

5. POLICIES FOR DEALING WITH FAMILY STRESS AND DIFFICULTY

5.1 Violence in the family

Please describe the current legal and policy framework regarding the corporal punishment of children

Austria

Since 1989, any form of physical or mental violence against children has been banned as a means of education. This principle is illustrated by the central legal provision (§ 146a of the Civil Code): "... the use of violence and the infliction of physical or mental harm are unlawful.

According to the decisions of the Supreme Court of Justice (24 June 1992, JBl. 1992, 639), non compliance with the prohibition of violence and/or corporal punishment, as defined under § 146 a of the Civil Code, must be taken into account when assessing the legal relationship between children and parents, for example with regard to the revocation or restriction of the custody right (§ 176, Civil Code).

Azerbaijan

In accordance with the Article 64 of the Family Code one of the reasons for deprivation of parental rights is cruel treatment with children or keeping them under physical or psychological pressure; intended harm to physical integrity and/or life of either the child or the spouse. The decision of deprivation of parental rights is taken by the court.

Belgium

Communauté germanophone
Décret de l'aide à la jeunesse.

Bosnia and Herzegovina

* The information is given in i) first question.

Bulgaria

Not mentioned

Croatia

In the Republic of Croatia, there is a significant body of legislative framework regarding the corporal punishment of children. Constitutional provisions prescribe that "no one must be exposed to any form of abuse..." (Article 23), and constitutional right to live a life without violence has been specifically regulated.

Croatian family law explicitly forbids corporal punishment of children in a family. A provision the Family Act in force from July 1, 1999, prescribes: Parents and other family members must not expose the child to humiliation, mental or physical violence, that is, abuse. (Article 88). The Family Act also prescribes that a parent is obliged to protect the child from exposure to humiliation and corporal punishment of other people. Everyone has to inform the welfare centre on the violation of children's rights, especially on any form of corporal or mental violence, abuse, neglect or exploitation of a child. In such cases, a welfare centre is obliged to investigate the case and take up the necessary measures for protecting the child's rights. The Act foresees a number of measures for welfare centres and courts to use in cases of violation of children's rights.

The prohibition of corporal punishment of children in family is defined by the Protection against Family Violence Act. It defines the notion of violence in family as an offence, while violence in family is defined as any use of physical force and mental coercion against the person's integrity; any other behaviour of a family member that can cause or create danger of physical or mental pain; as causing fear or personal threat or violating the dignity; as physical assault regardless of physical injuries being inflicted or not, verbal attacks, insults, cursing, calling names and other ways of harassment, sexual harassment; stalking and other forms of harassment; illegal isolation or restriction of movement or communication to third parties; damage to or destruction of property or an attempt to do so.

In order to protect children and minors, the Criminal Act incriminates child violence in Article 213, "Neglect and abuse of a child or minor" described as an act in case when "a parent, foster parent or any other person severely neglects the obligation of upbringing the child or minor" and when "a parent, foster parent or any other person abuses the child or minor, forces it to work improperly to its age, or to excessive work, or to begging, or for materialistic reasons forces it to behave in a manner damaging to its growth, or brings it to mortal danger by generally dangerous actions or any other way".

In order to secure protection of all family members, the Government has passed a series of strategic documents such as the National Plan of Activities for Children's Rights and Interests from 2006 to 2012; the Program for Activities for Prevention of Violence among Children and Youth, the Protocol on Actions for Cases of Violence among Children and Youth, the National Strategy for Protection against Family Violence between 2008 and 2010, and the Protocol on Procedure in Case of Family Violence. The Ministry of the Family, Veterans' Affairs and Intergenerational Solidarity has published the Address Book of all institutions, organizations and others providing help, support and protection to victims of family violence containing addresses and telephone numbers of organizations and institutions in the Republic of Croatia that a victim of violence can turn to in need.

Cyprus

The Public Schools Primary Education Regulations of 1997 (No. 223/97) prohibit the infliction of corporal punishment by educationists in primary education and the Public Schools Secondary Education Regulations of 1990 (No. 310/90) by educationists in secondary education. The Violence in the Family (Prevention and Protection of Victims) Law of 2000 (L. 119(I)/2000), as amended up to 2004, forbids all forms of violence among members of the family. The new draft Children Law and Regulations, which are in the final stages of preparation, prohibit corporal punishment in foster families, day care centres and residential institutions for children.

