



# Quality Guidelines for Antibullying Policies in Europe: a Review and Recommendations

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<b>About</b>	Needs Assessment on European Quality Criteria to Prevent Bullying in Schools in Europe
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## 1. Introduction

This document offers a needs analysis of the opportunities in Europe to integrate quality criteria for antibullying policies in secondary schools and in quality frameworks for the education sector. This analysis was done in the context of the ABC-project (Anti-Bullying Certification, 2018-2020).

### The ABC-project

The ABC (Anti-Bullying Certification) project aims to develop a certification process to support schools in developing an effective antibullying policy, which includes sensitive attention to more general social inclusion and to 21st Century conflict solving skills among both students and school staff. The certification procedure is not just a “check” of written antibullying procedures but also contains a social analysis and needs assessment, integration of ongoing goal setting and planning, staff and student training and a guide pointing to effective measures to structurally enhance the school learning and working climate. A key aspect of all this is how students and teachers deal with conflicts and whether the school functions as a model of non-violent problem-solving skills and methods which are lodged in role-modelling democracy. The main aim of the certification process is not to



prescribe best practices to the school but to enhance ownership and making own choices in an appropriate school policy.

The assessment procedure consists of 7 steps:

1. A survey research among students and teachers
2. Collection of existing documents on antibullying and prosocial policy of the school
3. A school “visitation” (assessment) by students
4. A review workshop with teachers
5. A general self-assessment based on a checklist and results of previous steps by the school management
6. Development of an enhancement plan
7. External audit and award of a label

After the project period, the European Anti-Bullying Network (EAN) will sustain the certification strategy by stimulating her members to implement the procedure (at a cost-covering rate) in their own countries. At the same time, the project aims to stimulate a discussion on the need to have stronger national policies on antibullying. For this, the partners undertake national needs assessments which explore if there are opportunities to integrate certification of schools on antibullying policy in existing national school quality frameworks. In addition, the project coordinator GALE develops a similar needs assessment for the European level. Both the European Union and the Council of Europe have very limited competences to set quality standards for schools or education sectors. The aim of this needs assessment is to explore how international organizations like EAN (European Antibullying Network) and European organizations which combat violence and discrimination can influence States and European organizations to more effectively promote social safety and non-discrimination in schools. This document is the European needs assessment.

### **The NESET II meta-analysis**

The recent NESET II study on bullying in Europe (2017) contains an overview of European research, methods and policies on bullying. It is the most comprehensive meta-analysis available. The report points out that bullying is a serious problem in school throughout the European Union and beyond. It reconfirms that bullying increases between ages 11 and 15, which is the target group of the ABC-project. It also reconfirms the gendered nature of bullying, with boys bullying and being bullied more than girls. Other studies have pointed out



that bullying patterns are also different between boys and girls. Most antibullying programs focus on micro-social processes that happen in groups and classrooms. Although such program have been shown to be able to reduce bullying considerably (especially in elementary schools), it remains difficult to address bullying that is supported or condoned by adults as well, like several forms of discriminatory bullying. The NESET II report stresses the need to take the wider social context into account, because socially excluded and discriminated groups like Roma children, disabled children, migrants, children living in poverty and lesbian, gay, bisexual and transgender (LGBT) suffer most for bullying and because those forms of bullying are embedded in wider cultural norms. The ABC-project takes these issues into account. The NESET metareview and other research shows the key role of teaching staff and pedagogical competences and the importance of a supportive organizational context and school leadership.

Although many projects have focused on developing teaching methods to combat various forms of bullying or have developed guidelines, the NESET II report shows it is difficult to translate such programs in real impact on the student level. Four important reasons for this are

- (1) that many programs are not comprehensive enough in methodology
- (2) most programs are either too generic or too targeted at specific groups
- (3) teachers lack the competence to deal with bullying and conflict
- (4) guidelines are often not implemented enough because of a lack of managerial leadership.

The answer to these challenges is to implement a more holistic approach and to strengthen ownership of all stakeholders in the school and leadership to create such ownership and competence.

The NESET II report points out that most European Member States lack a systematic approach to bullying in general. In addition, the report concludes that the prevention of discriminatory bullying in school (against groups such as Roma, minorities, migrants, as well as against those experiencing poverty and socio-economic exclusion) needs a stronger strategic focus in most EU Member States. In addition, the NESET II authors recommend cross-departmental policy synergies between education (focused on acquiring knowledge and skills) and health (focused on changing attitudes and behavior) are needed for more effective preventions of school bullying. This reflects the insight that antibullying or prosocial



behavior is not a set of neutral skills, but to a large extent guided by negative attitudes and subsequent behavior.

They call diplomatically for a recognition that structural social and political processes that promote social exclusion need to be taken into account when developing antibullying policy. The NESET II report is diplomatic in not mentioning that some EU member States and a number of Council of Europe member States are even condoning or actively promoting discriminatory measures in education by allowing or imposing stereotypical gender and racial stereotypes, by excluding or separating Roma and refugee children and by censoring information about sexuality and sexual diversity.

### **GALE country by country review**

NESET II does not offer a country by country review. However, in 2017, GALE (Global Alliance for LGBT Education) made a country by country review of how European countries implement the right to education for LGBT students. This is the only available resource on European antibullying policies with a country-by-country overview. GALE monitors the right to education by using a policy checklist with 15 points. Point 3 of this list is: “protection against bullying” ([GALE European report 2017](#)). In the related country assessment paragraphs, the general antibullying policy is noted and based on this, a specific assessment is made for LGBT bullying. This following paragraph is based on the data about general antibullying policies from the GALE report.

A first conclusion of GALE is that of 46% of the 50 European countries we don't have information of whether there is an antibullying policy, and for 42% of the countries we could not find reliable data on the level of bullying in schools. This shows the needs for more, and for comparable research.

Of the European countries, 44% seem to have an anti-violence or antibullying policy or law. Germany, Spain and the U.K. have decentralized policies, with all the parts of the U.K. having specific guidelines on school bullying, in Spain with considerable differences across *comunidades* but leaning towards supportive policies and in Germany also with considerable differences across *Länder* but with more ambiguous support against bullying.



Of 46% we could find no policy documents and of 3 countries we got anecdotal information they seem to have no policy at all (Latvia, Ukraine, and Russia).

The quality and the monitoring of national laws or policies differ widely. In many countries the implementation and impact are not monitored and often there are no consequences when schools or staff do not comply with guidelines or policy. In countries with neoliberal policies the quality of the implementation is left to the schools in the belief that autonomy and competition will automatically raise the quality.

The lack of country-by-country data on policies points to the need to get a better overview of policies in Europe, and if possible, of their efficacy.

The OECD does a comparative world-scale research on the quality of schools (PISA). In 2015 and 2018, the PISA-survey included a battery of questions about bullying. The results give an impression of the levels of bullying in European countries. Of all European countries, 29 (58%) have participated in the PISA-research in 2015 and 38 (76%) in 2018. Worldwide, the average of students reporting being frequently bullied (once a month or more on the with the more serious forms of bullying) is 8,9%, and in Europe 9%. The average of students reporting any type of bullying was in 2015 worldwide 18%, and in Europe 19,4% - 23,3% in 2025-2018. In 2018, the Netherlands scored lowest with 2% frequent bullying, and Lithuania scored highest with 23% frequent bullying with an average of 8,2% frequent bullying. Between 2015 and 2018, most of the European participating countries went slightly down in frequent bullying (-0,5%) but went 4,9% up if all forms of bullying over a longer period were counted.

States	PISA (frequent bullying 2015)	PISA 2018	change 2015- 2018	PISA (any bullying 2015)	PISA 2018	change 2015- 2018
<b>Average</b>	<b>8,6%</b>	<b>8,2%</b>	<b>-0,6%</b>	<b>19,4%</b>	<b>23,3%</b>	<b>3,9%</b>
Albania		7,0%			25,0%	
Andorra						
Armenia						
Austria	7,9%	7,0%	-0,9%	19,1%	23,0%	3,9%
Azerbaijan						



