UNITED NATIONS HUMAN RIGHTS COUNCIL

JOINT SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW OF ROMANIA

Submission by



The Students' Association of Constanta (AEC) is the first fully independent representative association of students with legal personality in Romania. Founded in 2013, it has worked especially on transportation for school students and abuses of power in education.



FONPC facilitates dialogue and cooperation to develop, redefine and implement public policies to ensure the well-being of children and young people in Romania, using the experience and expertise of its members.



The Youth Federation of Constanta (FTC) is a non-governmental organization founded in 2016 from the desire of forming a coalition of the pupils and students engaged in the representation movement in Constanta. FTC's primary mission is to defend the interests of young people.







(AVE) is the only independent students' association in Valcea county. Formed by students for students, it has been protecting their rights since 2018, offering them support in solving problems concerning the Romanian education system.

The Romanian Students' Union (USR) is one of the largest student federations in the country, bringing together 105 organizations from 13 university centers, directly representing the interests of a total of 450,000 students nationwide. The aim of the federation is to represent, promote and defend students' rights.



As a global initiative of the UN Foundation, present in over 120 countries around the world, **Girl Up Romania's** main goal is to fight gender inequality. Our team is made up exclusively of teenagers from all over the country who want to show that girls and women belong where the real change in a community happens.

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1. Education

1.1. Transport

- Primary and secondary education

- (1) The need to ensure strong measures to support commuter pupils was highlighted by the European Commission in the "Education and Training Monitor 2019 Romania" report¹", as well as in the World Bank's February 2018 Report on Conditions and Alternatives for School Transport².
- (2) There have been multiple changes to legislation in Romania in the period 2017-2022. In 2016, the Romanian Government adopted GD (Government Decision) no. 863/2016, which required transport operators to charge certain fares for students. The GD was not respected because it improperly imposed a public service obligation and pupils were only partially reimbursed for transport costs. Under European law, fares could only be applied if the authority imposing them was a contracting authority, such as a local council.
- (3) Despite pressure from civil society, on 25.06.2019, the Romanian Government issued GEO (Government Emergency Ordinance) no. 51/2019, which removed county passenger transport from the scope of public services, thus making it impossible to impose public service obligations on transport operators. As a result of the Ordinance, in the summer of 2019, the tragedy of Caracal took place, where 2 schoolgirls who had to hitchhike were kidnapped, raped and killed, as the Public Prosecutor's Office also held in its indictment.³.
- (4) Following this tragedy, the Romanian Parliament rejected GEO no. 51/2019 through Law no. 34/2020. The Romanian Government issued GEO no. 70/2020 establishing a transitional situation for the termination of public service contracts, which also introduced free transport for students, but was implemented with a deficient budgetary mechanism.
- (5) In this regard, in order to rectify the chaos generated by GEO no. 70/2020, the Romanian Parliament adopted in November 2020 Law no. 226/2020, which introduced free transport for pupils at the county level. However, the Romanian Government did not provide money in the state budget for this purpose, and adopted, after repeated announcements, OUG no. 50/2021, which created a legislative confusion that introduced a parallel procedure in the education law that would reimburse students for transport costs. Thus, county transport was both free by being

¹ "Already, long walking distances to kindergartens in rural areas and commuting costs are barriers to accessing quality education, while school transportation services are insufficient, particularly in rural areas"

² "The gradual increase in the number of transport users by level of education means that adequate and accessible school transport services are critical for high schools"

³ "Given the lack of public transport between villages in Romania, hitchhiking is a common activity, and it was not the first time the victims had hitchhiked.".

subsidized from the state budget and reimbursed, but this is impossible, because a free service cannot be reimbursed.

(6) In this context, the County Councils broke the law and refused to provide free transport to pupils, citing the ordinance, despite the fact that they still had the same obligation. Thus, according to the "Analysis of the provision of free county transport in Romania", only 3 County Councils provided free transport. Moreover, according to the same report, the money provided by the Ministry of Education covered only 29.46% of the real cost of the transportation passes. Moreover, there were County Councils that explicitly conditioned the provision of free transport for pupils on receiving sums from the state budget (Country Council of Constanta through County Council Decision no. 20/2021), but made no effort to obtain these sums, making pupils the victims of political and economic games.