- The work of welfare officers of the Social Welfare Services who counsel families is instrumental in changing attitudes, through the provision of psycho-social support to parents and raising awareness about positive discipline and the dangers of corporal punishment and every form of family violence. Awareness-raising is also achieved through campaigns organised by the Police Domestic Violence Office and the Advisory Committee for the Prevention and Combating of Violence in the Family.

Czech Republic

The current wording of the article 31 section 2 of the law on family directly implies that it is prohibited to use inadequate disciplinary measures, which humiliate the child's dignity or in any way put at risk its health, its physical, emotional, rational or ethical development including the use of any form of inadequate punishment. This is complemented by art. 59 section 1 letter h) of the law no. 359/1999 coll. on social and legal protection of children which defines as misdemeanour such behaviour of a person who with the intent to humiliate the human dignity of a child uses inadequate disciplinary measure against it, for which a fine up to CZK 50,000 may be imposed.

Denmark

Corporal punishment of children is totally prohibited in day care facilities provided by either municipal authorities or private actors.

In residential care facilities provided by the municipal authorities or private care facilities, forcible measures may only be taken where absolutely required in the given situation. Corporal punishment is not allowed and restraint is not allowed. Physical forcible measures as to hold the child or young person or to lead it to another place, is allowed when it is irresponsible to let the children or the young person stay with the other children or young persons or to prevent, that the child or the young person hurt it self or others.

Secure wards, isolation, restraint, etc., in institutions designed for residential accommodation for children and young persons shall be used only if absolutely required in the given situation.

Any forcible measure taken shall be registered and notified by the facility to the municipal council of the municipality of location in respect of the facilities supervised by the municipal council and to the regional council in respect of the facilities supervised by the regional council.

Estonia

There is no special legal and policy framework for children. The network of social institutions and non-governmental organisations dealing with abuse of children has developed rapidly in recent years, but the legal measures have lagged behind.

Corporal punishment of children is physical abuse. Causing damage to the health of another person, or beating, battery or other physical abuse which causes pain, is punishable by a pecuniary punishment or up to 3 years imprisonment (please see section "service provision of spouses/women") of current question.

Finland

The corporal punishment is forbidden according to the Finnish legislation since 1979. The Government's Internal Security Programme 2008-2015 includes also initiatives to launch a wide national campaign against corporal punishment of children.

France

Parents are neither expressly authorised nor expressly forbidden by law to administer corporal punishment, slapping or smacking. Nonetheless the law must be presumed contrary to these acts in that it condemns violence, particularly if inflicted on a child, which is an aggravating circumstance (the offence tried may be lesser violence, punishable under Article R 624-1 of the Penal Code by a fourth class administrative penalty (lesser violence is that which causes no temporary work incapacity), habitual violence (Article 222-14 of the Penal Code) and aggravated violence against a minor 15 years of age (Articles 222-11, 222-12 and 222-13 of the Penal Code).

Germany

Under § 1631 Para. 2 Civil Code, children have a right to be brought up without violence. The aim of this provision is to proscribe violence in bringing up children without criminalising the family. The priority is therefore not on prosecuting the parents or taking the children into care, but rather on providing help for the children and parents affect. To this end, mothers, fathers and other persons entrusted with the bringing up of children are offered services for the general promotion of education in the family, which highlight ways in which conflict situations in the family can be solved without violence (§ 16 Para. 1 SGB VIII). Physical punishment, mental abuse and other humiliating measures not allowed. This provision, which has been valid since 2000, does not aim to criminalise parent. It is primarily aimed at bringing about a change in awareness amongst parents and in society. If the Youth Welfare Office hears of any case where the welfare of a child is endangered by parental violence, it basically tries initially to solve the problem by offering public assistance. If this is not possible, it will generally urge the Family Court to take the necessary measures under § 1666 Civil Code.

