

Prohibiting corporal punishment: achieving equal protection for children in EU member states

PROGRESS REPORT 2013



Following up the UN Secretary General's Study on Violence against Children

“The dignity of each and every individual is the fundamental guiding principle of international human rights law.”



The aims of the Global Initiative are supported by many international organisations, including UNICEF and UNESCO and the following:

- ActionAid International
- Association for the Prevention of Torture
- Better Care Network
- Child Helpline International
- Child Rights International Network
- Consortium for Street Children
- Defence for Children International
- Disability Rights International
- Disabled Peoples' International
- ECPAT International
- Eurochild
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- International Disability Alliance (IDA)
- International Federation for Parenting Education
- International Federation of Social Workers (IFSW)
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- International Foster Care Association
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- International Society for the Prevention of Child Abuse and Neglect (ISPCAN)
- NGO Group for the Convention on the Rights of the Child
- OMCT – World Organisation Against Torture
- Plan International
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 - His Holiness the Dalai Lama
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 - Professor Manfred Nowak, former Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
 - Rosa Maria Ortiz, Rapporteur on the Rights of the Child, Inter-American Commission on Human Rights
 - Lisbet Palme, Sweden, former member, Committee on the Rights of the Child
 - Paulo Sérgio Pinheiro, Independent Expert who led the UN Secretary General's Study on Violence against Children
 - Mrs Mary Robinson, former UN High Commissioner for Human Rights
 - Keith Towler, Children's Commissioner for Wales
 - The Most Reverend Desmond M. Tutu, Anglican Archbishop Emeritus of Cape Town
 - Bruno Vanobbergen, Flemish Children's Rights Commissioner, Belgium
 - Bernard de Vos, Conseiller du Delegeue general aux droits de l'enfant, Belgium/French Community
 - Professor Jean Zermatten, Chair, Committee on the Rights of the Child

For a full list of supporting international and national organisations and prominent individuals, see www.endcorporalpunishment.org

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Note on facts and figures

The Global Initiative bases its analyses on a total of 198 states, all those that have ratified the UN Convention on the Rights of the Child except Holy See, plus Palestine, Somalia, South Sudan, Taiwan, US and Western Sahara. Child population figures are from UNICEF (2010) and, where no UNICEF figures are available, *World Population Prospects 2010* (0-19) (Bolivia, Cyprus, DPR Korea, DR Congo, Republic of Korea, Republic of Moldova, Serbia and Western Sahara) and Children Bureau, Ministry of Interior (2005) (Taiwan); South Sudan figure is an estimate.

Messages



Marta Santos Pais

Special Representative of the Secretary General on Violence against Children

Achieving the elimination and effective legal prohibition of all forms of violence against children is a major recommendation of the United Nations Study on Violence against Children and a crucial priority for my mandate as Special Representative of the Secretary General. Strong legislation banning all forms of violence against children is an essential component of a robust child protection system, and constitutes a cornerstone of an effective national policy framework and a solid foundation for a culture of respect for children's rights.

The European Union's strong commitment to human rights and children's rights has gained prominent expression in recent years with the Treaty of Lisbon and the Charter of Fundamental Rights; with the adoption of the EU Guidelines on the Promotion and Protection of the Rights of the Child and its strategy to combat all forms of violence against children; and with the launch in 2011 of the EU Agenda for the Rights of the Child. The protection of children from violence lies at the heart of this process and has been reaffirmed by significant measures adopted by member states at the national level. There is indeed rapid progress towards the prohibition of all forms of violence against children across the European Union, with 16 out of the 27 member states banning corporal punishment in all settings.

This informative report by the Global Initiative to End All Corporal Punishment of Children on progress in Europe is a critical contribution to this process and to elimination of violence against children across nations. Assessing regional and national progress towards the prohibition of violence including all forms of corporal punishment of children, the report provides a strong reference to inspire debate and support innovative action, and to consolidate change for the effective safeguard of children's right to freedom from violence.



Jean Zermatten

Chair, UN Committee on the Rights of the Child

All EU states have ratified the Convention on the Rights of the Child. From the early days of the reporting procedure of the Committee on the Rights of the Child, two decades ago, the Committee has been clear that children have as much right to respect for their human dignity and physical integrity as adults. Our concluding observations have consistently recommended prohibition of all corporal punishment, linked to educational measures to eliminate violent and humiliating punishment in reality. In 2006, the Committee consolidated its guidance to states in General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment" (CRC/C/GC/8).

As this report sets out, there has been much progress in European Union member states, with a majority of the 27 achieving a complete ban on violent punishment. But that still leaves millions of European children living in countries where some degree of violence disguised as discipline is lawful and socially approved.

Since 2009, the EU Treaty has required protection of the rights of the child. And – reflecting the core international human rights instruments – the EU's Charter of Fundamental Rights insists that human dignity is "inviolable", that "everyone" has the right to respect for their physical and mental integrity and to equality before the law.

I hope the EU institutions will do all within their powers to speed the day when all the children of Europe can enjoy legal protection from being hit and humiliated by their parents and others.



Professor Paulo Sérgio Pinheiro

The Independent Expert who led the UN Secretary General's Study on Violence against Children

The EU's attention to children's human rights has accelerated rapidly with the explicit obligations in the Lisbon Treaty and the binding Charter of Fundamental Rights, the EU Agenda for Children's Rights and the EU Guidelines.

The Council of Europe's explicit campaigning across its 47 member states, for a complete ban on all corporal punishment, has ensured that Europe is the region leading on this fundamental and long overdue reform for children.

But please – nobody can be complacent: while Europe is in the forefront in outlawing violent punishment of children, this report shows that there are still states within Europe openly defending the deeply insulting concept of "reasonable" violence, declining to give children equal protection from assault in their homes, where they are hit the most. Still 47% of the EU's youngest citizens live in member states where physical punishment is not clearly prohibited.

The issue could not really be simpler – hitting people is wrong and children are people too. Children, as the EU Agenda emphasises, have the same rights to respect for their human dignity and physical integrity as adults, together with the right to equal protection under the law; the Charter guarantees these fundamental rights to "everyone" and of course all EU member states have accepted the Convention on the Rights of the Child. The states which lack a clear and explicit ban on all violent punishment have received repeated recommendations from the Committee on the Rights of the Child, other UN treaty bodies, regional mechanisms and in the Universal Periodic Review.

The EU institutions have much that they can do within their powers to pursue the universal prohibition and elimination of violent punishment – which is children's right now. We do not tolerate legalised violence against any other population group – so how can we keep children waiting?

European children's ombudspersons seek universal ban

In 2001, the European Network of Ombudspersons for Children (ENOC) issued a position statement:

"The European Network of Ombudspersons for Children (ENOC) urges the governments of all European countries, the European Union, the Council of Europe and other European institutions and non-governmental organisations concerned with children to work collectively and individually towards ending all corporal punishment of children.

"As spokespeople for the children of Europe, we believe that eliminating violent and humiliating forms of discipline is a vital strategy for improving children's status as people, and reducing child abuse and all other forms of violence in European societies. This is a long overdue reform, with huge potential for improving the quality of lives and family relationships.

"Hitting children is disrespectful and dangerous. Children deserve at least the same protection from violence that we as adults take for granted for ourselves.

"While almost all European countries have eliminated corporal punishment from their schools and other institutions for children, it remains common and legally and socially accepted in the family home in most countries. Many States have laws which explicitly defend the rights of parents and other carers to use 'reasonable' or 'moderate' corporal punishment. Where the law is silent, corporal punishment tends to be accepted in practice.

"In a growing minority of countries across Europe, all corporal punishment has been prohibited, often as part of a statement of parents' responsibilities. The purpose of these reforms is not to prosecute more parents, but to send out a clear signal that hitting children is no more acceptable than hitting anyone else....

"We urge Governments without delay to introduce legislation prohibiting all corporal punishment, and initiate/support education programmes in positive, non-violent forms of discipline. We commit ourselves, as offices committed to improving the lives of all children in Europe, to work actively on this fundamental human rights issue."

Achieving equal protection for children – progress in the EU and globally

Protection from all corporal punishment and other cruel or degrading treatment or punishment is a fundamental human right of every child – in every setting of their lives including their family home. This right is enshrined in international human rights law. The Convention on the Rights of the Child and other international and regional instruments impose an obligation on states which ratify them to ensure that their citizens are protected from corporal punishment and other cruel or degrading treatment or punishment. The obligation entails legislative measures to ensure protection, as well as administrative, social and educational measures. Children have a right to legal protection from assault just as adults enjoy.

For too long, children all over the world were treated as second class citizens, not full human beings; adults could treat them as they wished and inflict violent punishment with impunity. The enactment in Sweden in 1979 of legislation explicitly prohibiting all corporal punishment of children, including in their homes, marked a turning point – and Europe continues to lead the way. States in all regions are reforming their legislation to outlaw violent punishment of children; in the European Union states which have not yet achieved this reform are in the minority.

This report documents the transformation of a region, and of a particular group of countries within that region, from a place where at best children lacked legal protection from assault, at worst laws explicitly condoned violence against them, to a place where the majority (almost 53%) are legally protected from assault at the hands of those responsible for their care. The transformation is by no means complete – some states have still to fulfil their human rights obligations in this respect, others must do more to ensure their prohibiting laws are fully implemented and enforced. This momentum of change must be maintained so that all children can grow up free from violent punishment.



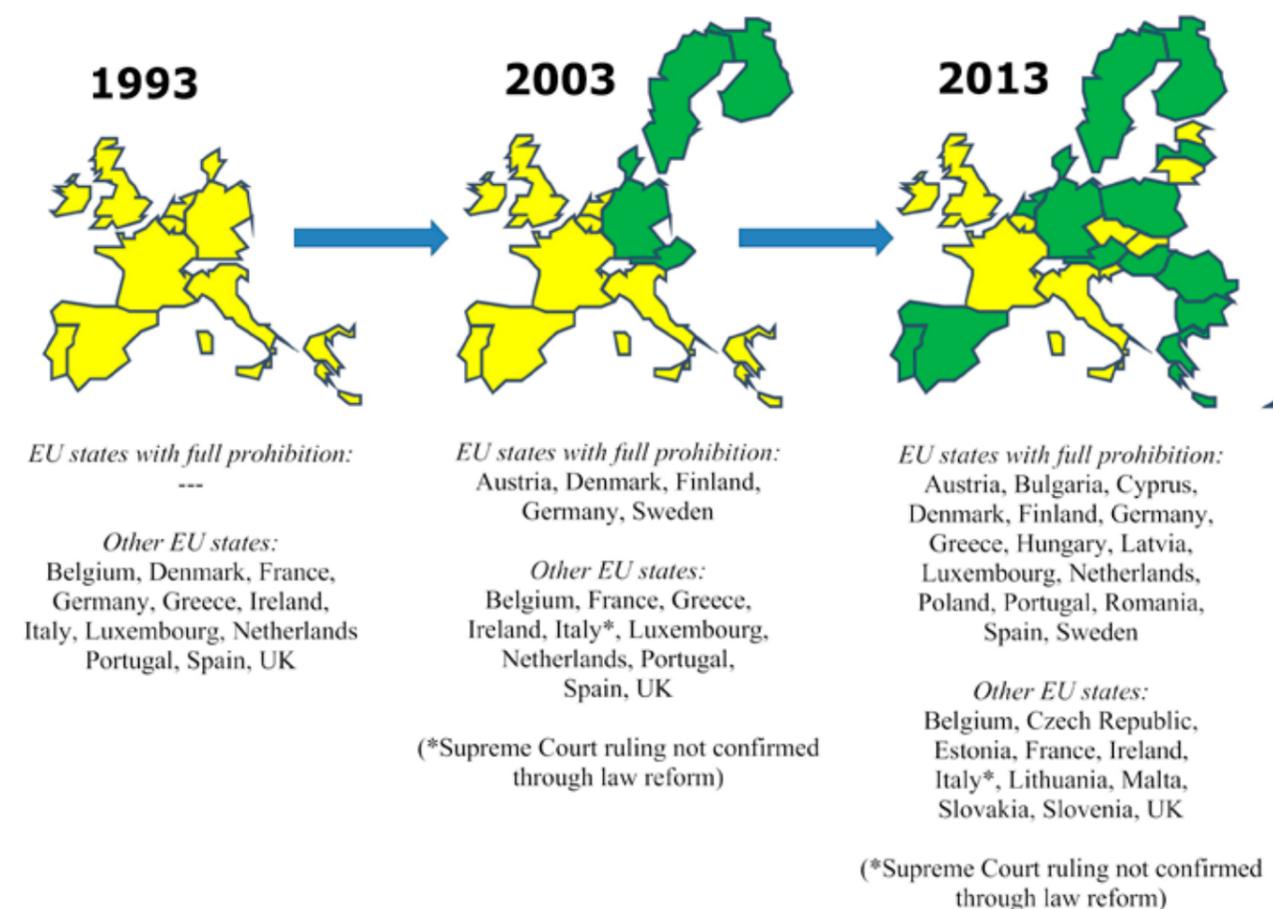
Progress in the European Union

In 1993, when the European Economic Community was renamed the European Union, reflecting the broadening of its scope from economics into a wide range of policy areas, not one of its 12 members afforded children the same legal protection from assault enjoyed by adults. In all these states, it was lawful for parents and other carers to inflict corporal punishment on children in the home and in alternative care settings; in some states corporal punishment was lawful in schools. During the 20 years since then, the picture has changed dramatically – EU membership has more than doubled, and both longstanding and new member states have enacted laws to prohibit corporal punishment of children in schools and other settings, including the home.



Today, of the 27 member states of the European Union, 16 have enacted laws which prohibit corporal punishment of children in all settings – the home, schools, penal system and care settings. In one – Italy – the Supreme Court has declared all corporal punishment to be unlawful, but this is not yet reflected in legislation. Of those yet to achieve full prohibition, all have outlawed corporal punishment as a sentence for crime; all have legislation under which it is considered unlawful in schools and penal institutions – though prohibition is not explicit in all cases and there are examples of court rulings in favour of some corporal punishment, highlighting the need for further law reform; in seven it is prohibited in at least some care settings. Five of these 11 states have publicly committed to enacting legislation to prohibit all corporal punishment. (For further details see the individual country reports on pages 22 to 36.)