(7) Recommendations:

- Rejection by the Romanian Senate of Emergency Ordinance No. 50/2021 and return to Law No. 226/2020;
- Ensure that the state budget provides funds to the counties to provide subsidies for free transport for pupils;
- The impossibility to make the provision of free transport for pupils in the counties conditional on the receiving of funds from the state budget;
- Involvement of prefects at county level to ensure the signing of contracts for the delegation of the county public transport service within the time limit laid down by law.

- University Education

(8) Students are the social group most in need of mobility. Whether commuting to university, traveling to their hometown, or traveling for tourism, social or cultural purposes, the typical student makes a multitude of journeys using various means of public transport. On this factual basis, the Romanian state has agreed to provide them with certain public transport facilities. Thus, in 2011, with the adoption of the National Education Law no. 1/2011, students received a 50% fare reduction for domestic public transport by car, rail and boat.⁴.

(9) Although the law provided these facilities, they were not fully respected. A very good example is county transport, where students have never benefited from the 50% discounts provided by county councils. The situation has not been very good for local transport from the beginning either, with some localities where the local authorities have not respected the law, such as <u>Constanta</u>, where it was only in 2016, 5 years after the law was adopted, that students were able to benefit from this right.

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⁴ Art. 205, (2): "During the school year, students benefit from a minimum 50% discount on local public transport, domestic car, rail and water transport. Students who are orphans or from children's homes are entitled to free transport for the categories of transport established by order of the Minister of Education, Research, Youth and Sport."

- (10) As far as rail transport is concerned, students could benefit from the 50% fare reduction until 2017, when, by Emergency Ordinance no. 2/2017, free rail transport was granted to students enrolled in full-time education. Although widely disputed, this measure proved to be beneficial both for students, who were able to satisfy their mobility needs and, by implication, their social, tourism and cultural needs, and for the increase in the number of passengers using rail transport instead of cars. According to an analysis carried out by the National Alliance of Student Organizations in Romania, the budgetary impact of this measure was 544 million lei, with a number of trips of 18,650,399 between February 2017 and June 2019. Thus, this highly beneficial social, cultural and environmental measure had an impact of no more than 0.023% of GDP in 2017 and 2018.
- (11) In 2021, by Government Emergency Ordinance No. 8/2021, the Education Act was amended again and the free transport for students was abolished, returning to the 50% fee reduction. This measure was adopted without prior consultation with civil society and without an impact analysis or justification. Although, as we have shown, the budgetary impact was low and the benefits numerous, the Romanian Government saw fit to remove this facility. At the time the measure was abolished, the reaction of student organizations was not very large, with only a few short-lived protests.
- (12) One year later, in February 2022, a number of 10 students from different faculties initiated a series of court actions against the Romanian Government, followed by referrals to the Constitutional Court regarding the unconstitutionality of the Emergency Ordinance that eliminated the free transport. At this stage, the Constitutional Court of Romania is to judge to what extent the law has been adopted in compliance with constitutional requirements.

(13) Recommendations:

- The amendment in the Romanian Parliament of GEO No 8/2021 in order to delete the provisions of Article VI, points 2 and 3;
- The drafting of a national report coordinated by the Ministry of Education, the Ministry of Development, Public Works and Administration and the Ministry of Transport and Infrastructure on the implementation of fare reductions for local, county and intercounty student transport;
- The addressing of specific cases of violations of the law through active monitoring by county prefects.

1.2. Sexual abuse in schools

Recommendations from the previous cycle: 114.166, 114.151

(14) Currently in Romania, although the country has developed legislation on prohibiting, combating and punishing cases of sexual abuse in lower education institutions, in practice the problem is not a priority for the authorities within the education system. This has been repeatedly demonstrated to us by the attitude of teachers, headmasters, counselors and

inspectors and by the countless testimonies the feminist group Girl Up Romania has from students. That said, another element that highlights the lack of interest of the Ministry of Education in sexual abuse in schools is the absence of a centralised data network documenting both individual case information and the post-complaint process (i.e. the consequences suffered by the perpetrator and the help offered to the victim).