Greece

Not mentioned

Hungary

Not mentioned

Iceland

Any person who inflicts punishments, threats, or menace upon a child, that may be expected to harm the child physically or emotionally, is subject to fines or imprisonment for up to three years. If a person incites a child to crime, promiscuity, use of alcohol or drugs, or leads the child astray by other means, this entails fines or imprisonment for up to four years. Any person who subjects a child to aggressive, abusive or indecent behaviour or hurts or insults him/her is liable to fines or imprisonment for up to two years.

Council of Europe Family Policy Database

www.coe.int/familypolicy/database



Ireland

Not mentioned

Italy

There is no specific law on corporal punishment. However, the Constitutional Court has declared that all forms of corporal punishment, including at home, are unlawful.

Latvia

A child shall not be treated cruelly, tortured or physically punished, and his or her dignity and honour shall not be violated (Section 9 Paragraph 2 of the Protection of the Rights of the Child Law).

For a person who commits cruel or violent treatment of a minor, if physical or mental suffering has been inflicted upon the minor and if such has been inflicted by persons upon whom the victim is financially or otherwise dependent, the applicable sentence is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service (Section 174 of the Criminal Law).

Lithuania

Prohibition of corporal punishments at home (in the family). Corporal punishments at home (in the family) have not been explicitly and unambiguously prohibited in Lithuania yet. In 2007 The Ministry of Social Security and Labour (MoSSL) has drafted an amendment to the Article 49 of the LFPRC; the draft has been developed taking into account the international obligations of the Republic of Lithuania, assumed with ratification of the UN Convention on the Rights of the Child, as well as of the European Convention on the Protection of Human Rights and Fundamental Freedoms, the EU Social Security Regulation, and the assessment of the international experience regarding the protection of children against domestic violence (and violence in educational institutions). The draft has been worked out in order to implement the 2005-2012 Action Plan of the National Strategy on Child Welfare Policy, approved by the Republic of Lithuania Government Resolution No. 184 of 17 February 2005 (Official Gazette Žinios, No. 25-802), namely, its activity 1.1 "To draft the Law Amending the Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child – to stipulate in the Law the provisions prohibiting violence against children and to approximate it with the Civil Code of the Republic of Lithuania and with other effective laws".

The findings contained in the report of 17 March 2006 of the UN Committee on the Rights of the Child on the implementation of the UN Convention on the Rights of the Child in Lithuania and on violence, in particular domestic, against children, were also important for the development of this draft Law. The draft Law suggests an explicit and direction prohibition of the application of corporal punishments upon children, so that they are educated in families and educational institutions by using positive methods of education.

Legal regulation of corporal punishments in Lithuania:

Prohibition of corporal punishments in schools. Paragraph 2 of Art. 49 of the Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child (hereinafter – LFPRC) lays down a non-finite list of sanctions that can be applied upon children for violations of the internal order regulations or the norms of behaviour of pupils of teaching and educative (guardianship) institutions. The following disciplinary and compulsory educational measures may be applied upon children: criticism, reprimand, severe reprimand, appropriate evaluation of behaviour and other sanctions, established by laws.

Article 181(3) of the RL Code of Administrative Offences provides for liability of managers, mentors or other persons of equivalent status of teaching, educational, health care and other institutions and agencies in charge of (caring for) children for failure to perform or improper performance of their obligations, for physical or mental damage to children or any other breach of the rights of children. The aforementioned persons who commit such violations shall be punished by a fine from 100 to 500 litas.

Prohibition of corporal punishments in the punishment enforcement system. Corporal punishments for offences are outlawed in Lithuania (Article 21 of the Constitution of the Republic of Lithuania). Their application upon juveniles is prohibited by the Lithuanian Criminal Code (Lithuanian CrC, Art. 90) and paragraph 3 of Art. 49 of the LFPRC.

The Lithuanian Code of Punishment Enforcement (Lithuanian CPE) emphasizes that the individual shall not be tortured, subjected to cruel or degrading treatment in the course of punishment execution (Article 7). Corporal punishments are also not covered by the list of sanctions imposed for infringements of institutional discipline; however, the list does not contain a specific prohibition (Art 142).

Prohibition of corporal punishments in legal guardianship (curatorship) relations. Corporal punishments in legal guardianship (curatorship) relations are outlawed (paragraph 2 of Article 49 of the LFPRC, Art. 181(3) of the Lithuanian Code of Administrative Offences (Lithuanian CAO).

