

## 5. POLICIES FOR DEALING WITH FAMILY STRESS AND DIFFICULTY

### 5.2.ii Removing parental authority

Austria	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>If the holder(s) of parental responsibilities threaten the child's interests, the court must intervene and issue the orders necessary to safeguard these interests; in particular the court may totally or partially discharge the holder(s) of his, her or their parental responsibilities, if necessary (Sec. 176 Austrian CC). According to precedent, the child's interests are threatened if the parents neglect their duty to bring up the child or if they abuse their child-rearing authority, violate the prohibition against corporal punishment (Sec. 146b Austrian CC), or in the event of sexual abuse, psychological torture, the failure to obtain necessary medical treatment for the child or the violation of the duty to support the child; also the mother's alcohol addiction or mental illness can lead to the revocation of her parental responsibilities. The revocation of parental responsibilities can only be ordered as the most extreme emergency measure if no other alternative exists to protect against a specific and genuine threat to the child's interests. Prior to the revocation of parental responsibilities, a less severe option is the furnishing of assistance with child rearing, e.g. advice on child rearing, therapeutic measures, placement with a child-minder, nursery, children's clinic, or with foster parents (Erziehungshilfe, Sec. 27 and 28 Youth Welfare Act [Jugendwohlfahrtsgesetz]).</p> <p>Pursuant to Sec. 145b Austrian CC, a parent must refrain from any act that impedes the child's relationship to other persons holding rights and duties concerning the child or their performance of their duties with respect to the child (requirement of good behaviour [Wohlverhaltensgebot]). This prohibition encompasses a broad spectrum of behaviour: from insulting statements to physical and/or psychological violence against the other parties. Any violation against this prohibition may be penalized, if necessary, by restricting or revoking parental rights, i.e. parental responsibilities (Sec. 176, 253 Austrian CC) and/or the right of contact (Sec. 148 Austrian CC). Agents of the school authority (i.e. teachers and educators), security forces, and hospitals are required to report to the youth welfare agency if they suspect that the child's interests are at risk (Sec. 37(1) and (2) Youth Welfare Act [Jugendwohlfahrtsgesetz]).<sup>144</sup> The parents, grandparents and foster parents, a minor child over 14 years of age, and the youth welfare agency each have an individual right to petition the court (Sec. 176(2) Austrian CC). Persons who bring matters before the court but do not pertain to the group of persons authorized to file petitions do not thereby gain standing as parties or to file appeals.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

Azerbaijan	
<p>Please describe the current legislative situation in your country giving such powers to</p>	<p>In accordance with the Article 64 of the Family Code parents (or one of them) may be deprived of parental rights in following cases and with the decision of the court: if the parents do not duly realise their obligations; do not pay alimony; refuse to take his/her child from the maternity hospital, pre-school or any other child care institution; abuse parental rights; treat cruelly with children or keep them under physical or psychological pressure; cause intended harm to physical</p>

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the authorities and the rights to appeal.	integrity and/or life of either the child or the spouse; both or one of the parents is chronic alcohol or drug addict.
Any recent changes in these provisions?	No changes.

## Belgium

Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>En vertu de l'article 32 de la loi belge sur la protection de la jeunesse, les détenteurs des responsabilités parentales peuvent se voir démettre de tout ou partie de leurs responsabilités si :</p> <p>i) Le père ou la mère ont été condamnés à une sanction pénale pour un acte perpétré contre l'enfant, ou avec l'aide d'un enfant ou de descendants;</p> <p>ii) Le père ou la mère ont, par voie de sévices, abus d'autorité, mauvais comportement manifeste ou grave négligence, mis en danger la santé, la sécurité ou la moralité de l'enfant;</p> <p>iii) Le père ou la mère épousent une personne qui a été démise de ses responsabilités parentales. Tant que le comportement violent d'un parent n'est dirigé qu'à l'encontre de l'autre parent, ce comportement ne constitue pas un critère d'évaluation.</p> <p>En vertu de l'article 32(3) de la loi belge sur la protection de la jeunesse, le retrait des responsabilités parentales doit être demandé par le ministère public.</p>
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## Bosnia and Herzegovina

Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>FBiH: Article 153, paragraph 1, of the Family Law of FBiH prescribes that the court, in extrajudicial procedure, will take away the right of a parent to live with a child, and entrust care and upbringing of a child to another person or institution if the parents, i.e. a parent with whom a child lives, endangers interest of a child and largely neglects upbringing and education of a child or does not prevent other parent or family member to act in that way toward a child, or if a major disturbance in upbringing of a child occurred.</p> <p>Article 154, paragraph 1, of the Law prescribes that the court will take away parental care from a parent who: abuses his/her rights or seriously neglects his/her duty, or abandons a child, or does not exercise care for a child with whom s/he does not live, or jeopardizes safety, health or morale of a child, or does not protect a child from such conduct of other parent.</p> <p>BD: The court will in extrajudicial proceeding <b>remove the right of a parent to live with a child</b> and entrust custody and upbringing of a child to another person or institution if a parent who lives with a child jeopardize interest of a child or largely neglects raising, upbringing and education of a child or does not prevent other parent or a family union member to treat a child in this way.</p> <ul style="list-style-type: none"> <li>- Measure of removing the right of a parent to live with a child is imposed with duration of one (1) year.</li> <li>- Appeal against this decision does not defer the implementation of the decision.</li> <li>- The court will in extrajudicial proceeding remove parental custody from a parent who, in abuse of his/her rights or by gross negligence or abandonment of a child or not exercising care over a child with whom s/he lives, apparently jeopardizes health or morale of a child or does not protect a child from such conduct of other parent or another person.</li> <li>- Parental care will be returned by a court decision once the reasons for removal cease.</li> <li>- Guardian authority takes part in the whole procedure as advisory and executive authority.</li> </ul>
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Any recent changes in these provisions?	BD: No.
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<b>Bulgaria</b>	
Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>The Family Code envisages procedures for depriving and limitation of parental rights which could be limited or taken away totally. In such cases, the authority on guardianship and custody appoints a legal representative of the respective child. Procedurally established parties are entitled to submit objections to the court of second instance.</p> <p>The terms and conditions of carrying out the procedure on limiting or taking away parental rights are regulated by articles 74 and 74 of the Family Code, and the provisions of the Family Code, Civil Procedures Code.</p>
Any recent changes in these provisions?	Not mentioned.

<b>Croatia</b>	
Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>According to the Family Act:</p> <p>In a non-litigation procedure the court will take away from a parent who to a major extent neglects the raising and upbringing of a child or where there is a danger to the proper raising of the child, the right to live with and bring up the child, and will confide the child to the care and upbringing of another person, an institution or another legal entity that carries out the activity of welfare. It is deemed that a parent to a major extent neglects the raising, upbringing and education of a child if for example the parent shows insufficient care for the diet, hygiene, clothing, medical assistance, regular school attendance, does not prevent the child in some harmful associations, going out at night in a forbidden way, in vagrancy, begging or stealing.</p> <p>In a non-litigation procedure, the court will deprive a parent who abuses or grossly violates parental responsibility, duties and rights of the right to parental care. A parent is deemed to abuse or grossly violate parental responsibility, duties and rights if he or she: exerts physical or mental violence on the child, including exposing it to violence among the adult members of the family, takes sexual advantage of the child, exploits the child by forcing it to work too hard or to do work that is not appropriate to its age, allows the child to consume alcohol, drugs or other narcotic substances, encourages the child to socially unacceptable behaviour, abandons the child, does not care for a child with which he or she does not live for more than three months, in a period of one year does not create the conditions for life together with the child with which he or she does not live without having any particularly good reason for this, does not care for the basic necessities of life of a child with which he or she lives or does not adhere to the measure that have been previously imposed by a competent body for the sake of the protection of the rights and well-being of the child or in some other way grossly abuses the rights of the child.</p>
Any recent changes in	Social welfare centres were earlier authorized for those decisions and now are the courts. The courts have always made decisions on exclusion of the right to parental care.

these provisions?	
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<b>Cyprus</b>	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>In cases where a family cannot cope with the protection and care of a child, the Director of Social Welfare Services is empowered by legislation (The Children Law of 1956, Cap. 352) to take the child into his/her care and to assume parental rights. The child may then be placed with a foster family or in a group foster home or residential institution (children's home, boys' hostel, girls' hostel). Residential placements are used as a solution of last resort, in cases of children with serious behavioural problems and other difficulties.</p> <p>The aim of the Social Welfare Services is to provide protection and care on a short or long-term basis to the children, while providing counselling and other social work services to the parents aiming at improving conditions and facilitating the earliest possible return of the children to their own homes.</p> <p>The current Law includes provisions enabling parents to object to the assumption of parental rights by the Director.</p>
<p>Any recent changes in these provisions?</p>	<p>As mentioned under paragraph 4.4. i), the Children's Law is under review and a new draft Law for the Welfare, Care and Protection of Children is in the final stages of preparation. Provisions of the new draft law for the protection of children are based on the following principles:</p> <ul style="list-style-type: none"> <li>• The child must be protected from all forms of physical, psychological or sexual violence, injury or abuse, neglect or lack of care, maltreatment or exploitation.</li> <li>• The child must not be separated from his/her parents against his/her will, except when the competent authorities decide, subject to judicial review and in accordance with applicable legislation and procedures, that such separation is necessary for the best interests of the child.</li> <li>• For the promotion of the child's well being, a holistic approach should be encouraged as well as collaboration between the relative services and collaboration between these services and the family.</li> <li>• The child who has been placed with a foster family or in a residential institution should have contact with his/her parents or legal guardians, the extended family and other significant persons in his/her life, unless such contact is contrary to his/her best interests.</li> <li>• A child who, in his/her own best interests, has been removed from his/her own family environment should return to the family as quickly as possible, provided that the parents have been helped to improve their circumstances and their environment to an extent that will safeguard the welfare and protection of the child.</li> <li>• A child who, in his/her own best interests, has been removed from his/her own family environment and cannot return because the family environment cannot safeguard the child's welfare and protection, should reside in an alternative family environment in which the child can:             <ul style="list-style-type: none"> <li>- develop a sense of belonging,</li> <li>- maintain his/her personal, national, cultural, religious and linguistic identity, and</li> <li>- be assured of some continuation in his/her upbringing.</li> </ul> </li> </ul>