- (15) The lack of an official database becomes an excuse for inaction by the authorities, so reported cases end up being ignored, only to be reopened and punished in an unserious and damaging way.
- (16) Romanian legislation defines sexual abuse by Law no. 272/2004, as amended, art. 94, para. (1)⁵ and Decision No 49 of 19 January 2011, II. 2. 1. A. c)⁶. The procedure for reporting cases of sexual violence in schools falls under Order no. 4.343/2020 of 27 May 2020 on the approval of the Methodological Norms for the application of the provisions of Art. 7 para. (1¹), art. 56¹ and pct. 6¹ of the Annex to the National Education Law no. 1/2011, on psychological violence - bullying⁷ in conjunction with the Action Plans against violence to be drawn up annually by the County School Inspectorates. The main problem is that bullying is defined, in the same document, as the interaction between pupils, leaving out the abuse of power by teachers (teacher-student abuse can fall under the serious forms of violence presented in the same order, but the focus does not fall on this issue). In Decision No. 49 of 19 January 2011 for the approval of the Framework Methodology on prevention and intervention in multidisciplinary team and network in situations of violence against children and domestic violence, Annex 1, IV. 1. 3. A, Observations, a) it is stated that any institution that has direct contact with children is obliged to have a procedure for reporting cases of violence against children in its internal regulations, the same obligations are not included in the Framework Regulation on the Organisation and Operation of Pre-University Education Units⁸, the document that dictates the content of the internal regulations of each school.
- (17) Excessive bureaucracy, unclear accountability structure and splitting the procedure between far too many documents makes it difficult to report the case and reduces its chances of being resolved.
- (18) A recent case illustrating the procedural inconsistency and triviality with which the phenomenon is treated occurred in Constanta. Several children were touched indecently by one of the teachers, the headmistress of the school noticed it on the cameras and reported it to the County School Inspectorate, hoping to receive support. The General School Inspector called the serious acts *a stupid prank*, even though the victims, pupils of the high school, were visibly affected by what had happened to them. The headmistress appealed to the police in the case,

⁵ https://legislatie.just.ro/Public/DetaliiDocument/156097

⁶ https://legislatie.just.ro/Public/DetaliiDocumentAfis/126229

 $^{7 \; \}underline{\text{https://www.edu.ro/sites/default/files/}} \; fisiere/\underline{\text{Legislatie/2020/OMEC_4343_2020_norme\%20antibullying.pdf}} \; \\$

⁸ https://www.edu.ro/sites/default/files/_fisiere/Legislatie/2022/ORDIN_4183_2022_New_ROFUIP.pdf

but admitted that procedures are not clear enough in such cases and you don't know who you should turn to⁹.

(19) In order to look at the problem from the eyes of some of the victims, we have included some excerpts from testimonies received by the informal group Girl Up Romania:

- "In 6th grade I was sitting at the school desk, a classmate grabbed me by the head and started hitting me with his penis in the face, it was quick, I didn't even have time to react. I was in tears of shock and all the head teacher did was to tell me to stop crying because that spurred the boy on. She said I was an easy target and that's why he was doing what he was doing. He didn't face any sanctions."
- "I was 13 and on the school volleyball team. The teacher we were training with was old. One day he came up behind me and rubbed up against me under the guise of teaching me how to do the right move. He had an erection. I told a teacher about it and she told me I couldn't do anything because the headmistress would say I was exaggerating."
- "I was in 7th grade, sitting in the first desk, and throughout the class my history teacher stared at me until the classmates behind me noticed he had an erection. I spent the rest of the year in the last desk. When he brought us the grades from a test he suggestively asked me if I was willing to do something for a bigger grade."

(20) The cases exist and we are aware that they exist precisely because of the courage of victims to speak out about their experiences, but also because of the new World Vision Romania report, which revealed that one in four children interviewed had been subjected to sexual comments about their bodies at school¹⁰.