Belarus			6,0%		19,0%	
Belgium (1)	7,2%	5,0%	-2,2%	18,5%	19,0%	0,5%
Bosnia & Herzegovina		9,0%			25,0%	
Bulgaria	13,8%	14,0%	0,2%	24,7%	34,0%	9,3%
Croatia	6,7%	6,0%	-0,7%	17,1%	18,0%	0,9%
Cyprus (North)						
Cyprus (South)						
Czech Republic	11,7%	8,0%	-3,7%	25,4%	30,0%	4,6%
Denmark	6,4%	5,0%	-1,4%	20,1%	21,0%	0,9%
Estonia	9,5%	8,0%	-1,5%	20,2%	25,0%	4,8%
Finland	9,5%	6,0%	-3,5%	16,9%	18,0%	1,1%
France	6,7%	7,0%	0,3%	17,9%	20,0%	2,1%
Georgia		8,0%			24,0%	
Germany	6,1%	6,0%	-0,1%	15,7%	23,0%	7,3%
Greece	6,7%	8,0%	1,3%	16,7%	27,0%	10,3%
Hungary	9,3%	7,0%	-2,3%	20,3%	23,0%	2,7%
Iceland	5,1%	5,0%	-0,1%	11,9%	17,0%	5,1%
Ireland	6,8%	9,0%	2,2%	14,7%	23,0%	8,3%
Italy		8,0%			24,0%	
Kosovo		8,0%			32,0%	
Latvia	17,5%	11,0%	-6,5%	30,6%	35,0%	4,4%
Liechtenstein						
Lithuania	9,6%	23,0%	13,4%	16,4%	10,0%	-6,4%
Luxembourg	7,9%	7,0%	-0,9%	15,7%	21,0%	5,3%
Macedonia						
Malta		14,0%		32,0%		
Moldova		6,0%		24,0%		
Monaco						
Montenegro		9,0%		25,0%		
Netherlands	3,3%	2,0%	-1,3%	9,2%	12,0%	2,8%
Norway	9,6%	5,0%	-4,6%	17,7%	19,0%	1,3%
Poland	10,7%	8,0%	-2,7%	21,1%	26,0%	4,9%
Portugal	5,7%	5,0%	-0,7%	11,8%	14,0%	2,2%
Romania		12,0%			34,0%	
Russian federation	9,5%	12,0%	2,5%	27,5%	37,0%	9,5%
San Marino						
Serbia		10,0%			26,0%	
Slovakia	11,5%	9,0%	-2,5%	22,5%	28,0%	5,5%
Slovenia	7,3%	7,0%	-0,3%	16,4%	21,0%	4,6%
Spain	6,0%	5,0%	-1,0%	14,0%	17,0%	3,0%
Sweden	8,4%	6,0%	-2,4%	17,9%	19,0%	1,1%
Switzerland	7,3%	7,0%	-0,3%	16,8%	22,0%	5,2%

Turkey	8,8%	9,0%	0,2%	18,6%	24,0%	5,4%
Ukraine		8,0%			22,0%	
United Kingdom	14,2%	11,0%	-3,2%	23,9%	27,0%	3,1%

In 2018, PISA also reviewed if States had antibullying policies<sup>1</sup>.

- 70% had some kind of national antibullying policy
- 73% had national guidelines for a school-based antibullying policy
- 59% had a national strategy for how schools should respond to bullying
- 52% monitored the impact of the antibullying policies

States	National Policy (Pisa 2018; A)	School-based strategy	Response strategy	Monitoring
<b>Average</b>	<b>70%</b>	<b>73%</b>	<b>59%</b>	<b>52%</b>
Albania	yes	unknown	no	yes
Andorra				
Armenia				
Austria	yes	yes	yes	yes
Azerbaijan	no	no	no	no
Belarus	no	no	no	no
Belgium <sup>2</sup>	yes	yes	yes	yes
Bosnia & Herzegovina	yes	yes	yes	yes
Bulgaria	yes	unknown	unknown	no
Croatia	yes	yes	yes	unknown
Cyprus (North)				
Cyprus (South)	yes	yes	yes	yes
Czech Republic	yes	yes	yes	yes
Denmark	yes	yes	yes	yes
Estonia	yes	yes	no	yes
Finland	yes	yes	yes	yes
France	yes	yes	yes	yes
Georgia	unknown	unknown	unknown	unknown
Germany	no	yes	no	no
Greece	unknown	unknown	unknown	unknown
Hungary	no	no	no	no

<sup>1</sup> The quoted scores on school policies relate to lower secondary education

<sup>2</sup> Data on policy are on Wallonia, not on Flanders



Iceland	yes	yes	yes	no
Ireland	yes	yes	yes	yes
Italy	yes	yes	yes	yes
Kosovo	unknown	unknown	unknown	unknown
Latvia	yes	yes	yes	yes
Liechtenstein				
Lithuania	yes	yes	yes	yes
Luxembourg	yes	yes	yes	yes
Macedonia	no	yes	no	no
Malta	yes	yes	yes	yes
Moldova	yes	yes	yes	unknown
Monaco				
Montenegro	yes	yes	yes	yes
Netherlands	yes	yes	yes	yes
Norway	yes	yes	yes	yes
Poland	no	yes	no	no
Portugal	yes	yes	yes	no
Romania	yes	yes	unknown	yes
Russian federation	no	no	no	no
San Marino				
Serbia	yes	yes	yes	yes
Slovakia	yes	yes	yes	yes
Slovenia	unknown	unknown	unknown	unknown
Spain	yes	yes	yes	yes
Sweden	yes	yes	no	no
Switzerland	no	no	no	no
Turkey	unknown	unknown	unknown	unknown
Ukraine	yes	yes	yes	no
United Kingdom <sup>3</sup>	yes	yes	yes	no

To have an indication of the extent to which discrimination possibly plays a role in the safety of schools, we looked for data about minorities. We did not find much data on this. However, in a large scale survey by the European Fundamental Rights Agency (FRA) from 2014, we found data on LGBT people. In this survey LGBT people were – among other things - whether they had been discriminated by school staff. The answers ranged from 8-30% with an average of 19%. The percentages often do not correspond with the PISA percentages, indicating that discriminatory bullying (at least on LGBT issues) may be a different matter

<sup>3</sup> Monitoring is done in Scotland but not in England





than general bullying and/or that general policies do not have automatically have an impact on discriminatory practices.

The FRA survey has been repeated in 2019 but the report is not yet out.

<b>States</b>	<b>PISA - (frequent bullying in 2015)</b>	<b>PISA - (any bullying in 2015)</b>	<b>FRA – (LGBT discrimination by educational staff in 2014)</b>
Netherlands	3,3%	9,2%	8%
Iceland	5,1%	11,9%	
Portugal	5,7%	11.8%	29%
Spain	6,0%	14,0%	13%
Germany	6,1%	15,7%	16%
Denmark	6,4%	20,1%	10%
Greece	6,7%	16,7%	
Croatia	6,7%	17,1%	24%
France	6,7%	17,9%	15%
Ireland	6,8%	14,7%	21%
Belgium	7,2%	18,5%	11%
Slovenia	7,3%	16,4%	13%
Switzerland	7,3%	16,8%	
Luxembourg	7,9%	15,7%	16%
Austria	7,9%	19,1%	15%
Sweden	8,4%	17,9%	15%
Turkey	8,8%	18,6%	
<b>OECD average</b>	<b>8,9%</b>	<b>18,7%</b>	
Hungary	9,3%	20,3%	24%
Finland	9,5%	16,9%	13%
Estonia	9,5%	20,2%	19%
Russian federation	9,5%	27,5%	
Lithuania	9,6%	16,4%	31%
Norway	9,6%	17,7%	
Poland	10,7%	21,1%	21%
Slovakia	11,5%	22,5%	23%



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Czech Republic	11,7%	25,4%	17%
Bulgaria	13,8%	24,7%	24%
United Kingdom	14,2%	23,9%	15%
Latvia	17,5%	30,6%	23%
Malta			19%
Italy			21%
Cyprus (South)			23%
Albania			24%
Romania			30%



## 2. The global context

### UN Conventions

The most relevant UN convention relating to bullying is the Convention on the Rights of the Child. It states:

- Article 19 par.1 "establishes the obligation for States Parties which have ratified it, in order to take all the appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child".
- Article 28 par. 2 provides that States Parties take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity.
- Article 37 it is provided that States Parties should be alert that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

The Convention Against Discrimination in Education is also relevant. It intends to prevent discrimination in the shape of:

- (a) depriving any person or group of persons of access to education of any type or at any level;
- (b) limiting any person or group of persons to education of an inferior standard;
- (c) having separate educational systems or institutions for persons or groups of persons;
- (d) inflicting on any person or group of persons conditions which are in-compatible with the dignity of man.

### Sustainable Development Goals

On 1 January 2016, the United Nations began implementing the "2030 Agenda for Sustainable Development", an ambitious and universal vision, based on 17 Sustainable Development Goals (SDGs), as well as 169 associated targets, which are all integrated, indivisible and interlinked. This agenda, adopted on 25 September 2015, seeks to put an end to poverty, and facilitate sustainable development, by the year 2030. Building on the success of the preceding "Millennium Development Goals", it addresses the three pillars of sustainable development, namely the social, economic and environmental.



The SDGs are the end-result of a process that involved input from Governments, civil society, private sector and citizens, including children. They are relevant for all countries, which need to build the SDGs into their national policies and plans in order to achieve them. Governments have the primary responsibility for follow-up and review, at the national, regional and global levels the progress made in implementing the 2030 Agenda over the coming 15 years.

The strengthening of partnerships is one of the global goals. Partnerships should bring together Governments, civil society, the private sector, the United Nations system, regional organisations such as the Council of Europe and other actors to mobilise all available resources. Political leadership, guidance, follow-up, review of progress of the SDGs' implementation at the global level is ensured through the High-Level Political Forum (HLPF) on Sustainable Development.

In 2017, the HLPF focussed on “Eradicating poverty and promoting prosperity in a changing world” (Goals 1, 2, 3, 5, 9, 14 and 17). “Transformation towards sustainable and resilient societies” was the focus in 2018 (Goals 6, 7, 11, 12, 15 and 17) and “Empowering people and ensuring inclusiveness and equality” is the focus 2019 (Goals 4, 8, 10, 13, 16 and 17).