Czech Republic	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>The exercise of parental responsibility may only be changed by a court (Sec. 42 Czech Family Code). The court may suspend the exercise of parental responsibility for the parent or both parents, limit his or her parental responsibility or completely deprive the parents of parental responsibility (Sec. 44 Czech Family Code).</p> <p>If the parent is hindered in the exercise of parental responsibility by a serious obstacle and the interests of the child so require, the court may suspend the exercise of parental responsibility (Sec. 44 para. 1 Czech Family Code). These are situations where the parent serves a long prison term, stays abroad, or is in a curative institution for a long time etc. If the exercise of parental responsibility has been suspended for one of the parents, the other parent becomes its sole holder. If the exercise of parental responsibility is suspended for both parents or for the only living parent, the court will appoint a guardian of the child (Sec. 78 Czech Family Code).</p> <p>If a parent does not duly execute duties following from parental responsibility and if the interests of the child require it, the court will limit his or her parental responsibility, always establishing the extent of rights and duties affected by the limitation (Sec. 44 para. 2 Czech Family Code). If both parents, or the only living parent, are limited in the exercise of parental responsibility, the court will appoint a custodian for the extent of limitation.</p> <p>If a parent abuses his or her parental responsibility, or its exercise, or seriously neglects it, the court will deprive him or her of parental responsibility (Sec. 44 para. 3 Czech Family Code). If the parent committed a crime against the child or used the child younger than fifteen to commit a crime or committed a crime as an accessory or counselled the child to be a party to an offence, the court will always consider whether there are reasons for starting proceedings on the deprivation of parental responsibility (Sec. 44 para. 4 Czech Family Code).</p> <p>All the abovementioned types of judicial intervention with parental responsibility are always in relation to an individual parent and an individual child. The fact that the parent has been deprived of parental responsibility in relation to one child does not mean that he or she does not have parental responsibility to his or her other children. If the parent, due to a mental illness, has been limited by court in legal capacity, or has been deprived of it, his or her parental responsibility also ceases to exist.</p> <p>- Proceedings on judicial intervention with parental responsibility may be started by a court even without a specific motion (ex officio) as soon as the need for intervention is known to the court. In practice, a motion is usually filed by an authority in charge of social and legal protection of children, which is entitled to do so by Czech Act No. 329/1998 Coll. On Social and Legal Protection of Children, or the motion may be filed by a Prosecuting Attorney (Sec. 35 Czech CCP).</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

Denmark	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>The local authorities are obliged to supervise the conditions of children living in the area. If a child is being maltreated, neglected or abused it may be necessary to intervene with child protection measures and possibly to place the child in care. Such a measure can be voluntary as far as the parent is concerned or it can be enforced. Such a measure diminishes the powers and duties of the holder(s) of parental authority, but does not as such discharge the holder(s) of their parental authority. If the maltreatment, neglect etc. is being carried out by one of the parents and the parents do not live with each other, the other parent may seek sole parental authority or seek to have the (sole) parental authority transferred, Art. 8, 12 and 13 Danish Act on Parental Authority and Contact. It is possible to discharge the holder(s) of guardianship of their rights as guardians, for example in the case of the incapacity of one or both guardians.</p>

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	<p>- Parental authority cannot be discharged, but the other parent may seek sole parental authority or to have the (sole) parental authority transferred, Art. 8, 12 and 13 Danish Act on Parental Authority and Contact. A decision to place the child in care is made by a standing committee under the local authorities and is subject to administrative as well as court review. Such a care order does not, however, discharge the holder(s) of his/her/their parental authority.</p> <p>- Børnekontoret har ingen kommentarer hertil – det er fint det der står. Men konkret er det Familistyrelsen, som er ansvarlige for forældremyndighedsreglerne, så de skal evt. høres også?</p>
Any recent changes in these provisions?	Not mentioned.

Estonia	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>At the request of a parent, guardian or guardianship authority, a court may decide to remove a child from one or both parents without deprivation of parental rights if it is dangerous to leave the child with the parents. If upon removal of a child from a parent the child is left without parental care, a guardianship authority arranges for care of the child. If the reasons for removal of a child cease to exist, a court may order return of the child at the request of a parent.</p> <p>At the request of a parent, guardian or guardianship authority, a court may deprive a parent of parental rights if the parent:</p> <ul style="list-style-type: none"> <li>- does not fulfil his or her duties in raising or caring for a child due to abuse of alcoholic beverages, narcotic or other psychotropic substances or</li> <li>- abuses parental rights or</li> <li>- is cruel to a child or</li> <li>- has a negative influence on a child in some other manner or</li> <li>- without good reason, has not during one year participated in raising a child who resides in a child care institution.</li> </ul> <p>If upon depriving a parent of parental rights a child is left without parental care, a guardianship authority arranges for care of the child.</p> <p>A person who has been deprived of parental rights loses all rights with respect to a child.</p> <p>At the request of a person who has been deprived of parental rights, a court may restore parental rights if the person has improved his or her conduct, desires and is capable of exercising parental rights as required. Parental rights can not be restored if a child is adopted.</p> <p>In hearing a dispute concerning a child, a guardianship authority or court shall proceed from the interests of the child, considering the wishes of a child who is at least 10 years of age. The wishes of a child younger than 10 years of age shall also be considered if the development level of the child so permits. In hearing a dispute concerning a child, a court does, if necessary, include a guardianship authority for the purpose of hearing its opinion in the proceeding.</p>
Any recent changes in these provisions?	No.

Finland	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>Maltreatment, negligence or abuse of the child may constitute legal reasons for child protection measures. If the child's health or development is seriously endangered by a lack of care or other conditions at home, the local social authority shall take the child into care and provide it with substitute care. According to the Child Protection:</p> <p>The local social authority shall take a child into care and provide substitute care for it, if the child's health or development is seriously endangered by lack of care or other conditions at home, or if the child seriously endangers its health or development by abuse of intoxicants, by committing an illegal act other than a minor offence, or by other comparable behaviour, if the measures stated in Chapter 4 (i.e. assistance in open care) are not appropriate or have proved to be inadequate, and if substitute care is considered to be in the best interest of the child. (Sec. 16)</p> <ul style="list-style-type: none"> <li>- If a child has been taken into care, the local social authority has the power to decide on the child's care, upbringing, supervision, residence and other welfare of the child (Sec. 19 para. 1 Finnish Child Protection Act). Thus, the custodian will be discharged of exercising the rights mentioned above as a consequence of the care procedure.</li> <li>- There is no special civil court procedure for discharging a custodian because of his/her behaviour or lack of parental competence. A custody decision or approved agreement can be reviewed if the circumstances have changed after the decision or agreement has been made or if the change in custody is deemed appropriate (Sec. 12 Finnish Child Custody and the Right of Access Act).</li> <li>- The violent behaviour of one parent towards the other parent is not mentioned, as such, in the Finnish Child Protection Act or in the Finnish Child Custody and the Right of Access Act, as a reason to be taken into consideration in decision-making. However, if it is proved that the parent's violent behaviour is referred to in Sec. 16 Finnish Child Protection Act as a serious danger for the child's health or development, the violent behaviour should be taken into consideration. Not being in accordance with the best interest of the child, such behaviour can impact the decision-making concerning the custody in the same way, according to Sec. 10 Finnish Child Custody and the Right of Access Act.</li> <li>- The care order can be initiated by the competent local social authority, which is, in practice, the communal social worker or social workers. The child's parents and custodians may submit an application to the court concerning child custody. The local social authority has the same power (Sec. 14 para. 1 Finnish Child Custody and the Right of Access Act).</li> </ul>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

France	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>In French law, withdrawal of parental authority may be partial or total (see Articles 378-381 of the French Civil Code). Two provisions specify the cases where parents are deprived of parental authority:</p> <ul style="list-style-type: none"> <li>ii) Article 378 of the French Civil Code. A criminal judgment may deprive parents (wholly or partly) of parental authority, when they are sentenced as perpetrators, accessories or accomplices of a crime or offence committed against, or by, their child. In that case, the withdrawal is ordered by a criminal court in the same judgment as the one convicting the parents.</li> <li>iii) Article 378-1, paragraph 1 of the French Civil Code. Total or partial withdrawal of parental authority may also be ordered by a civil court in the following cases: ill-treatment, habitual over-consumption of alcoholic beverages, use of narcotics, notorious misconduct or unlawful acts, physical neglect or lack of guidance. The statutory provision requires that such conduct by</li> </ul>