(21) Our recommendations include:

- Introduction in the ROFUIP (Framework Regulation on the Organisation and Operation of Pre-University Education Units) of articles on sexual abuse and the obligation for schools to develop simple procedures for reporting sexual abuse;
- Corroborate legislation to form a single document on protection against sexual abuse in schools;
- Differentiate between "bullying" and sexual abuse in official documents;
- Introduction of teacher supervision mechanisms (e.g. audio-video surveillance cameras in classrooms, self-reported cases by school management);
- Introduce transparent and accessible mechanisms for reporting incidents of abuse by teachers (and work with civil society NGOs, UNICEF and survivors of the phenomenon in building and implementing these mechanisms);
- Introduce mandatory workshops for students at the beginning of high school where they are informed about what constitutes abuse, how they can report it and the resources available to them;

 $^{9\, \}underline{\text{https://www.libertatea.ro/stiri/elevi-dintr-o-comuna-din-constanta-abuzati-sexual-de-profesorul-lor-de-romana-timp-de-mai-multi-ani-4225618}$

 $^{10\ \}underline{\text{https://fb.watch/f-}Kqtt_LFU/}$

- Implement mandatory workshops for teachers on how to identify sexual abuse among their students, the resources they can turn to in such a situation, and the existing sanctions;
- Introduce serious penalties for governing bodies of educational institutions that do not take into account reports (on sexual abuse or harassment) received from students or other teachers;
- Provide specialised help to schools and colleges where a case of sexual abuse has been reported;
- The introduction of a trauma-informed specialists in each school;
- The existence of a specialised person on sexual abuse in each school to help victims through the reporting procedure support person;
- Implementation of a mechanism for collecting and centralising data on sexual harassment and assault in schools, with the aim of publishing up-to-date statistics on the phenomenon;
- Raise the age of sexual consent to 16 years.

2. Discrimination against minorities

2.1. The Roma community

A. Status-quo (situația actuală):

- (22) Currently, Romania's strategic and regulatory framework regarding the issue of Roma minority inclusion is mainly found in GO 137/2000 (with all subsequent amendments and additions), GEO 31/2002 amended by Law 217/2015, Law 2/2021 and in the "Romanian Government Strategy for the inclusion of Romanian citizens belonging to the Roma minority for the period 2021-2027".
- (23) Romania, according to estimates published by the Council of Europe, is home to the largest community of Roma (or people of Roma ethnic minority origin), with approx. 1,200,000 2,500,000 people¹¹. Based on an approximation of Romania's population of approx. 18.000.000, the Roma community represents 6.66% 13.18%. The Roma arrived in Romania around 1350¹². The Roma liberation from slavery took place approx. 500 years later, in 1856¹³.
- (24) Today, the main problems faced by the Roma community in Romania are: access to education, access to the health system, access to decent living, insufficient social protection, lack of representation, anti-Roma propaganda and social exclusion. Local media networks are documenting some cases in Romania that prove the real existence of these problems, including:

¹¹

 $[\]underline{https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680088e} \ a9$

¹² Viorel Achim - The Roma in Romanian History, editura Central European University Press

¹³ Legiuirea pentru emanciparea tuturor t*ganilor din Principatul Tării Românești, 1856

- (25) Prohibition of access to recreational services. "Ora din Sibiu" ("Sibiu's hour") documents the case of a group of Roma children who were denied access to the only waterpark nearby. The group of children, accompanied by representatives of a local NGO, were denied access to the recreational place because of the owner's alleged past experiences with other groups of Roma children. At the time of writing, no action has been taken in this case.¹⁴.
- (26) Obstructing access to transport and denial of discrimination. In Sălaj county, a Roma woman and her children were unreasonably denied access to a means of transport by the driver of the vehicle. She verbally challenged the driver's decision and was physically assaulted with a blunt object. At the trial, it was held that the issue was not discrimination, as the discriminatory component was strictly speculative. Furthermore, in addition to punishing the driver's behavior with a suspended prison sentence, the woman was also fined and imprisoned for non-payment of the fine. 15.
- (27) Perpetuation of stereotypes and media attack. In the context of the Russian-Ukrainian war, several media-online news channels have documented the case of Roma Ukrainians who managed to capture an enemy tank. However, in the desire to go viral, the criminal stereotypes of the Roma community were appealed to and the news was presented as "the stolen Roma tank" 16.