The 2030 Agenda includes a specific target to end all forms of violence against children (16.2). Abuse, neglect and exploitation of children are also mainstreamed across several other targets. In the spirit of an integrated approach, it is vital to tackle violence against children through broader efforts, such as the promotion of high-quality education and gender equality. The following goals and targets are particularly relevant for eradicating violence against children:

**Goal 4:** Ensure inclusive and equitable quality education and promote lifelong opportunities for all

4.7 By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation for cultural diversity and of culture's contribution to sustainable development.

4.a Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all.



**Goal 5:** Achieve gender equality and empower all women and girls

5.2 Eliminate all forms of violence against all women and girls in public and in private spheres, including trafficking and sexual and other types of exploitation.

5.3 Eliminate all harmful practices, such as child, early and forced marriage, and female genital mutilation.

**Goal 8:** Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all forms. ([Council of Europe, 2017](#))

### **The Antibullying Resolution**

In 2015, the UN General Assembly adopted a resolution against bullying ([69/158](#)). The resolution encouraged Member States to:

(a) take all appropriate measures to prevent and protect children, including in school, from any form of violence, including any form of bullying, by promptly responding to such acts, and to provide appropriate support to children affected by and involved in bullying;

(b) continue to promote and invest in education, including as a long-term and lifelong process by which everyone learns tolerance and respect for the dignity of others and the means and methods of ensuring such respect in all societies;

(c) generate statistical information and data disaggregated by sex, age and other relevant variables at the national level, and to provide information on disability, with regard to the problem of bullying, as a basis on which to elaborate effective public policies;

(d) raise public awareness, involving family members, legal guardians, caregivers, youth, schools, communities, community leaders and the media as well as civil society organizations, with the participation of children, regarding the protection of children from bullying; and

(e) share national experiences.



It should be noted that the discussion on the resolution was marred by contention against including any references to LGBT students, although a UNESCO-project on LGBT-bullying at the time showed how LGBT students are consistently bullied all over the world with disastrous consequences.

In 2016, an [international consultation on bullying](#) took place in Florence as a follow-up of the UN Assembly resolution. The experts stressed the importance of involving students in developing and maintaining antibullying policy, to make sure children's complaints are heard and taken serious and to avoid punishment and to use restorative methods. The experts state it is vital that schools develop and implement more antibullying strategies, including practical and confidential measures that children can access and use to escape the cycle of violence. Children themselves strongly recommend the creation of specific reporting mechanisms within each school and request that they be provided with more education on the subject of bullying, including cyberbullying, and on their rights in this regard. Teenagers are aware of how to reduce online risks from strangers, but awareness-raising also needs to include reducing the risks from their peers. The role of schools in holding discussions of the pressures that students face and in promoting the support and training of teachers to facilitate these discussions is important. All parties involved in protecting children's rights need to support efforts to establish antibullying strategies, reporting mechanisms and other relevant measures as a requirement in all schools and to strengthen, review and revise them for effectiveness where they do exist. Children should be informed about such mechanisms, which should be easily accessible, safe and trusted. Moreover, school staff needs to the right skills to early detect and effectively address incidents of bullying.

### **The UNESCO strategy**

One of the main goals of UNESCO is to promote a culture of peace and non-violence. Their formal tools to help States to monitor and guide this are the monitoring mechanisms of conventions. There is no international convention to combat bullying, but the Right to Education is worked out in five major conventions. One of these conventions is the Convention Against Discrimination in Education. However, only 52% of the 196 UN



members States signed this convention and it is only monitored every 7 years. The monitoring is done by requesting States to fill in a questionnaire. The monitoring is very inadequate, with many States not even supplying answers. NGOs have attempted to get a role in the monitoring process, but despite the UNESCO intentions to work more closely with NGOs, such attempts have been resisted until now.

UNESCO is also responsible for the monitoring of the International Recommendation for International Understanding (1974, nicknamed the “human rights education recommendation”), which is monitored every four years. In 2016, the [sixth consultation](#) was held. 43% of the signing States responded, which was considered an all time high by UNESCO. Almost all States reported great commitment to human rights education, and pointed to a range of ways it is formally “integrated” in regular subjects and school policy. Still, there seems to be a disparity between the high level of policy commitment and the need for more progress in teacher education. Although most States say they include the guiding principles of the recommendation in their students assessments, there is still insufficient attention to assessment of values and attitudes as well as behaviors.

Next to monitoring conventions, UNESCO implements projects to promote peace and international understanding. Before 2011, this strategy was limited to incidentally enhancing human rights education and organizing projects that encourage intercultural dialogue. In 2011, UNESCO got funding from the Dutch government to research LGBT bullying in schools and to initiate improved policies. In 2016, this project was closed with a conference and a series of publications. The resistance against mentioning sexual diversity in the UN antibullying resolution showed how controversial this topic still is.

In 2016, UNESCO followed up the antibullying project by combining the topic of sexual education that UNESCO worked on before with antiviolence in one revised strategy: [“Education for Health and Well-being: Contributing to the Sustainable Development Goals”](#). Since the budget of UNESCO has become minimal since the USA stopped paying its contribution, the strategy is mainly implemented by cooperation with other UN-agencies.

### **The UNICEF strategy**

A formal task of UNICEF is the [monitoring of the Convention of the Right of the Child](#). This convention is the most rapidly and widely ratified human rights treaty in history, by 196 States. The only country that have not ratified the treaty are Somalia and the United States



of America. The implementation of the convention is reviewed by the Committee on the Rights of the Child (CRC); a body of [18 Independent experts](#). It also monitors implementation of two Optional Protocols to the Convention, on [involvement of children in armed conflict](#) (OPAC) and on [sale of children, child prostitution and child pornography](#) (OPSC).

All participating States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must submit [an initial report](#) two years after acceding to the Convention and then [periodic reports](#) every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of “concluding observations”.

In 2011 the UN General Assembly approved a third Optional Protocol on [a communications procedure \(OPIC\)](#), which allows individual children to submit complaints regarding specific violations of their rights under the Convention and its first two optional protocols. The Protocol entered into force in 2014. The Committee consider such [individual complaints](#). And can carry out inquiries into allegations of grave or systematic violations of rights under the convention and its two optional protocols.

The Committee meets in Geneva and normally holds three [sessions](#) per year consisting of a three-week plenary and a one-week pre-sessional working group. In 2010, the Committee considered reports in two parallel chambers of 9 members each, "as an exceptional and temporary measure", in order to clear the backlog of reports.

The Committee also publishes its interpretation of the content of human rights provisions, known as [general comments](#) on thematic issues and organizes [days of general discussion](#).

Following a comprehensive review of its work on protecting children from violence, conducted in 2015, UNICEF has made ending violence against children an organization-wide priority across all programme areas. In 2016, 124 UNICEF country offices carried out programming to prevent and respond to violence against children through a variety of interventions. To establish a more cohesive global strategy, UNICEF is building on the key approaches outlined below.

### **1. Strengthening national commitments to multisectoral plans and priority actions.**

There is broad international consensus that the most promising approaches to long-term prevention of violence against girls and boys involve comprehensive,





coordinated action across all sectors, including leadership from governments and engagement of civil society.

**2. Assisting with the development and implementation of legal and policy frameworks.**

The development of legal and policy frameworks to protect children and adolescents from all forms of violence, exploitation and discrimination is an essential component of building a protective environment for every child. Such frameworks include national and subnational criminal and civil legislation, family codes and administrative laws, along with other policies, regulations and codes of conduct. But while legal reform may be an important achievement, UNICEF recognizes that it is often just a first step in a longer chain of actions. The greater challenge is to ensure that laws and policies are implemented and enforced in ways that protect all girls and boys from harm.

**3. Providing technical support** to the justice, social welfare, health and education sectors, along with other sectors as relevant, including travel and tourism, and information and communication technology. At the country level, technical support is frequently required to strengthen prevention programmes, reporting mechanisms and response services for children and adolescents affected by violence. This support is focused particularly, but not exclusively, within social welfare systems to strengthen the workforce and support the establishment of effective referral pathways between social welfare and child protective services, the police and other sectors.

**4. Supporting communities, parents and children.** Shifting the social norms that encourage violence and discrimination is a key component of UNICEF's work to protect children. Behaviour change efforts are undertaken in community-based interventions and school-based programmes, and through comprehensive and sustained mass media awareness-raising campaigns to shift attitudes, behaviour and social norms and to encourage reporting of violence.

## Global challenges

There are a number of global challenges, which also have an impact on Europe, or are generated from Europe itself.



The economic crisis has a heavy impact of the financing and thus the quality of education and has given rise to xenophobia and islamophobia.

Many States try to solve the economic challenge by privatizing parts of the education system, which is the subject of a fierce debate among organization supporting the right to education and States. In practice, privatization often has a number of detrimental effects, like resulting in a separation between good and well financed school for the rich and underfunded and less effective schools for working classes. Another well-researched risk is that business and religious sectors take over part of the education system and implement discriminatory policies which exclude students who will of cannot conform to certain commercial of religious norms. Privatization also leads to decentralization and liberalization of quality guidelines, which loosen the control by the government and school inspectorates.