Progress towards prohibition in the European Union, 1993-2013

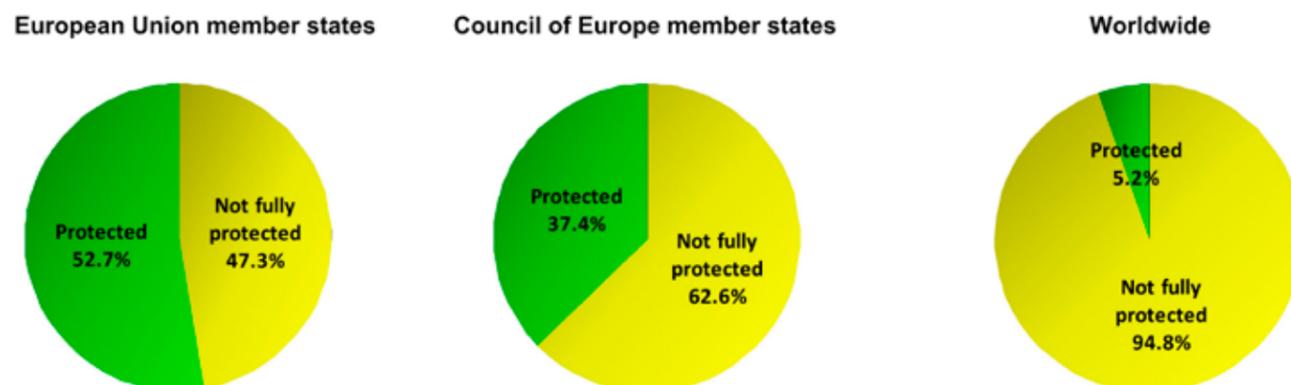


The wider European and global context

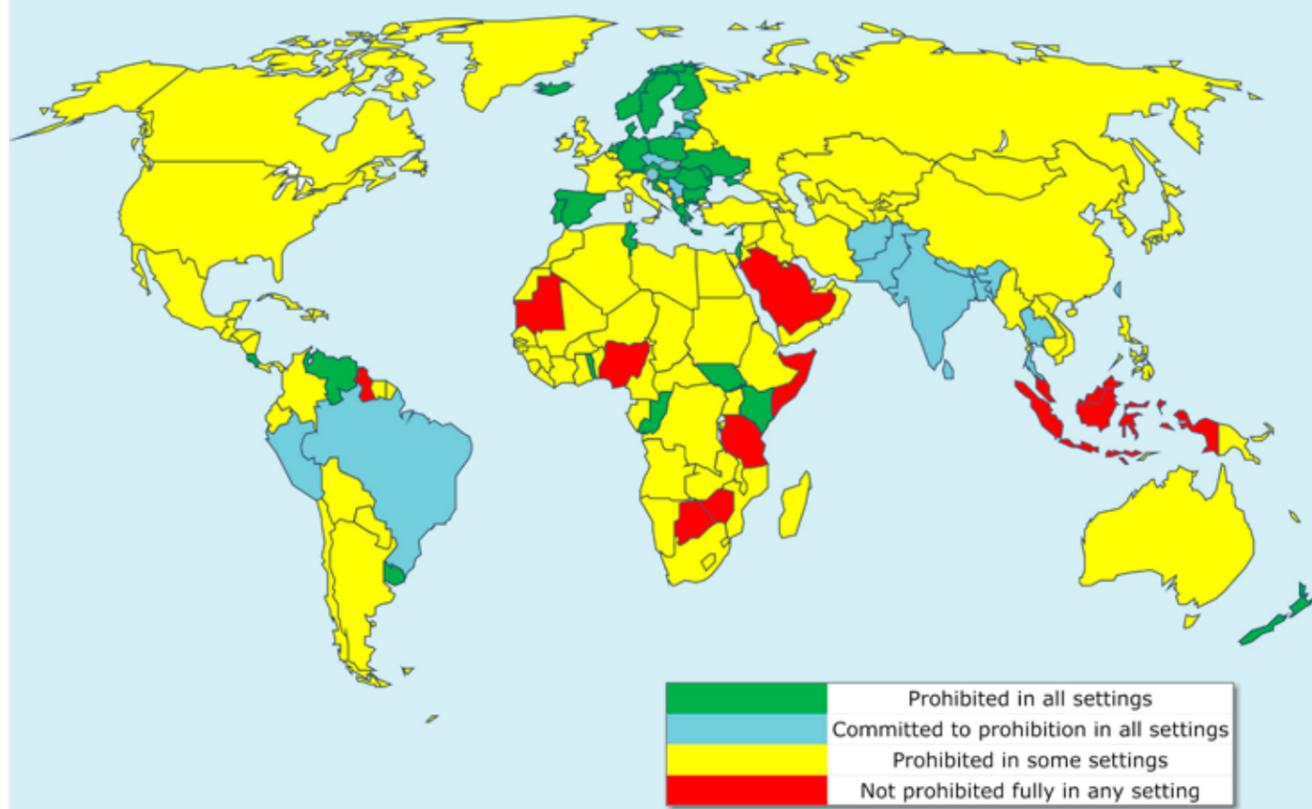
Of the 47 member states of the Council of Europe – which includes all EU member states – 23 have achieved prohibition of all corporal punishment of children, including in the home. Worldwide, 33 states have achieved this and governments in many more are committed to doing so and/or actively discussing prohibiting legislation.

In schools and penal institutions throughout Europe corporal punishment is unlawful, though as in some EU member states there is scope for strengthening the relevant laws. Worldwide, progress is accelerating in prohibiting corporal punishment in schools and penal systems: as at February 2013 corporal punishment is prohibited in all schools in 117 states, in penal institutions in 122 states and as a sentence for crime in 157 states.

Percentage of child population legally protected from all corporal punishment



Prohibition of corporal punishment worldwide (February 2013)

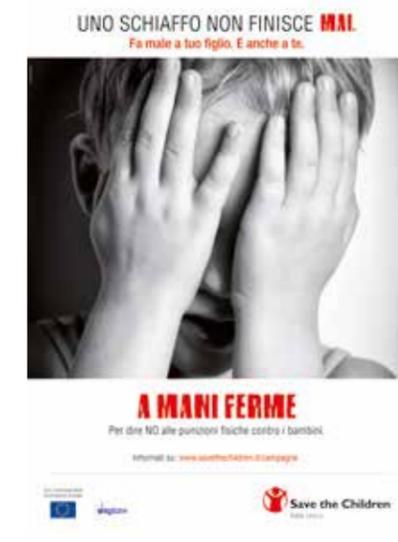


Moving towards law reform

Given the number of states publicly committed to prohibiting all corporal punishment (see page 21), and the number of states which accepted recommendations to do so made during the Universal Periodic Review of their overall human rights records (see page 9), we can expect children's legal protection from violent punishment by parents to continue to spread across the region in the near future.

As described in the country reports on pages 26 to 36, in many states which have not yet prohibited all corporal punishment there are proposed new laws under discussion. In many states, too, national campaigns are promoting law reform to prohibit corporal punishment:

- **Estonia** – The Ombudsman for Children (www.lasteombudsman.ee) is campaigning for prohibition, and in June 2012 published a study on children's rights, including to protection from corporal punishment. The Government is committed to prohibition.
- **France** – OVEO (Observatory of Common Violence in Upbringing) (www.oveo.org) advocates for prohibition of all corporal punishment.
- **Ireland** – The Children's Rights Alliance (www.childrensrights.ie), a group of more than 90 NGOs, advocates for equal legal protection from assault for children.
- **Italy** – Save the Children Italy is promoting its "A Mani Ferme" (Hands Still) campaign (www.savethechildren.it/amaniferme) calling for prohibition of all corporal punishment. The campaign was launched in March 2012, together with research on the prevalence of corporal punishment and a guide to positive parenting.
- **Lithuania** – The Human Rights Monitoring Institute (www.hrmi.lt) campaigns for prohibition of all corporal punishment, including around the draft Child Protection Law and through submissions to the UN Committee on the Rights of the Child and the Human Rights Committee. The Government is committed to prohibition.
- **UK** – The Children Are Unbeatable! Alliance (www.childrenareunbeatable.org.uk) – with 600 organisation supporters and many more individuals the broadest campaign coalition ever assembled on a children's issue in the UK – campaigns in England, Wales, Scotland and Northern Ireland for law reform to ensure children have the same protection from assault as adults.



EU Daphne III Programme supports elimination of violent punishment

With financial support from the European Commission Daphne III Programme, Save the Children has implemented a project to protect children from physical punishment and other forms of humiliating punishment. The project has supported the inclusion of an explicit ban on violent punishment in all settings, including the family, in the political agenda and debate and promoted prevention through public awareness raising actions on positive parenting.

The two-year project has been coordinated by Save the Children Italy, with Save the Children in Romania, Lithuania and Sweden as partners. During the final stages, two roundtable discussions are being organised in each state to encourage public debate on banning all violent punishment and on the value of positive parenting. The conclusions of the project will be disseminated at European level through a Brussels conference.

For more information on the EU, see pages 12 to 14 of this report.

Human rights – keeping up the pressure for reform

The progress documented in the previous section has been achieved in the context of international and regional human rights instruments setting the standards which states must meet for their citizens – adults and children alike – and the treaty bodies monitoring states' progress in attaining them.

The key instrument protecting children's rights is the **UN Convention on the Rights of the Child (CRC)**, ratified by all EU member states. In Europe, protection of children's rights – including to be free from corporal punishment and other cruel or degrading treatment or punishment – pre-dates the CRC. The European Court of Human Rights (ECHR), hearing cases brought under the **European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)**, has progressively condemned corporal punishment of children in a series of judgments against the UK dating back to the 1970s, first concerning corporal punishment as a sentence of the courts and later as a punishment in schools and in the home: all EU member states are subject to the ECHR.

The adoption in 1989 of the Convention on the Rights of the Child was a watershed. It raised the status of children around the world, signifying consensus once and for all that children are holders of human rights on an equal footing with adults. The monitoring body for the Convention, the Committee on the Rights of the Child, has systematically and tirelessly insisted that children's right to protection from violence and to equal protection under the law means that states which have ratified the Convention must enact legislation which prohibits, without exception, all forms of corporal punishment of children in all settings. The Committee's General Comment No. 8 on the right of the child to protection from corporal punishment provides detailed guidance on the required prohibition and elimination (see box on page 11).

Other UN treaty bodies have long been concerned with corporal punishment in justice systems and increasingly in schools and the home. The issue of corporal punishment of children – and recommendations to prohibit and eliminate it – features in the jurisprudence of the Committee Against Torture (CAT, monitoring the **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**), the Human Rights Committee (HRC, monitoring the **International Covenant on Civil and Political Rights**), the Committee on Economic, Social and Cultural Rights (CESCR, monitoring the **International Covenant on Economic, Social and Cultural Rights**), the Committee on the Elimination of Discrimination Against Women (CEDAW, monitoring

the **Convention on the Elimination of All Forms of Discrimination Against Women**) and the Committee on the Rights of Persons with Disabilities (CRPD, monitoring the **Convention on the Rights of Persons with Disabilities**).

Treaty body recommendations to EU states which have not yet achieved full prohibition

State	Treaty body recommendations to prohibit corporal punishment
Belgium	CRC 1995, 2002, 2010; CAT 2009; CESCR 2007
Czech Republic	CRC 2003, 2007; CAT 2012
Estonia	CRC 2003
France	CRC 2004, 2009
Ireland	CRC 1998, 2006; CAT 2011
Italy	CRC 1995, 2011
Lithuania	CRC 2001, 2006; HRC 2012
Malta	CRC 2000, 2013; CESCR 2004
Slovakia	CRC 2000, 2007; CEDAW 2008; HRC 2011
Slovenia	CRC 2004; CAT 2011
UK	CRC 1995, 2002, 2008; CESCR 2002, 2009; CEDAW 2008; HRC 2008

Increasing pressure on states through the Universal Periodic Review

The mounting pressure on states to comply with their human rights obligations as they receive repeated recommendations from treaty bodies to prohibit all corporal punishment of children is compounded when they are reviewed by their peers in the Universal Periodic Review (UPR) at the Human Rights Council in Geneva. Now well into its second cycle, the UPR reviews states' overall human rights records. Recommendations are made and should be responded to, and states are encouraged to submit reports on progress between reviews.

Since the first session in 2008, many states have been questioned on their actions to prohibit and eliminate corporal punishment of children, and recommendations made to prohibit it. As at January 2013, recommendations on corporal punishment had been made to more than 110 states – accepted by around 70, rejected by around 20. EU states have been among those most active in raising the issue of corporal punishment and recommending prohibition in the UPR.

All EU states have undergone at least one review, some have already undergone their review in the current second UPR cycle. Eighteen EU states have received recommendations to prohibit and/or eliminate corporal punishment; eight accepted them, a minority rejected them (see box).

The UPR of EU states which have not yet achieved full prohibition

Among EU member states which have not achieved a complete ban on corporal punishment of children, nine have received recommendations to prohibit: the UK has received recommendations during its reviews in both the first and second cycles.

Four states accepted recommendations to prohibit corporal punishment: Estonia, Lithuania, Slovakia and Slovenia. All of these states are committed to enacting prohibition soon.

Four states rejected recommendations to prohibit corporal punishment: Belgium, Italy, Malta and the UK. In rejecting the recommendations, Belgium acknowledged that corporal punishment is not a specific offence under Belgian law but stated that a number of criminal law provisions are directly applicable to corporal punishment¹; Italy asserted that the 1996 Supreme Court ruling against violence in childrearing means that further legislation on corporal punishment is unnecessary²; Malta stated that there is nothing to suggest that Maltese law permits corporal punishment and that "if any reasonable chastisement tantamounts to even slight bodily harm, this is an offence against the person"³; the UK stated: "The law in the UK only permits physical punishment of children in very limited circumstances.... The UK Government does not accept that it is in breach of the UNCRC with regard to physical punishment."⁴

One state – Ireland – "partially accepted" a recommendation on corporal punishment to both prohibit corporal punishment in the family and to develop awareness raising campaigns and public education measures, stating that the matter is "under continuous review" and that "a proposal to either prohibit the defence of reasonable chastisement or to further circumscribe the definitions of what constitutes reasonable chastisement would require careful consideration"⁵.

- 1 11 July 2011, A/HRC/18/3, Report of the working group, para. 63
- 2 31 May 2010, A/HRC/14/4/Add.1, Report of the working group: Addendum, page 5
- 3 23 September 2009, A/HRC/12/7/Add.1/Rev.2, Report of the working group: Addendum, para. 22
- 4 17 September 2012, A/HRC/21/9/Add.1, Report of the working group: Addendum, annex
- 5 6 March 2012, A/HRC/19/9/Add.1, Report of the working group: Addendum, para. 53



"Violence against children, including corporal punishment, is a violation of the rights of the child. It conflicts with the child's human dignity and the right of the child to physical integrity. It also prevents children from reaching their full potential, by putting at risk their right to health, survival and development. The best interests of the child can never be used to justify such practice. Eliminating violence against children is not only a human rights imperative, but it is also a means to bring about social changes and attitudes."