	<p>parents imperils the child's safety, health or morality.</p> <p>iv) Article 378-1, paragraph 2 of the French Civil Code. Total or partial withdrawal may also be ordered by the civil court where a measure of assistance with upbringing has been taken on the child's behalf and the father and mother have deliberately refrained for over two years from exercising the rights and fulfilling the duties which they continue to have.</p> <p>- Withdrawal may also be requested by the prosecution, by a family member or by the child's guardian. Some examples of parents' loss or retention of parental authority may be seen in the following cases:</p> <p>ii) Serious and protracted mental illness;</p> <p>iii) Mother in a dangerous state of mental illness, having subjected her child to incapacitating treatment: parental authority withdrawn even where the mother has not been convicted by the criminal court owing to her disorder;</p> <p>iv) Father convicted of murder and posing a serious danger to his child;</p> <p>v) No proven danger to the child except in the case of a father convicted of drug trafficking;</p> <p>vi) No proven danger to the child despite the father's conviction of sexual abuse of his 15 year old niece;</p> <p>vii) The Court of Cassation asks the lower courts not to invoke the possibility of (unproven) danger to the child.</p> <p>Assertion of the mother's mental frailty does not suffice unless the court has ascertained that the mother's illness or behaviour endangers the child's safety, health or morality.</p> <p>Each year the courts issue 450-600 orders withdrawing, and 10-30 orders restoring, parental authority.</p>
<p>Any recent changes in these provisions?</p>	<p>No.</p>

## Germany

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>If the physical, mental or spiritual welfare or the property interests of a child are in jeopardy, the family court is obliged to take the necessary protective steps (§§ 1666 et seq German CC). The family court also has jurisdiction if the issues relating to children are raised in the context of divorce proceedings. As a basis for a court order the danger can result from various causes. The main cases are abuse of parental care (mistreatment, serious educational deficits, sexual abuse etc.), negligence of the child (malnutrition, no medical treatment) and inadvertent behaviour of the holder of parental care, § 1666 para. 1 German CC.</p> <p>- Mental illness of the holder of parental responsibilities as such is not enough. However, if the state of health endangers the welfare of the child, mental disorder, paranoia, alcoholism, etc. are sufficient reasons for intervention.</p> <p>- However, the parents were successful in a proceeding at the ECtHR. The European Court ruled that the total revocation of the parents' legal custody, and the circumstances of the execution of this measure, constituted a deprivation of parental care that did not satisfy the condition of proportionality. As a result, the Court held that Art. 8 of the Human Rights Convention had been violated.</p> <p>Though fault is not necessary for a court order, the parents must be either unwilling or unable to avert the danger themselves. The family court can take into account a parent's violent behaviour towards the other parent; this can lead – at least when it occurs repeatedly and in an aggravated form - to restrictions or a total discharge. Also, the conduct of third parties can be relevant (§ 1666 para. 1 German CC). Court orders have to follow the principle of reasonableness and must be proportionate to the impending danger (see § 1666a para. 1, 2 German CC).</p> <p>- The family court may substitute declarations of the holder of parental care (§ 1666 para. 3 German CC, see Q 8). As far as a consent of the holder of parental responsibility is deemed necessary, it is accepted that the court may substitute the consent if the parent unreasonably refuses to give it. The Civil Code does not specify which other 'measures' the court may take</p>
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	<p>according to § 1666 para. 1 German CC. It is generally accepted that the family court enjoys a broad discretion to make the appropriate orders. These may range from orders on specific issues, modification of custody, placing the child under institutional or foster care, to other orders.</p> <p>- The court also possesses powers in financial affairs. The family court may make an order if the child's assets are put into jeopardy by abuse of parental care, neglect, inadvertent behaviour of the parents or the conduct of third parties. Care for the child and care for the child's property are different issues which must be examined separately. The child's economic interests are endangered if the parents act blatantly contrary to economic principles or from motives of self-interest. Where there is a risk of diminishing or losing the child's fortune or a danger of indebtedness the court may take appropriate actions.</p> <p>- § 1666 para. 2 German CC expressly mentions three cases:</p> <p>(1) the parent has violated the right of the child to receive support,  (2) the parent has violated his or her duties in the administration of the child's property or  (3) the parent did not follow a court order in respect with the administration of the child's property. In this area the court also enjoys broad discretion. An appropriate measure is often at least a partial deprivation of parental custody in financial affairs.</p> <p>As a matter of last resort, the parents may be deprived, either totally or in part, of their parental custody. As far as possible other measures, including those under public law, must be used (§ 1666a para. 2 German CC). Those measures which involve the separation of a child from his or her paternal family are permissible only if the jeopardy for the child may not be countered in another manner (§ 1666a para. 1 German CC).</p> <p>In cases of emergency or where the child or young person asks for it, the youth office can take children or young persons into provisional custody. The holder of parental responsibility has to be informed. If he or she objects, the child or young person must be returned or the youth office has to apply to the family court (§ 42 German Children and Young Persons Assistance Act).</p> <p>- The proceedings under § 1666 German CC may be initiated ex officio. Therefore no formal application is necessary and any person with relevant facts can apply.</p> <p>However, a parent or other relatives can make a request. The youth office is a very important institution, having the right and duty to investigate and to give notice (§ 8a para. 3 German Children and Youth Protection Act). The youth office may also request the discharge of parental responsibilities.</p>
<p>Any recent changes in these provisions?</p>	<p>A legislative project is currently under way to make it easier for the Family Court to take action if the child's welfare is at risk. The aim of the planned changes in the law is to allow the Family Courts to step in earlier, using the whole range of possible legal measures, including those below the threshold of withdrawal of the right of care. In addition, cooperation between the family courts and the youth welfare offices and other institutions involved in child protection is to be improved.</p>

Greece	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>According to Art. 1537 Greek CC a parent forfeits parental care when he/she has been finally sentenced to a term of imprisonment for at least one month for a fraudulent offence against the child, or because of any offence against the child's life or health. This is a result of the conviction, without any need for a special provision in the relevant court decision. Under these circumstances, the court may also discharge the parent from the parental care of all his/her children.</p> <p>In addition, Art. 1532 para. 1 Greek CC provides that if a parent abuses his rights (e.g. by maltreating the child), violates his duties (e.g. by neglecting the child), or is not in a position to be able to carry out this task (e.g. because of a mental illness), the court may only deprive him of the exercise of parental care. As regards a parent's violent behaviour towards the other parent, although this behaviour is not directly aimed at the child, it may imply an insufficient exercise of parental care if it has a detrimental effect on the child itself. In any case, Art. 1533 para. 1 Greek</p>

	<p>CC provides that the court may only discharge a parent from the care of the child if all other available measures are insufficient, or do not suffice in order to prevent any danger to the physical, mental or psychological health of the child (ultimum remedium).</p> <p>If the child is subject to guardianship, the parental responsibilities of the guardian will immediately cease when he/she loses, wholly or partly, his/her capacity to enter into judicial acts (Art. 1650 Greek CC). Moreover, the court may discharge him/her from these tasks, on important grounds, particularly when it determines that the continuation of the guardianship may imperil the interests of the child (Art. 1651 Greek CC).</p> <p>- If the parent forfeits his/her rights because of a criminal conviction, or the guardian loses his/her full capacity, the discharge of parental responsibilities is immediate, without the need for any further court decision. In the remainder of cases, the court may discharge a parent from parental care at the request of the other parent, the close relatives of the child, or the public prosecutor (Art. 1532 Greek CC). It may also discharge a guardian of his responsibilities at the request of the supervisory council (Art. 1651 Greek CC). The court may also decide on these issues of its own motion (Art. 1532 and 1651 Greek CC). It is worth noting that the law does not entitle the child itself to bring such a case before the court.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

Hungary	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>(2) Hungarian family law discharges parental responsibilities by ordering the suspension or termination of parental responsibilities.</p> <p>- The court can terminate parental responsibilities if a parent's behaviour seriously damages or endangers his or her child's interests, especially their physical, mental or moral development. This happens specifically if a parent commits an intentional criminal offence against his or her child, but any other mistreatment or abuse of a child may also lead to termination. A parent's violent behaviour towards the other parent is not regulated separately by the Act. Suspension by judicial decision or by the order of the public guardianship authority is a lesser form of discharge of parental responsibilities, usually also ordered as the consequence of parental failure. Two situations belong here: one is when the court places the child with a third person because it sees that one of the parents would endanger the child, the other is when the public guardianship authority takes the child into institutional care because his or her family endangers his or her growth and the situation can not be solved in any other way, e. g. by designating a family caretaker.</p> <p>In these cases the discharge of parental responsibilities does not leave the family without rights. The parents retain some rights and duties of parental responsibilities, both with respect to children living with third person and children living in institutional care.</p> <p>- The court holds exclusive power to terminate parental responsibilities. Those persons having the right to file an action to terminate the parental responsibilities are: the other parent, the child, the public guardianship authority and the public prosecutor. The court is the competent authority to decide on the placement of the child. The public guardianship authority is the competent authority to order the child into institutional care; in this case the child will live in foster parent or children's home.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

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Iceland	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>(4) If the child is at risk at its home, or the measures that have already been taken do not lead to an adequate change for the child, or if justified by compelling interests of the child, a child protection committee may, even against the will of parents or of a child aged at least 15:</p> <p>a. rule that a child shall remain where he/she is resident for up to two months;</p> <p>b. rule that a child shall be removed from the home for up to two months, and on necessary arrangements, such as the placement of the child in foster care or in a home or institution, or seek other measures to ensure the child's safety, or in order that suitable tests on the child may be carried out, and necessary treatment and care may be provided.</p> <p>If a child protection committee deems necessary that an arrangement last longer than two months, the committee shall submit this matter to the district court. By order of a judge, a child may be placed in care for up to twelve months at a time. A child protection committee may take court action for a parent or parents to be deprived of custody in order to secure the child or when other measures are not thought to be in the best interest of the child.</p>
<p>Any recent changes in these provisions?</p>	<p>No.</p>

