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.”

Committee on the Rights of the Child, General Comment No. 8, 2006
The aims of the Global Initiative are supported by many international organisations, including UNICEF and UNESCO and the following:

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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
EveryChild
Harm Reduction International
Human Rights Watch
Inclusion International
International Disability Alliance (IDA)
International Federation for Parenting Education
International Federation of Social Workers (IFSW)
International Federation of Social Workers (IFSW)
International Federation Terre des Hommes
International Foster Care Association
International Pediatric Association
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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Individual supporters include:
Maggie Atkinson, Children’s Commissioner for England
Tam Bailie, Scotland’s Commissioner for Children and Young People
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Shuaib Chalklen, Special Rapporteur on Disability of the Commission for Social Development
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Målfrid Grude Flekkøy, Norway’s and the world’s first Ombudsman for Children
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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 Paalme, 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 Delegue 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
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.

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 society. 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.

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?

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 spokespersons 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.”
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.)

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

Progress towards prohibition in the European Union, 1993-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>EU states with full prohibition:</th>
<th>Other EU states:</th>
</tr>
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<tbody>
<tr>
<td>1993</td>
<td>Austria, Denmark, Finland, Germany, Sweden</td>
<td>Belgium, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Portugal, Spain, UK</td>
</tr>
<tr>
<td>2003</td>
<td>Austria, Bulgaria, Cyprus, Denmark, Finland, Germany, Greece, Hungary, Latvia, Luxembourg, Netherlands, Poland, Portugal, Romania, Spain, Sweden</td>
<td>Belgium, France, Greece, Ireland, Italy*, Luxembourg, Netherlands, Portugal, Spain, UK</td>
</tr>
<tr>
<td>2013</td>
<td>Belgium, Czech Republic, Estonia, France, Ireland, Italy*, Lithuania, Malta, Slovakia, Slovenia, UK</td>
<td>*(Supreme Court ruling not confirmed through law reform)</td>
</tr>
</tbody>
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(*Supreme Court ruling not confirmed through law reform)
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.

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.
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), hearings have 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, 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; and the Committee on Economic, Social and Cultural Rights (CESCR), monitoring the International Covenant on Economic, Social and Cultural Rights.

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 the 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 sooner.

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 punishment. Italy asserted that the 1996 Supreme Court ruling against violence in childrearing means that further legislation on corporal punishment is unnecessary; 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”;

The UK government 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 UN CRC with regard to physical punishment.”

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”.

Increasing pressure on states through the Universal Periodic Review

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

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 X-VI, 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).

**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 Portugal – 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).
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’s 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 and requires equality in the provision of education at home/school, disaggregated.

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.”

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 of the Study on Violence against Children (see pages 13 and 14).

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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.

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“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...”


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 EU 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:

- “Evidence 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)

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 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.

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Progress report 2013

The European Parliament calls for universal ban

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”.

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 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).

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 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.

In 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”.

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.

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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)

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.
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, 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.”

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..." (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 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; by 1980, 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 that 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 Durrell, J. (2000), A Generation Without Smacking: the impact of Sweden’s ban on physical punishment, Save the Children
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 Busmann, 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. 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.”

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. 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). 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 smacked, hit or slapped with a bare hand; hit or slapped on the arm, hand, 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.

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. 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. 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.

In a 2010 government-commissioned survey in Ireland, a quarter of parents reported having used some form of physical punishment in the past year; in a 2012 survey of nearly 800 adults, 49% said they had slapped a child and 49% thought it was acceptable to do so. 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.” 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.

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 promote 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).

8 Save the Children Romania (2001), Study on the Level of Awareness of Child Protection Legislation Among the General Population and Experts
9 TRSI OBOP (2011), Social resonance of the amendment to the Act on Countering Domestic Violence, Ombudsmen for Children of the Republic of Poland
10 Buxmann, K. D. (2009), The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison, Martin-Luther-Universität Halle-Wittenberg
13 Reported in Child Abuse and Neglect in Eastern Europe, 24 May 2003
15 Reported in IrishCentral, 31 July 2012
16 European Social Survey (2010). Additional Module about Estonia
17 Market & Opinion Research International (2004), Attitudes towards smacking children: Belgium, Research conducted for the Association for the Protection of All Children
18 Saved the Children Romania (2008), Study of the level of awareness of parents and agencies about the prohibition of corporal punishment
19 Save the Children Romania (2008), Study of the level of awareness of parents and agencies about the prohibition of corporal punishment
22 Reported in Child Abuse and Neglect in Eastern Europe, 24 May 2003
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10 Buxmann, K. D. (2009), The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison, Martin-Luther-Universität Halle-Wittenberg
12 Lansford, J. et al. (2010), “Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender”, 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.

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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.