(28) According to studies in the field, approx. 80% of Roma people are at risk of poverty¹⁷. Thus, one mechanism to ensure a decent living is the guaranteed minimum income. However, the average amount of the guaranteed minimum income is less than one euro per day, and it gradually decreases according to the number of beneficiaries in the household. ERGO Network representatives talk about the problem of bureaucracy and the stigma of "social assistance" as other elements that make it difficult or block access for potential beneficiaries 18.

B. (29) Verdict

Number	Proposing country	Recommendation	Verdict	
114.187	Albania	Take appropriate measures to give full access to education, health care, employment and social inclusion to Roma children	Unfulfilled	
114.75	Ghana	Take steps to address all reported cases of	Fulfilled through the adoption of Law	

 $^{^{14}\,}https://www.oradesibiu.r\underline{o/2022/07/01/copiii-romi-au-interdictie-la-strandul-din-sibiu-patron-imi-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandul-din-selectez-la-strandu$

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clientela-mi-au-umplut-piscinele-cu-mustar/

15 https://www.libertatea.ro/stiri/femeia-saraca-batuta-de-un-sofer-de-microbuz-a-fost-condamnata-la-amendasau-inchisoare-iar-barbatul-a-primit-cu-suspendare-4228459

¹⁶ https://www.hotnews.ro/stiri-razboi ucraina-25396083-tanc-rusesc-furat-romi-sambata-noapte-sudulucrainei.htm; https://www.realitatea.net/stiri/extern/video-cum-se-fura-un-tanc-rusesc-de-40-de-tone-romii-dinsudul-ucrainei-au-reusit 621be4604352121e79768088; https://alephnews.ro/guvern/rusia-ucraina/romiiucraineni-au-furat-un-tanc-rusesc-in-timpul-noptii/

¹⁷ https://ergonetwork.eu/wp-content/uploads/2021/11/8-Social-protection-unemployment-benefits-2.pdf

¹⁸ https://ergonetwork.eu/

			2/2021 1 11 1
		racist hate crimes	2/2021, the so-called
		committed against	"Anti-G*psyism
		the Roma minority,	Law".
		including anti-Roma	
		hate speech rhetoric	
		and negative	
		stereotypes	
		Implement the	Partially achieved
		existing legal	through the adoption
		framework on	and general
		segregation, and in	implementation of
		particular expedite	the Framework
114.197	Switzerland	the concrete	Order on the
		implementation of	prohibition of school
		the national strategy	segregation in pre-
		for Roma inclusion	university education
		2015–2020.	establishments
			esiavusuments
		Develop an effective	
		system to follow up	
		the implementation	
		of the National	
		Strategy with clear	Partially met
		measurable targets	through the work and
		and assigned	
		responsibility to	National Agency for
		follow up progress;	Roma and the
114 106	Sweden	consider introducing	National Contact
114.196	Swedell	obligatory	Point for Roma
		information in	within the Ministry
		schools about the	of European
		historic treatment of	Investment and
		Roma; and develop	Projects; Not met;
		programmes to	Not met.
		counter negative	
		stigma in schools, as	
		well as in different	
		public institutions.	
		Step up efforts to	
114.195		improve the position	Achieved through
		of Roma people in	
		line with the	"Strategy of the
		European Union	
		framework for	
		National Roma	
		Integration Strategies	
		up to 2020, for	0 0
		example in terms of	
		ensuring access to	the period 2021-
		education,	2027".
		appropriate housing	

	and	economic	
	inclusion		

C. (30) Recommendations:

- De-bureaucratization of the system for accessing the guaranteed minimum income, in order to facilitate its use by potential beneficiaries by lowering the requirements and implementing support systems, until the completion of "The strategy for the inclusion of Romanian citizens belonging to the Roma minority for the period 2021-2027".
- Development of local strategies on Roma inclusion, with the aim of responding to the specific problems of communities with certain regional particularities, in addition to the present inclusion strategy.
- Criminalisation of the clear perpetuation of stereotypes that are detrimental to the Roma inclusion process through appropriate and directly proportional sanctions until the maturity of the formerly mentioned inclusion strategy.