(Kyung-wha Kang, UN Deputy High Commissioner for Human Rights, Statement at Panel Discussion on "Ending corporal punishment of children", UPR 15th session, January 2013)

CRC General Comment No. 8: children's right to protection from all corporal punishment

General Comment No. 8 (2006) on "The right to protection from corporal punishment and other cruel or degrading forms of punishment (articles 19, 28(2) and 37, inter alia)" was adopted by the Committee on the Rights of the Child in 2006. Quoting article 19 of the Convention, which requires States to protect children "from all forms of physical or mental violence", the Committee states:

"... There is no ambiguity: 'all forms of physical or mental violence' does not leave room for any level of legalized violence against children. Corporal punishment and other cruel or degrading forms of punishment are forms of violence and the State must take all appropriate legislative, administrative, social and educational measures to eliminate them." (para. 18)

Addressing the argument sometimes put forward that a certain degree of "reasonable" or "moderate" corporal punishment is in the "best interests" of the child, the Committee states that "interpretation of a child's best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence and the requirement to give due weight to the child's views; it cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child's human dignity and right to physical integrity" (para 26). There is no conflict between realising children's rights and the importance of the family unit, which the Convention fully upholds.

Law reform involves both the repeal of all provisions which allow a "reasonable" degree of corporal punishment – whether in statute or in case/common law – and explicit prohibition of corporal punishment:

"In the light of the traditional acceptance of violent and humiliating forms of punishment of children, a growing number of States have recognized that simply repealing authorization of corporal punishment and any existing defences is not enough. In addition, explicit prohibition of corporal punishment and other cruel or degrading forms of punishment, in their civil or criminal legislation, is required in order to make it absolutely clear that it is as unlawful to hit or 'smack' or 'spank' a child as to do so to an adult, and that the criminal law on assault does apply equally to such violence, regardless of whether it is termed discipline or 'reasonable correction'.

"Once the criminal law applies fully to assaults on children, the child is protected from corporal punishment wherever they are and whoever is the perpetrator. But in the view of the Committee, given the traditional acceptance of corporal punishment, it is essential that the applicable sectoral legislation – e.g. family law, education law, law relating to all forms of alternative care and justice systems, employment law – clearly prohibits its use in the relevant settings. In addition, it is valuable if professional codes of ethics and guidance for teachers, carers and others and also the rules or charters of institutions emphasize the illegality of corporal punishment and other cruel or degrading forms of punishment." (paras. 34 and 35)



Law reform should be accompanied by awareness raising, guidance and training, because its primary purpose is "to prevent violence against children by changing attitudes and practice, underlining children's right to equal protection and providing an unambiguous foundation for child protection and for the promotion of positive, non-violent and participatory forms of child-rearing" (para 38). Prohibition in law does not mean that all cases of corporal punishment of children by parents should lead to prosecution – "while all reports of violence against children should be appropriately investigated and their protection from significant harm assured, the aim should be to stop parents using violent or other cruel or degrading punishment through supportive and educational, not punitive, interventions" (para 40).

The General Comment is available at: www.ohchr.org/english/bodies/crc/docs/co/CRC.C.GC.8.pdf

European Committee of Social Rights

In Europe, in addition to the progressive condemnation of corporal punishment in ECHR judgments (and the Council of Europe's campaign for prohibition of all corporal punishment described on pages 15 and 16), the European Committee of Social Rights consistently condemns corporal punishment as a violation of the European Social Charter and Revised Social Charter. In 2001, the Committee issued a general observation which stated: "... article 17 [of the Revised Charter] requires a prohibition in legislation against any form of violence against children, whether at school, in other institutions, in their home or elsewhere. It furthermore considers that any other form of degrading punishment or treatment of children must be prohibited in legislation and combined with adequate sanctions in penal or civil law." The observation also stated that the Committee "does not find it acceptable that a society which prohibits any form of physical violence between adults would accept that adults subject their children to physical violence" (ECSR, General observation regarding articles 7 (para. 10) and 17, *Conclusions XV-2*, Vol. 1, General Introduction).

In monitoring states' compliance with the Charters, the Committee routinely reviews domestic legislation relating to corporal punishment. Where there is no explicit prohibition, the Committee concludes that the state is not in conformity with the Charters. The Committee has also reviewed legislation on corporal punishment in responding to a series of collective complaints brought on the issue (see box below).

ECSR conclusions relating to EU states which have not yet achieved full prohibition

State	ECSR findings of non-conformity because corporal punishment is not prohibited
Belgium	2005, 2007, 2012
Czech Republic	2005, 2012
Estonia	2005, 2012
France	2003, 2005, 2012
Ireland	2012
Italy	[decision deferred 2001, 2003, 2007, 2012]
Lithuania	2005, 2012
Malta	2005, 2012
Slovakia	2003, 2012
Slovenia	2003, 2005, 2012
UK	2005, 2012

Collective complaints under the European Social Charter

The collective complaints procedure is an innovative human rights mechanism introduced through an Additional Protocol to the Social Charter and so far accepted by 15 of the Council's 47 member states. In 2003, the World Organisation against Torture (OMCT) submitted collective complaints against five states to the European Committee of Social Rights on the grounds that they had not explicitly prohibited all corporal punishment in the family. The ECSR, which adjudicates the complaints, found three states – Greece, Belgium and Ireland – to be in breach of the Charter because of their failure to ban corporal punishment. In the case of Italy and Portugal, the Committee found that because there had been judgments of the highest courts condemning corporal punishment – from Italy's Court of Cassation and Portugal's Supreme Court – the legal situation was not in breach.

But then in 2006, Portugal's Supreme Court issued another judgment, this time stating that corporal punishment was not only lawful but necessary. A second collective complaint was submitted by OMCT against Portugal, and the European Committee found the law to be inadequate and Portugal to be in breach of the Social Charter. The ECSR affirmed that in order to comply with article 17 of the Charter: "... states' domestic law must prohibit and penalise all forms of violence against children, that is acts or behaviour likely to affect the physical integrity, dignity, development or psychological well being of children. The relevant provisions must be sufficiently clear, binding and precise, so as to preclude the courts from refusing to apply them to violence against children. Moreover, states must act with due diligence to ensure that such violence is eliminated in practice." (*World Organisation against Torture (OMCT) v Portugal*, Collective complaint No. 34/2006, Decision on the Merits of 5 December 2006, §§19-21)

Portugal's Parliament quickly reformed its legislation to ban all corporal punishment.

For further information see the country reports on pages 22 to 36. Details of all the collective complaints can be found on the ECSR collective complaints page (www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp).

The EU and children's rights

All EU member states are states parties to the UN Convention on the Rights of the Child and are parties to the European Convention on Human Rights (and negotiations to achieve accession by the EU itself to the European Convention are at an advanced stage). Nothing in EU legislation can reduce member states' legal obligations under these and other international instruments which they have ratified.

Since 2009, the consolidated version of the **Treaty on the European Union** has explicitly required the EU to promote "protection of the rights of the child" (article 3.3). The **Charter of Fundamental Rights of the EU** (given binding legal status in December 2009) states that human dignity "is inviolable" and "must be respected and protected" (article 1). It guarantees "everyone" the right to respect for physical and mental integrity (article 3), prohibits inhuman or degrading treatment or punishment (article 4) and requires equality before the law (article 20). Article 24 provides additional guarantees for the rights of the child, who shall have the right "to such protection and care as is necessary for their well-being" and to have their views given due consideration; the child's best interests must be a primary consideration in all actions relating to children by public or private bodies.

Even before these developments in EU law, in 2006 the European Commission established a basis for promoting and protecting the rights of the child in its internal and external policies with its Communication **Towards an**

"The EU's commitment to the rights of the child requires a coherent approach across all relevant EU actions. This objective can be reached by using the Treaties, the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child as a common basis for all EU action which is relevant to children. The 'child rights perspective' must be taken into account in all EU measures affecting children."

(EU Agenda on the Rights of the Child, adopted Brussels, 15 February 2011, COM(2011) 60 final)

UN Study on Violence against Children

The EU Guidelines on the Rights of the Child adopt "All forms of violence against children" as the first priority area, with an Implementation Strategy based on the UN Secretary General's Study on Violence against Children (see pages 13 and 14).

The Study, completed in 2006, revealed the nature and extent of violence against children all over the world. It included nine regional consultations, each actively involving children and each resulting in recommendations which included calls for the prohibition and elimination of all corporal punishment.

The report of the Study was presented to the General Assembly in October 2006 by Professor Paulo Sérgio Pinheiro, the Independent Expert appointed by the Secretary General to lead the Study. Its key message is that "no violence against children is justifiable; all violence against children is preventable". Drawing the attention of states to the Committee on the Rights of the Child's General Comment No. 8, the Report recommends prohibition of all forms of violence against children in all settings, including all corporal punishment and all other cruel, inhuman or degrading forms of punishment.

"The Study should mark a turning point – an end to adult justification of violence against children, whether accepted as 'tradition' or disguised as 'discipline'. There can be no compromise in challenging violence against children. Children's uniqueness – their potential and vulnerability, their dependence on adults – makes it imperative that they have more, not less, protection from violence..."

(Report of the Independent Expert for the United Nations Study on Violence against Children, 2006, para. 2)

EU Strategy on the Rights of the Child (Communication from the Commission, COM(2006) 367 final). This noted that the Commission had already identified children's rights as one of its main priorities in its Communication on Strategic Objectives 2005-2009: "A particular priority must be effective protection of the rights of children, both against economic exploitation and all forms of abuse, with the Union acting as a beacon to the rest of the world." And the Group of Commissioners on Fundamental Rights, Non-discrimination and Equal Opportunities decided in April 2005 to launch a specific initiative to advance the promotion, protection and fulfilment of children's rights in the internal and external policies of the EU.

In 2011, the **EU Agenda for the Rights of the Child** was finalised as a Communication from the Commission. It aims to reinforce the full commitment of the EU – as enshrined in the Treaty and the Charter of Fundamental Rights – to promote, protect and fulfil the rights of the child in all relevant EU policies and actions.

The Conclusion to the Agenda (adopted Brussels, 15 February 2011, COM(2011) 60 final) states: "... the Commission calls on the

EU institutions and on the Member States to renew their commitment to step up efforts in protecting and promoting the rights of children. The action of the EU should be exemplary in ensuring the respect of the provisions of the Treaties, the Charter of Fundamental Rights of the European Union and of the UNCRC with regard to the rights of children. The Commission will review regularly progress made in the implementation of the EU Agenda.... The Commission will continue to play its part in joint efforts to achieve well-being and safety of all children. A renewed commitment of all actors is necessary to bring to life the vision of a world where children can be children and can safely live, play, learn, develop their full potential, and make the most of all existing opportunities."

Under "General Principles", the Agenda states: "The EU's commitment to the rights of the child requires a coherent approach across all relevant EU actions. This objective can be reached by using the Treaties, the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child (UNCRC) as a common basis for all EU action which is relevant to children. The 'child rights perspective' must be taken into account in all EU measures affecting children."



Fundamental Rights Agency – indicators of protection from violent punishment

The FRA, in a report issued in November 2010, sets out possible indicators for the protection, respect and promotion of children's rights in the EU; the aim – explained in a foreword – is to assess "the impact of Union law and policies that have been adopted so far, identifying their achievements and revealing their gaps on EU provisions for children".

Among proposed indicators for the area "Protection from exploitation and violence", the report suggests:

"Existence of legal provisions banning all forms of violence as a means of discipline for children at all settings (including at home, in schools, in care and justice institutions)."

"Evidence of decrease in the proportion of adults and of children who accept violence against children as a means of education at home/school, disaggregated."

"Evidence of designated public funding for positive parenting education campaigns (such as addressing non-violent forms of discipline, and aimed at reducing spanking of infants or shaking of babies), implemented with the active participation of children."

(Developing indicators for the protection, respect and promotion of the rights of the child in the European Union, European Union Agency for Fundamental Rights, November 2010)

It also notes: "The Commission will also continue to follow attentively the work of the UN Committee on the Rights of the Child and its interpretation of the provisions of the UNCRC. Where relevant, the explanatory memorandums of the relevant legislative proposals will explain how child rights considerations were taken into account in the drafting of proposals."

The Agenda notes that "the well-being of children can only be achieved in a society which is free of violence, abuse and exploitation of children" and refers to the development of EU Directives to reinforce the framework for protection of children who are victims of sexual exploitation and trafficking. It affirms that the EU "is strongly committed to eliminating all forms of violence against children" and that it will continue the implementation of the **EU Guidelines on the Rights of the Child** with their current focus on combating all forms of violence against children.

The EU Guidelines (currently under review) were approved on 10 December 2007 by the European Council, which defines the general political direction and priorities of the EU, being a formal EU Institution since 2009. They aim to form the basis for the protection of the rights of the child in the EU's external policy. A section on their purpose notes: "The EU reaffirms its determination to observe as

a matter of priority in its external human rights policy the promotion and protection of ALL rights of the child, i.e. persons below the age of 18 years, taking into account the best interests of the child and its right to protection from discrimination and participation in decision-making processes, founded on the principles of democracy, equality, non-discrimination, peace and social justice and the universality, indivisibility, interdependence and interrelatedness of all human rights, including the right to development.”

The Guidelines emphasise that “children’s rights are an inalienable, integral and indivisible part of universal human rights and that all rights recognized by the Convention on the Rights of the Child have an equal importance, although actions to ensure their realization need to be prioritized in the light of specific national contexts”. As a matter of principle, the EU remains committed to promote and protect all rights of the child on an equal basis.



fight all forms of violence against children, the EU will develop, for non-EU states, country-specific strategies; one element of these will be support for legislative reform to ensure inclusion of the prohibition of all forms of violence against children in national legislation and to fight impunity. The Council Working Group on Human Rights (COHOM) is responsible for implementation and monitoring, along with other working groups.

Viviane Reding, Vice-President of the European Commission, Commissioner for Justice, Fundamental Rights and Citizenship, is responsible for children’s rights and within the Commission’s Directorate-General for justice there is a unit with an overall responsibility and coordination role. (European Commission, DG Justice - Unit C1 Fundamental rights and rights of the child; email: JUST-CHILDREN-RIGHTS@ec.europa.eu)

The EU Commission, Justice and Fundamental Rights, has a children’s rights section of its website (http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm), including a site for children and young people.