Criminal liability. Children are protected against violence also by provisions of the Lithuanian CrC. It provides for criminal liability for grave and semi-grave health impairment, committed deliberately or due to negligence (Art. 135-139 of Lithuanian CrC). A qualifying element in cases of intentional health impairment is the act committed against a young child (under 14 years of age); more stringent liability for the offender is provided in this case. The Criminal Code also establishes liability for the infliction of physical pain or for minor health impairment (Article 140). It covers the cases when beating and/or violence inflicts physical pain upon the victim, however, differently from the aforementioned elements of the offence, it does not leave on the person's body any traces, which could be captured by medical staff, even though they can lead to short-term health impairment. As in case of the aforementioned acts, a more stringent penalty is imposed upon the offender for the commission of this offence in respect of a child under 14 years of age.

Article 163 of the CrC lays down criminal liability for the abuse of rights or obligations of parents, guardians, curators or other legal representatives of the child. These offences can be incriminated against persons who subject their children to physical, sexual or psychological violence systematically and/or repeatedly.

Civil liability. Pursuant to the Lithuanian CC, parents shall have a right and duty to bring up their children and shall be responsible for their children's education and development, their health and spiritual and moral guidance. In performing these duties, parents shall have a priority right over the rights of other persons (Article 3.165). The relations of parents and children shall be defined by the term parental authority. Its subject-matter is the right of parents to properly educate and bring up their children, care for their health and, having regard to their physical and mental state, to create favourable conditions for their full and harmonious development so that the child should be ready for an independent life in society. Until they attain majority or emancipation, children shall be cared for by their parents (Article 3.155). It is the parental authority that is often used to explain the parents' right to discipline their children by applying corporal punishments. They are responsible for the upbringing to their children most of all, therefore, when performing this duty, they feel having the right to correct, in their view, an improper behaviour of the children at their own discretion. Where the parents (the father or the mother) avoid exercising their authority, i.e. fail in their duties to bring up their children or abuse their parental authority or treat their children cruelly or produce a harmful effect on their children by their immoral behaviour or do not care for their children, the court may make a judgement for a temporary or unlimited restriction of parental power (that of the father or the mother) (Article 3.180).

If the parents or guardians (curators) abuse their children's rights, measures to defend the children's rights may be taken by the state institution for the protection of the child's rights or a prosecutor (Article 3.163). Pursuant to Article 3.164 of the RL Civil Code, if a child considers that his/her parents abuse his/her rights, the child shall have a right to apply to a state institution for the protection of the child's rights or, on attaining the age of 14, to bring the matter before the court.

Administrative liability. The Lithuanian CAO provides for liability for failure to exercise parental authority or for using it against the interests of the child (Article 181) and an equivalent liability of the child's guardians or curators for their failure to perform the obligations imposed upon them or for using it against the interests of the child (Article 181(1)). Article 131(3) of this Code establishes liability for any person for the infringement of the child's rights. Any person who unlawfully hinders the exercise of the rights and freedoms by the child or otherwise infringes the child's rights shall be punished under this Article. Theoretically, this provision should cover all the instances, which are not prohibited by or not incur liability under other national legislation in order to safeguard the rights of the child.

National Strategy on Combating Violence against Women its Implementation Plan 2007-2009. The aim of this long-term (until 2015) strategy is to reduce, in a consistent, complex and systematic manner and on the national level, domestic violence against women. The main priorities of the Strategy are: improvement of the legal base in the field of combating violence against women; analysis of the situation in the field of domestic violence against women; effective prevention of domestic violence against women; provision of a complex set of assistance to victims of domestic violence against women; sanctions on perpetrators; strengthening of institutional capacities.

Luxembourg

Voir 5.1 i)

Malta

Currently there is the CHILDREN AND YOUNG PERSONS (CARE ORDERS) act. However this does not mention corporal punishment per se. However, the criminal code provides for this offence in general under article 247A. It is applicable for any person having the responsibility of a child under the age of 12, who by means of persistent acts of commission or omission ill-treats the child or causes or allows such ill-treatment. If found guilty the accused would be liable to a term of imprisonment not exceeding two years and also shall forfeit all parental rights over the minor.