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/faithe 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

<table>
<thead>
<tr>
<th>State</th>
<th>Prohibited in the home</th>
<th>Prohibited in schools</th>
<th>Prohibited in penal system</th>
<th>As sentence for crime</th>
<th>As disciplinary measure</th>
<th>Prohibited in alternative care settings</th>
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<tbody>
<tr>
<td>Belgium</td>
<td>✓</td>
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<td>Czech Republic</td>
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<td>France</td>
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<td>UK</td>
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</tbody>
</table>

1 But no explicit prohibition
2 Prohibited in institutions in some communities
3 Government committed to prohibition (2007)
4 Unique 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 to correction”
8 Prohibited in pre-school settings except for childcare in care 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 advice 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 was 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 enacted 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 settings and foster care arranged by local authorities or voluntary organisations throughout the UK; prohibited in day care and childcare in England, Wales and Scotland

Prepared by: End Corporal Punishment
www.endcorporalpunishment.org

### 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).

<table>
<thead>
<tr>
<th>Country</th>
<th>Child population:</th>
<th>Prohibition of corporal punishment:</th>
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<tbody>
<tr>
<td><strong>AUSTRIA</strong></td>
<td>1,534,000 (UNICEF, 2010)</td>
<td>The defence of “reasonable” punishment was removed from the law on assault in 1977; full prohibition was achieved in 1999 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...”</td>
</tr>
<tr>
<td><strong>BULGARIA</strong></td>
<td>1,255,000 (UNICEF, 2010)</td>
<td>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.</td>
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<tr>
<td><strong>CYPRUS</strong></td>
<td>172,000 (Cyprus Statistical Service, 2007)</td>
<td>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). The European Committee of Social Rights has reserved its position on Cyprus pending confirmation that the defence has been repealed (2006, 2012).</td>
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<tr>
<td><strong>DENMARK</strong></td>
<td>1,214,000 (UNICEF, 2010)</td>
<td>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.”</td>
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<tr>
<td><strong>FINLAND</strong></td>
<td>1,087,000 (UNICEF, 2010)</td>
<td>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.”</td>
</tr>
<tr>
<td><strong>GERMANY</strong></td>
<td>13,522,000 (UNICEF, 2010)</td>
<td>A 2000 amendment to the Civil Code states (article 1631): “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.”</td>
</tr>
<tr>
<td><strong>HUNGARY</strong></td>
<td>1,819,000 (UNICEF, 2010)</td>
<td>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.”</td>
</tr>
<tr>
<td><strong>LATVIA</strong></td>
<td>385,000 (UNICEF, 2010)</td>
<td>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.”</td>
</tr>
</tbody>
</table>

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1. 10 August 2012, CRPC/CP/C/POD/3-4, Concluding observations on third/fourth report, paras. 29 and 30

**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 inhumane and degrading treatment within families and educational 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.

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**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 Curacao 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).

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**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."

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**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."

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**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."

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**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.
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 2009) is 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.

Human rights jurisprudence on corporal punishment

**Treaty bodies:** The Committee on the Rights of the Child (annually, 1999, 2002, 2010); as well as the Committee Against Torture (2009) and the Committee on Economic, Social and Cultural Rights (2007). The European Committee of Social Rights, on examining Belgium’s reports on its implementation of the Charter, has concluded that the country’s situation in relation to corporal punishment is not in conformity with the Charter (2000, 2005, 2007, 2012). 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). The Government confirmed its commitment to prohibition in a letter from Prime Minister Mirek Topolánek to the 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. 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 law but has also suggested that existing legislation offers adequate protection and there are no plans to amend the law to prohibit corporal punishment.

**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). The Government’s response is due by March 2013.

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.

**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. 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 law but has also suggested that existing legislation offers adequate protection and there are no plans to amend the law to prohibit corporal punishment.

**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; since then the Committee has twice recommended prohibition of all corporal punishment, including in the family (2003, 2011). The Committee Against Torture has recommended prohibition in all settings (2012). 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).

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

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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/15/Add.4, Concluding observations on third/third report, paras. 7, 8, 39 and 40
3. 3 December 2007, E/C.12/BEL/CD/1, Concluding observations on third report, paras. 19 and 33
6. 11 July 2011, A/HRC/18/33, Report of the working group, paras. 100(11), 101(15) and 103(15)
7. 20 April 2010, CRC/C/CZE/3-4, Third/fourth report to the Committee on the Rights of the Child, para. 133
8. 10 May 2011, CRC/C/CZE/3-4/Add.1, Written replies to the Committee on the Rights of the Child, Q7
9. 9 March 2012, CAT/C/CZE/4-5/Add.1, Written replies to the Committee Against Torture, para. 106, 116, 2012, CAT/C/15/Add.107, Summary record of examination by the Committee Against Torture, para. 40
10. 27 October 1997, CRC/C/15/Add.81, Concluding observations on initial report, paras. 18 and 35
11. 18 March 2005, CRC/C/CZE/2-3, Concluding observations on second report, paras. 40 and 41; 4 August 2011, CRC/C/CZE/3-4, Concluding observations on third/fourth report, paras. 39, 40 and 41
12. 13 July 2010, CAT/C/CZE/CD/4-5, Concluding observations on fourth/fifth report, para. 22
13. 7 July 2010, Conclusions XVIII-2; 2011, Conclusions 2011
14. 23 October 2012, A/HRC/64/L.1, Draft Report of the working group, paras. 94(88), 94(98) and 94(90)
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 in 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.