European Parliament calls for universal ban

The European Parliament resolution of 14 January 2009 on the situation of fundamental rights in the European Union 2004-2008 (2007/2145(INI)) “calls on the 13 Member States that do not have the relevant legislation totally to ban corporal punishment, in accordance with the 2006 United Nations report on violence towards children, which calls it the most widespread form of violence against children” (para. 118).

The resolution was adopted by a large majority of 401 votes to 220, with 67 abstentions.

In the Guidelines, “All Forms of Violence against Children” is adopted as the first priority area, with an Implementation Strategy set out in an Annex. This Strategy is based on the UN Secretary General’s Study on Violence against Children (see box, page 12), describing it as the “global reference document for the prevention of and combat against all forms of violence against children”. The EU is to support publicly in relevant UN, international and regional fora the Study’s findings and promote follow-up and implementation of its recommendations.

To complement its global action to

The Council of Europe’s campaign against corporal punishment

In 2008, the Council of Europe became the first regional inter-governmental organisation to campaign for an end to corporal punishment of children throughout the region when it launched its “Raise your hand against smacking” campaign in Croatia. Part of the Council’s programme “Building a Europe for and with children”, the campaign aims for universal prohibition of corporal punishment of children in all settings, including the home, in all 47 Council of Europe member states. It also aims to promote positive parenting and to raise awareness of children’s rights throughout Europe.

Four years earlier, the Council’s Parliamentary Assembly had adopted a resolution calling for a “Europe-wide ban on corporal punishment” (Parliamentary Assembly Recommendation 1666 (2004)). The resolution “noted the success of the Council of Europe in abolishing the death penalty and the Assembly now calls on it to make Europe, as soon as possible, a corporal punishment-free zone for children”.

The launch of the campaign was attended by high-level representatives of governments and international organisations, parliamentarians, local authorities, ombudspersons, young people, families with children, NGOs, and child network professionals.

To support the protection of children from corporal punishment and the promotion of prohibition and elimination of it throughout the region, the Council has developed tools for the use of governments, parliaments, local authorities, professional networks, civil society and others caring for children. These resources – in English and other European languages – include materials for the media, handbooks and information aimed at different audiences, posters and summary leaflets. All are available on the campaign website (www.coe.int/t/dg3/children/corporalpunishment/default_en.asp).



“All forms of physical punishment of children are a violation of basic human rights. These rights, protected by the European Convention on Human Rights, the European Social Charter and the United Nations Convention on the Rights of the Child, belong to children and adults. We care for children and help them to develop, but we do not own them. As guardians of their well-being, we have a legal and moral responsibility to provide them with a childhood which honours their rights and leaves them with a legacy which does not condone violence. Only when this happens will Europe become a true home for children.”

(Maud de Boer-Buquicchio, former Deputy Secretary General of the Council of Europe)

In November 2009, the Committee of Ministers of the Council adopted as a recommendation its groundbreaking “Guidelines on integrated national strategies for the protection of children from violence” (Recommendation CM/Rec(2009)10). These underline states’ obligation to prohibit “all corporal punishment and all other cruel, inhuman or degrading treatment or punishment of children, both physical and psychological”.

Thomas Hammarberg, the Council's Commissioner for Human Rights from 2006 to 2012, promoted prohibition of all corporal punishment in his formal visits to states and in various public statements, including a detailed Issues Paper, "The right not to be hit, also a right of children" (2006, revised 2007). It concluded: "How can we expect children to take human rights seriously and to help build a culture of human rights, while adults not only persist in slapping, spanking, smacking and beating them, but actually defend doing so as being 'for their own good'? Smacking children is not just a lesson in bad behaviour: it is a potent demonstration of contempt for the human rights of smaller in size, and thus, more vulnerable people."

"Prohibiting and eliminating all corporal punishment of children is an explicit priority aim of the Council of Europe and I am glad to note that more than half the 47 member states have either achieved full prohibition, including in the family home, or have publicly committed themselves to achieve this soon."

"The strong human rights mechanisms of the Council have helped to ensure that this region is making faster progress than others towards achieving universal prohibition."

"It should be embarrassing for all of us that children have had to wait until last to achieve full legal protection of their human dignity and physical integrity."

(Thomas Hammarberg, former Commissioner for Human Rights, Council of Europe)



Since 2008, when the campaign was launched, five more Council of Europe member states have achieved complete prohibition of all corporal punishment. The 23 member states with equal legal protection for children from assault are: Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Finland, Germany, Greece, Hungary, Iceland, Latvia, Liechtenstein, Luxembourg, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Spain, Sweden and the Ukraine.

Parliamentary Assembly calls for Europe-wide ban on corporal punishment

In 2004, the Parliamentary Assembly of the Council of Europe adopted a recommendation calling for a Europe-wide ban on all corporal punishment:

"The Assembly considers that any corporal punishment of children is in breach of their fundamental right to human dignity and physical integrity. The fact that such corporal punishment is still lawful in certain member states violates their equally fundamental right to the same legal protection as adults. Striking a human being is prohibited in European society and children are human beings. The social and legal acceptance of corporal punishment of children must be ended."

(Council of Europe (2004), Parliamentary Assembly Recommendation 1666/2004, "Europe-wide Ban on Corporal Punishment of Children", 24 June 2004)

Prevalence and attitudinal research in the EU

The good news...

Many states which have prohibited are seeing decreases in the prevalence and approval of corporal punishment. The long-term effects of prohibition can best be seen in **Sweden**, which in 1979 became the first country in the world to prohibit all corporal punishment. In the 1960s, most preschool children were smacked by their parents once or several times per year; in the 1970s, less than half were smacked; by the 1980s, this had fallen to around a third; and after 2000 to a few per cent.¹ In 1965 half the Swedish adult population believed that corporal punishment was necessary, by 1981 a quarter did and in 1994 11% supported corporal punishment.²

Finland followed Sweden, prohibiting in 1983. Studies involving over 13,000 12-15 year olds were carried out in 1988 and 2008: in 1988, around a quarter had been smacked before the age of 14, and around a third whipped; in 2008 about 10% had experienced these types of punishment.³

In **Austria**, prohibition was achieved in 1989. A 2008 study involving more than 1,000 young people and 1,600 parents found a fall in the prevalence of corporal punishment compared with a similar study in 1991. In 1991, 8.5% of mothers of children under 6 never used corporal punishment; by 2008, this had risen to 31.4%. In 1991, 30.5% used "light" corporal punishment such as slapping and spanking "often"; by 2008 this had dropped to 4.1%.⁴

A 2009 report compared teachers' estimates of the prevalence of physical punishment in 2005 and 2009 in seven countries in Central and Eastern Europe, including **Latvia** (prohibition achieved in 1998) and **Bulgaria** (prohibition achieved in 2000). In Latvia in 2005, teachers estimated on average that 53% of children experienced "spanking" by their parents; by 2009 the estimate had fallen to 31%. In Bulgaria in 2005 teachers estimated that 58% of children experienced "spanking"; by 2009 this was 44%.⁵

In **Germany** (prohibition achieved in 2000), research in 2001 involving 5,000 people found a decline in the prevalence of corporal punishment compared with previous studies. In 1996 a third of parents (33.2%) reported they had hit their child's bottom, compared with just over a quarter (26.4%) in 2001. In 1992, 30% of young people aged 12-18 reported that they had been "thrashed," while in 2001, 3% of young people reported this.⁶ Another study, carried out from 1996 to 2008, showed a decline in the number of parents believing that corporal punishment is legally admissible: in 1996, 83% of parents surveyed believed that a "mild slap on the face" was legally admissible; by 2008, 25% of parents thought so.⁷



1 Modig, C. (2009), *Never Violence: Thirty Years on from Sweden's Abolition of Corporal Punishment*, Stockholm: Government Offices of Sweden & Save the Children Sweden
 2 Durrant, J. (2000), *A Generation Without Smacking: the impact of Sweden's ban on physical punishment*, Save the Children
 3 Ellonen, N. et al (2008), *Lasten ja nuorten väkivaltakokemukset. Tutkimus peruskoulun 6. - 9. luokan oppilaiden kokemasta väkivallasta*, Poliisiammattikorkeakoulun Raportteja 71/2008
 4 Bundesministerium für Wirtschaft, Familie und Jugend (2009), *Familie - kein Platz für Gewalt!?: 20 Jahre gesetzliches Gewaltverbot in Österreich*, Vienna: Bundesministerium für Wirtschaft, Familie und Jugend
 5 Centre Against Abuse 'Dardedze' et al (2009), *The Problem of Child Abuse: Attitudes and Experiences in Seven Countries of Central and Eastern Europe - comparative report 2005-2009*
 6 Federal Ministry of Justice & Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2003), *Violence in upbringing: An assessment after the introduction of the right to a non-violent upbringing*
 7 Bussmann, K. D. (2009), *The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison*, Martin-Luther-Universität Halle-Wittenberg

A 2007 study in **Romania** which involved a nationally representative poll of 1,110 people and interviews with 155 teachers, doctors, psychologists and other adults who worked with children, showed widespread awareness of prohibition (achieved in 2004): 73% of the sample and 95% of professionals knew of the prohibition of corporal punishment in all settings.⁸ In **Poland**, a 2011 study involving 1,005 people aged 15-75 found decreases in the social acceptance of parents hitting children since the achievement of prohibition in 2010. In research published in 2008, 78% of respondents agreed and 19% disagreed that “there are situations when a child needs to be smacked”, compared with 69% agreeing and 27% disagreeing in 2011. The study also showed a high awareness of the law: 74% agreed that “beating of a child is unlawful”.⁹



And the bad...

Research finds high levels of corporal punishment in states which have not yet banned it. In **France**, a 2007 study of 1,000 parents revealed that 72% had slapped their child on the face and 87% had slapped their child on the bottom.¹⁰ Another survey in the same year found that 96% of children involved had been smacked and 30% had been punished with a “martinet” (a small whip).¹¹ Research carried out in 2008-2009 in **Italy** involving parents and children from more than 200 families found that 61% of girls and 66% of boys had experienced “mild” corporal punishment (being spanked, hit or slapped with a bare hand; hit or slapped on the hand, arm, or leg; shaken; or hit with an object), and 12% of girls and 23% of boys had experienced severe corporal punishment (being hit or slapped on the face, head, or ears or beaten repeatedly with an implement) by someone in their household in the past month.¹²

A 2004 study involving 1,000 10 year olds in the **Czech Republic** found that 86% had experienced some kind of corporal punishment at home and a quarter had been hit with an object, hit on a sensitive part of their body, or hit in a way that left visible marks.¹³ In a 2008 survey of 1,143 10-15 year olds in **Lithuania**, 48% said they had experienced physical punishment and 5% said they were “constantly” being physically punished.¹⁴ In 2009 research involving more than 4,000 parents and guardians in the **UK**, 41.6% (39.4% of parents/guardians of under 11s and 45.9% of parents/guardians of 11-17 year olds) said they had physically punished or smacked their child in the past year.¹⁵

In a 2010 government-commissioned survey in **Ireland**, a quarter of parents reported having used some form of physical punishment in the past year;¹⁶ in a 2012 survey of nearly 800 adults, 49% said they had slapped a child and 49% thought it was acceptable to do so.¹⁷ In **Estonia**, a survey of 475 parents of children under 18 found that nearly half (47%) agreed or tended to agree that “corporal punishment of a child is sometimes inevitable”.¹⁸ In 2004, telephone interviews with 1,070 people aged 15 and older in **Belgium** revealed that 77% thought it was acceptable for parents to smack their children.¹⁹

8 Save the Children Romania (2007), *Study on the Level of Awareness of Child Protection Legislation Among the General Population and Experts*

9 TNS OBOP (2011), *Social resonance of the amendment to the Act on Counteracting Domestic Violence*, Ombudsman for Children of the Republic of Poland

10 Bussmann, K. D. (2009), *The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison*, Martin-Luther-Universität Halle-Wittenberg

11 Union of Families in Europe (2007), *POUR ou CONTRE les fessées?*, Tassin: UFE

12 Lansford, J. et al (2010), “Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender”, *International Journal of Pediatrics*, 2010

13 Reported in *Child Abuse and Neglect in Eastern Europe*, 24 May 2007

14 Save the Children (2008), *Children’s interview on relations in their families*, cited in Durrant, J. & Smith, A. (eds) (2011), *Global Pathways to Abolishing Physical Punishment: Realizing Children’s Rights*, NY: Routledge

15 Radford, L. et al (2011), *Child abuse and neglect in the UK today*, London: NSPCC

16 Halpenny, A. M. et al (2010), *Parenting Styles and Discipline: Parents’ Perspectives on Parenting Styles and Disciplining Children*, Dublin: The Stationery Office/Office of the Minister for Children and Youth Affairs

17 Reported in *IrishCentral*, 31 July 2012

18 European Social Survey (2010), *Additional Module about Estonia*

19 Market & Opinion Research International (2004), *Attitudes towards smacking children: Belgium*, Research conducted for the Association for the Protection of All Children

Working with faith groups to promote reform

All the major religions profess respect for the inherent dignity of the child and promote universal religious principles of compassion, justice, equality and non-violence. Through their varied roles and functions as spiritual leaders, teachers, preachers, pastors, community leaders and activists, religious leaders can help raise the status of children and promote respect for children’s physical, emotional and spiritual integrity.

Since the UN Study on Violence against Children growing numbers of religious leaders and their communities have taken decisive action towards ending corporal punishment of children. In support of the Study, Religions for Peace – the largest coalition of the world’s religious communities – adopted a “Multi-Religious Commitment to Confront Violence against Children” (The Kyoto Declaration 2006). The Declaration, which has been influential in mobilising religious communities to put their religious principles into action, outlines ways in which religious communities can work together to eliminate violence against children in line with the recommendations from the UN Study.

There are many examples of national action by religious leaders. On Universal Children’s Day 2012, the Archbishop of Wales (UK), Dr Barry Morgan, led a prayer vigil dedicated to ending legalised violence against children at which he washed children’s feet as a mark of respect for all children; church leaders lit candles and said prayers on behalf of children who have suffered violence. In his address the Archbishop said: “Jesus believed that children were not just an asset for the future or a commitment to be undertaken for the sake of society. They were of infinite value as children. They deserved as much respect and care as any other human being... None of us would ever dream of smacking another adult, why should we think smacking a child is any more acceptable... They too are made in God’s image...” The Archbishop and other church leaders in Wales have signed a statement calling for the prohibition and elimination of all corporal punishment of children.

In Romania the celebration of the World Day of Prayer and Action for Children (DPAC) on Universal Children’s

Day 2012 addressed the causes of violence affecting children. More than 400 children, parents, pedagogues, psychologists and social workers of different faiths participated. Teenagers from Iasi created their own prayers for stopping violence against children. The National Committee of UNESCO, Romania disseminated the results of the workshop and the exhibition “Educate with love” was displayed at the UNESCO stand.