In countries with war zones, the education system is one of the systems that may be destroyed and is difficult to rebuild. Although at this moment, most of Europe is still relatively free of war, but the region does have to cope with the fall-out of war zones in the Middle East, Africa and even wider due to refugees seeking safety. Children of refugees need education, so specific services need to be set up for them. This is a major challenge in the parts of Europe with most refugees.

A worrying tendency is the polarization on the global level. In a range of countries we see polarization between religious and ethnic groups. Islamophobia is on the rise worldwide, but we also see polarization between Islamic, Christian and Hindu groups and conflicts between religious groups.

Another polarization revolves around liberal and traditional views. There is a dangerous movement to claim that human rights are not universal. The more radical parts of global “traditional values coalition” claim that traditional local values should have a precedence over human rights. This is a threat to the entire human rights system, and for antibullying, because the view that autocracy and religious views can lead to social stratification and exclusion, inter alia in the shape of bullying. “Traditional” views on gender (men are “naturally” strong and aggressive, women are less capable as men or should serve men) can also lead to gendered bullying and violence. In some countries, “anti-gay propaganda laws” have been adopted to force schools to not educate about LGBT discrimination or to give only stereotyped information on homosexuality, sexuality in general and on gender.



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A more recent strategy from the traditional values movement is to claim the right of religious people and organizations to “act on their conscience” and exclude or discriminate others who do not conform to their religious standards. This is called “protection of religious freedom”. Some States are already enshrining this type of “religious freedom” in laws and to take away legal protections of people who oppose this. Such developments show that the antibullying movement does not only have to deal with aggressive acts outside values frameworks or in micro-situations. Increasingly, antibullying work has to take ideological and political dimensions into account.



### 3. The Council of Europe

Violence in schools and bullying is one of the strategic priorities of the current The Council of Europe Strategy on the Rights of the Child 2012-2015. Prevention of bullying starts with educating children about the harmful effects of bullying and that their actions have an impact on others. Therefore, the Council of Europe promotes whole school human rights and citizenship education programmes to tackle bullying and violence in schools. These Citizenship and human rights education programmes are based on the principles of the [Council of Europe Charter on Education for Democratic Citizenship and Human Rights](#) which all 47 member states of the Council of Europe have adopted ([Council of Europe webpage on bullying, 2019](#)).

#### Compass and Compasito

The [Directorate of Democratic Citizenship and Participation](#) that carries out the Council of Europe efforts on fighting bullying has created a wealth of tools which can be used in the fight against bullying. These include child-friendly material and educational material for education professionals to use in schools such as Compass for secondary schools and Compasito for primary schools.

- [Compasito manual on human rights education](#)
- [Compass: Manual for Human Rights Education with Young People, 2012](#) ([English pdf version](#))

The Compass manual has been controversial in some countries. In Poland it was banned because it has supportive references to LGBTI issues.

#### Treaties and binding international law

The European Convention on Human Rights<sup>18</sup> (1950) applies to all Council of Europe member States and is interpreted by the European Court of Human Rights. In addition to reaffirming the right to education (Protocol 1, Article 2), Article 14 of the Convention in conjunction with Protocol 12 provides for a general prohibition of discrimination. The commentary on Article 14 in the summary of Protocol 12<sup>19</sup> recognises explains that the list of grounds protected from discrimination under Article 14 isn't exhaustive ("no-one shall be discriminated against on any ground by any public authority") [56], [57].



The European Social Charter<sup>20</sup> (1961) spells out children and young people's right to social, legal and economic protection (Article 17). This includes their access to education and protecting them from violence. State parties must enable children and young people to “grow up in an environment which encourages the full development of their personality and of their physical and mental capacities”. The Explanatory Report to the Social Charter specifies that the open-ended list of grounds protected from discrimination in the charter's Article E also include the grounds of sexual orientation and gender identity [61, p. 271]

## Recommendations

In 2010, the Committee of Ministers of the Council of Europe recommended that member States adopt broad measures to combat discrimination based on sexual orientation and gender identity. Recommendation CM/Rec(2010)5 of the Committee of Ministers to member States on measures to combat discrimination on grounds of sexual orientation or gender identity – the first international human rights instrument adopted by an intergovernmental body on the rights of LGBT persons – enjoins States to take positive action to protect the human rights of LGBT children and young persons in schools, particularly in the areas of school curriculum and of bullying.

Council of Europe Recommendation CM/Rec(2010)5

VI. Education 31. Taking into due account the over-riding interests of the child, member States should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity. 32. Taking into due account the over-riding interests of the child, appropriate measures should be taken to this effect at all levels to promote mutual tolerance and respect in schools, regardless of sexual orientation or gender identity. This should include providing objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials, and providing pupils and students with the necessary information, protection, and support to enable them to live in accordance with their sexual orientation and gender identity.

The Parliamentary Assembly of the Council of Europe adopted two resolutions touching upon LGBTI children's access to education. In 2015, its Resolution 2048 on Discrimination



against transgender people in Europe called on member States to respect transgender children's best interest in educational settings (that is to say their privacy and dignity), and provide information and training to education professionals, law-enforcement officers and health-service professionals on the rights and specific needs of transgender people. In 2016, its Resolution 2097 on Access to school and education for all children<sup>23</sup> called on member States to ensure LGBTI children have access to quality education by promoting their respect and inclusion, disseminating objective information about issues related to sexual orientation and gender identity, and introducing measures to address homophobic and transphobic bullying.

In 2011, the Government of Norway, the Council of Europe and the UN Special Representative of the Secretary-General on Violence against Children organized a high-level meeting to define the role that the Council of Europe could further play in addressing violence in schools. ([Council of Europe, 2011](#)). With the adoption of the new SDGs, the Council of Europe committed to implementing these in Europe by providing States and other stakeholders with a platform to discuss achievements and to address challenges, promoting the implementation of standards through changes to national legal frameworks and the adoption of integrated policies and other measures, by providing guidance and support through recommendations, assisting in the collection of data, information and good practices, promoting accountability and ascertaining States' level of implementation and compliance through monitoring bodies and committees and by funding projects and activities.

In December 2018, the Sexual Orientation and Gender Identity Unit of the Council of Europe called upon European States to respond to school violence based on sexual orientation. The call was based on a new Council of Europe/UNESCO report ([Council of Europe/UNESCO, 2018](#)) ([Council of Europe Newsroom, 13 December 2018](#)).



## 4. The European Union

The EU does not have a specific legal framework to combat bullying but there are 5 directives that are relevant.

1. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime
2. Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography
3. Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings
4. Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law
5. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data

The European Union has no direct competence to organise its member States' education sector because of the principle of subsidiarity. However, The European Union has strategies in other domains that touch the education sector. Such strategies are in the first place equality (notably gender equality), in the second place reducing violence and discrimination and in the third place reducing school leaving.

### **Limitation: subsidiarity**

Subsidiarity is a principle of social organization that holds that social and political issues should be dealt with at the most immediate (or local) level that is consistent with their resolution. Subsidiarity is perhaps presently best known as a general principle of European Union law.

In 2014, the Commission stated that “in full respect of the principle of subsidiarity the Commission will continue to support Member States' efforts by *promoting exchange* of best practice, *cooperation and communication with and among national authorities* responsible for protecting and promoting the rights of the child” ([European Commission, 2014](#)).



- Education forms the basis for a creative and productive workforce that drives R&D and innovation and is able to steer technological and digital developments, rather than react to them; education and training equip people with the skills they need on the labour market and enable them to respond to changing circumstances and structural change or disruption; education, training, re- and up-skilling help to smoothen the transition between jobs; education and training give people the chance to create jobs themselves; a highly-qualified and flexible workforce forms the backbone of a resilient economy that deals with shocks well and plays a pro-active role in the global economy.
- Education and training are also the best way to increase employability and help get people into decent jobs. They offer the best protection against unemployment, poverty and social exclusion. Provided that it is of good quality and inclusive, education from childhood on lays the groundwork for social cohesion, social mobility and an equitable society.

[\(EU Commission, “Strengthening European Identity through Education and Culture”, 2017\)](#)

## Equality

The equality strategy in the European Union is focused on women. Over the past few decades, the EU has notably worked for:

- Equal treatment legislation;
- Gender mainstreaming (integration of a gender perspective into all policies);
- Specific measures for the advancement of women.

The [Strategic Engagement for Gender Equality 2016-2019](#) establishes the Commission’s work program for the 2016-2019 period. It outlines how the Commission’s is committed to promote gender equality in all its policies as well as into funding program. The Commission has defined the following priority areas for action:

- equal economic independence for women and men;
- equal pay for work of equal value;
- equality in decision-making;





- dignity, integrity and ending gender-based violence; and
- promoting gender equality beyond the EU.