2.2. The LGBTQI+ community

- (31) The situation of people belonging to the LGBTQI+ community in Romania is in one of the most difficult and oppressed positions in the whole of Europe. In Romania there is no database documenting and centralising cases of violence, discrimination or harassment against LGBTQI+ people, which leads to the perpetuation of this type of behaviour, affecting the victims (through lack of a support network, lack of concrete legal consequences, lack of support from the authorities, etc.). Moreover, recent draft legislation (the first in 2020 and the second in 2022) further jeopardizes the safety, well-being and rights of LGBTQI+ people.
- (32) On 16 June 2020, the Romanian Senate adopted an amendment to the National Education Law that would ban public information about gender identity in school, university and vocational education. This amendment outlawed any discussion in schools, colleges and universities about gender identity and transgender people, instigating discrimination against transgender and intersex people in Romania. Thanks to an impressive mobilization of academics and activists, the law did not pass.
- (33) On 2 May 2022, the Romanian Senate tacitly adopted a draft law to amend and supplement Law No 272/2004 on the protection and promotion of the rights of the child, which prohibits the dissemination of information on sexual orientation and gender identity to minors. It later received a favorable response from the Romanian Human Rights Committee in the Chamber of Deputies on 8 June 2022. This bill, if adopted, would lead to disastrous consequences for the LGBTQI+ community in Romania, for a child's right to a full education and for the universal right to free expression. Such a bill is also worryingly similar to a type of censorship.

(34) Such initiatives only increase attacks on members of the LGBTQI+ community. In order to gain a broader and more practical understanding of the harmful effect such bills have on civil society, we include in this report the case of two young queer men who were physically assaulted in one of the capital's largest parks for showing their appreciation to each other with a kiss. "He kicked one of them in the back of the butt. The older one wanted to protect his boyfriend and tried to fight back, but then four of the man's friends came and beat them up and swore at them on the grounds that they were kissing in a public space where the children were, although when we found them the boys were quite withdrawn." is one of the sentences included in the testimony of a witness (extracted from an article from Vice Romania). Following the violence, the two young men called the police who told them that because the aggressors had already left the park, the only option was to file a complaint. However, the two chose not to follow this route, a decision influenced by the inability of the Romanian legal system to protect LGBTQ+ people, often resulting in victims being re-traumatised.

(35) A recent case occurred on October 1, when a queer person was assaulted on the subway by three men who shouted *We are coming for the ones like you*. LGBTQI+ rights activist Alina Dumitriu wrote in an article that *acts of violence have increased, with five queer people assaulted in just two weeks in Bucharest, Timisoara, Cluj and Iasi. Some of them required hospitalization¹⁹.*

(36) In Romania, LGBTQI+ people are daily prone to harassment, discrimination, abuse and insecurity, with the country showing no intention to change this cruel reality, which is strongly influenced by the close relationship between the Romanian Orthodox Church and the Romanian political environment, as evidenced by statements made by Church spokespersons about the LGBTQI+ community. By depriving minors of the right to a full education on sexuality and gender identity, the state only continues to put oppressed groups at greater risk.

(37) At the educational level, from our own experience working with queer youth, we have noticed that many of them are bullied by both teachers and students. The testimony of one of them has stayed with us in our work. He told us *We can't keep saving each other from dying*, referring to the high level of suicides or attempted suicides among queer youth.

(38) Our recommendations, inspired by those offered by other UN member states, include:

- Investing in training programmes and information campaigns for Romanian police officers, judges and prosecutors to ensure effective investigations into crimes against the LGBTQI+ community;
- Investing in integrated programmes for the LGBTQ+ community, whose access to resources is made difficult by prejudice;
- Introducing queer history modules into the school curriculum;
- Commemoration campaigns about the victims of Article 200, which punished samesex relationships with imprisonment. It was only repealed in 2001.

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- Establishment of national public information campaigns on negative prejudice and discrimination based on sexual orientation and gender identity;
- Establishment of national public information campaigns on negative prejudice and discrimination against people diagnosed with HIV/AIDS;
- Ensuring that all hate crimes against LGBTQ+ people are properly and effectively investigated and that perpetrators are punished in accordance with the law by setting up a database;
- Creating local hubs for young people to do peer-to-peer education and support groups for the LGBTQI+ community;
- Ensuring that school staff are trained on gender identity and sexuality and, moreover, school counselors have experience in working with LGBTQ+ youth.