The definition of ill-treatment includes neglecting the child's needs for adequate nutrition, clothing, shelter, and protection from harm, persistently offending the child's dignity and self-esteem in a serious manner and persistently imposing upon the child age-inappropriate tasks or hard physical labour.

A lesser offence is established in the case of any person who is in duty bound to take care of children and neglects to take the necessary care of such children. This is a contravention punishable by a fine.

Moldova

Acc. Art 62 parag.2, of the Family Code psychological and physical violence is excluded from child education and can be a reason for decay from parental rights. Law 45-XVI of 1st March 2007 on prevention and family violence establishes in Art.12 that the victim of family violence can submit an application in the legal instance in regard of the committed acts of violence, after which the instance in 24 hours from the deposition of the application, issues an order of protection by which assistance is given to the victim of violence, applying to the aggressor measures provided for in Art 15. of this Law. As the Art. 4 provides of Law 338-XIII of 15 December 1994, on child's rights, nether a child should be tortured punished or treated with cruelty, un-human, unbecoming attitude.

Monaco

Sans objet.

Montenegro

Not mentioned

Netherlands

Corporal and psychological punishment of children has been prohibited by a legal provision in the Civil Code since April 2007. Article 1:247 states as follows: "Parents shall not resort to mental or physical violence or any other humiliating treatment in the care and upbringing of children."

Norway

According to the Children Act, section 30, are those who have parental responsibility under obligation to bring up and maintain the child properly. The child must not be subjected to violence or in any other way be treated so as to harm or endanger his or her mental or physical health. The Ministry of Children and Equality and the Ministry of Justice is currently reviewing this section of the Children Act in conjunction with the development of a new Penal Code. The review will consider whether there is a need to clarify and possible strengthen children's protection against physical punishment.

Norwegian law has a number of provisions applying to violence against children. In the Act of 20 June 1891 No. 1 relating to restriction of the application of corporal punishment, it was laid down that "for the furtherance of upbringing, parents and other persons in loco parentis shall be entitled to apply moderate corporal punishment to children under their authority". The provision thus gave parents the right to corporal punishment of their children (and of their employees). This provision was repealed in 1972. However, it was unclear whether the repeal entailed that parents no longer had the right to corporal punishment of their children. Owing to this lack of clarity, section 30 of the Children Act of 8 April 1982 No. 7 was amended in 1987 by the addition of the following sentence: "The child must not be exposed to violence or in any other way be treated so as to harm or endanger his or her mental or physical health." The provision thus prohibits the use of violence or other physically or mentally harmful treatment in upbringing of children.

Children are also protected from being subjected to violence pursuant to the Penal Code's provisions concerning bodily assault. Section 228 of the Penal Code is directed against "any person who commits violence against the person of another or otherwise assaults him bodily", and protects all persons (including children) against violence. Violence pursuant to section 228 need not involve the use of much force. In a Supreme Court judgment from 1990, a father was convicted of slapping his 20 month-old son on the mouth so that he was given a swollen lip and a bleeding sore on the inside of the lip (Norwegian Supreme Court Reports 1990, page 1155). Relatively little force is thus required for an act to be deemed violent in the sense used in the section 228 of the Penal Code. Pulling someone by the ear, shaking a person by the shoulders or spanking someone on the seat of his trousers would all be deemed punishable violence pursuant to section 228. The question of parents' use of physical force against children received attention in a ruling by the Supreme Court in 2005 (Norwegian Supreme Court Reports 2005, page 1567). In this case, a stepfather was fined NOK 6000 for taking his two stepsons (9 and 7 years old) up to their room, putting them over his knee and giving them three smacks each on the seats of their trousers with the palm of his hand. The Supreme Court deemed the stepfather's action in isolation to be subject to section 228 of the Penal Code. On the basis of an interpretation of the term violence as used in section 30, third paragraph, of the Children Act and article 19 of the Convention on the Rights of the Child, the Supreme Court found that the stepfather's action could not be deemed lawful although it was carried out for the purpose of upbringing. However, in the judgment, the statements of the judge delivering the first judgment gave rise to doubt concerning the Norwegian legal position on the question of what is punishable violence against children. For more details concerning this, see below under (3).