The strategic engagement highlights the contribution of gender equality to economic growth and sustainable development and continues to corroborate the [2011-2020 European Pact for gender equality](#). It builds on the priorities and experiences of the [Strategy for equality between women and men 2010-2015](#); the five key areas identified in 2010 remain valid today. Every year progress is reported and presented in the [Report on equality between women and men in the EU](#).

### **Combating violence and discrimination**

The European Union invests heavily in combating violence (notably [terrorism](#) and [gender-based violence](#)) and [combating discrimination](#). There are specific funding programs to combat violence against children (Daphne) and discrimination (Rights, Equality and Citizenship). The Daphne-program aims to prevent and combat violence against children. In the reviewed priorities of late 2018, one focus is on capacity-building by expert practitioners in – among others – the education sector with the aim of systemising robust prevention, detection, identification and responses to adverse childhood experiences ([EU Newsletter of the Rights of the Child No. 5, December 2018](#)).

### **Reducing school leaving**

The Europe 2020 Strategy for growth and jobs seeks to reach under 10% of early school leavers EU-wide by the year 2020.<sup>24</sup> To reach this objective, the Council of the European Union recommended that member States adopt proactive policies to counter violence and bullying in educational institutions. Related to this strategy, in 2011 the Council of the European Union recognised that bullying affects early school leaving, and encouraged member States to develop strategies against early school leaving to create “a positive learning environment, reinforcing pedagogical quality and innovation” and “enhancing teaching staff competences to deal with social and cultural diversity” [8]. The Council further acknowledged that “Targeted individual support [...] is especially important for young people in situations of serious social or emotional distress which hinders them from continuing education or training”. Finally, the Fundamental Rights Agency also underlines that education sectors are responsible for providing safe learning environments. It encourages



EU member States to “provide a climate of safety, support and affirmation for LGBT youth, combating stigmatisation and marginalisation of homosexuality and different gender identities” [62, p. 94]. ([Council of Europe/UNESCO, 2018](#))

### **Integral part of fundamental rights policy**

In 2011, the European Union published an agenda on the Rights of the Child, which stated that the rights of the child should be an integral part of the fundamental rights policy of the union. This is implemented by integrating child rights into the “fundamental rights check-list”. The Fundamental Rights Agency was asked to develop study indicators to be able to collect comparable and reliable data ([European Commission, 2014](#)).

The FRA-indicators that are relevant for antibullying are:

- 5.2 Protection from exploitation and violence, “violence against children”. For schools, this indicator monitors if countries legally ban violence as a means for discipline, if schools provide confidential information and counselling for victims and legal rights for psychological assistance and the number of victims reported to the police.
- 5.2 Protection from exploitation and violence, “prevention of violence”. This indicator monitors if countries implement campaigns – with participation of children - to promote non-violent forms of discipline and to stop spanking of young children; cooperation between different sectors and Existence of legal provisions requiring schools to have adopted a child protection policy, addressing also bullying of children at schools and of requirement to assess antibullying policies.
- 5.4. Education, citizenship and cultural activities, “adaptability of education”. This indicator stresses that in order to be accessible, schools need to give answers to the challenges of our changing societies and economic and labour force systems pointing to the need to adapt the school curriculum to the demands of these systems by including the promotion of additional key competences, like (...) social and civic competences. This could be interpreted to be relevant for fostering prosocial behaviour.
- 5.4. Education, citizenship and cultural activities, “children’s active citizenship in school and related activities”. This paragraph stresses that young people should participate in school decision processes to learn in practice how to be a full citizen.

The chosen indicators for youth participation are:



Child or youth having been engaged in the following activities at school

(allowing for disaggregation):

- been a member of a school or student council
- acted as a class representative
- taken an active role in a pupil or student meeting
- acted as a peer mediator
- collaborated on the school newspaper
- acted as a peer mentor or counsellor

Child or youth having been engaged in the following social or political activities

(allowing for disaggregation):

- participated in a child or youth forum
- participated in a child or youth association / organization
- acted as a representative in a child or youth council
- participated in a community (local or regional) project
- participated in a collective supporting action (e.g. collecting signatures)
- participated in a protest action
- participated in voluntary work

[\(FRA, 2009\)](#)

The Commission works with the European Forum for the Rights of the Child. This organization organizes an annual (invited) conference. In the agenda of the 2019 conference, there is no attention to bullying ([Agenda 12<sup>th</sup> European Forum](#)).

On bullying, the Commission notes that “children across Europe testify that physical and emotional bullying in schools is part of their everyday lives. Cyber-bullying has been identified as a modern manifestation of bullying that calls for urgent responses and the involvement of all relevant actors, such as social networking sites, internet providers and the police.” However, among the adopted actions, only combating cyberbullying is an explicit action ([European Commission, 2014](#)).

In 2012, the European Parliament adopted a written declaration to support the establishment of a European Day against Bullying and School Violence, and to combat bullying and train practitioners on bullying prevention ([European parliament, 2012](#)). The Commission has not taken over this recommendation.



In November 2017, the Commission presented its contribution to the Social Summit in Gothenburg, where EU leaders discussed the social dimension of Europe, including education and culture. As part of the ongoing debate on the Future of Europe, the Commission set out its vision and concrete steps to create a European Education Area by 2025. The European Area of Education should include:

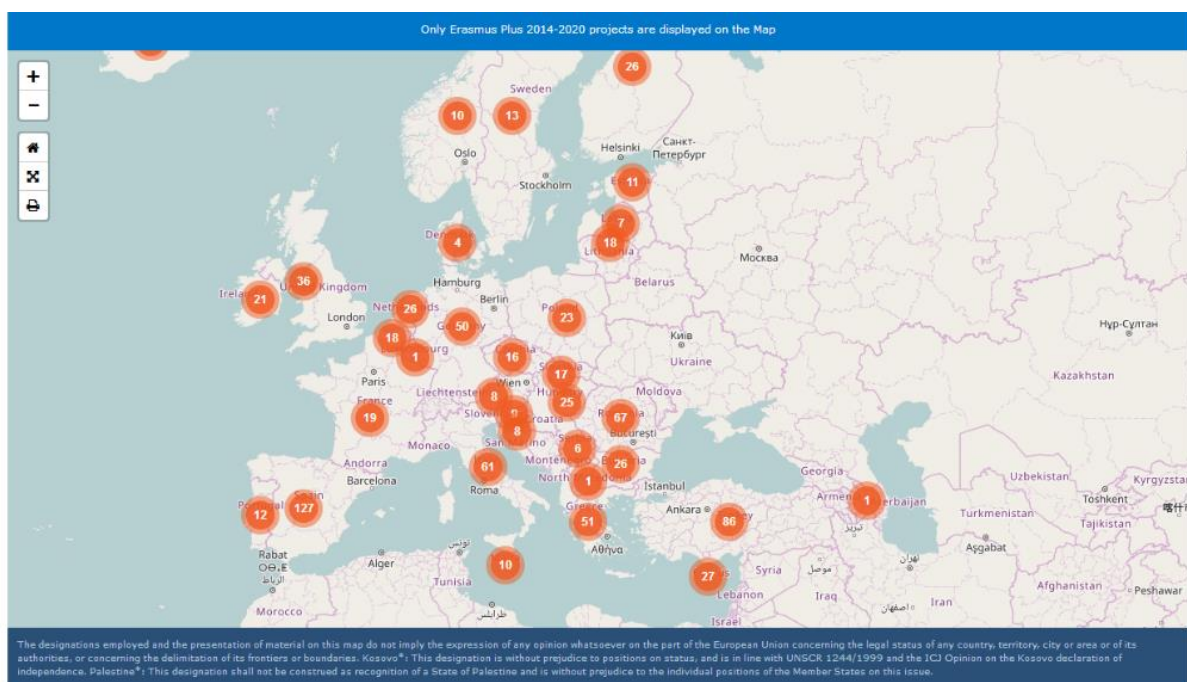
- [Making mobility a reality for all](#): by building on the positive experiences of the Erasmus+ programme and the European Solidarity Corps and expanding participation in them as well as by creating an **EU Student Card** to offer a new user-friendly way to store information on a person's academic records;
- [The mutual recognition of diplomas](#): by initiating a new '**Sorbonne process**', building on the "Bologna process", to prepare the ground for the mutual recognition of higher education and school leaving diplomas;
- [Improving language learning](#): by setting a **new benchmark** for all young Europeans finishing upper secondary education to have a good knowledge of two languages in addition to their mother tongue(s) by 2025;
- [Promoting lifelong learning](#): by seeking convergence and increasing the share of people engaging in learning throughout their lives with the aim of reaching **25%** by 2025;
- [Supporting teachers](#): by multiplying the number of teachers participating in the Erasmus+ programme and eTwinning network and offering policy guidance on the professional development of teachers and school leaders;
- [Creating a network of European universities](#) so that world-class European universities can work seamlessly together across borders, as well supporting the establishment of a [School of European and Transnational Governance](#);
- [Investing in education](#): by using the European Semester to support structural reforms to improve education policy, using EU funding and [EU investment instruments](#) to fund education and setting a benchmark for Member States to **invest 5% of GDP in education**;
- Strengthening the European dimension of **Euronews**, which was created in 1993 by a number of European public broadcasters, with the ambition of having a European channel offering access to independent, high quality information with a pan-European perspective.