For further information on all aspects of working with faith groups to promote reform, see *Ending corporal punishment of children: A handbook for working with and within religious communities*, available with many other resources from the website of the Churches’ Network for Non-violence (www.churchesfornon-violence.org).

“We call on governments to adopt legislation to prohibit all forms of violence against children, including corporal punishment, and to ensure the full rights of children, consistent with the Convention on the Rights of the Child and other international and regional agreements. We urge them to establish appropriate mechanisms to ensure the effective implementation of these laws and to ensure that religious communities participate formally in these mechanisms...”

(The Kyoto Declaration, article 6)

“Islam views all human life as a sacred gift from God. Islam does not advocate any violence against children. Corporal punishment and other forms of humiliating treatment of children conflict directly with the teaching of the Prophet.

“We affirm our respect for the human dignity of every child. This calls us to work together to confront the pain and humiliation inflicted against children through the practice of corporal punishment in homes and families, schools, religious institutions and other community settings.

“We are committed to taking leadership and working in solidarity with people from other sectors, communities and religious networks towards ending all corporal punishment of children.”

(Extract from a statement signed by Muslim leaders in the UK)

Moving the focus from prohibition to elimination

The ultimate goal of state action to fulfil children's right to protection from corporal punishment and other cruel or degrading treatment or punishment is to ensure that no child ever experiences violent punishment – to eliminate it in reality. Achieving prohibition in law sends a clear message that hitting and hurting a child, for whatever reason, is wrong, just as hitting and hurting adults is wrong, and when breached the law can be enforced appropriately according to the circumstances of the case. But implementing the law is not only about responding to adults who violently punish children – it is also about transforming attitudes and practice so that physical punishment is no longer perceived as a legitimate aspect of childrearing and education. It is about working towards a society where no assault on a child, however light, can conceivably be regarded as “reasonable” or acceptable.

Preliminary list of measures needed to accompany/follow prohibition

- Wide dissemination and explanation of the law and its implications
- Detailed guidance, for all involved, on how the law prohibiting violent punishment should be implemented in the best interests of children
- Communication of children's right to protection from corporal punishment and all other cruel or degrading forms of punishment to children and adults
- Promotion of positive, non-violent forms of discipline to the public, children, parents, other carers, teachers, etc
- Dissemination of information on the dangers of corporal punishment
- Integration of implementation/enforcement of the prohibition into the national and local child protection system
- Identification of key public figures and a wide range of partners who can support implementation of the law and transformation of attitudes
- Attraction of necessary resources
- Evaluation of the impact of law reform and other measures, through a baseline survey and regular

follow-up surveys, interviewing children and parents.



Possible channels and opportunities/contact points for communication of key messages

- Birth registration
- Pre- and post-natal services
- All other health service and health practitioner contacts with parents, future parents, children
- Pre-school entry, school entry, school curriculum, informal educational settings
- Social and welfare services in contact with children (including children in all non-family settings) and with families
- Initial and in-service training of all those working with and for families and children, including teachers, care workers, etc
- Elements of civil society in contact with children and families, including religious/faith groups
- Mass media, internet, social networking, etc

Planning for change

A national plan should be developed by the government with other potentially active partners on how to progress from prohibition to elimination. This could be a distinct plan or an integral element in the national plan to eliminate all forms of violence against children. A review is likely to be needed, covering:

- what action there has been – including development of programmes and materials – challenging corporal punishment in the home and family, local community, schools and other institutions, all forms of alternative care, child labour and penal systems for children
- the structures of relevant national/local services impacting on children and families which could be used as a communications vehicle to support the move away from violent punishment
- available research on the prevalence of and attitudes towards violent punishment of children.

Summary of progress towards equal protection for children in EU member states (February 2013)

Please note: The following information has been compiled from many sources, including reports to and by the UN human rights treaty bodies. Information in square brackets is unconfirmed. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, and many individuals who have helped to provide and check information. Please let us know if you believe any of the information to be incorrect: info@endcorporalpunishment.org.

States where corporal punishment is prohibited in all settings, including the home

Austria (1989); Bulgaria (2000); Cyprus (1994); Denmark (1997); Finland (1983); Germany (2000); Greece (2006); Hungary (2004); Latvia (1998); Luxembourg (2008); Netherlands (2007); Poland (2010); Portugal (2007); Romania (2004); Spain (2007); Sweden (1979).

States where corporal punishment is prohibited in some but not all settings

State	Prohibited in the home	Prohibited in schools	Prohibited in penal system		Prohibited in alternative care settings
			As sentence for crime	As disciplinary measure	
Belgium	✗	✓ ¹	✓	✓	SOME ²
Czech Republic ³	✗	✓	✓	✓	SOME ⁴
Estonia ⁵	✗	✓ ⁶	✓	✓	✗
France	✗	✓ ⁷	✓	✓	✗
Ireland	✗	✓	✓	✓	SOME ⁸
Italy	✗ ⁹	✓	✓	✓	✓
Lithuania ¹⁰	✗	✓	✓	✓	✗
Malta	✗	✓ ¹¹	✓	[✓]	✗
Slovakia ¹²	✗	✓	✓	✓	✓
Slovenia ¹³	✗	✓	✓	✓	SOME ¹⁴
UK	✗ ¹⁵	✓	✓	✓	SOME ¹⁶

- 1 But no explicit prohibition
- 2 Prohibited in institutions in some communities
- 3 Government committed to prohibition (2007)
- 4 Unlawful in institutions
- 5 Government committed to prohibition; legislation which would prohibit being drafted (2011)
- 6 But no explicit prohibition
- 7 But no explicit prohibition and courts have recognised a “right of correction”
- 8 Prohibited in pre-school settings except for childminders caring for children of relatives, children of same family or up to three children from different families and for children older than 5; prohibited in special care units; guidance advises against corporal punishment in foster care and residential services but no prohibition in law
- 9 1996 Supreme Court ruling prohibited all violence in childrearing but this not yet confirmed in legislation
- 10 Government stated intention to prohibit to UN Committee on the Rights of the Child (2006); draft legislation under discussion (2012)
- 11 But no explicit prohibition
- 12 Government committed to prohibition (2005); current legislation prohibits some but not all corporal punishment
- 13 Government committed to prohibition; Bill which would have prohibited rejected by referendum (2012)
- 14 Prohibited in educational day care centres and residential schools
- 15 Law reform in 2003 (Scotland), 2004 (England and Wales) and 2006 (Northern Ireland) limited but did not prohibit all corporal punishment
- 16 Prohibited in residential institutions and foster care arranged by local authorities or voluntary organisations throughout the UK; prohibited in day care and childminding in England, Wales and Scotland

Country reports: EU member states with full prohibition

In the following states, corporal punishment is prohibited in all settings, without exception. Details are given here of the legislation which finally brought about protection for children in the home and so achieved prohibition in all settings. For more detailed individual country reports see the Global Initiative website (www.endcorporalpunishment.org).



AUSTRIA

Child population: 1,534,000 (UNICEF, 2010)

Prohibition of corporal punishment: The defence of “reasonable” punishment was removed from the law on assault in 1977; full prohibition was achieved in 1989 in article 146a of the General Civil Code. The Law on the Rights of the Child 2011 confirms the prohibition in article 5(1): “Every child has the right to non-violent upbringing. Corporal punishment, the infliction of mental suffering, sexual abuse and other abuses are prohibited....”



BULGARIA

Child population: 1,255,000 (UNICEF, 2010)

Prohibition of corporal punishment: Article 11(2) of the Child Protection Act 2000 states: “Every child has a right to protection against all methods of upbringing, that undermine his or her dignity, against physical, psychical or other types of violence; against all forms of influence, which go against his or her interests.” Further detail is given in regulations.

CYPRUS

Child population: 172,000 (Cyprus Statistical Service, 2007)

Prohibition of corporal punishment: Corporal punishment became unlawful in the home under the Violence in the Family (Prevention and Protection of Victims) Law 1994 which prohibits “any unlawful act or controlling behaviour which results in direct actual physical, sexual or psychological injury to any member of the family” (article 3), interpreted as prohibiting all corporal punishment in childrearing. The provision was reiterated in the Act on Violence in the Family adopted in 2000. However, article 54(6) of the Children’s Law 1956 still provides for “the right of any parent, teacher or other person having the lawful control or charge of the child to administer punishment to him”. The Government has stated its intention to repeal this provision and draft legislation is under discussion. While acknowledging the prohibition of corporal punishment, the Committee on the Rights of the Child has recommended repeal of article 54 of the Children Law 1956 (2012).¹ The European Committee of Social Rights has reserved its position on Cyprus pending confirmation that the defence has been repealed (2006, 2012).²



DENMARK

Child population: 1,214,000 (UNICEF, 2010)

Prohibition of corporal punishment: Corporal punishment has been prohibited in the home since 1997, through an amendment to the Parental Custody and Care Act 1995. The prohibition is reiterated in the Danish Act on Parental Responsibility 2007, which states in article 2(2): “Children have the right to care and security. Children must be treated with respect for their person and must not be exposed to corporal punishment or other humiliating treatment.”

Self-Governing Territories: Corporal punishment is not yet prohibited in all settings, including the home, in the Faroe Islands and Greenland. For details see the individual country reports on the Global Initiative website (www.endcorporalpunishment.org).



FINLAND

Child population: 1,087,000 (UNICEF, 2010)

Prohibition of corporal punishment: Article 1.3 of the Child Custody and Right of Access Act 1983 (effective 1984) states: “A child shall be brought up in the spirit of understanding, security and love. He shall not be subdued, corporally punished or otherwise humiliated. His growth towards independence, responsibility and adulthood shall be encouraged, supported and assisted.”



GERMANY

Child population: 13,522,000 (UNICEF, 2010)

Prohibition of corporal punishment: A 2000 amendment to the Civil Code states (article 1631): “Children have the right to a non-violent upbringing. Corporal punishment, psychological injuries and other humiliating measures are prohibited.”

GREECE

Child population: 1,983,000 (UNICEF, 2010)

Prohibition of corporal punishment: Article 4 of Law 3500/2006 on the Combating of Intra-family Violence (in force 2007) states: “Physical violence against children as a disciplinary measure in the context of their upbringing brings the consequences of Article 1532 of the Civil Code.” Article 1532 of the Civil Code addresses abuse of parental authority.

HUNGARY

Child population: 1,819,000 (UNICEF, 2010)

Prohibition of corporal punishment: Corporal punishment is prohibited in a 2004 amendment to the Act on the Protection of Children and Guardianship Administration 1997 (the Child Protection Act), which came into force in 2005. Article 6(5) states: “The child has the right to respect for his/her human dignity, to be protected against abuse – physical, sexual and mental violence –, failure to provide care and injury caused by any information. The child shall not be subjected to torture, corporal punishment and any cruel, inhuman or degrading punishment or treatment.”

LATVIA

Child population: 385,000 (UNICEF, 2010)

Prohibition of corporal punishment: Article 9(2) of the Law on Protection of the Rights of the Child 1998 states: “A child cannot be treated cruelly, cannot be tormented and physically punished, and his/her dignity and honour cannot be offended.” The Law makes “failure to discharge parental obligations ... the malicious usage of parental authority, the physical punishing of a child, as well as cruel behaviour against him/her” offences under the law (article 24(4)).



¹ 10 August 2012, CRC/C/CYP/CO/3-4, Concluding observations on third/fourth report, paras. 29 and 30

² 2006, Conclusions 2006, vol. 1, pages 152-153; January 2012, Conclusions 2011

LUXEMBOURG

Child population: 108,000 (UNICEF, 2010)



Prohibition of corporal punishment: Article 2 of the Law on Children and the Family 2008 prohibits physical violence and inhuman and degrading

treatment within families and educative communities and this is interpreted as prohibiting all corporal punishment, however light, in the home. The right of paternal punishment in the Civil Code was abolished in 1939.

NETHERLANDS

Child population: 3,553,000 (UNICEF, 2010)



Prohibition of corporal punishment: In 2007, article 1:247 of the Civil Code, on parental authority, was amended to state (unofficial translation): “(1) Parental

authority includes the duty and the right of the parent to care for and raise his or her minor child. (2) Caring for and raising one’s child includes the care and the responsibility for the emotional and physical wellbeing of the child and for his or her safety as well as for the promotion of the development of his or her personality. In the care and upbringing of the child the parents will not use emotional or physical violence or any other humiliating treatment.”

Special Municipalities and other countries in the Kingdom of the Netherlands: Corporal punishment is prohibited in all settings in Curaçao in the Joint Custody Ordinance 2011 (in force 2012). Complete prohibition has not yet been achieved in Aruba and Sint Maarten. The Special Municipalities – Bonaire, Saba and Sint Eustatius – are in the process of adopting the laws of the European Netherlands, to include prohibition of corporal punishment. For details see individual country reports on the Global Initiative website (www.endcorporalpunishment.org).

POLAND

Child population: 7,096,000 (UNICEF, 2010)



Prohibition of corporal punishment: Article 2 of the Law of 6 May 2010 “On the Prevention of Family Violence” amended the Family Code 1964 by inserting a new article 96 which prohibits all corporal punishment in childrearing (unofficial translation): “Persons exercising parental care, care or alternative care over a minor are forbidden to use corporal punishment, inflict psychological suffering and use any other forms of child humiliation.”

PORTUGAL

Child population: 1,946,000 (UNICEF, 2010)



Prohibition of corporal punishment: Article 152 of the Penal Code was amended in 2007 (by Law 59/2007) to state: “Whoever repeatedly, or not, inflicts physical or psychological ill-treatment, including corporal punishment, deprivation of liberty and sexual offences, is punished with 1 to 5 years of imprisonment.”



ROMANIA

Child population: 3,933,000 (UNICEF, 2010)

Prohibition of corporal punishment: Article 28 of Law No. 272/2004 on the Protection and Promotion of the Rights of the Child states: “(1) The child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishment or to other humiliating or degrading treatments. (2) Disciplinary measures concerning the child can only be taken in accordance with the child’s dignity, and under no circumstances are physical punishments allowed, or punishments which relate to the child’s physical and mental development or which may affect the child’s emotional status.” Article 90 states: “It is forbidden to enforce physical punishment of any kind or to deprive the child of his or her rights, which may result in endangerment of the life, the physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child, both within the family as well as in any institutions which ensure the protection, care and education of children.”