Norwegian law has a number of provisions directed against sexual abuse of children. Sexual abuses are regulated in various penal provisions dependent on their seriousness and on the age of the children concerned. The Penal Code uses the terms seksuell omgang (sexual activity), seksuell handling (sexual act) and seksuelt krenkende og annen uanstendig atferd (sexually offensive or otherwise indecent behaviour) to denote the sexual abuses. The serious forms of sexual abuse – sexual activity – are punishable pursuant to section 195 of the Penal Code (children under 14 years of age) and section 196 (children between 14 and 16). The punishment prescribed by section 195 of the Penal Code for sexual activity with children under 14 years of age is imprisonment for a term not exceeding 10 years. In the case of sexual intercourse, a penalty of imprisonment for not less than two years shall be imposed, and in such case the maximum sentence is raised to 15 years (cf. section 17 of the Penal Code). In section 195, second paragraph, it is provided that imprisonment for a term not exceeding 21 years may be imposed in the presence of certain aggravating circumstances. The extended penalty scale may, inter alia, be applied if the injured party (the victim) dies or sustains serious injury to body or health or if the act is committed against a child under 10 years of age and there have been repeated assaults.

A number of international legal instruments are applied in connection with prevention of violence against children. The general human rights are protected by the European Convention on Human Rights of 1950 as well as by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, with additional protocols, both from 1966. The most important convention applied in relation to violence against children is the Convention on the Rights of the Child, where the right of children to be protected from violence, abuse and exploitation is a fundamental right. Both the Convention on the Rights of the Child and the other conventions with their additional protocols are implemented in Norwegian law through the Human Rights Act of 21 May 1999 No. 30.

Poland

Pursuant the Article 40 of the Constitution of the Republic of Poland "No one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment. The application of corporal punishment shall be prohibited" Furthermore, according to the Article 72 "The Republic of Poland shall ensure protection of the rights of the child. Everyone shall have the right to demand of organs of public authority that they defend children against violence, cruelty, exploitation and actions which undermine their moral sense".

According to Article 207 § 1 of the Polish Penal Code: "Whoever mentally or physically mistreats a person close to him, or another person being in a permanent or temporary state of dependence to the perpetrator, a minor or a person who is vulnerable because of his mental or physical condition shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

§ 2. If the act specified in § 1 is compounded with a particular cruelty, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

§ 3. If the consequence of the act specified in § 1 or 2 is a suicide attempt by the injured person on his or her life, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 2 and 12 years. "

According to Article 217 § 1 of the Polish Penal Code : "Whoever strikes a human being or in another manner breaches his personal inviolability, shall be a subject to a fine, the penalty restriction of liberty or penalty of deprivation of liberty for up to one year".

According to Article 217 §3 of the Polish Penal Code: "Prosecution shall be by private accusation".

Respectively, Article 60 § 1 of the Polish Code of Criminal Procedure states: "In the case of offences prosecuted by private accusation, the state prosecutor shall institute proceedings, or intervene in proceedings previously instituted, if the public interest so requires". In this case the offence is prosecuted ex-officio.

According to the Article 12 of the Act on protection against family violence, each person who due to his/her professional duties possess a knowledge that the crime of violence against family member were committed, is obliged to report it to Police or Public Prosecutor.

Portugal

The Portuguese Penal Code punishes physical violence in the family, lack of material support and the moral abandonment of children. Legal developments were introduced in 2007 (Law 59/2007, 4th September), mainly by establishing more severe penalties for offences.

Article 152-A specifically refers to the physical maltreatment of children:

- Physical or psychological maltreatment of children (repeated or occasional) is punishable by imprisonment of one to five years; this includes the use of corporal punishment, the deprivation of freedom and sexual abuse.

- Using children in dangerous, inhuman or forbidden activities or overloading them with work is also punishable by imprisonment of one to five years

If either of the above mentioned offences have serious consequences from the point of view of the physical integrity of the child, the aggressor may be punished by imprisonment from two to eight years.