([Commission News, 17 November 2017](#)).

## Projects

The Council of Europe has funded a range of projects that promote inclusion in schools. Some of these focus on inclusion of Roma children in schools, others on the combination of democracy and inclusion. The available information on the CoE projects is not clear on whether these projects include attention to bullying.

A search for antibullying projects funded by the European Union shows the Erasmus+ program funded 932 projects which have the keyword “bullying” in their summary. A large number of partners from Spain have participated in these projects.



We could not search for antibullying projects funded by other European Union programs because the [database](#) was unavailable in 2019/2020.



## 5. European Antibullying Network (EAN)

At the start of the European Antibullying Network (EAN) in 2014, the network adopted a “position paper”. The paper (see annex) contained 12 recommendations outlining a view on what potentially effective antibullying policies should look like on the school level and the national level.

The strategy of the network itself has been to exchange good practices among members, and on the European level to advocate for specific attention for bullying as separate from the more general concept of violence. The exchange of good practices took shape in the production of a newsletter and the organization of an annual conference and the European advocacy was mainly focused on the adoption of a European Antibullying Day. The European Parliament took over this suggestion but the European Council did not adopt it.

In 2016, the network adopted 10 goals to guide the network (the “Malta Declaration”), and in 2017 a framework was proposed to implement the goals through a series of projects. The key strategy lines in this framework were:

1. **Capacity building** through establishing a secretariat, a clearing house for good practices, systematic fundraising and annual conferences.
2. **Method development** focussed on certification of antibullying policy in schools, youth participation, and minority participation in school and national policies.
3. **Awareness raising**, through regular European awareness campaigns
4. **European advocacy**, through monitoring national policies or action plans, developing and advocating a European Road Map and mobilising the EU to create more targeted commitment in European institutions to combat bullying.

The ABC-project was initiated by one of the EAN-members (GALE) to support the certification and different members supported the organization of annual conferences. It turned out to be difficult to convince the members to take the lead in other projects in the context of the framework.



## 6. Conclusions and recommendations

### Impression of the global context

Our review shows the global context of the United Nations framework and global conventions give a good direction to a global movement on antibullying, but that there are important gaps in the framework. Although the Convention of the Rights of the Child is widely adopted and quite well monitored, the Convention Against Discrimination in Education is not adopted widely enough and the review mechanism is superficial and inadequate. The budget of UNESCO is too limited to have a serious impact on education systems. The budget of UNICEF is larger and in some developing countries, their support projects have considerable impact on national child protection policies, but probably less in schools.

We also noted the global threat to antibullying and the human rights system as a whole by a traditional values coalition. This coalition maintains that nationalistic autocracy and religious views are legitimate replacements of human rights and equality. The “traditional” nationalistic and “family” values in question lead to social stratification and systematic exclusion, inter alia in the shape of bullying. Especially the gender aspects of bullying are aggravated in this way. These developments play an increasing role in Europe as well, with radical right-wing, nationalist and populist movements developing anti-democratic and anti-minority rhetoric and policies and role-modelling hate speech to young people. For the antibullying movement, this requires a serious consideration of current ideological and political contexts.

### Strengths and shortcomings in Europe

Our review shows how both the Council of Europe and the European Union share a vision in which peace, conflict resolution, democracy and equality are central topics. Both have legal and social strategies to implement these values. In the European union there is a substantial budget for antibullying projects, which will only grow with the expansion of the Erasmus+ program.

However, a few shortcomings in the European strategy could be pointed out.

- The Council of Europe and the European Union does not have a competence in the educational area. The principle of subsidiarity limits its scope. This principle is there because the content of education is considered a local competence.

However, the safety in schools is also part of the education system even though it has little to do with the content of education. There is a question whether the European Union could not be more pro-active in this area. The EU has numerous safety regulations.

- In the area of funding, the focus is often on sharing of good practices. While this is useful, it does raise the question which good practices are best practices and why. Some projects and initiatives like the NESET-reviews provide a meta-analysis which helps to get an overview. But it seems that such guides to better impact are not yet shared well enough to guide new policies on the national or European level.
- The number of European projects funded for antibullying projects is extensive. It is so high that it falls outside the scope of the ABC-project to review them properly. This raises the question whether there is a development in these projects or whether they repeat each other.

## Recommendations

We would like to propose the following recommendations. The recommendations are formulated as actions to consider for European bodies and institutions. The recommendations implicitly also are a suggestion for more a targeted strategy of the European Antibullying Network (EAN).

1. The European Union could do a review of funded projects that focus on, or include bullying. The result of such a review should be to help focus future antibullying projects to go beyond sharing of subjective good practices and become part of a more systematic development program to combat bullying in Europe in a more systematic way.
2. The European Union could consider if European level guidelines for social safety and inclusion in schools, agreed on by Member States, would be possible and strengthen the strategies to combat early school-leaving, gender-based violence and social inclusion.





3. The European Union could consider making it a priority to open a tender for an ongoing European campaign to stimulate awareness of bullying and structural ways to combat it. The choice of a EU-“Day Against Bullying” could be a focal point in such an annual campaign and get more “body” and support.
4. Part of such a campaign could be the development of a clearing house of projects and methods. In this effort, the EU and EAN could team up with the Swedish organization “Friends” which already is working on a similar global database in the context of the World Antibullying Forum.
5. Another part of such a campaign could be the development of a European “map” of national antibullying policies and related best practices, and the use of country assessments to stimulate national dialogue and cooperation to enhance such policies. In this effort, the EU and EAN could team up with GALE which already is working on this type of mapping.
6. The international development to legitimize ideological and political hate speech and systematic social exclusion of social groups should be more recognized as a serious threat to antibullying, violence and general, human rights and democracy. The EU should consider developing a coherent view on how to deal with political hate speech and exclusion and the concrete implementation of antibullying and violence.



## Annexes

### The EU principle of subsidiarity

In areas which do not fall within the Union's exclusive competence, the principle of subsidiarity, laid down in the Treaty on European Union, defines the circumstances in which it is preferable for action to be taken by the Union, rather than the Member States.

#### Legal Basis

Article 5(3) of the Treaty on European Union (TEU) and Protocol (No 2) on the application of the principles of subsidiarity and proportionality.

#### Objectives

The principle of subsidiarity and the principle of proportionality govern the exercise of the EU's competences. In areas in which the European Union does not have exclusive competence, the principle of subsidiarity seeks to protect the capacity of the Member States to take decisions and to take action and authorises intervention by the Union when the objectives of an action cannot be satisfactorily achieved by the Member States 'by reason of the scale and effects of the proposed action'. The purpose of including a reference to the principle in the European Treaties is also to ensure that powers are exercised as close to the citizen as possible.

#### Origin and history

The principle of subsidiarity was formally enshrined by the Maastricht Treaty, which included a reference to it in the Treaty establishing the European Community (TEC). However, the Single European Act (1987) had already incorporated a subsidiarity criterion into environmental policy, albeit without referring to it explicitly as such. In its judgment of 21 February 1995 (T-29/92), the Court of First Instance of the EC ruled that the principle of subsidiarity was not a general principle of law, against which the legality of Community action should have been tested, prior to the entry into force of the EU Treaty.

Without changing the wording of the reference to the principle of subsidiarity in Article 5, second paragraph, of the EC Treaty, the Treaty of Amsterdam annexed to the EC Treaty the 'Protocol (No 2) on the application of the principles of subsidiarity and proportionality'. The overall approach to the application of the principle of subsidiarity agreed at the 1992



European Council in Edinburgh thus became legally binding and subject to judicial review via the protocol on subsidiarity.

The Lisbon Treaty incorporated the principle of subsidiarity into Article 5(3) TEU and repealed the corresponding provision of the TEC while retaining its wording. It also added an explicit reference to the regional and local dimension of the principle of subsidiarity. Furthermore, the Lisbon Treaty replaced the 1997 protocol on the application of the principles of subsidiarity and proportionality by a new protocol with the same name (Protocol No 2), the main difference being the new role of the national parliaments in ensuring compliance with the principle of subsidiarity.

### Definition

1. The general aim of the principle of subsidiarity is to guarantee a degree of independence for a lower authority in relation to a higher body or for a local authority in relation to central government. It therefore involves the sharing of powers between several levels of authority, a principle which forms the institutional basis for federal States.
2. When applied in the context of the European Union, the principle of subsidiarity serves to regulate the exercise of the Union's non-exclusive powers. It rules out Union intervention when an issue can be dealt with effectively by Member States at central, regional or local level and means that the Community is justified in exercising its powers when Member States are unable to achieve the objectives of a proposed action satisfactorily.

Under Article 5(3) TEU there are three preconditions for intervention by Union institutions in accordance with the principle of subsidiarity: (a) the area concerned does not fall within the Union's exclusive competence; (b) the objectives of the proposed action cannot be sufficiently achieved by the Member States; (c) the action can therefore, by reason of its scale or effects, be implemented more successfully by the Union.