SPAIN

Child population: 8,189,000 (UNICEF, 2010)

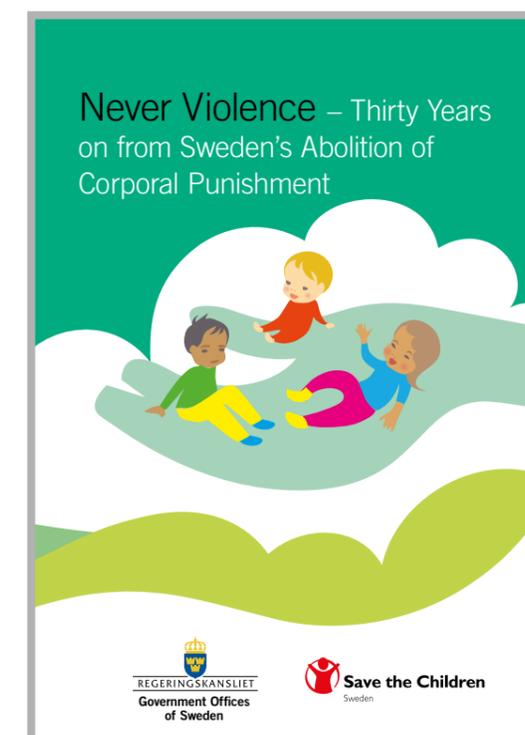
Prohibition of corporal punishment: The First Schedule to Law No. 54/2007 on International Adoption amended the Civil Code to remove the “right” of parents and guardians to use “reasonable and moderate” forms of “correction” from articles 154 and 268 of the Civil Code. These articles now state that parents/guardians must exercise their authority with respect for the child’s physical and psychological integrity.

SWEDEN

Child population: 1,924,000 (UNICEF, 2010)



Prohibition of corporal punishment: Corporal punishment was explicitly prohibited in a 1979 amendment to the Parenthood and Guardianship Code which states (article 6.1): “Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment.” Article 5 of the Instrument of Government 2012 – one of four laws which together make up the Constitution – confirms: “Everyone shall be protected against corporal punishment...”



Country reports: EU member states which have not yet achieved full prohibition



BELGIUM

Child population: 2,176,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): The Civil Code (amended 1995) states that the parent-child relationship should be one of “mutual respect” (article 371), but neither this nor provisions against violence and abuse in the Penal Code (amended 2000) are interpreted as prohibiting parental corporal punishment. A Constitutional amendment in 2000 (article 22bis), concerning the protection of the child’s moral, physical and sexual integrity, was not regarded as changing the ways in which parental authority should be exercised.

Outside the home (not fully prohibited): Corporal punishment is unlawful in schools under case law relating to provisions against assault in the Criminal

Code, but there is no explicit prohibition in legislation. It is unlawful in the penal system, as a sentence for crime and as a disciplinary measure in penal institutions. With regard to alternative care settings, corporal punishment is prohibited in institutions in the Flemish Community in article 28 of the Decree of the Flemish Council (7 May 2004) and articles 11 and 13 of the Flemish Government Decree of 13 July 1994 concerning grants to institutions for youth, but there is no prohibition in relation to non-institutional care. There appears to be no explicit prohibition of corporal punishment in alternative care settings in the French Community or the German-speaking Community.

Law reform necessary to achieve prohibition in Belgium

Explicit prohibition of corporal punishment in the home, schools and all alternative care settings in all communities.

Human rights jurisprudence on corporal punishment

Treaty bodies: Prohibition of corporal punishment in the home has been recommended three times by the Committee on the Rights of the Child (1995, 2002, 2010),¹ as well as by the Committee Against Torture (2009)² and the Committee on Economic, Social and Cultural Rights (2007).³ The European Committee of Social Rights, on examining Belgium’s reports on its implementation of the Charter, has concluded three times that the situation in Belgium is not in conformity with the Charter (2005, 2007, 2012);⁴ following a complaint brought in 2003 by the World Organisation Against Torture under the Collective Complaints procedure, the Committee concluded that Belgium was in violation of article 17 of the Charter because there is no explicit prohibition in law of corporal punishment of children by parents and other carers (including non-institutional childcare facilities and arrangements).⁵

UPR: The Government rejected the recommendation to explicitly prohibit all corporal punishment (2011).⁶

1 20 June 1995, CRC/C/15/Add.38, Concluding observations on initial report, para. 15; 13 June 2002, CRC/C/15/Add.178, Concluding observations on second report, paras. 23 and 24; 18 June 2010, CRC/C/BEL/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 39 and 40
2 19 January 2009, CAT/C/BEL/CO/2, Concluding observations on second report, para. 24
3 3 December 2007, E/C.12/BEL/CO/3, Concluding observations on third report, paras. 19 and 33
4 July 2005, Conclusions XVII-2; 2007, Conclusions XVIII-1, vol.1; January 2012, Conclusions 2011
5 Resolution ResChS(2005)10, Collective complaint No. 21/2003 by the World Organisation against Torture (OMCT) against Belgium, adopted by the Council of Ministers on 8 June 2005
6 11 July 2011, A/HRC/18/3, Report of the working group, paras. 100(11), 101(15) and 103(10)

CZECH REPUBLIC



Child population: 1,843,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): Article 31(2) of the Family Act 1963 states that in caring for children, parents “may use adequate upbringing measures so that the child’s dignity is not violated and his or her health, emotional, intellectual and moral development are not endangered”, but neither this nor provisions against violence and abuse in the Act on Social and Legal Protection of Children (amended 2002), the Charter on Fundamental Rights and Freedoms 1992, the Act on Misdemeanours 1990, the Criminal Code 2009, the Constitution 1992 and the Domestic Violence Law 2006 are interpreted as prohibiting all corporal punishment in childrearing.

Outside the home (not fully prohibited): Corporal punishment is unlawful in schools under the Education Act (article 31). It is unlawful in the penal system as a sentence for crime and as a disciplinary measure in penal institutions. With regard to alternative care settings, corporal punishment is unlawful in institutions under the the Act on Institutional Care 2002 (amended 2005), which does not include corporal punishment among permitted means of correction; it is lawful in non-institutional forms of care.

Moves towards prohibition

The Government confirmed its commitment to prohibition in a letter from Prime Minister Mirek Topolánek to Council of Europe Commissioner for Human Rights, Mr Thomas Hammarberg, in 2007. In 2008, the Minister for Human Rights and National Minorities signed the Council of Europe petition against corporal punishment. In reporting to the Committee on the Rights of the Child, the Government stated that it was considering enacting explicit prohibition.¹ However, the new Civil Code expected to come into force in January 2014 protects the dignity of the child but does not explicitly prohibit corporal punishment. The Government has acknowledged the lack of explicit prohibition in current law² but has also suggested that existing legislation offers adequate protection and there are no plans to amend the law to prohibit corporal punishment.³

Human rights jurisprudence on corporal punishment

Treaty bodies: The Committee on the Rights of the Child first expressed concern at corporal punishment in Czech homes and schools in 1997;⁴ since then the Committee has twice recommended prohibition of all corporal punishment, including in the family (2003, 2011).⁵ The Committee Against Torture has recommended prohibition in all settings (2012).⁶ The European Committee of Social Rights has twice concluded that the situation in the Czech Republic is not in conformity with the Charter because corporal punishment is not explicitly prohibited (2005, 2012).⁷

UPR: Recommendations were made during the review of the Czech Republic in the second cycle of the UPR to explicitly prohibit corporal punishment of children in all settings, including the home (2012).⁸ The Government’s response is due by March 2013.

Law reform necessary to achieve prohibition in the Czech Republic

Explicit prohibition of all corporal punishment in the home and in all alternative care settings.

1 20 April 2010, CRC/C/CZE/3-4, Third/fourth report to the Committee on the Rights of the Child, para. 133
2 10 May 2011, CRC/C/CZE/Q/3-4/Add.1, Written replies to the Committee on the Rights of the Child, Q7
3 9 March 2012, CAT/C/CZE/Q/4-5/Add.1, Written replies to the Committee Against Torture, para. 106; 30 May 2012, CAT/C/SR.1071, Summary record of examination by the Committee Against Torture, para. 40
4 27 October 1997, CRC/C/15/Add.81, Concluding observations on initial report, paras. 18 and 35
5 18 March 2003, CRC/C/15/Add.201, Concluding observations on second report, paras. 40 and 41; 4 August 2011, CRC/C/CZE/CO/3-4, Concluding observations on third/fourth report, paras. 39, 40 and 41
6 13 July 2012, CAT/C/CZE/CO/4-5, Concluding observations on fourth/fifth report, para. 22
7 July 2005, Conclusions XVII-2; January 2012, Conclusions 2011
8 23 October 2012, A/HRC/WG.6/14/L.1, Draft Report of the working group, paras. 94(88), 94(89) and 94(90)



ESTONIA

Child population: 248,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): Under article 31(1) of the Child Protection Act 1992 it is unlawful to “humiliate, frighten or punish a child in any way which abuses the child, causes bodily harm or otherwise endangers his or her mental or physical health”, but this does not prohibit all forms of corporal punishment, however light. According to the Family Law Act 2009, parents and children “are required to support and respect each other and take each other’s interests and rights into account” (article 113) and “physical, mental and emotional abuse and application of other degrading educational measures with respect to a child is prohibited” (article 124(2)), but the Act does not explicitly prohibit all corporal punishment in childrearing.

Outside the home (not fully prohibited): Corporal punishment is unlawful in schools under the Primary and Secondary Schools Act 2010 which prohibits physical violence and does not include corporal punishment among permitted disciplinary measures, though it does not explicitly prohibit it. In the penal system, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. There is no explicit prohibition of corporal punishment in alternative care settings.

Moves towards prohibition

The Government is committed to prohibition. In reporting to the UPR in 2011, the Government stated that the Ministry of Social Affairs was in the process of amending the Child Protection Act to explicitly prohibit corporal punishment.¹

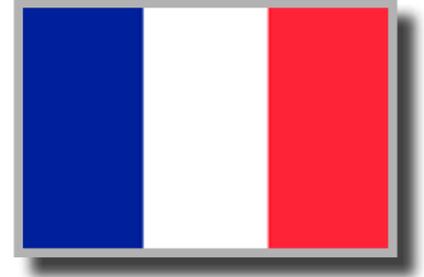
Human rights jurisprudence on corporal punishment

Treaty bodies: The Committee on the Rights of the Child has recommended explicit prohibition of corporal punishment, including in the home and schools (2003).² The European Committee of Social Rights has twice concluded that the situation in Estonia is not in conformity with the Charter because corporal punishment is not prohibited (2005, 2012).³

UPR: The Government accepted the recommendation to prohibit corporal punishment of children (2011).⁴

Law reform necessary to achieve prohibition in Estonia
Explicit prohibition of corporal punishment in the home and in all alternative care settings.

1 28 March 2011, A/HRC/17/17, National report to the UPR, para. 73
2 17 March 2003, CRC/C/15/Add.196, Concluding observations on initial report, paras. 30 and 31
3 March 2005, Conclusions 2005; January 2012, Conclusions 2011
4 8 March 2011, A/HRC/17/17, Report of the working group, para. 77(58)



FRANCE

Child population: 13,754,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): Corporal punishment is lawful under the “right of correction” in customary law. In 1819 the Supreme Court ruled that parents have this right;¹ a ruling in 1967 stated that this right does not apply when the child’s health is placed at risk.² Provisions against violence and abuse in the Criminal Code 1994, the Civil Code, Act No. 2007-293 reforming child welfare and Act No. 2006-399 concerning domestic violence and violence against children are not interpreted as prohibiting all corporal punishment in childrearing.

Outside the home (not fully prohibited): In schools, ministerial circulars state that corporal punishment should not be used in schools (Circular No. 91-124 of 6 June 1991 regarding primary schools and Circular No. 2000-105 of 11 July 2000 for secondary schools) but there is no explicit prohibition in law and “light correction” is tolerated in the same way as it is for parents. In 1908, the Supreme Court confirmed that teachers have a “right of correction”;³ a ruling in 2000 stated that this did not apply to habitual and “non-educational” corporal punishment.⁴ A 2002 case found that a teacher did not have the right to habitually pull pupils’ hair, kick their behinds and slap their faces but did not rule out all corporal punishment.⁵ In reporting to the European Committee of Social Rights, the Government noted that according to judicial decisions, the “right of correction” must be (i) harmless, (ii) of moderate intensity (slaps, clothes seized, ears and hair pulled) and (iii) aimed at maintaining school order and discipline.⁶

In the penal system, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. It is lawful in alternative care settings under the customary “right of correction”, and in 2003 the Supreme Court confirmed that nannies and babysitters have this right.

Overseas territories etc. The legality of corporal punishment in the Overseas Departments (French Guiana, Guadeloupe, Martinique and Réunion), the Overseas Collectivities (French Polynesia, St Barthelemy, St Martin, St Pierre et Miquelon and Wallis and Futuna Islands) and in New Caledonia is the same as in France. (See detailed country reports at www.endcorporalpunishment.org.)

Human rights jurisprudence on corporal punishment

Treaty bodies: The Committee on the Rights of the Child first raised the issue of corporal punishment in France in 1994, and has twice since recommended explicit prohibition in the family, schools and other settings (2004, 2009).⁷ The European Committee of Social Rights has three times concluded that the situation in France is not in conformity with the Charter because corporal punishment is not prohibited (2003, 2005, 2012).⁸

UPR: Recommendations were made during the second review of France to explicitly prohibit corporal punishment in all settings, including the home (2013).⁹ The Government’s response is due by June 2013.

Law reform necessary to achieve prohibition in France

Explicit repeal of the customary law “right of correction”; explicit prohibition of corporal punishment in the home, schools and all alternative care settings, without exception. Reform should apply throughout the state, including the Overseas Departments, Overseas Collectivities and in New Caledonia.

1 Court de Cassation, Criminal Chamber, 17 December 1819, S. 1819-1821, chron., p. 152
2 Cour de Cassation, Criminal Chamber, 21 February 1967, Bull. Crim., No. 73
3 Cour de Cassation, Criminal Chamber, 4 December 1908, Bull. Crim., No. 482
4 Court of Appeal, Nancy, 17th January 2000
5 Cour de Cassation, Criminal Chamber, November 26 2002, case n° 02-81727
6 16 December 2010, National report to the ECSR, RAP/RCha/FR/X(2010), pp. 54-55
7 25 April 1994, CRC/C/15/Add.20, Concluding observations on initial report, para. 24; 30 June 2004, CRC/C/15/Add.240, Concluding observations on second report, paras. 38 and 39; 11 June 2009, CRC/C/FRA/CO/4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 6, 57 and 58
8 1 October 2003, Conclusions 2003 Vol. 1, page 173; March 2005, Conclusions 2005; January 2012, Conclusions 2011
9 23 January 2013, A/HRC/WG.6/15/L.2, Draft report of the working group, paras. 120(116), 120(117) and 120(118)



IRELAND

Child population: 1,114,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): Corporal punishment is lawful under the common law right to use “reasonable and moderate chastisement”. Legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing.