Notes:

1 28 March 2011, A/HRC/17/17, National report to the UPR, para. 73
2 17 March 2003, CRC/C/15/Add.198, Concluding observations on initial report, paras. 30 and 31
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; a ruling in 1967 stated that this right does not apply when the child's health is placed at risk.1 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",2 a ruling in 2000 stated that this did not apply to habitual and "non-educational" corporal punishment.3 A 2002 case found that a teacher did not have the right to habitually pull pupils' hair, kick their backs and slap their faces but did not rule out all corporal punishment.4 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.5

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).6 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).7

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

Notes:

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. 452
4 Court of Appeal, Nancy, 17th January 2000
5 Cour de Cassation, Criminal Chamber, November 26 2002, case no 02-81727
6 16 December 2010, National report to the ECOSOC, RAP/RCh/FR(2010)/3, pp. 54-55
7 25 April 1994, CRC/C/15/Add.23, Concluding observations on initial report, paras. 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. 8, 57 and 58
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)
Prohibiting corporal punishment: achieving equal protection for children in EU member states

Progress report 2013

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 toward 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) and the Committee Against Torture (2011). 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.

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).

**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). 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.

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. 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 ("ius 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 provisions 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.

**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). 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). Following a complaint brought in 2003 by the World Organisation Against Torture under the Collective Complaints procedure, the Committee concluded 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. However, since this decision, the Committee has confirmed that compliance with article 17 of the Charter requires explicit prohibition in domestic law.

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

1 Judge Ippolito, Supreme Court of Cassation, 18 March 1996
3 27 November 1995, CRC/C/15/Add.41, Concluding observations on initial report, paras. 12 and 20; 31 October 2011, CRC/C/IRL/CO/2-3, Concluding observations on third/fourth report paras. 34 and 35
5 Resolution ResChS(2005)1, 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, paras. 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 it 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 Protection 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

**UPR:** The Government accepted the recommendation to prohibit corporal punishment in the family (2011).3

1 28 June 2000, CRC/C/15/Add.129, Concluding observations on initial report, paras. 29 and 30; 29 January 2013, CRC/C/LTU/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 8, 9, 36 and 37
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 27 January 2008, CRC/C/SR.1103, Summary record, para. 11
5 19 December 2011, A/HRC/19/15, Report of the working group, para. 80[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).

**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

1 26 November 2004, E/C.15/1/Add.101, Concluding observations on initial report, paras. 22 and 40
2 28 June 2008, CRC/C/19/Add.129, Concluding observations on initial report, paras. 29 and 30; 29 January 2013, CRC/C/MAL/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 8, 9, 36 and 37
3 March 2005, Conclusions XVII-2; January 2012, Conclusions 2011
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 childcare.

**Outside the home (unlawful):** Corporal punishment is explicitly prohibited in schools and articles 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 … (i) 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).

**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, paras. 32; 10 July 2007, CRC/C/SVK/CD/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/CD/3, Concluding observations on third report, para. 10.
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). Full prohibition has also been recommended by the Committee on Economic, Social and Cultural Rights (2002, 2009) and the Committee on the Elimination of Discrimination Against Women (2008). 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).

**UPR:** Recommendations to prohibit all corporal punishment of children were made to the UK in both the first and second UPR cycles (2008, 2012). They were rejected by the Government.1

**UK**

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

**Current legality of corporal punishment**

1. 15 February 1995, CEDAW/C/15/Add.34, Concluding observations on initial report, paras. 16, 31 and 32; 9 October 2002, CEDAW/C/15/Add.108, Concluding observations on second report, paras. 9, 35, 36, 37 and 38; 20 October 2008, CEDAW/C/GBR/CDR/4, Concluding observations on third/fourth report, paras. 6, 7, 38, 39, 40, 41 and 42
3. 18 July 2008, Part of A/63/38, Concluding observations on fifth/sixth report, paras. 280 and 281
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)

**Treaties 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
- 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.end corporalpunishment.org](http://www.endcorporalpunishment.org)

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**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 resources and responses to support law reform, human rights monitoring and more (to subscribe email info@endcorporalpunishment.org).
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.

www.endcorporalpunishment.org, info@endcorporalpunishment.org

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