### Scope

The demarcation of European Union competences



The principle of subsidiarity applies only to areas in which competence is shared between the Union and the Member States. The entry into force of the Treaty of Lisbon has put an end to the differing interpretations of the scope of the principle of subsidiarity by providing a clearer demarcation of the powers conferred on the Union. Part One, Title I, of the TFEU in fact divides the competences of the Union into three categories (exclusive, shared and supporting) and identifies the areas covered by the three categories.

### Where it applies

The principle of subsidiarity applies to all the EU institutions. The rule has practical significance for legislative procedures. The Lisbon Treaty has strengthened the role of both the national parliaments and the Court of Justice in monitoring compliance with the principle of subsidiarity.

### National parliamentary scrutiny

Under the second paragraph of Article 5(3) and Article 12(b) TEU, national parliaments monitor compliance with the principle of subsidiarity in accordance with the procedure set out in Protocol No 2. Under this procedure, any national Parliament or any chamber of a national Parliament has eight weeks from the date of forwarding of a draft legislative act to send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. If 'negative' reasoned opinions represent at least one-third (one vote per chamber for a bicameral Parliamentary system and two votes for a unicameral system) of the votes allocated to the national parliaments, the draft must be reviewed ('yellow card'). The institution which produced the draft legislative act may decide to maintain, amend or withdraw it. This threshold is reduced to one-quarter for legislation relating to police and judicial cooperation in criminal matters. If, in the context of the ordinary legislative procedure, at least a simple majority of the votes allocated to national parliaments challenge the compliance of a proposal for a legislative act with the principle of subsidiarity and the Commission decides to maintain its proposal, the matter is referred to the legislator (European Parliament and the Council), which takes a decision at first reading. If the legislator considers that the legislative proposal is not compatible with the principle of subsidiarity, it may reject it subject to a majority of 55% of the members of the Council or a majority of the votes cast in the European Parliament ('red card' or 'orange card').



In May 2012, the first 'yellow card' was issued with regard to a Commission proposal for a regulation concerning the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services ('Monti II'). 12 out of 40 national parliaments or chambers thereof (19 out of 54 votes allocated) considered that the content of the proposal did not conform to the principle of subsidiarity. The Commission eventually withdrew its proposal. In October 2013, another 'yellow card' was issued by 14 chambers of national parliaments in 11 Member States following the proposal for a Regulation on the establishment of the European Public Prosecutor's Office. The Commission, after examining the reasoned opinions received from the national parliaments, decided to maintain the proposal, stating that it would probably be implemented through enhanced cooperation.

#### Judicial review

Compliance with the principle of subsidiarity may be reviewed retrospectively (following the adoption of the legislative act) by means of a legal action brought before the Court of Justice of the European Union. This is also stated in the Protocol. However, the Union institutions have wide discretion in applying this principle. In its judgments of 12 November 1996 in Case C-84/94, ECR I-5755 and 13 May 1997 in Case C-233/94, ECR I-2405, the Court found that compliance with the principle of subsidiarity was one of the conditions covered by the requirement to state the reasons for Community acts, under Article 296 TFEU. This requirement is met if it is clear from reading the recitals that the principle has been complied with.

Such actions may be brought by Member States or notified by them on behalf of their national Parliament or a chamber thereof, in accordance with their legal order. The Committee of the Regions may also bring such actions against legislative acts if the TFEU provides that it must be consulted on the adoption of such acts.

#### Role of the European Parliament

The European Parliament was the instigator of the concept of subsidiarity and, on 14 February 1984, in adopting the draft TEU, proposed a provision stipulating that in cases where the Treaty conferred on the Union a competence which was concurrent with that of



the Member States, the Member States could act as long as the Union had not legislated. Moreover, it stressed that the Community should only act to carry out those tasks which could be undertaken more effectively in common than by individual States acting separately.

Parliament was to reincorporate these proposals into many resolutions (for example those of 23 November and 14 December 1989, 12 July and 21 November 1990 and 18 May 1995), in which it reaffirmed its support for the principle of subsidiarity.

### Interinstitutional agreements

On 25 October 1993, the Council, Parliament and the Commission signed an interinstitutional agreement which demonstrated clearly the three institutions' eagerness to take decisive steps in this area. They thus undertook to comply with the principle of subsidiarity. The agreement lays down, by means of procedures governing the application of the principle of subsidiarity, arrangements for the exercise of the powers conferred on the Union institutions by the Treaties, so that the objectives laid down in the Treaties can be attained. The Commission will take into account the principle of subsidiarity and show that it has been observed. The same applies to Parliament and the Council, in the context of the powers conferred on them.

The three institutions will regularly check, using their internal procedures, whether the action envisaged complies with the principle of subsidiarity as regards both the choice of instruments and the content of the proposal. Accordingly, under Rule 36 of Parliament's Rules of Procedure, 'During the examination of a proposal for a legislative act, Parliament shall pay particular attention to respect for the principles of subsidiarity and proportionality'. The Commission also draws up an annual report on observance of the principle.

Under the terms of the Interinstitutional Agreement on 'Better Lawmaking' of 31 December 2003, the Commission must explain in its explanatory memoranda how the proposed measures are justified in the light of the principle of subsidiarity and must take this into account in its impact assessments. Moreover, in concluding the framework agreement of 20 November 2010 Parliament and the Commission undertook to cooperate with the national parliaments in order to facilitate the exercise by those parliaments of their power to scrutinize compliance with the principle of subsidiarity.



## European Parliament resolutions

In its resolution of 13 May 1997 Parliament already made clear its view that the principle of subsidiarity was a binding legal principle but pointed out that its implementation should not obstruct the exercise by the EU of its exclusive competence, nor be used as a pretext to call into question the *acquis communautaire*. In its resolution of 8 April 2003 Parliament added that disputes should preferably be settled at political level, whilst taking into account the proposals made by the Convention on the Future of Europe concerning the establishment by the national parliaments of an 'early warning' mechanism in the area of subsidiarity. This mechanism was in fact incorporated into the Lisbon Treaty (see above).

In its resolution of 13 September 2012, Parliament welcomed the closer involvement of the national parliaments with regard to scrutinizing legislative proposals in the light of the principles of subsidiarity and proportionality and suggested that any ways to alleviate impediments to national parliaments' participation in the subsidiarity control should be investigated. It also suggested that an assessment be made to determine whether appropriate criteria should be laid down at EU level for evaluating compliance with the principles of subsidiarity and proportionality.

<http://www.europarl.europa.eu/unitedkingdom/en/education/teachingresources/howeuworks/subsidiarity.html>



## **Recommendations of the Oslo high-level expert meeting (2011)**

The experts recommend governments to:

1. invest in improving data collection and research for gathering more evidence of the various forms of violence perpetrated in the school environment;
2. develop impact assessment tools and indicators for measuring violence reduction initiatives and programmes and, through national, regional and international cooperation share, to these good practices;
3. take all effective measures in promoting a culture of non-violence and advancing a proactive and responsible role of parents, carers and guardians;
4. advance skills training, such as life skills-based education, human rights education, education for democratic citizenship, peer mediation, mentoring and conflict management programmes;
5. invest in programmes for improving the relationships between school and family in order to involve pupils, teachers and parents in identifying practical projects and activities on the issue of violence in schools;
6. reinforce local, national and international efforts in the implementation of human rights education and education for democratic citizenship in the schools by encouraging the states to ratify and implement the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education and take note of the other relevant UN and Council of Europe texts and recommendations;
7. develop a respective culture of co-existence both outside the schools as well as in the school and classroom management. To achieve this, teacher training should remain as a focus, and training of multipliers such as through the Council of Europe Pestalozzi training model should be promoted;
8. promote national and local action plans and guidelines for tackling violence in schools in co-operation with child welfare/protection services and organisations, the media and private Internet service providers;
9. strengthen national and local child protection mechanisms in co-operation with ombudspersons, experts and civil society at large, including children and young people;
10. invest in capacity building of all professionals working for and with children and young people;
11. reinforce international co-operation, coordination and sharing of knowledge of good practices, programmes and evidence-based research to combat violence against children;
12. invest in more international assistance and funding for violence reduction in schools;





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13. take note of the recommendations of the UN World Report on Violence against children and other key UN and Council of Europe instruments, recommendations and guidelines in combating violence in schools.



## **Legal standards Council of Europe**

(Source: [Council of Europe legal standards webpage](#))

*Council of Europe legal standards Committee of Ministers*

### [Recommendation CM/Rec\(2010\)7 of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education](#)

The Committee of Ministers recommends the governments of member states to implement measures and policies based on the Charter on Education for Democratic Citizenship and Human Rights Education (the Charter). The Charter is the appendix to the Recommendation.

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*Parliamentary Assembly*

### [Recommendation on Education against violence at school \(2011\)](#)

This Recommendation draws the attention to the need to enhance policy design concerning education against violence at school. This can be done through holistic and proactive educational policies and greater co-operation at European level.

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*Congress of Local and Regional Authorities*

### [Recommendation 135 \(2003\) on local partnerships for preventing and combating violence at school](#)

This Recommendation addresses the increase of violence throughout Europe and the tendency for violence at school to start at an increasingly early age. School violence has an enormous social cost which requires mobilisation of all sections of the community. The Congress in this Recommendation develops several fundamental principles which any policy for combating or preventing violence must be based on.