Romania

The current legal framework regarding the corporal punishment of children is limited to the provision stipulated in the Romanian Criminal Code, meaning:

Art. 306: "Ill treatment applied to minors - The act of seriously jeopardising, either by measures or treatments of any kind, a minor's physical, intellectual or moral development, committed by the parents or by any person entrusted with the minor for raising and education, shall be punished by imprisonment from 3 to 15 years and the prohibition of certain rights." In this respect, art. 64 - "The prohibition of certain rights" - from the same Code stipulates: "(1) The complementary penalty of prohibition of certain rights resides in the prohibition of one or some of the following rights:

- d) parental rights;
- e) the right to be a guardian or a curator."

It was elaborated and implemented a new legislative framework in the field of child protection, (Law no.272 regarding the protection and promoting the child rights, Law no.273/2004 regarding the juridical regime of adoption), where is stipulated clear the following measures:

- Interdiction of the physical punishment of the child, as well as interdiction of the privation of the child in respect with his rights;
- The writing declaration of the child is accepted as a justification piece in the justice if is referring to a case of abuse and other exploitation forms; is allow also the register the child declaration trough audio-video materials;
- The child will be prepared and assist by a psychologist during the registration of the declaration and also is compulsory to have the child agreement for taking the declaration;
- Solving in an emergency procedure all the cases referring to the children; the terms for judging the cases are maximum 10 days;
- Modification of the conditions for emergency placement for the children abused, neglected or exploited and the conditions for establishing the parental rights by involving more the court;
- Incrimination of the exploitation by forcing the children to practice the beggar.

Russian Federation

Article 65 of the Family Code established, that the parents exercising the parental rights shall not have the right to inflict a damage on the children's physical and mental health, and on their moral development. The methods of the children's upbringing shall exclude contempt, cruelty and rudeness in their treatment, humiliation of their human dignity, the abuse or the exploitation of the children.

The parents exercising parental rights to the detriment of the rights and the interests of the children, shall be made answerable in the law-established order.

Cruel treatment of children, including physical or mental suppression, infringe upon his sexual inviolability are reasons for deprivation of the parenthood.

In cases of heavy consequences it is established the criminal amenability. Article 156 of the Criminal Code establishes the criminal amenability for non fulfilment or improper fulfilment the duties in the upbringing the minor children in cases of cruel treatment of minors. According to the Article the penalty is up to 40 000 roubles, or three months wage (income) of a convicted person, or 180 hours of compulsory overtime, or disciplinary actions up to a year, or personal restraint up to 3 years.

However there is no direct legal information on prohibition of children's corporal punishment (including slaps, thong punishment or flogging) for parents by the child upbringing. The legislator comes from damage degree, which corporal punishment made to a child, depending on their gravity, frequency and actual consequences (for example, runaways from home, caused by punishment).

In situations of child's runaway from home, conflicts between the child and the parents, it may be provided consultative assistance to the family as a whole and the child, temporary shelter for the child with simultaneous rehabilitation actions for the family up to the reconciliation or making another decision.

Serbia

As family right has been taken out of the parental duties and exists only in the measure needed for protection of personality, rights and interests of the child, so that the parents mustn't expose the child to humiliating acts and punishments that offend human dignity of the child and are obligated to protect the child from such actions by other people. Parents mustn't leave the child of pre-school age without the supervision, or leave it to another person at any times if that person doesn't fulfil the conditions of a guardian.

Slovakia

An amendment of Act No. 305/2005 Coll. on the socio-legal protection of children and social curatorship, as amended, is planned to established provisions on the ban of using all forms of physical punishments and sanctions.

