULNERABLE TO EXCLUSION

Since the founding of the Agency, there have been key conceptual changes in the thinking behind and policy priorities for developments on the journey towards inclusive education.

A first shift was from the concept of special educational needs (SEN) to special needs education (SNE), representing a new focus away from the learner (special educational needs) towards a focus on the provision that may be needed by learners who experience difficulties at school (special needs education). The term '**special needs education**' widened the focus beyond learners with disabilities to include learners who appeared to be failing in school for a wide variety of reasons – for example, children living in poverty or those from different linguistic or cultural backgrounds. Special needs education, however, continued the deficit or medical model that still saw the problems as being within the learner.

There has never been an agreed definition of SEN or SNE that could be used across countries. Which groups of learners are considered as having **special needs** requiring additional provision largely differs across countries.

Inclusion requires a move away from a concern with the categories a learner may or may not fall into, to focus on the barriers experienced by some learners that lead to marginalisation and exclusion. Every learner has their own unique experiences of discrimination and/or barriers to learning and everything and anything that can marginalise learners and increase their chances of exclusion from mainstream, inclusive education must be understood and recognised. This leads to an overall focus on **learners vulnerable to exclusion** by the education system. Agency work focuses on supporting the development of **inclusive education** systems in its member countries to ensure every learner's right to inclusive and equitable educational opportunities. This aim is directed at **all learners**, while recognising the need to specifically address specific **learners vulnerable to exclusion**.



However, Agency work acknowledges:

- that every learner has their own unique experiences of discrimination and/or barriers to learning and considers everything and anything that can marginalise learners and increase their chances of exclusion;
- an on-going dilemma: how to fulfil the rights and meet the needs of some learners who require additional support, while working towards equitable education for all.

These issues highlight the growing need to take account of **intersectionality** – the interconnected nature of all social categorisations – when considering the needs of all learners. For example:

... gender, remoteness, wealth, disability, ethnicity, language, migration, displacement, incarceration, sexual orientation, gender identity and expression, religion and other beliefs and attitudes ([UNESCO, 2020a](#), p. 4).

The concept of intersectionality is highlighted in the current *Multi-Annual Work Programme*. The Agency activity Legislative Definitions around Learners Vulnerable to Exclusion aims to collect information from Agency member countries focusing on legislative definitions around learners vulnerable to exclusion in education systems.

The aim of this activity is to collect evidence to indicate where countries currently stand regarding the **definition of** and **approach to** groups of learners and risk factors within inclusive education systems. The completed country reports will be used to identify trends within and across countries on legal definitions related to learners vulnerable to exclusion.

As with the journey towards inclusive education, legal definitions may be developing towards **learners vulnerable to exclusion** and the consideration of **intersectionality**. Therefore, to respect the context of all countries, information on **special needs** categories is considered as well as definitions considering **all learners**.

Reviewing and completing the country report

This document is a draft of the planned country report for the activity Legislative Definitions around Learners Vulnerable to Exclusion.

The information included within this country report has been collected by the Agency team from Agency reports, the [country information](#) and [Eurydice](#) sources. The focus of the extracts is the identification of **legal** definitions around learners vulnerable to exclusion. They do not cover the different forms of provision for these learners. However, it is recognised that in some cases there may not be **legal** definitions but **operational** definitions.

The extracts are considered evidence of a **legal definition** and are included if the extract explains how a term is understood within legislation and policy. In some cases, there may not be an extract that provides this information; however, the legal documents do provide



indirect evidence that a legal definition may exist. Where this indirect evidence was found, it has been included.

It is not expected to have information for every question, as every country context differs and every country is at different stages on the journey to develop inclusive education. Therefore, a wide range of questions has been selected to allow evidence to be collected from every Agency member country.

Each of the first three sections begins with a clarification of key terminology.

This report includes three sections which have been completed by the Agency staff team:

Section 1 focuses on legal definitions of special needs.

Section 2 focuses on legal definitions of learners vulnerable to exclusion.

Section 3 focuses on legal definitions of inclusive education.

As well as:

Section 4 with additional questions to be completed by the country.

Please review and complete the report by:

1. replacing extracts where you do not feel they are correct;
2. providing references to extracts you add or where they are requested in the comments;
3. adding extracts and references which you feel are missing;
4. reviewing where answers have been pre-selected;
5. completing section 4.