Ireland	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>Marital parents in Ireland who are involved in a parental responsibilities dispute will only be discharged of their parental responsibilities in exceptional circumstances or for other 'compelling reasons'. This parental preference is reflected in Sec. 3(2)(b) Irish Child Care Act 1991 where a health board charged with promoting the welfare of children in its jurisdictional area must have regard 'to the rights and duties of parents, whether under the Constitution or otherwise.'</p> <p>- The majority Supreme Court decision in <i>North Western Health Board v. H.W. and C.W.</i> 77 set the threshold for discharging the holders of parental responsibilities (who are married) at a very high level.</p> <p>- In that case <i>DENHAM J.</i> established the requisite test for state intervention in the following terms:</p> <p>'The question is whether the defendants, while exercising their responsibility and duty to P. [the child who was the subject matter of the proceedings in the case] under the Constitution (Art. 41), failed in their duty to him, so that his constitutional rights (including the right to life and bodily integrity) were or are likely to be infringed. In analysing this, P's rights to and in his family are a factor. Consideration has to be given as to whether the State (whether it be a health board or other institution of the State) as guardian of the common good should by appropriate means endeavour to supply the place of the parents to ensure that the welfare of the child is the paramount consideration, but always with due regard to the natural and imprescriptible rights of the child including his rights in and to his family. ... It is only in exceptional circumstances that courts have intervened to protect the child to vindicate the child's constitutional rights. The court will only intervene, and make an order contrary to the parents' decisions, and consent to procedures for the child, in exceptional circumstances. An example of such circumstances in relation to medical matters may be a surgical or medical procedure in relation to an imminent threat to life or serious injury.'</p> <p>- The comments of <i>DENHAM J.</i> in the last sentence should be noted in the context of the recent decision of <i>ABBOTT J.</i> in the Irish High Court. In that case, the Court directed that a five-month-old baby undergo heart surgery, overruling opposition on religious grounds from her mother, who was a member of the Jehovah's Witness community.</p>



	<p>- The comments of HARDIMAN J. in North Western Health Board v. H.W. and C.W. should also be noted: 'Art. 42.5 is in the nature of a default provision. Under its terms, the State may, in exceptional circumstances, upon a failure of parental duty for physical or moral reasons, become a default parent. The sub-article does not constitute the State as an entity with general parental powers.'</p> <p>- MURPHY J. adopted the following approach: 'In my view the subsidiary and supplemented powers of the State in relation to the welfare of children arise only where either the general conduct or circumstances of the parent is such as to constitute a virtual abdication of their responsibilities or alternatively the disastrous consequences of a particular parental decision are so immediate and inevitable as to demand intervention and perhaps call into question either the basic competence or devotion of the parents.'</p> <p>- While Art. 41 and 42 Irish Constitution have led to a high threshold for State intervention into the marital family, no such impediment arises in the context of the non-marital family where the best interests of the child will take precedence over all other matters.</p> <p>- Where there are issues of domestic violence, parental responsibilities will be viewed by the Irish court from the perspective of the child. Parental contact with children in cases where there has been domestic violence attracts a significantly different approach to that which would obtain where domestic violence was not a feature of the case. In each case involving a parent's violent behaviour towards the other parent, the risk to the child will be assessed before custody or access is agreed, ordered or discharged. The normal rule of thumb, that access is in the best interest of the child, does not automatically follow where there are issues of domestic violence. The primary question to be considered in such cases by the Irish courts is whether the child needs to be protected.</p> <p>- Sec. 11 Irish Guardianship of Infants Act 1964 enables any person, being the guardian of a child, to apply to the court for an order on any question relating to the welfare of that child. All custody and access decisions are 'interlocutory' by nature. Thus, a decision is never final and conclusive but is instead open to variation should the welfare of the child so demand. The original decision may be changed should altered circumstances or new information require it. Indeed, Sec. 12 of the 1964 Act enables a court to vary or discharge any previously made custody or access order in respect of a child.</p> <p>- DENHAM J. further underlined the variable nature of parental responsibilities orders when she noted in C. v. B.82 that: '[t]he decision relating to custody of a child, especially a baby ... is never final but evolves with the child, retaining in changing times the fundamental concept of the welfare of the child.'</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

Italy	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>The judge can decree termination of parental responsibilities when the parent either does not observe or neglects the duties connected with his/her parental authority, or if he/she abuses his/her powers by causing serious prejudice to the child (art. 330 of the Italian Civil Code). In general, the termination of parental responsibilities is a remedy against the failure to comply with the duties connected to child care. The failure to observe the duties relating to the management of the child's property implies (art. 334 of the Italian Civil Code) the termination of the management powers.</p> <p>Therefore, not only are actions relevant for the termination of parental responsibilities, but also omissions (such as the continuous and total lack of interest towards the child). A single event can be relevant, such as the non-observance of parental duties, if the harm to the child caused by the event is very serious.</p>

	<p>- Prejudicial behaviour of the parents that is not so serious but is constantly repeated can also be relevant. Voluntary prejudicial behaviour is not a requirement, since the termination can also be decreed if the holder's mental incompetence causes serious damage to the child.</p> <p>Therefore, the Italian legal system does not determine a priori, in detail, the events that justify the termination of parental authority, leaving broad discretion to the judge. The facts of each given case are numerous and very different in nature.</p> <p>Instances of 'indirect' abuse or maltreatment, such as the maltreatment of the minor's close relatives (for example, against the other parent) that may prejudice the harmonious psychological and physical growth of the child can be included by analogy in art. 330 and 333 of the Italian Civil Code.</p> <p>- The parent whose forfeiture has been decreed because he/she is 'incapable to act as parent', is deprived of all parental rights and duties, with the exception of the obligation to support. If the behaviour of one or both parents is serious enough to justify a decree of termination of parental authority (pursuant to art. 330 of the Italian Civil Code), but to do so would nonetheless be deemed prejudicial for the child, the judge may grant a decision that is deemed appropriate under the circumstances (art. 333 of the Italian Civil Code). In both cases, the judge, for serious reasons, may also decide to remove the child from the family or order the abusing parent to leave the family home.</p> <p>- The termination or the limitation decrees pursuant to arts. 330 and 333 of the Italian Civil Code may be requested by the other parent, by relatives or by a public prosecutor (art. 336 par. 1 of the Italian Civil Code). Nobody else is entitled to act, neither the child, nor the social services, nor the Family Proceeding Court – except on its own initiative or for temporary measures in case of urgent needs (art. 336 par. 3 of the Italian Civil Code). Anyone aware of prejudicial facts can inform the competent authorities (police, judicial authority, welfare services), not only in the most serious situations of abandonment of the minors, but also in situations deemed prejudicial to the minors (art. 9 of the Italian Adoption Law).</p> <p>The law obligates public officers, persons entrusted with a public service and those who carry out a public service to reveal any serious situations concerning the abandonment of minors to the public prosecutor before the Family Proceeding Court (art. 9 of the Italian Adoption Law). The public prosecutor is therefore at the centre of the system of judicial protection of children's rights. He/she is the person in charge of receiving any notice or complaint issued by public institutions or by private citizens, of controlling the public and private assistance institutions and of applying to the Family Proceeding Court.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned</p>

Latvia	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>The powers to take over authority and responsibility for children from their parents lies in the competence of Orphan's court – a guardianship and trusteeship institution established by a county, city or parish local government.</p> <p>An Orphan's court shall take a decision to remove the child care rights from a parent if:</p> <ol style="list-style-type: none"> <li>1) there are factual impediments, which deny the possibility to take care of a child;</li> <li>2) a child lives in conditions, which are dangerous to health or life due to the fault of the parent;</li> <li>3) the parent misuses his or her rights and does not ensure care and supervision of the child;</li> <li>4) the parent has agreed to the adoption of the child;</li> <li>5) child abuse on the part of the parent has been detected or there are justified suspicions regarding child abuse (Section 22 Paragraph 1 of the Law on Orphan's Courts).</li> </ol> <p>Care of the child shall mean his or her maintenance, i.e., ensuring food, clothes, dwelling and health care, tending of the child and his or her education and rearing (ensuring mental and physical development, as far as possible taking into account his or her individuality, abilities and interests and preparing the child for socially useful work), Section 177 Paragraph four of the</p>

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	<p>Latvian Civil Law.</p> <p>An Orphan's court shall take a decision as regards the bringing of an action regarding the removal of custody rights in a court if:</p> <ol style="list-style-type: none"> <li>1) the parent treats the child very badly (child abuse has been detected etc.);</li> <li>2) the parent does not ensure the care and supervision of the child and it may endanger the physical, mental or moral development of the child;</li> <li>3) the parent has agreed to the adoption of the child (Section 22 Paragraph 3 of the Law on Orphan's Courts).</li> </ol> <p>Custody is the rights and duties of parents to care for the child and his or her property and to represent the child in his or her personal and property relations (Section 122 Paragraph two of the Latvian Civil Law).</p> <p>The interested party may appeal a decision of an Orphan's court to a court in accordance with the procedures specified in the Administrative Procedure Law. Submission of an application to a court shall not suspend the operation of the decision (Section 49 Paragraph two of the Law on Orphan's Courts).</p> <p>The substance of administrative procedure in court shall be court control of the legality and validity of administrative acts issued by institutions or actual actions of institutions within the scope of freedom of action, as well as the determination of public legal duties or rights of private persons and the adjudication of disputes arising from public legal contracts (Section 103 Paragraph one of the Administrative Procedure Law).</p> <p>Participants in a matter may appeal against the court's complaint regarding a court's judgment (regarding custody rights) in a higher instance court (according to the provision of the Civil Procedure Law).</p>
<p>Any recent changes in these provisions?</p>	<p>On 1 January 2007 a new law – Law on Orphan's Courts came into force. The new law more precisely defines the competences of Orphan's courts; the principles of the review of cases and the taking of decisions have been defined more precisely.</p>

