2.1 EU Legislation on bullying and cyberbullying

The European Union does have a specific legal framework to fight bullying and cyberbullying. However, the specific competences vary in the different member states. This is due to the division of competencies established by the Maastricht treaty of 1993. As a consequence, the only exclusive competencies that the EU can exert over its member states concern the customs union, the internal market, the monetary policies, the fishery policies and the common commercial policies. Regarding the rest of its competencies, the principle of subsidiarity impedes the EU to impose any legal framework to its member states. This limiting principle basically states that “social and political issues should be dealt with at the most immediate and local level that is consistent with their resolution” (Dankmeijer, 2020). In practice, this principle only allows for the EU to support member states to share best practices and to promote communication and cooperation with and among national authorities in establishing a legal framework.

Therefore, competencies can either be shared between the member states and the EU or of support from the EU to its member state. Regarding bullying and cyberbullying of students in an academic area, the EU can only support the member states in establishing legislation within the framework of European values.

In this sense, a few directives are considered relevant to take into account when regulating this issue. Directives include:

- Directive 2012/29/EU of the European Parliament and the Council of the 25th of October 2012, establishing minimum standards on the rights, support and protection of victims of crime.
- Directive (EU) 2016/800 of the European Parliament and of the Council of the 25th of May 2016, regarding procedural safeguards for children who are suspects or accused persons in criminal proceedings.
- Council Framework Decision 2008/913/JHA of the 28th of November 2008, combating certain forms and expressions of racism and xenophobia by means of criminal law.

Moreover, by being part of the European Union, its member states have to respect the organization’s fundamental values, including equality, combating violence and discrimination and reducing school leaving. In this regard, the EU has also established programs for its member states to receive help in fighting for the rights of children and against any type of discrimination, bullying and/or cyberbullying.

On the other hand, the EU has established a Fundamental Rights Agenda, in which indicators that are relevant for anti bullying are emphasized. Two of the most important ones include:

- An indicator for schools to monitor if national authorities have legally banned violence as a means for discipline, and if schools have implemented measures to provide confidential information and counselling for victims, as well as legal rights for psychological assistance.
- An indicator to monitor if states are implementing campaigns, including the participation of children, to promote non-violent forms of discipline and to stop spanking of young children. It also monitors the existence of legal provisions requiring schools to have adopted a child protection policy, addressing also bullying of children at schools and of requirement to access anti bullying policies.

Finally, it is worth mentioning that the EU has adopted a written declaration to support the establishment of a European Day against Bullying and School Violence. However, no specific mentions are made regarding people with disabilities.

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