Slovenia

The government of the Republic of Slovenia adopted an umbrella domestic violence bill in 2008 as the first document of its kind to define domestic violence. The bill identifies five forms of violence - physical, sexual, psychological and economic violence as well as neglect - and provides a definition of each form. It is applicable to all victim groups, including children, men, women, elderly and disabled persons. The definitions of economic violence and neglect as a form of violence have been drafted with the consideration of modern criminal and sociological research, the ministry said in a press release. According to Cotman, the bill is aimed at securing a long-term protection for the victims of domestic violence by defining their right to free legal assistance. Victims also have the right to choose an assistant and legal representative, she added. The bill defines tasks, roles, networks and cooperation between different state institutions, authorised bodies, self-governing associations and NGOs. It also envisages the protection of victim's identity, primarily if the victim is a minor, said Cotman. Problems of domestic violence have so far been dealt with by individual institutions, which resulted in one institution passing responsibility on to others. The new legislation dictates that these institutions will have to cooperate. Research shows that the number of reported cases of domestic violence is increasing: in 2000 there were 3,000 instances of domestic violence, while the number increased to 5,000 in 2005. In 88% of the cases, offenders were men, while the rest were women who were violent against children. According to research carried out at the international level, one woman out of five has been at least once a victim of domestic violence, while research on violence of parents against their children provide similar figures. In Slovenia, statistics on domestic violence is officially kept only by the police. If both cases of domestic violence classified as crime and those classified as an offence are considered, the number of domestic violence cases in the last ten years has increased by as much as 73%.

Sweden

The Swedish Children and Parents Code has an explicit statutory provision which stipulates that a child must not be exposed to physical punishment or other humiliating treatment. Corporal punishment is in other words prohibited.

Switzerland

En Suisse, les châtiments corporels à l'école sont interdits mais la question de savoir si les légères corrections corporelles restent envisageables, sous certaines conditions, à la maison, dans le cadre du devoir d'éducation est aujourd'hui controversée.

La Constitution fédérale (Cst, <http://www.admin.ch/ch/f/rs/c101.html>) protège spécifiquement l'intégrité corporelle des enfants et des jeunes (art. 10 et 11 Cst), ainsi, en Suisse sont interdits les traitements dégradants et les moyens de correction qui portent atteinte à l'intégrité physique, psychique ou spirituelle de l'enfant (arrêt du Tribunal fédéral du 5 juin 2003).

Le Code pénal (CP, http://www.admin.ch/ch/f/rs/c311_0.html) quant à lui sanctionne de manière générale les voies de faits (art. 126 CP) et prescrit même que la répétition de voies de faits à l'encontre d'un enfant dont l'auteur a la garde ou le devoir de veiller sont poursuivies d'office, sans plainte préalable.

La question se pose néanmoins de savoir si et dans quelles conditions les parents disposent d'un droit de recourir à de légères corrections corporelles. Certains auteurs le déduisent du devoir d'éducation (art. 302 CC) et admettent les légères corrections corporelles (n'excédant pas les voies de fait au sens de l'art. 126 CP), pour autant qu'elles soient la conséquence d'un comportement inadapté de l'enfant et qu'elles interviennent dans un but éducatif (par ex. Stratenwerth/Jenny, Schweizerisches Strafrecht, Besonderer Teil I, 6ème édition, Berne 2003, n°18 ad. § 3, Graven, L'infraction punissable, 2ème édition, Berne 1995, p. 106). D'autres auteurs ont une vision plus restrictive et excluent tout droit de correction corporelle des parents, y compris les voies de faits (par ex. Hegnauer, Droit suisse de la filiation, 4ème édition, Berne 1998, p. 172; Tuor/Schnyder/Schmid/Rumo-Jungo, Das Schweizerische Zivilgesetzbuch, Zurich 2002, 12ème édition, p. 438).

Dans son arrêt du 5 juin 2003, le Tribunal fédéral n'a pas tranché cette controverse mais a considéré, en application des dispositions citées plus haut (art. 126 al. 2 CP, art. 10 et 11 Cst), qu'en aucun cas le fait de donner des gifles et des coups de pieds à une dizaine de reprises ne pouvait être justifié par un éventuel droit de correction et que, dans tous les cas, les coups de pieds au derrière constituaient des traitements dégradants.

Il faut dès lors constater qu'en Suisse le regard porté sur la question du droit de correction devient de plus en plus restrictif.

Turkey

Concerning the actions that will be taken regarding the proposals Circular 2006/17 with the title "Preventive Actions towards Violence to Children and Women with Honor Killings", coordination task is assigned to Directorate General of Social Work and Child Protection. In this context, a national action plan involving all details of the related subject is being prepared with the collaboration of UNICEF and a cooperation study aiming the "Prevention of Violence to Children" is started.

Ukraine

Not mentioned

United Kingdom

Not mentioned