## Lithuania

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>There are two forms of discharge of parental responsibilities in Lithuanian family law: separation of the parents from their child and restriction of parental authority.</p> <p>Separation of the parents from the child is possible without the fault of the parents if the parents do not live with the child and are unable to exercise their parental responsibilities for objective reasons, e.g. mental or other serious illness of the parents (Art. 3.179 Lithuanian CC).</p> <p>The restriction of parental authority (temporary or unlimited) is possible only on the basis of the fault of the parent(s). The restriction of parental authority is possible where the parent(s) fail in their duties to bring up their children, abuse their parental authority, treat their children cruelly, produce a harmful effect on their children by their immoral behaviour, or do not care for their children (Art. 3.180 Lithuanian CC). A parent's violent behaviour towards the other parent is treated as immoral behaviour which produces a harmful effect on the child and, as a rule, is taken into account by the court when deciding these cases.</p> <p>Unlimited restriction of parental authority is possible only where the court makes a conclusion that the parent(s) inflicts very great harm on the development of the child or does not care for the child, and no change in the situation is forthcoming.</p> <p>- The right and a duty to request the discharge of parental responsibilities are granted to the state institution for the protection of the rights of the child, a public prosecutor, one of the child's parents or close relatives of the child (Part 1, Art. 3.182 Lithuanian CC).</p>
<p>Any recent changes in</p>	<p>Child Guardianship (care) System Reorganization Strategy and the implementation plan of actions for 2007-2012 years, adopt by the Government 2007, giving a priority of child care in the families</p>

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<p>these provisions?</p>	<p>of guardians and introducing measures for the restructuring of the institutional child care system aimed at decentralisation of services for children. It is related to the revision of the state institutional child care system and development of social services to families and children at municipal level, targeted towards better work with social risk families bringing up children.</p> <p>In addition, many changes and additional regulations on guardianship (care) are coming together with the changes in the general child protection and foster care system in Lithuania. Therefore, it is important to refer to the Directive of the Minister of Social Support and Labour on the Plan for Reorganization and Optimization of the Childcare Institutions in Lithuania (signed in 2007). The plan foresees that by the year 2010 all the management functions for care institutions will be transferred to municipalities, and by the year 2015 each childcare institution will provide housing and support for not more than 8 children without parental care. Aftercare should then become an integral part of the foster care system, with one contact person (guardian) continuously providing the child with necessary care and support.</p>
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Luxembourg	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>D'une façon générale, les services publics ont la mission d'exécuter la mission légale qui leur est confiée. En cas de rejet d'une demande il existe des recours d'abord non contentieux puis contentieux. Il dépend des différents services publics, de leur forme et de leur spécificité pour décrire les moyens de recours.</p> <p>Plus spécifiquement, en ce qui concerne l'aide à la famille, une telle aide est en principe toujours volontaire et à négocier entre le prestataire et les familles. Elle ne saurait jamais être octroyée. En cas de refus, on peut s'adresser à un autre service et s'il y a refus à l'autorité de tutelle de ce service. Ou encore au Médiateur etc.</p>
<p>Any recent changes in these provisions?</p>	<p>Oui</p>

Malta	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>In Malta there is the Children and Young Persons (Care Orders Act)</p> <p>Where any child or young person is found guilty of an offence by or before any court of criminal jurisdiction, and in the opinion of the said court -(a) none of the other methods in which the case may be dealt with according to law is suitable; and (b) the child or young person is in need of care or control which he is unlikely to receive unless the court makes an order under this article in respect of him, that court may, in lieu of sentencing him to imprisonment or dealing with him in any other manner available according to law, make an order committing him to the care of the Minister for a period of not less than one year and not more than five years:</p> <p>If, on representations made to the Minister in writing by the Director of the Department responsible for social welfare and after giving the parents and the guardian, if any, of the child or young person an opportunity to express their views, and after hearing any other person he may deem likely to assist him, the Minister is satisfied that that child or young person is in need of care, protection or control, it shall be the duty of the Minister by an order in writing under his hand to take such child or young person into his care.</p> <p>If the person to whom the registered letter is sent under sub-article (2) shall, within the time therein prescribed, signify, even verbally, his objection to the order, the Director of the Department responsible for social welfare shall, not later than seven days from the date on which he shall have become aware of the objection, refer the case to the Juvenile Court in such manner</p>

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	as shall be prescribed by regulations made under article 13.
Any recent changes in these provisions?	Not mentioned.

## Moldova

Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>Art. 71 of the Family Code, at the request of the tutelage authority or legal instance, may decide to take the child from the parents without having taking their rights, in cases when the presence of the child in the company of parents is in dangerous for the child's health and life, and the child is taken by the tutelage authorities to be cared. In exceptional cases if a serious danger arises for the child, the child is taken from parents in 24 hours from a decision of the legal tutelage authorities communicating the prosecutor's office on the matter. Acc. Art. 12 and 15 of the Law nr. 45/XVI of 1.03.2007 on prevention and combating family violence, the victim of violence in the family inclusively the child can deposit a complaint on committed violence acts. After a complaint is made in 24 hours the legal authority issues a disposition on assisting the victim, applying the aggressor measures as:</p> <ul style="list-style-type: none"> <li>g) obligation to leave temporally the common living house/space/, or stay far/away from the victim, without deciding on the way of property or common goods management;</li> <li>h) obligation to stay away from the place of stay of the victim;</li> <li>i) obligation to stop contacting with the victim;</li> <li>j) forbidding to visit the place of residence of the victim;</li> <li>k) obligation to pay the costs for the damage and violation acts towards the victim, inclusively medical costs and those for replacement or repair of the goods destroyed or deteriorated;</li> <li>l) Fixing a temporary regime of visits for minor children.</li> </ul>
Any recent changes in these provisions?	Not mentioned.

## Monaco

Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>Il n'appartient pas aux services publics de se prononcer sur l'autorité parentale car seul le Tribunal de première instance réuni en chambre du conseil est dans tous les cas compétent pour prononcer le retrait total ou partiel de l'autorité parentale sur requête du ministère public, d'un membre de la famille du mineur ou de toute personne physique ou morale. En revanche, les Services de l'Etat peuvent être à l'origine de la demande ou être sollicités dans le cadre de l'enquête diligentée en cours de procédure.</p> <p>La décision du Tribunal peut faire l'objet d'opposition ou d'appel.</p> <p>Pour les motifs de retrait, cf. supra point 5.1, i).</p>
Any recent changes in these provisions?	La loi n° 1.278 du 29 décembre 2003 a entièrement réformé le régime de l'autorité parentale.

Montenegro	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<ol style="list-style-type: none"> <li>1. Restricting parental right</li> <li>2. Deprivation of the parental right</li> </ol>

Netherlands	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>Title 14, Part 5 of the Dutch Civil Code provides for two different measures divesting parents of their parental responsibilities: consensual and non-consensual. Provided this is not contrary to the best interests of the child, the district court may divest a parent of responsibility for one or more of his or her children on the grounds that the parent is unfit or unable to fulfil the duty of caring for or raising the child (article 1:266). In principle, this may not take place if the parent opposes it. However, article 1:268 contains the following exceptions:</p> <ol style="list-style-type: none"> <li>(a) if it appears after the implementation of a supervision order (ondertoezichtstelling) of six months or more, or from the execution of a care order (uithuisplaatsing) pursuant to article 1:261 of more than eighteen months, that there is a well-founded fear that such an order will be insufficient to remove the threat referred to in article 1:254, due to the parent being unfit or unable to fulfil his/her duty to care and bring up the child;</li> <li>(b) if without divesting one parent of parental responsibility with his/her consent, divesting the other parent without his/her consent would not prevent the children from being subjected to the latter's influence;</li> <li>(c) if the mental faculties of the parent are so disturbed that he or she is unable to determine his/her wishes or to understand the significance of his/her statement;</li> <li>(d) if with the consent of the parent the child has been cared for and brought up in a family other than the parental family for at least one year, other than pursuant to a supervision order or a placement under a temporary guardianship order, the continuation thereof is necessary and serious harm to the child is to be feared if he/she returns to the parent.</li> </ol> <p>- If the well-founded fear referred to in article 1:268 (a) that was the reason for the guardianship order and the care order returns, non-consensual divestment is possible. However, it is not possible if the parents consent to the child being raised in the home or family appointed by the children's court judge. The parents' approval must be unambiguous and is definitive.</p> <p>- Article 1:269 states that if the district court considers it necessary in the best interests of the children, it may divest a parent of responsibility for one or more of his/her children, without that parent's consent, on the grounds of:</p> <ol style="list-style-type: none"> <li>(a) abuse of parental responsibilities, or gross neglect of one or more children;</li> <li>(b) irresponsible behaviour;</li> <li>(c) having been convicted, in a final and unappealable judgment:             <ol style="list-style-type: none"> <li>(1) of wilful participation in a criminal offence with a minor under his/her authority;</li> <li>(2) of committing a criminal offence vis-à-vis the minor as defined in Titles 13-14 and 18-20 of Book 2 of the Criminal Code;</li> <li>(3) and having been sentenced to a custodial sentence of two years or more;</li> <li>(4) serious disregard of the directions of the family supervision agency or obstruction of a care order pursuant to the provisions of section 261;</li> </ol> </li> <li>(e) a well-founded fear that the best interests of the child will be neglected because the parent demands the return of the child or takes him/her away from others who had assumed the care and upbringing of the child.</li> </ol>