## [Resolution 160 \(2003\) on local partnerships for preventing and combating violence at school](#)

This Resolution reiterates the fundamental principles and issues addressed in the Recommendation on local partnerships for preventing and combating violence at school. In particular the Congress invites the local authorities of Europe to make the prevention and reduction of violence at school part of their overall policy to combat urban insecurity and support multidisciplinary action which encompasses the combating of violence at school.

### *The European Social Charter*

The [European Social Charter](#) guarantees social and economic human rights and allows certain organisations to lodge collective complaints of violations of the Charter with the European Committee of Social Rights. The Charter guarantees the rights of children in many circumstances. Children's rights are specifically addressed in several articles of the Social Charter, in particular: Article 7 (the right of children and young persons to protection) and Article 17 (the right of children and young persons to social, legal and economic protection).

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### *The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)*

The [Lanzarote Convention](#) requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, protect child victims and prosecute perpetrators.

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### *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*

This [convention](#) provides non-judicial preventive mechanisms to protect detainees from torture and inhuman or degrading treatment or punishment. It is based on a system of visits by the [European Committee for the Prevention of Torture and Inhuman or Degrading](#)



[Treatment or Punishment \(CPT\)](#) which frequently visits establishments where young persons are detained.

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*Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*

The [Istanbul Convention](#) requires states parties to prevent violence against women and children, protect victims and prosecute the perpetrators. The convention introduces a number of criminal offences for physical, sexual and psychological violence for which harsher sentences are required when the offence is committed against or in the presence of a child.

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*Council of Europe Convention on Action against Trafficking in Human Beings*

The [Council of Europe Convention on Action against Trafficking in Human Beings](#) aims to prevent trafficking in human beings, protect victims of trafficking, prosecute traffickers and promote co-ordination of national actions and international co-operation. The convention provides for special measures and procedures for children in the context of victim identification and requires that assistance provided to child victims be adapted to their special needs.

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*Convention on Cybercrime (Budapest Convention)*

The [Cybercrime Convention \(Budapest Convention\)](#) establishes a common approach to the criminalisation of offences related to computer systems and aims to make criminal investigations concerning such offences more effective. According to this convention, all conduct relating to child pornography must be established as a criminal offence in the state parties.

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### *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data*

The [Data Protection Convention](#) ensures respect for fundamental human rights with regard to processing of personal data. Children are holders of data protection rights under this convention and special attention must be paid to empowering children to exercise these rights.

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*Other legal standards:*

[The European Convention on the Adoption of Children \(Revised\)](#)

[Convention on Contact concerning Children](#)

[European Convention on the Exercise of Children's Rights](#)



## **EAN position paper (2014)**

In 2014, EAN published a position paper. The following recommendations were suggested:

- 1. Development of policy framework, legislative regulations, ministerial circulars:** The legal support of any anti-bullying policy is important in order to protect and support children's rights and society in general from anti-social behaviour, as well as provide safeguards for the school, pupils, teachers and parents in implementing anti-bullying strategies. All states should develop a multilevel comprehensive and integrated policy framework and strategy plans to respond and prevent bullying. Such a framework should be coordinated by an agency which has the ability to engage multiple and multidisciplinary sectors and experts.
- 2. Cultural competence:** any policy, programme, plan and practice should be compatible and/or adjusted to the countries' cultural needs, traditions, and beliefs, unless such needs, traditions and beliefs are harmful for the society and/or a social group, children and/or adults. Special attention should be given to cultural competence in multicultural settings, like educational environments, in order to promote mutual respect of the rights of the child between and among ethnic groups, minorities, and other religious and social groups.
- 3. Human rights education and peace values:** non-violent and peace values should be promoted in any policy, programme, plan, and practice. Human rights education is essential in order to promote respect and peace values. Human rights education should be promoted as priority issue in any anti-bullying policy, programme, plan and practice, for attitude transformation and, discrimination and negative stereotypes reduction.
- 4. Conflict management and peaceful resolution strategies:** trainings and raising awareness on conflict management techniques and peaceful conflict resolution methods have proven very important. Restorative justice and mediation schemes are already been implemented in many EU countries and have proven very effective. Such methods are often based on „whole school“ approach and include social skills trainings programs and intervention teams. They promote active citizenship and are very child-friendly. Conflict management and peaceful resolution strategies should be included in any anti-bullying policy, programme, plan and practice, and be coordinated by experts in conflict management and restorative justice.



5. **'Whole school' approach:** the implementation of „whole school“ approaches helps in the active participation of all members of the school community in responding to bullying and violent behaviour, promoting active citizenship and developing social skills and communication. „Whole school“ approaches should be promoted in any anti-bullying policy, programme, plan, and practice. Especially, the active participation of children, teachers and parents should be ensured.

6. **'Whole community' approach:** engaging all the community, civil society, NGOs, and other public and private organisations in preventing anti-social and violent behaviour not only helps in tackling school bullying, but moreover it promotes the development of a culture based on respect and inclusion. Experts' opinion has proven helpful in organising, implementing and supporting the policies. „Whole community“ approaches should be promoted in any anti-bullying policy, programme, plan, and practice. Child-led and community-led initiatives and think-tanks, children and youth organizations, which are active in the fields of children rights protection, violence prevention, peaceful dispute resolution and restorative justice, should be supported and invited to take part in any anti-bullying policies, programmes, plans, and practices.

7. **Manuals and guidelines:** manual and guidelines are very important in implementing effective anti-bullying solutions and methods. Such manuals (e.g. on mediation, Olweus Method) can be used both by pupils and instructors. Manual and guidelines should be included in any anti-bullying policy, programme, plan, and practice implementation.

8. **Research:** research results present the insides of the phenomenology of bullying, its actors, its motives, its consequences and impact on the psychology, health, education and delinquency, as well as the attitudes towards it, and the effectiveness of anti-bullying practices. Research should be part of planning and organising any anti-bullying policy, strategy, or practice. Furthermore, research in the field of cyberbullying is of great importance in order to create online and electronic safety nets and prevention strategies.

9. **Evaluation and follow-ups:** evaluation and follow-up are very important in assessing policies“, strategies“ and programs“ effectiveness and viability, as well as in identifying possible problems and obstacles that prevent the smooth implementation of the plan. Evaluation and follow-up studies should be part of any policy and practice planning and organisation.





10. **Databases:** the creation of databases improves the organization and implementation of future policies and actions. The establishment of an integrated information management system able to identify and disseminate good anti-bullying practices, tools and methodologies on an on-going basis, of a system of research data collection, and of a system of recording and evaluating anti-bullying policies should be set up. Any database and information system should respect personal and other sensitive data. Anonymity should be ensured in respect to each person's self-determination.

11. **Networking:** cooperation among public and private organisations, civil society and NGOs creates strong affiliations that contribute to the further sustainability and scalability of policies and practices. Any anti-bullying policy and practice should be based on and/or promote networking among interested organizations and parties, as well as partnership schemes on local and European level in implementing actions and activities.

12. **Dissemination efforts:** dissemination efforts may affect public opinion, raise awareness, and influence policy and decision makers. Dissemination efforts can be general by addressing the phenomenon to the general public, or can be special and targeted by raising awareness of specific target-groups. Effective dissemination efforts include circulars and material to schools and members of school communities, websites and online resources, audio-visual material (e.g. videos, DVDs), publications, and other press and media resources. Events, campaigns and conferences, competitions and awards, are promoting the engagement of many members of the community. Any anti-bullying policy and practice should be efficiently disseminated to the general public and to target-groups. Especially, awareness raising campaigns should be used to disseminate information. Media should be encouraged to promote peace values and support any anti-bullying policy, programme, plan and practice.



## EAN goals (Malta Declaration 2016)

1. to pursue a **framework of certification** based on quality policies in schools and other institutional environments where bullying needs to be combated;
2. **to support educational initiatives and policies enhancing social attitudes and skills**, while promoting the use of EAN as a switchboard platform to this effect;
3. **to expand the network** so as to include members from at least all EU Member States;
4. **to enhance common working methods** in order to ensure continuity in the exchange and implementation of joint or converging actions among members of EAN;
5. to demand from their respective competent national authorities that **National Anti-Bullying Action Plans** be enhanced or, in their absence, developed on the basis of the **set of recommendations** established by the European Antibullying Network;
6. to promote and actively put at the disposal of young people and vulnerable groups **concrete instruments of communication** which open ways for them to participate in the discernment of, and the combat against bullying;
7. **to set up joint mechanisms** among EAN members to collect and monitor data on bullying, in order to map the phenomenon and its development at the European level;
8. **to initiate a European Road Map** on the combat against bullying and the promotion of relevant social citizenship skills;
9. **to mobilize the EU institutions** in order to generate their structural support for efforts to combat bullying and raise awareness among children, young people, parents, educators, practitioners, and the general public;
10. **to encourage and support, beyond the EU context, pertinent initiatives in the framework of multilateral organizations**, including UNESCO and other components of the UN System, addressing the various forms and aspects, causes and consequences of bullying.