1. Legal definition of special needs

A **learner with special needs** is understood as learners who:

... for a wide variety of reasons, require additional support and adaptive pedagogical methods in order to participate and meet learning objectives in an education programme. Reasons may include (but are not limited to) disadvantages in physical, behavioural, intellectual, emotional and social capacities ([UNESCO Institute for Statistics, 2012](#), p. 83).

Statements	Evidence
1.1 There is a legal definition of special needs.	
1.2 The legal definition of special needs is found in laws and policies.	



Statements	Evidence
1.3 The legal definition of special needs is found in strategies and programmes.	

1.4a Does your legal definition of special needs specify particular groups of learners? *(Add an x to the appropriate column.)*

Yes	No

(If yes, proceed to 1.4b. If no, proceed to Section 2.)

1.4b Which specific learner groups does the legal definition of special needs address?

Specific learner groups	Evidence

2. Learners legally considered vulnerable to exclusion from education

Within this document, the term ‘**learners vulnerable to exclusion**’ encompasses all learners whose educational experience is ‘impacted upon by a number of pressures, forces, levers, discriminations and disadvantages’ (European Agency, 2021b, p. 6). These learners may or may not fall into categories of special needs and a special type of provision may or may not be available to support them.

Although there may not be an official definition of learners vulnerable to exclusion, learner groups which are addressed in different legal documents as receiving support and not identified as learners with special needs are listed here.

Statements	Evidence
2.1 There is a legal definition of learners vulnerable to exclusion from education.	
2.2 The legal definition of learners vulnerable to exclusion from education is found in laws and policies.	



Statements	Evidence
2.3 The legal definition of learners vulnerable to exclusion from education is found in strategies and programmes.	

2.4a Do your legislation, policies or strategies specify particular groups of learners? *(Add an x to the appropriate column.)*

Yes	No

(If yes, proceed to 2.4b. If no, proceed to 2.5a.)

2.4b Which specific learner groups are legally considered to be vulnerable to exclusion from education across legislation, policies or strategies?

Specific learner groups	Evidence

2.5a Does anti-discrimination and equal rights legislation address different learner groups in the education system?

Yes	No

(If yes, proceed to 2.5b. If no, proceed to Section 3.)

2.5b Which specific learner groups are listed in anti-discrimination and equal rights legislation?

Specific learner groups	Evidence



3. Legal definition of inclusive education

The Agency views **inclusive education** as:

... a systemic approach to providing high quality education in mainstream schools that effectively meets the academic and social learning needs of all the learners from the school's local community ([European Agency, 2015b](#), p. 2).

In inclusive education:

Learners are placed at the centre of a system that needs to be able to recognise, accept and respond to learner diversity. Inclusive education aims to respond to the principles of efficiency, equality and equity, where diversity is perceived as an asset. Learners also need to be prepared to engage in society, to access meaningful citizenship and to acknowledge the values of human rights, freedom, tolerance and non-discrimination (Soriano, Watkins and Ebersold, 2017, p. 6).

Statements	Evidence
3.1 There is a legal definition of inclusive education.	
3.2 The legal definition of inclusive education is found in laws and policies.	
3.3 The legal definition of inclusive education is found in strategies and programmes.	

3.4 Do legal documents related to inclusive education refer to **all learners**?

Legal documents refer to:

All learners	Specific learner groups	Both all learners and specific learner groups



4. Additional questions

4.1 Are there other specific learner groups that receive additional support within the education system that have not been accounted for in this document? And if yes, which legal documents (legislation, policies or strategies) address them?

4.2a Is the term or concept of 'intersectionality' mentioned in legislation?

(Intersectionality is the understanding that a person, group of people, organisation or social problem is affected and impacted upon by a number of pressures, forces, levers, discriminations and disadvantages. It considers everything and anything that can marginalise learners and increase their chances of exclusion. This includes, but is not limited to 'gender, remoteness, wealth, disability, ethnicity, language, migration, displacement, incarceration, sexual orientation, gender identity and expression, religion and other beliefs and attitudes' (UNESCO, 2020a, p. 4)).

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

(If yes, proceed to 4.2b. If no, proceed to 4.3a.)

4.2b How is intersectionality mentioned in legislation? (Please add citation)

4.3a Are there any proposals/plans for changes in legislation focused on learners vulnerable to exclusion?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

(If yes, proceed to 4.3b. If no, proceed to 4.4.)

4.3b What proposals or plans exist for changes in legislation focused on learners vulnerable to exclusion?

4.4 Do you have any further comments for us to consider?

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