Outside the home (not fully prohibited): Corporal punishment is unlawful in schools under article 24 of the Non-Fatal Offences Against the Person Act 1997. It is also unlawful in the penal system, as a sentence for crime and as a disciplinary measure in penal institutions. With regard to alternative care settings, it is prohibited in pre-school establishments in Regulation

8 of the Child Care (Pre-School Services) Regulations 1996, but under section 58 of the Child Care Act 1991, childminders caring for children of relatives, children of the same family or not more than three children of different families are exempt from these regulations. The Child Care (Special Care) Regulations 2004 regulate Special Care Units which provide secure residential care for a small number of non-offending children in need of special care or protection, and prohibit “corporal punishment or any form of physical violence”. There is no prohibition in law of corporal punishment in foster care, residential health services or residential centres.

Moves towards prohibition

The Children Act 2001 does not confirm the common law right to use “reasonable and moderate chastisement” as article 37 of the Children Act 1908 had, but removal of the common law defence requires an explicit provision in addition to this repeal. The Government has stated a long term commitment to prohibition but has given no indication of timing and has not followed through with efforts towards law reform, only stating – as during the UPR in 2011 (see below) – that the matter is under continuous review.

Human rights jurisprudence on corporal punishment

Treaty bodies: Prohibition of corporal punishment in all settings, including the home, has been recommended by the Committee on the Rights of the Child (1998, 2006)¹ and the Committee Against Torture (2011).² Following a complaint brought in 2003 by the World Organisation Against Torture under the Collective Complaints procedure, the European Committee of Social Rights concluded that Ireland was in violation of article 17 of the Revised Charter because corporal punishment of children in the home is permitted by the common law defence of reasonable chastisement, which is also applicable in foster care, residential care and certain childminding settings.³ On examining Ireland’s report of its implementation of the Charter in 2011, the Committee concluded that the situation in Ireland is not in conformity with the Charter because corporal punishment is not prohibited in the home (2012).⁴

UPR: Recommendations to explicitly prohibit corporal punishment in the family and to promote non-violent discipline were “partially accepted” by the Government, which stated that the issue would be kept under continuous review (2011).⁵

Law reform necessary to achieve prohibition in Ireland

Explicit repeal of the common law right to use “reasonable chastisement”; explicit prohibition of corporal punishment in the home and in all alternative care settings, without exception.

1 4 February 1998, CRC/C/15/Add.85, Concluding observations on initial report, paras. 16 and 39; 29 September 2006, CRC/C/IRL/CO/2, Concluding observations on second report, paras. 39 and 40
2 17 June 2011, CAT/IRL/CO/1, Concluding observations on initial report, para. 24
3 Resolution ResChS(2005)9, Collective complaint No. 18/2003 by the World Organisation against Torture (OMCT) against Ireland, adopted by the Council of Ministers on 8 June 2005
4 January 2012, Conclusions 2011
5 21 December 2011, A/HRC/19/9, Report of the working group, paras. 107(41) and 107(42); (6 March 2012, A/HRC/19/9/Add.1, Report of the working group: Addendum, para. 53

ITALY

Child population: 10,275,000 (UNICEF, 2010)



Current legality of corporal punishment

Home (unlawful by Supreme Court ruling): In 1996, a Supreme Court judgment outlawed all violence in childrearing.¹ Article 571 of the Criminal Code 1975 states: “Whoever misuses means of correction or discipline to harm a person subject to his authority, or entrusted to him for purposes of education, instruction, treatment, supervision or custody ... shall be punished.” Since the 1996 ruling, corporal punishment is no longer a legitimate method of discipline and is therefore not defensible under the right of correction (“jus corrigenda”). However, prohibition has not been confirmed through law reform.

Outside the home (unlawful): Corporal punishment has been unlawful in schools since 1928, but we have yet to identify prohibiting legislation. It is unlawful in the penal system, as a sentence for crime and as a disciplinary measure in penal institutions. In alternative care settings, it is unlawful under the 1996 Supreme Court ruling, but there appears to be no explicit prohibition in law.

Moves towards law reform

A number of Bills which would achieve prohibition in legislation have been proposed over the years and have failed. In 2008, three members of parliament signed the Council of Europe petition against all corporal punishment of children. However, during the UPR of Italy in 2010, the Government stated that since corporal punishment is unlawful by virtue of the Supreme Court judgment, there is no need to prohibit it through law reform.²

Human rights jurisprudence on corporal punishment

Treaty bodies: The Committee on the Rights of the Child has twice recommended explicit prohibition of corporal punishment in the home (1995, 2011).³ The European Committee of Social Rights, on examining Italy’s reports of its implementation of the Charter, has four times deferred its conclusion in respect of Italy’s conformity with the Charter pending information on the law concerning corporal punishment of children in the home (2001, 2003, 2007, 2012).⁴ Following a complaint brought in 2003 by the World Organisation Against Torture under the Collective Complaints procedure, the Committee concluded by 11 votes to 2 that there was no violation of article 17 of the Revised Charter because the prohibition of all forms of corporal punishment of children has a legislative basis.⁵ However, since this decision, the Committee has confirmed that compliance with article 17 of the Charter requires explicit prohibition in domestic law.⁶

UPR: The Government rejected the recommendation to incorporate in legislation the 1996 Supreme Court ruling against corporal punishment in the home (2010).⁷

Law reform necessary to achieve prohibition in Italy

Confirmation in law of the 1996 Supreme Court ruling through explicit prohibition of corporal punishment in the home and all other settings.

1 Judge Ippolito, Supreme Court of Cassation, 18 March 1996
2 31 May 2010, A/HRC/14/4/Add.1, Report of the working group: Addendum, page 5
3 27 November 1995, CRC/C/15/Add.41, Concluding observations on initial report, paras. 12 and 20; 31 October 2011, CRC/C/BHR/CO/2-3, Concluding observations on third/fourth report paras. 34 and 35
4 1 January 2001, Conclusions XV-2 vol. 1, pages 315-317; 1 October 2003, Conclusions 2003 Vol. 1, page 300; 2007, Conclusions XVIII-1, vol. 2; January 2012, Conclusions 2011
5 Resolution ResChS(2005)11, Collective complaint No. 19/2003 by the World Organisation against Torture (OMCT) against Italy, adopted by the Council of Ministers on 20 April 2005
6 World Organisation against Torture (OMCT) v Portugal, Collective complaint No. 34/2006, Decision on the Merits of 5 December 2006, §§19-21
7 18 March 2010, A/HRC/14/4, Report of the working group, para. 84(38); 31 May 2010, A/HRC/14/4/Add.1, Report of the working group: Addendum



LITHUANIA

Child population: 628,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): Article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child 1996 states: “Parents and other legal representatives of the child may appropriately, according to their judgment, discipline the child, for avoiding to carry out his duties and for disciplinary infractions, with the exception of physical and mental torture, other cruel behaviour and the humiliation of the child’s honour and dignity.” Provisions against violence and abuse in this Law and in the Criminal Code 2000, the Constitution 1992, the Civil Code 2000 and the Code of Administrative Offences of the Republic of Lithuania 2002 are not interpreted as prohibiting all corporal punishment in childrearing.

Outside the home (not fully prohibited): Corporal punishment is considered unlawful in schools, but there is no explicit prohibition. Under the Law on Education 1991, teachers should not cause harm to pupils (article 25); corporal punishment is not among the disciplinary measures listed in the Law on the Fundamentals of Protection of the Rights of the Child (article 49(2)). In the penal system, corporal punishment is unlawful as a sentence for crime and is considered unlawful – though is not explicitly prohibited – as a disciplinary measure in penal institutions. There is no explicit prohibition of corporal punishment in alternative care settings.

Moves towards prohibition

In 2006, the Government reported to the Committee on the Rights of the Child that legislation was being drafted to prohibit corporal punishment.¹ In the same year, the Ministry of Social Security and Labour commissioned research by the Institute of Law which concluded that prohibition required amendments to the Civil Code and the Law on the Fundamentals of the Rights of the Child, rather than a separate law. In March 2010, a bill which would have explicitly prohibited all corporal punishment of children by amending article 49 of the Law on the Fundamentals of Protection of the Rights of the Child was rejected by Parliament. In 2011, the Government accepted the recommendation to prohibit corporal punishment in the home made during the UPR: draft legislation is under discussion which, in its October 2012 version, would include explicit prohibition of corporal punishment but also provide for a “right to discipline”.

Human rights jurisprudence on corporal punishment

Treaty bodies: The Committee on the Rights of the Child has twice recommended prohibition of corporal punishment in the family (2001, 2006).² The Human Rights Committee has recommended measures to end corporal punishment in all institutional settings (2012).³ The European Committee of Social Rights has twice concluded that the situation in Lithuania is not in conformity with the Charter because corporal punishment is not explicitly prohibited (2005, 2012).⁴

Law reform necessary to achieve prohibition in Lithuania

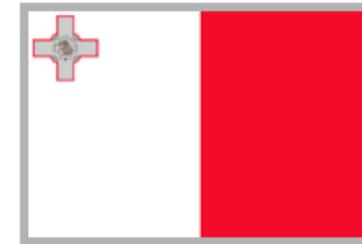
Repeal of the “right to discipline” (in Law on the Fundamentals of Protection of the Rights of the Child); explicit prohibition of corporal punishment in the home, schools and all alternative care settings.

UPR: The Government accepted the recommendation to prohibit corporal punishment in the family (2011).⁵

1 27 January 2006, CRC/C/SR.1103, Summary record, para. 11
2 21 February 2001, CRC/C/15/Add.146, Concluding observations on initial report, paras. 25 and 26; 17 March 2006, CRC/C/LTU/CO/2, Concluding observations on second report, paras. 8, 37 and 38
3 31 August 2012, CCPR/C/LTU/CO/3, Concluding observations on third report, para. 10
4 March 2005, Conclusions 2005; January 2012, Conclusions 2011
5 19 December 2011, A/HRC/19/15, Report of the working group, para. 88(37)

MALTA

Child population: 79,000 (UNICEF, 2010)



Current legality of corporal punishment

Home (lawful): “Reasonable chastisement” is permitted in common law and this is reflected in the Criminal Code 1854 which states that “lawful correction” is not a permissible defence for wilful homicide (article 229) and makes it an offence for a person who “being authorized to correct any other person, exceeds the bounds of moderation” (article 339). Similarly, article 154 of the Civil Code 1870 states that a parent may be deprived of the rights of parental authority “if the parent, exceeding the bounds of reasonable chastisement, ill-treats the child, or neglects his education”. Provisions against violence and abuse in the Criminal Code and the Domestic Violence Act 2006 are not interpreted as prohibiting corporal punishment in childrearing.

Outside the home (not fully prohibited): Corporal punishment is considered unlawful in schools – the Education Act 1988 (amended 2006) makes no provision for it – but there is no explicit prohibition. In the penal system, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions, but we have been unable to identify prohibiting legislation. In alternative care settings, corporal punishment is lawful under the common law defence of “reasonable chastisement”.

Human rights jurisprudence on corporal punishment

Treaty bodies: Explicit prohibition of corporal punishment in the home has been recommended by the Committee on the Rights of the Child (2000, 2013)¹ and the Committee on Economic, Social and Cultural Rights (2004).² The European Committee of Social Rights has twice concluded that the situation in Malta is not in conformity with the Charter because corporal punishment is not prohibited (2005, 2012).³

UPR: The Government rejected the recommendation to explicitly prohibit all corporal punishment, including in the family, stating that concepts of lawful correction and reasonable chastisement “are in no way equivalent to corporal punishment” and that corporal punishment is not permitted under Maltese law (2009).⁴

Law reform necessary to achieve prohibition in Malta

Repeal of the common law defence of “reasonable chastisement”; explicit prohibition of corporal punishment in the home, schools and all alternative care settings.

1 28 June 2000, CRC/C/15/Add.129, Concluding observations on initial report, paras. 29 and 30; 29 January 2013, CRC/C/MLT/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 8, 9, 36 and 37
2 26 November 2004, E/C.12/44/Add.101, Concluding observations on initial report, paras. 22 and 40
3 March 2005, Conclusions XVII-2; January 2012, Conclusions 2011
4 4 June 2009, A/HRC/12/7, Report of the working group on, paras. 58, 66, 68, 77, 80(32); 16 September 2009, A/HRC/12/7/Add.1/Rev.1, Report of the working group: Addendum



SLOVAKIA

Child population: 1,041,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): Article 7 of Act No. 305/2005 Coll. On Social-Legal Protection of Children and Social Guardianship, as amended by Act No. 27/2009, states (unofficial translation): “(3) By implementing measures according to this law, it is forbidden to use any form of corporal punishment of the child and other cruel or degrading forms of treatment and forms of chastisement of the child, which cause or may cause the child the physical or mental harm.” This is interpreted as providing for state intervention only when corporal punishment reaches a certain degree of severity. Provisions against violence and abuse in the Penal Code 2005, the Civil Code 2002, the Family Act and the Constitution 1992 are not interpreted as prohibiting all corporal punishment in childrearing.

Outside the home (unlawful): Corporal punishment is explicitly prohibited in schools in article 3 of Act No. 245/2008 Coll. on Upbringing and Education (Education Act): “Education and training under this Act are based on the principles of ... (r) prohibiting the use of all forms of corporal punishment and sanctions in education.” In the penal system, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions under article 3(1) of the Act No. 475/2005 Coll. on the exercise of the confinement penalty, which prohibits cruel, inhuman or degrading forms of punishment or treatment. Corporal punishment is unlawful in all alternative care settings under article 7(3) of the Act No. 305/2005 Coll. as amended by Act No. 27/2009 (see left).

Moves towards prohibition

The Government has stated its intention to prohibit corporal punishment in the home (2005). In 2011 draft proposals for a new Civil Code were under discussion but did not include explicit prohibition of all corporal punishment.

Human rights jurisprudence on corporal punishment

Treaty bodies: Recommendations to prohibit and eliminate corporal punishment in all settings, including the home, have been made by the Committee on the Rights of the Child (2000, 2007),¹ the Committee on the Elimination of Discrimination Against Women (2008)² and the Human Rights Committee (2011).³ The European Committee of Social Rights has twice concluded that the situation in Slovakia is not in conformity with the Charter because corporal punishment is not prohibited (2003, 2012).⁴

UPR: The Government accepted recommendations to prohibit corporal punishment in the home and all settings (2009).⁵

Law reform necessary to achieve prohibition in Slovakia

Explicit prohibition of corporal punishment in the home.