	<p>- Consensual divestment may only be pronounced on the application of the Child Protection Board or the Public Prosecution Service (article 1:267, paragraph 1 Civil Code). In some cases, a person who has cared for and raised a child for one or more years at the time of an application from the parents to change the child's residence may also apply for consensual divestment (article 1:267, paragraph 2 Civil Code). Non-consensual divestment is pronounced only at the request of the other parent, one of the relatives by blood or by marriage of the children up to the fourth degree, the Child Protection Board or the Public Prosecution Service (article 1:270, paragraph 1 Civil Code). In some cases, the person who has assumed the care and upbringing of the child may also apply for non-consensual divestment (article 1:270, paragraph 2 Civil Code).</p>
Any recent changes in these provisions?	No information available

Norway	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>The Child Welfare Act (last revised in 1992) is the current legislation and regulates all Child Welfare Services and activities. Child welfare legislations go back to 1896 and is one of the oldest in the world. The text below is a short summary of the main procedure and regulations concerning reports, investigation, preventive measures and care orders and placements. We will serve you with necessary website/links in English.</p> <p>The Ministry of Children and Equality has the overall responsibility for child welfare at central government level. The Norwegian Directorate for Children, Youth and Family Affairs have the responsibility of the management of all child residential institutions in five different regions. They also assist the local authorities in child welfare cases, foster family service and family-based activities. The County Governor (19 counties) is monitoring all child welfare activities, audit child welfare residential institutions and municipalities, ensures that tasks laid down in the Child Welfare Act are carried out, and acts as the appeal body for individual decisions made by the local authority. The local authority is the municipal child welfare service receives reports of concern about children's situations, investigates and takes action in accordance with the Child Welfare Act.</p> <p>The child welfare service shall at the earliest opportunity, and within one week at the latest: examine each report it receives and assess whether each individual report shall be followed up by an investigation. If there is reasonable cause to assume that there is a basis for measures pursuant to the Act, the child welfare service shall investigate the matter:</p> <ul style="list-style-type: none"> <li>• At the earliest opportunity</li> <li>• The investigation must not last longer than three months (in special cases up to six months)</li> <li>• Cases concerning care orders</li> <li>• Cases concerning medical examination and treatment of children</li> <li>• Other cases</li> </ul> <p>Anyone can report to the child welfare service if they are worried about a child, for instance neighbours, friends of the child, the child's grandparents or other relatives. Children and young people or their parents can come themselves to the child welfare services to ask for help. Public authorities shall (notwithstanding the duty of secrecy) on their own initiative give information to the municipal child welfare service when there is reason to believe that a child:</p> <ul style="list-style-type: none"> <li>• is being mistreated or abused at home</li> <li>• is subjected to other serious deficit of parental care</li> <li>• has shown persistent, serious behavioural problems</li> </ul>

	<ul style="list-style-type: none"><li>• Public authorities includes for instance teachers, employees in nursery schools, health visitors and police officers</li><li>• Private citizens can give their report by phone, by letter or come to the office in person</li><li>• Private citizens can, in special cases deliver their report anonymously</li><li>• Public employees can not report anonymously; they must give a written and signed report</li></ul> <p>The child welfare service shall at the earliest opportunity, and within one week at the latest examine each report it receives and assess whether each individual report shall be followed up by an investigation. If there is reasonable cause to assume that there is a basis for measures pursuant to the Act, the child welfare service shall investigate the matter:</p> <ul style="list-style-type: none"><li>• At the earliest opportunity</li><li>• The investigation must not last longer than three months (in special cases up to six months)</li><li>• The parents or the person with whom the child is living can not oppose an investigation; including home visits</li><li>• Further investigations can consist of speaking with the child's teacher, the health visitor, or with other relevant informants who know the child</li><li>• The child welfare service is mandated to conduct their investigations together with the parents or with the parents consent, whenever this is possible</li><li>• The child welfare service shall collaborate with other sectors and levels of the public administration to frame measures which are in the child's best interests</li><li>• The child welfare service shall also collaborate with voluntary organizations which are involved in work with children and young people</li><li>• The child welfare service must draw its conclusions, primarily after a maximum of three months of investigation</li></ul> <p>This conclusion may lead to no measures at all or measures that can be implemented to assist the child and the family (examples):</p> <ul style="list-style-type: none"><li>• A personal support contact</li><li>• A place for the child at a day care institution (for instance kindergarten), or supplementary care at home</li><li>• Offer the young person training or employment</li><li>• Provide assistance for the child in the form of financial support</li><li>• Measures which may encourage the child to take part in leisure activities</li><li>• Place the home under supervision by appointing a supervisor for the child</li><li>• Make a place available in a centre for parents and children</li><li>• Offer the child a place in a foster family or an institution (voluntary out of home placement)</li></ul> <p>When assistance measures are adopted, the child welfare service shall draw up a time - limited plan for their implementation. The child welfare service shall keep itself informed about the progress of the child and the parents, and assess whether the assistance provided is appropriate or whether new measures are necessary</p> <p>Care orders may be issued</p> <ul style="list-style-type: none"><li>• A: if there are serious deficiencies in the daily care received by the child, or serious deficiencies in terms of the personal contact and security needed by a child of his or her age and development</li><li>• B: if the parents fail to ensure that a child who is ill, disabled or in special need of assistance receives the treatment and training required</li><li>• C: if the child is mistreated or subjected to other serious abuses at home, or</li><li>• D: if there is every probability that the child's health or development may be seriously harmed because the parents are incapable of taking adequate responsibility for the child</li></ul> <p>An order based on points A, B and C may only be made pursuant to that required by the child's current situation. This means that such an order may not be made if satisfactory conditions can be created for the child by assistance measures</p> <p>According to point D, it is not the child's current situation but the prognosis for the child's health and development that is in focus.</p> <p>The child welfare service is not allowed to make decisions on its own in every case. Certain cases such as care orders must be put forward for consideration by the County Social Welfare Board.</p>
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	<p>The County Social Welfare Board shall decide, for instance:</p> <ul style="list-style-type: none"> <li>• Cases concerning certain assistance measures, for instance an order to place the home under supervision by appointing a supervisor for the child</li> <li>• Cases concerning medical examination and treatment of children</li> <li>• Cases concerning care orders</li> </ul> <p>The child must be placed in a foster family or in a residential institution for care and support, treatment or training for children and/or youth approved by the State regional child welfare authority. (Directorate for Children, Youth and Family)</p> <p>In Norway the general policy is that a child who has to be taken away from its parents should be given a foster family when possible. It is also the policy that the child welfare service should try to find a proper foster home within the family sphere, for instance it could be the grandparents or aunt/uncle.</p> <p>The County Social Welfare Board shall revoke a care order when the parents are able to provide the child with reasonable care. The order shall nonetheless not be revoked if the child has become so attached to persons and the environment where he or she is living that, based on an overall assessment, removing the child may lead to serious problems for him or her. The child's foster parents shall be entitled to state their opinion before a care order is revoked.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

<p><b>Poland</b></p>	
<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>According to the Polish Family and Guardianship Code, the parental authority can be: suspended (Article 110), limited (Article 107), regulated by the court's decision (Article 109) and deprived (Art. 111).</p> <p>If the parents divorce, the question of parental authority shall be a subject to a court's decision (Article 58 § 1 of the Polish Family and Guardianship Code).</p> <p>If the parental authority is held by parents who are not married to each other, the parental authority may be limited in such a way that the court entrusts one of the parents with the exercise of the parental responsibility, limiting the rights and duties of the other parent in certain activities (Article 107 § 1 of the Polish Family and Guardianship Code). The provisions of Article 107§1 are also applicable if the parents are married to each other, but live separately (Article 107 § 2 Polish Family and Guardianship Code).</p> <p>If the court decides on legal separation of parents who are married, the provision of Article 58 is also applicable. (Article 61<sup>3</sup>§ 1 of the Polish Family and Guardianship Code).</p> <p>The regulation of the parental authority by the court, as described in Article 109 of the Polish Family and Guardianship Code, is used in a danger posed to the child's wellbeing which requires the court to issue specific orders:</p> <p>in particular, to: obligate the parents to specific behaviour and establish a control mechanism in that respect; specify which activities cannot be performed by the parents without court authorization, subject the parents to other form of limitation equivalent to those applicable to a guardian, or subject the parents to constant curator's supervision; place the minor with an organization or institution responsible for children's custody or prepare them for future work; or place the minor with a foster family or a child-care institution. The family court may also appoint a curator for the administration of the minor's property. Polish law emphasises that a prerequisite for limitation of parental authority is a danger posed to the child's wellbeing; in this situation, the court does not require a parent's guilt and the act is not of a repressive nature. The prerequisite for depriving one or both parents of the parental authority (Article 111§ 1 of the</p>

	<p>Polish Family and Guardianship Code) is: permanent obstacle in its exercise, abuse of parental authority, or negligence of parental obligation with regard to the child, in particular, while child is placed in a foster family or child-care institution (Article. 111§ 1a) Restoration of parental authority is regulated by provision of Article 111§ 2 of the Polish Family and Guardianship Code). The deprivation of parental authority is the power vested in a family court. Any decision of the court may be subject to an appeal lodged in a higher instance court.</p> <p>Polish law emphasises that substantial danger to the child's wellbeing induced by a parent may justify depriving the parent of parental authority without first limiting it.</p> <p>According to the provisions of the Polish Constitution, anyone may require the public authorities to protect a child from violence, cruelty, abuse and demoralization (Article 72 ec. 1 sentence 2 of the Polish Constitution). Family court may initialize the proceedings ex officio (Article 570 of the Polish Civil Procedure Code).</p> <p>Anyone who has information on circumstances which justify initialising ex officio proceedings is obliged to report it to the family court (Article 572 § 1 of the Polish Civil Procedure Code).</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

## Portugal

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>When parents do not comply with their fundamental duties towards their children, they may be discharged of parental responsibility. In certain situations, the law stipulates that parents are automatically discharged of parental responsibility as a consequence of certain facts, presuming that in those circumstances, the parents are in no condition to fulfil their basic duties towards their children. The discharge of parental responsibility may take one of two forms: ex lege discharge of parental responsibility and judicial discharge of parental responsibility.</p> <ul style="list-style-type: none"> <li>- In cases of ex lege discharge, certain circumstances are involved that affect the parents and lead the law to presume that it is impossible for them to fulfil their duties towards their children, irrespective of their actual behaviour towards them (i.e. definitive condemnation for a crime to which the law attributes this effect, Art. 1913 No. 1(a) Portuguese CC; legal incapacity or disability due to mental disorder, Art. 1913 No. 1(b) Portuguese CC; if the parent is a non-emancipated minor or is legally disabled or incapacitated for a reason other than mental disorder, Art. 1913 No. 2 Portuguese CC).</li> <li>- In situations of judicial discharge, however, the law takes into account the relationship between parents and children and the behaviour of the parents towards their children, particularly the severity of the harm caused by the parents' actions to their children. Art. 1915 Portuguese CC uses a general clause which covers not only behaviour with mens rea by parents that leads to serious harm to the child (Art. 1915 No. 1 1st part Portuguese CC and Art. 192 Portuguese Child Protection Law) but also involuntary harmful behaviour, such as that resulting from inexperience, illness or absence (Art. 1915 No. 1 2nd part Portuguese CC and Art. 192 Portuguese Child Protection Law).</li> </ul> <p>As to the question of whether the mistreatment of a parent influences the decision to discharge the aggressor of parental responsibility, the law is silent. However, it appears that this fact should be taken into consideration when it is severe enough to harm the child.</p> <ul style="list-style-type: none"> <li>- The Public Prosecutor's Office, any relative of the minor or any person who has custody of the child in fact and in law may petition the court for parental responsibility to be discharged (Art. 1915 No. 1 Portuguese CC and Art. 194 Portuguese Child Protection Law) (Boele-Woelki, Braat, &amp; Sumner, 2005b).</li> </ul>
<p>Any recent changes in</p>	<p>The Penal Code (2007) establishes (article 179º) that in cases of sexual abuse (sexual abuse of children, prostitution of children, pornography of children, rape, artificial procreation without</p>

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these provisions?	consent, etc): parental responsibility may be removed and offenders may also be forbidden to exercise certain professions, functions or activities related to children (for a period of 2 to 15 years).
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<b>Romania</b>	
Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>If exist the justified reasons to consider that the child life is in dangers in his own family, the representatives of the public social assistance service or of the General Directorate for Social Assistance and Child Protection has the right to visit the child at domicile to see if the development of the child is well done. The professionals can make recommendations and can supervise the family for a period of time in order to assure that the child is well care. If the development of the child is in danger the specialists will inform the General Directorate for Social Assistance and Child Protection in order to take a special measure in according with the legislation.</p> <p>The General Directorate for Social Assistance and Child Protection should inform the juridical instances in the moment when the conditions for parental rights are restricted.</p>
Any recent changes in these provisions?	No

<b>Russian Federation</b>	
Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	<p>The deprivation of the parenthood is a measure of amenability, which is adjusted in the family legislation to parents who have committed a premeditated crime against their children. The essence of the deprivation is the stoppage of parental relations (rights and duties between parents and children).</p> <p>In accordance with Articles 69 – 72 of the Family Code the parents (one of them) may be deprived of the parenthood, if they:</p> <ul style="list-style-type: none"> <li>- shirk the discharge of the parental duties, including by persistently avoiding the payment of the alimony;</li> <li>- refuse, without a valid reason, to take the child from the maternity hospital (department), or from another medical centre, an educational establishment or an institution for the social protection of the population, or from other similar institutions;</li> <li>- abuse their parental rights;</li> <li>- treat the children cruelly, including by a physical or mental suppression, or infringe upon his sexual inviolability;</li> <li>- suffer from chronic alcoholism or drug addiction;</li> <li>- have committed a premeditated crime against the life or the health of their children, or against the life or the health of their spouse.</li> </ul> <p>The deprivation of the parenthood shall be effected in court. The procedure of the parenthood deprivation by the court is laid down by the civil procedural legislation.</p> <p>The cases on the deprivation of the parenthood shall be considered upon an application of one of the parents (of the persons, substituting for them) and of the Prosecutor, and also upon applications of the organizations or institutions, to which the duties of protecting the rights of the under aged children are entrusted (the guardianship and trusteeship bodies, commissions for the affairs of the under aged, institutions for orphaned children and for children, left without parental care, etc.).</p> <p>The cases on the deprivation of the parenthood shall be considered with the participation of the</p>

	<p>Prosecutor and of the guardian-ship and trusteeship body.</p> <p>When considering the case on the deprivation of the parent-hood, the court shall resolve the issue of exacting an alimony for the child from the parents (from one of them), who are deprived of the parenthood.</p> <p>If the court, when considering the case on the deprivation of the parenthood, exposes in the actions of the parents (of one of them) the signs of a criminally punishable deed, it shall be obliged to inform about this the Prosecutor.</p> <p>According to the actual legislation the court decisions come into force in 10 days from the date, when the court passed the decision (excepting the cases the court decisions come into force immediately). During this period the parent deprived of the parenthood by court decision has the right to protest this decision. The consideration in the next court session the protest may lead to the cancellation of the parenthood deprivation in cases of the protest's justification.</p> <p>The court shall be obliged, within three days from the date of the court decision on the deprivation of the parenthood coming into legal force, to forward an excerpt from this decision to the registry office by the place of the state registration of the child's birth.</p> <p>The parents, deprived of the parenthood, shall lose all the rights, based on the fact of their kinship with the child, with respect to whom they have been deprived of the parenthood, and also the right to the privileges and to the state allowances, established for the citizens with children.</p> <p>The deprivation of the parenthood does not relieve the parents of the duty to maintain their child.</p> <p>The question of the child's further residing with the parents (one of them), deprived of the parenthood, shall be resolved by the court in conformity with the procedure, laid down by the housing legislation.</p> <p>The child, with respect to whom the parents (one of them) are deprived of the parenthood, shall retain the right of ownership to the living premises or the right to use the living premises, and also the property rights, based on the fact of the kinship with his parents and with his other relatives, including the right to receive an inheritance.</p> <p>If it is impossible to give the child to the other parent, or in the case of the deprivation of the parenthood of both parents, the child shall be placed into the charge of the guardianship and trustee-ship body.</p> <p>The child's adoption in the case of the parents (one of them) being deprived of the parenthood, shall be admissible not earlier than after the expiry of six months from the date, when the court passed the decision on the deprivation of the parents (of one of them) of the parenthood.</p> <p>The legislation allows to restore the parenthood.</p> <p>The parents (one of them) may be restored in their parent-hood, if they have changed their behaviour, the way of life and (or) their attitude towards the child's upbringing.</p> <p>The restoration in the parenthood shall be effected in court upon an application of the parent, deprived of the parenthood. The cases on restoration in the parenthood shall be considered with the participation of the guardianship and trusteeship body, and of the Prosecutor.</p> <p>Simultaneously with an application from the parents (from one of them) for the restoration in the parenthood, the claim for the child's return to the parents (to one of them) may be considered.</p> <p>The court shall have the right, taking into account the child's opinion, to reject the claim of the parents (of one of them) for the restoration in the parenthood, if this contradicts the child's interests.</p> <p>The restoration in the parenthood with respect to the child, who has reached the age of 10 years, shall be possible only with his consent.</p> <p>The restoration in the parenthood shall not be admitted, if the child is adopted and the adoption is not cancelled.</p>
<p>Any recent changes in these provisions?</p>	<p>The above mentioned states are valid from the adoption of the Family Code of the Russian Federation (came into force in 1996). The Family Code establishes the effected in court deprivation of the parenthood. Previously (before 1996) the deprivation of the parenthood was effected on the guardianship and trusteeship bodies' solution. In this way the guarantees of a complex consideration of all the circumstances are strengthened in the aim to preserve the child upbringing in the natal family.</p> <p>The deprivation of the parenthood is an extreme measure of child's rights protection in cases of</p>

	<p>undue child's upbringing by parents. In this connection, to reduce the deprivation of the parenthood and to secure the child upbringing in the natal family it is realized the policy of an early intervention in cases of family misfortune to improve the parents' behaviour, to provide to the family the necessary assistance and to avoid the deprivation of the parenthood. These actions are fulfilled by social assistance services for families and children, the guardianship and trusteeship bodies, commissions for the affairs of the minors.</p>
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## Serbia