1 23 October 2000, CRC/C/15/Add.140, Concluding observations on initial report, para. 32; 10 July 2007, CRC/C/SVK/CO/2, Concluding observations on second report, paras. 36 and 37
2 18 July 2008, Part of A/63/38, Concluding observations on second-fourth report, paras. 34 and 35
3 20 April 2011, CCPR/C/SVK/CO/3, Concluding observations on third report, para. 12
4 30 September 2003, Conclusions XVI-2, page 804; January 2012, Conclusions 2011
5 5 June 2009, A/HRC/12/17, Report of the working group, paras. 89(40) and 89(42); 5 June 2009, A/HRC/12/50, Report of the Human Rights Council on its twelfth session, para. 650

SLOVENIA

Child population: 342,000 (UNICEF, 2010)



Current legality of corporal punishment

Home (lawful): According to the Law on Marriage and Family Relations 2004, parents must ensure their children’s successful physical and mental development (article 4) and are obliged to support, care for and educate their children (article 103). There is no confirmation of a “right” or “duty” to correct or punish children, but neither is there an explicit prohibition of corporal punishment in childrearing. The Law on Prevention of Domestic Violence 2008 defines domestic violence as “any form of physical, sexual, psychological or economic violence by one family member against another family member ... irrespective of age, gender or any other personal circumstance of the victim or perpetrator of violence”; physical violence is defined as “any use of physical force by a family member that can cause pain, fear or shame, regardless of whether injuries were inflicted”. However, these provisions are not interpreted as prohibiting all forms of corporal punishment.

Outside the home (not fully prohibited): Corporal punishment is unlawful in schools under the Regulations on rights and responsibilities in primary school (Official Gazette, 75/2004); there is no provision for corporal punishment in the Law on Gymnasiums 1996, the Law on Vocational Education and Training 2006 and the Rules of behaviour for upper secondary schools 2004 (Official Gazette, 82/2004). In the penal system, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. With regard to alternative care settings, corporal punishment is considered unlawful in educational day care centres and residential school institutions under the rules relating to schools (see above), but there is no explicit prohibition in other forms of alternative care. The Provision of Foster Care Act 2002 is silent on the issue, as are the Rules on the Conditions and Procedures for Implementing Foster Care 2003 and the Kindergarten Act 1996.

Moves towards prohibition

In 2004, the Government stated its intention to consider an explicit prohibition of corporal punishment of children within the family. In 2008, a number of government officials signed the Council of Europe petition against all corporal punishment of children. The National Programme on Family Violence Prevention 2009-2014 includes the prohibition and elimination of corporal punishment through law reform and other measures (ReNPPND0914, paras. 2.1, 2.2 and 2.3). In 2012, a Bill which included prohibition of corporal punishment by parents and all other persons, was introduced but rejected in a referendum. A conservative group called the “Civil Initiative for the Family and the Rights of Children” opposed the Bill’s provisions relating to same-sex partnerships and forced a referendum on the law. The referendum was held on 25 March 2012: voter turnout was 30.31%, 54.55% of which voted against the law.

Human rights jurisprudence on corporal punishment

Treaty bodies: Recommendations to prohibit corporal punishment in the home have been made by the Committee on the Rights of the Child (2004)¹ and the Committee Against Torture (2011).² The European Committee of Social Rights has three times concluded that the situation in Slovenia is not in conformity with the Charter because corporal punishment in the home is not prohibited (2003, 2005, 2012).³

Law reform necessary to achieve prohibition in Slovenia

Explicit prohibition of corporal punishment in the home and in all alternative care settings.

UPR: The Government accepted recommendations to prohibit corporal punishment of children (2010).⁴

1 26 February 2004, CRC/C/15/Add.230, Concluding observations on second report, paras. 40 and 41
2 20 June 2011, CAT/C/SVN/CO/3, Concluding observations on third report, para. 15
3 1 October 2003, Conclusions 2003 Vol. 1, page 511; March 2005, Conclusions 2005; January 2012, Conclusions 2011
4 15 March 2010, A/HRC/14/15, Report of the working group, paras. 111(8) and 111(9)



UK

Child population: 13,076,000 (UNICEF, 2010)

Current legality of corporal punishment

Home (lawful): “Reasonable punishment” is provided for in England and Wales in the Children Act 2004 (section 58) and in Northern Ireland in the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 (article 2). In Scotland, “justifiable assault” of children is lawful under the Criminal Justice (Scotland) Act 2003, section 51 defining blows to the head, shaking and use of implements as unjustifiable.

Outside the home (not fully prohibited): Corporal punishment is prohibited in schools, the penal system and residential care institutions throughout the UK. It is prohibited in foster care arranged by local authorities or voluntary organisations but is lawful in private foster care. In day care institutions and childminding, it is prohibited by regulations in England, Wales and Scotland, but it is not prohibited by law in Northern Ireland.

Human rights jurisprudence on corporal punishment

Treaty bodies: The Committee on the Rights of the Child has three times recommended repeal of the “reasonable chastisement” defence and explicit prohibition of corporal punishment in the home and all settings (1995, 2002, 2008).¹ Full prohibition has also been recommended by the Committee on Economic, Social and Cultural Rights (2002, 2009)² and the Committee on the Elimination of Discrimination Against Women (2008).³ The European Committee of Social Rights has twice found the situation in the UK to be not in conformity with the Social Charter because corporal punishment is not prohibited in the home (2005, 2012).⁴

UPR: Recommendations to prohibit all corporal punishment of children were made to the UK in both the first and second UPR cycles (2008, 2012).⁵ They were rejected by the Government.⁶

Territories etc: With the exception of the Pitcairn Islands – where the Children Ordinance 2003 (amended 2009) prohibits corporal punishment in all settings – corporal punishment is lawful in the home and care settings in all of the Overseas Territories and Crown Dependencies under the English common law defence of “reasonable chastisement”, in most jurisdictions confirmed in written legislation. Laws in the Caribbean Overseas Territories – Anguilla, Bermuda, British Virgin Islands, Cayman Islands and the Turks and Caicos Islands – specifically authorise and regulate the use of corporal punishment in schools, and it is lawful in schools in Gibraltar. It is yet to be prohibited in penal institutions in the Cayman Islands and possibly the Turks and Caicos Islands and Gibraltar.

Law reform necessary to achieve prohibition in the UK

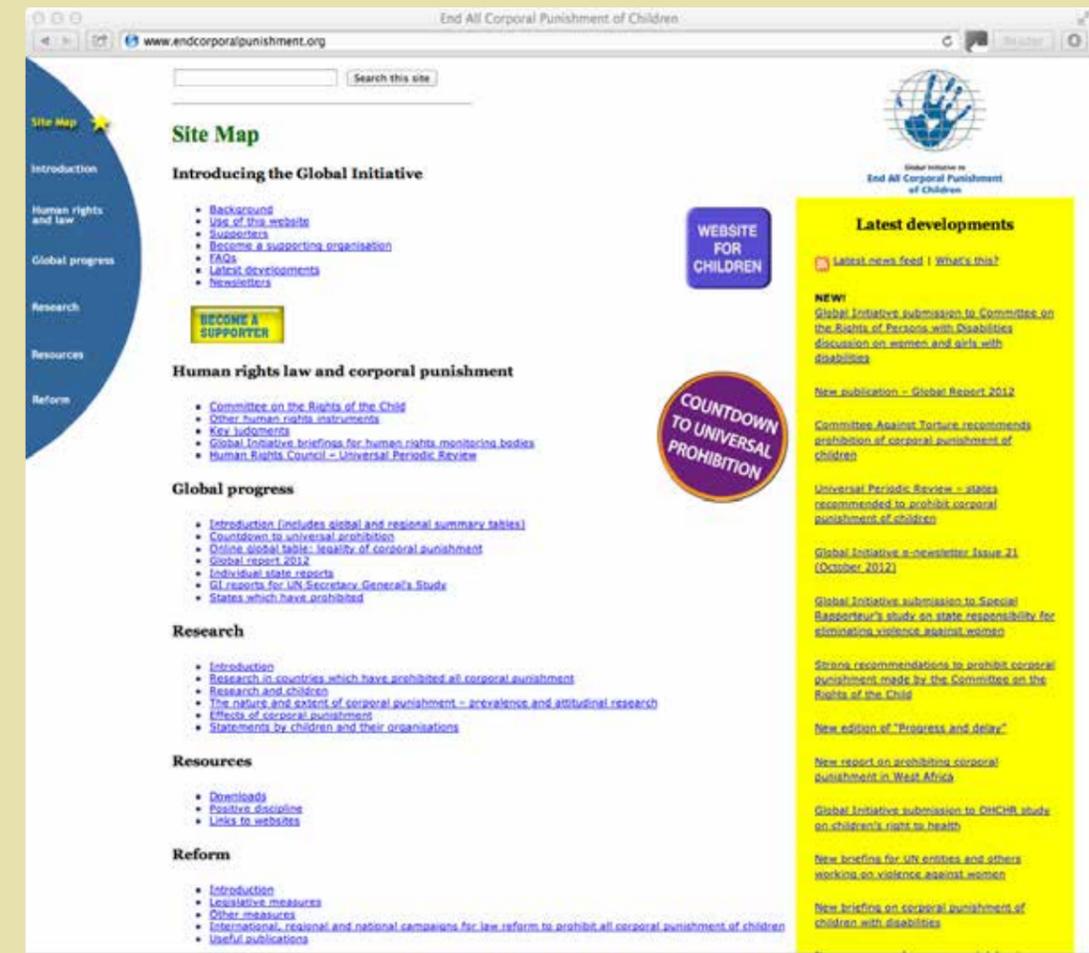
Repeal of the “reasonable chastisement” defence and its derivatives in common law and legislation throughout the UK and its Overseas Territories and Crown Dependencies; explicit prohibition of corporal punishment in the home and all alternative care settings in all jurisdictions; explicit prohibition of corporal punishment in schools in the Caribbean Territories and Gibraltar, and in penal institutions in Gibraltar, the Cayman Islands and the Turks and Caicos Islands.

The work of the Global Initiative

The Global Initiative carries out a wide range of activities specifically designed to promote law reform to prohibit corporal punishment in all settings and to support others in doing so. These include:

- Briefing and reviewing the work of international and regional human rights monitoring bodies and promoting follow-up to recommendations at national level
- Conducting legal research and reviewing other research and positive discipline materials, disseminated in individual country reports, regular publications and other formats as required
- Working with governments, UN agencies, human rights institutions and NGOs, commenting on draft legislation and bills and providing technical advice and support on all aspects of law reform to prohibit corporal punishment.

Detailed information on all aspects of prohibiting corporal punishment is available on the Global Initiative website: www.endcorporalpunishment.org



Human rights, law and corporal punishment

– details of international and regional human rights standards, the work of the Committee on the Rights of the Child and other treaty monitoring bodies and briefings submitted to them by the Global Initiative, and national high level court judgments

Global progress – reports on the legality of corporal punishment and progress towards prohibition in every state worldwide, detailed information on states which have achieved prohibition in all settings including the home, and useful facts and figures

Research – research on prevalence, children’s views and experiences, the effects of corporal punishment and on the experiences of states which have achieved full prohibition

Resources – internet and other resources to support the promotion of positive discipline for parents, teachers and carers, downloads of useful reports

Reform – details of legislative and other measures to support law reform, information on international, regional and national campaigns for law reform, online resources to support the promotion of law reform (designed to supplement the Global Initiative legal reform handbook)

Website for children

Keep up to date

The Global Initiative publishes a regular global e-newsletter with news of progress towards prohibition worldwide, new research and resources to support law reform, human rights monitoring and more (to subscribe email info@endcorporalpunishment.org).

1 15 February 1995, CRC/C/15/Add.34, Concluding observations on initial report, paras. 16, 31 and 32; 9 October 2002, CRC/C/15/Add.188, Concluding observations on second report, paras. 8, 9, 35, 36, 37 and 38; 20 October 2008, CRC/C/GBR/CO/4, Concluding observations on third/fourth report, paras. 6, 7, 38, 39, 40, 41 and 42

2 5 June 2002, E/C.12/1/Add.79, Concluding observations on fourth report, para. 36; 12 June 2009, E/C.12/GBR/CO/5, Concluding observations on fourth/fifth report, para. 24

3 18 July 2008, Part of A/63/38, Concluding observations on fifth/sixth report, paras. 280 and 281

4 July 2005, Conclusions XVII-2; January 2012, Conclusions XIX-4 (2011)

5 23 May 2008, A/HRC/8/25, Report of the working group, paras. 56(2), 56(3), 56(4) and 56(5); 6 July 2012, A/HRC/21/9, Report of the working group, paras. 110(78), 10(79) and 110(80)

6 25 August 2008, A/HRC/8/25/Add.1, Report of the working group: Addendum, paras. 28, 29 and 30; 17 September 2012, A/HRC/21/9/Add.1, Report of the working group: Addendum, annex

Hitting people is wrong – and children are people too. Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. Urgent action is needed in every region of the world to respect fully the rights of all children – the smallest and most fragile of people.

This regional report reviews progress towards prohibition of corporal punishment of children in all European Union member states in the context of follow-up to the UN Secretary General’s Study on Violence against Children.

Today in the EU, more than half the child population are now completely protected in law from punitive violence. In the last two decades, as membership of the EU has grown so too has the number of member states enacting laws to prohibit corporal punishment of children, including in their family homes. But there is still work to do. Eleven member states have still to achieve the necessary full law reform; not all of these are yet committed to doing so.

With details and illustrations of progress to date, information on relevant European and international human rights law, campaigns, research and growing support for prohibition including among religious leaders, as well as individual country reports, this report aims to be a key resource for all those entrusted with protecting children in Europe from this most common and deep rooted form of violence.



The **Global Initiative to End All Corporal Punishment of Children** was launched in Geneva in 2001. It aims to act as a catalyst to encourage more action and progress towards ending all corporal punishment in all continents; to encourage governments and other organisations to “own” the issue and work actively on it; and to support national campaigns with relevant information and assistance. The context for all its work is implementation of the Convention on the Rights of the Child. Its aims are supported by UNICEF, UNESCO, human rights institutions, and international and national NGOs.



Global Initiative to
**End All Corporal Punishment
of Children**

www.endcorporalpunishment.org, info@endcorporalpunishment.org

For information about the UN Secretary General’s Study on Violence against Children, see www.unviolencestudy.org