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>Parent that abuses the rights or bluntly ignores the duties encompassed in parental rights can completely be disfranchised of parental rights.          Parent abuses the rights encompassed in parental rights:          - if physically, sexually or emotionally abuses the child          - if forces the child to overwork or the work that endangers the moral, health or education of the child          - if encourages the child to perform criminal acts          - if trains the child to give a way to bad affections          Parent bluntly ignores the duties encompassed in parental rights:          - if has left the child;          - if doesn't take care of the child he / she lives with;          - if avoids to support the child or to keep personal relations with the child he / she doesn't live with – preventing keeping personal relations of the child with the parent with which a child doesn't live          - if intentionally and unjustifiably avoids to form the conditions for a common life with a child that is located in the institution of social protection for accommodation of users          Court decision about complete disfranchisement of parental rights takes away from the parent all rights and responsibilities encompassed in parental rights, except the duty to support the child.          Parent who consciously fulfils the rights and duties from parental rights can be partially or completely be taken away the parental rights.          Court decision about partial breaking of parental right can take away one or more rights and duties encompassed in the parental rights, except the duty to support the child.          Parent who fulfils the parental right can be disfranchised of rights and duties to look after, raise, upbringing, educate and appear for child and to administer and dispose with child's properties.          Parent who doesn't fulfil the parental right can be disfranchised of the right to keep personal relations with the child and to decide about the questions that affect the life of the child.          Parent can be returned the parental right when the reasons due to which he / she was disfranchised disappear.</p>
<p>Any recent changes in these provisions?</p>	<p>There are no changes.</p>

## Slovakia

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the</p>	<p>According to Article 41 § 4 of the Constitution of the SR: "The care of children and their upbringing is the basic right of parents and dependent children may only be separated from parents in odd cases and on the basis of a legal court ruling."          In the SR, the courts are the only authorities competent to detach a child from the personal care of its parents or the person that takes care of the child in person, on the basis of their decisions. This competence of court decision-making results from Act No. 36/2005 Coll. on family, as</p>
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<p>rights to appeal.</p>	<p>amended. During the execution of such competence, protection of the rights and legally protected interests of a child is considered to be the most important aspect upon decision-making. In this relation, the opinion of a minor child is also a determining factor, considering its age and mental maturity. As regards the courts' care of minors, the body of socio-legal protection of children and social curatorship generally functions as an under-tutor who acts before the courts for the sake of protecting the rights and legally protected interests of a child, on the basis of a court decision. The law excludes the representation of a minor child by its parent in legal cases where there is a possibility of collision between the parents and children or between children as such. It is not required that such collision of interests occurs, but only that it might occur.</p> <p>In cases when a court decides on the retention or suspense of the execution of parental rights and obligations, in its ruling it appoints a guardian for a minor child. If no physical person or other legal person may be appointed to be a child's guardian, the court appoints a municipality to act as a guardian. In cases when a court decides on the limitation of the execution of parental rights and obligations, in its ruling it also appoints a guardian for a minor child.</p> <p>In cases of criminal acts committed on a close person or entrusted person, if the aggrieved person is a minor the body of socio-legal protection of children and social curatorship or the authorized representative of an organisation helping the aggrieved is particularly appointed to act as the guardian of such minor.</p> <p>Any party to legal proceedings may challenge any decision made by a court of first instance by filing an appeal according to the Civil Procedures Act.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned.</p>

## Slovenia

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>Removing parental rights as stipulates Article 116 of the Law on Marriage and Family Relations) "The parental rights of a parent who abuses parental rights or abandons the child, or by their behaviour clearly shows that they will not care for the child, or otherwise seriously evades their responsibilities, shall be taken away by court order" is rarely used in practice.</p>
<p>Any recent changes in these provisions?</p>	<p>Not mentioned</p>

## Sweden

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the</p>	<p>According to the Care of Young Persons (Special Provisions) Act from 1990 the municipality can apply to the county administrative court for a decision on compulsory care of a child to protect the child in certain situations (paragraphs 2, 3 and 6). In these cases the parents still have legal custody of the child/young person, but the social welfare committee decides e.g. where the child shall live and which contacts the child is allowed to have with the parents. Decisions by the county administrative court can be appealed, as can decisions by the social welfare committee.</p>
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<p>rights to appeal.</p>	<p>The court shall entrust custody to the other parent alone or to one or two specially appointed custodians if the parent who is exercising custody of a child is guilty of abuse or neglect or otherwise behaves in a manner that incurs an enduring risk to the child's health or development, Chapter 6, Section 7, Swedish Children and Parents Code.</p> <p>The transfer of custody stipulated by this provision to one or two specially appointed custodians is very rarely used. Restriction of its application is, instead, recommended. It is normally considered sufficient for social welfare authorities to take measures to protect the child e.g. removing the child from the abusing or negligent parents' care. The child is then placed in foster care in a private home authorised to receive children for care. The social welfare committee decides where the child shall live and on contact between the child and the parents. The child is considered to be sufficiently protected through these measures, stipulated in the Swedish Care of Young Persons Act (1990:52), and the parents retain their legal custody.</p> <p>Furthermore, a transfer of custody according to Chapter 6, Section 7, Swedish Children and Parents Code, presupposes that there is a person willing to take over the responsibility. That person must also have a close relationship with the child, so that the child accepts him or her as a custodian. A decision to immediately discharge a parent of custody is usually only made if the other parent is suitable to take sole custody of the child.</p> <p>According to Chapter 6, Section 8, the social welfare committee can turn to the court and request that custody is transferred to one of or both foster parents when a child has been in foster care for some time and the relationship is such that it is in the best interests of the child to remain in the foster home. When a child has been in the same foster home for three years the social welfare committee is to consider if it is in the best interests of the child to initiate a transfer of custody to the foster parent/s. (SSA, Chapter 6, Section 8). Often the issue of what effect a parent's behaviour will have on custody of the child (and contact) arises in connection with a custody dispute between the parents.</p> <p>Questions concerning a change of custody in these circumstances shall be considered by the court, on the application of the social welfare committee, Chapter 6, Section 7, para 4, Swedish Children and Parents Code. In divorce cases between the parents or when the custody is otherwise being considered by the court, the court shall on its own motion consider any necessary change in custody. A parent wishing to discharge the other parent of parental responsibilities may furthermore apply for sole custody in court, Chapter 6, Section 5, Swedish Children and Parents Code.</p>
<p>Any recent changes in these provisions?</p>	<p>From 1 July 2006, the risk of the child coming to harm has been further emphasised in the Swedish Children and Parents Code. Another novelty is that the court should give special attention to the parents' ability to cooperate in matters concerning the child.</p>

## Switzerland

<p>Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.</p>	<p>Lorsque d'autres mesures de protection de l'enfant sont demeurées sans résultat ou paraissent d'emblée insuffisantes, l'autorité tutélaire de surveillance prononce le retrait de l'autorité parentale:</p> <ul style="list-style-type: none"> <li>- lorsque, pour cause d'inexpérience, de maladie, d'infirmité, d'absence ou d'autres motifs analogues, les père et mère ne sont pas en mesure d'exercer correctement l'autorité parentale;</li> <li>- lorsque les père et mère ne se sont pas souciés sérieusement de l'enfant ou qu'ils ont manqué gravement à leurs devoirs envers lui.</li> </ul> <p>L'autorité tutélaire prononce le retrait de l'autorité parentale:</p> <ul style="list-style-type: none"> <li>- lorsque les père et mère le demandent pour de justes motifs;</li> <li>- lorsqu'ils ont donné leur consentement à l'adoption future de l'enfant par des tiers anonymes.</li> </ul>
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	La procédure pour recourir contre une telle décision relève de la compétence des cantons.
Any recent changes in these provisions?	Non

Turkey	
Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	Not mentioned.
Any recent changes in these provisions?	Not mentioned.

Ukraine	
Please describe the current legislative situation in your country giving such powers to the authorities and the rights to appeal.	Not mentioned.
Any recent changes in these provisions?	Not mentioned.

United Kingdom	
Please describe the current legislative situation in your country giving such powers to	An Emergency Protection Order allows the local authority to remove the child from where it is living or to prevent removal, for example from a hospital or a foster home. These orders can be made without notice to the parents or carers. The order can only last for 8 days but it can be extended for up to 7 days.

<p>the authorities and the rights to appeal.</p>	<p>The power to make a care order comes from section 31 of the Children Act 1989. A care order may be interim (which means it lasts for 28 days at a time) or final. Before the court can make a final care or supervision order it must be satisfied that the child is suffering or is likely to suffer significant harm attributable to the care given or likely to be given by the parent. The court can make an interim order on a much lower test that there are reasonable grounds for believing that the child is suffering or is likely to suffer significant harm attributable to the care given or likely to be given by the parent.</p> <p>A mother or married father will only lose parental responsibility if the child is adopted or freed for adoption. An unmarried father's parental responsibility can be ended by a court on an application by anyone with parental responsibility or by the child if he or she has the court's leave (permission) to apply. The child's welfare will be the court's paramount consideration. Parental responsibility ends when a child is 18 unless it is ended earlier by a court.</p> <p>If a child is adopted then parental responsibility for the child is completely and permanently transferred to the adoptive parents.</p> <p>If the court makes a care order, the local authority (social services) shares parental responsibility for the child. Social services then have the authority to limit how much other people make decisions about a child.</p> <p>A Residence Order can be awarded by the courts and this gives parental responsibility for a child, but does not remove it from those people who already have parental responsibility.</p> <p>A Special Guardianship Order, introduced by the Adoption and Children Act 2002, gives more rights than a Residence Order. A Special Guardian may exercise parental responsibility to the exclusion of all others with parental responsibility, apart from another special guardian. A Special Guardian can also appoint a guardian in the event of death. This differs from the holder of a Residence Order who exercises parental responsibility jointly with other people who have parental responsibility (the birth parents for example).</p> <p>However, they cannot give their consent to change a child's surname, or live abroad for more than 3 months without the agreement of others with parental responsibility, or the leave of the court. Parents retain the right to consent or not to adoption, and they can also apply for contact with their child through the courts. Residence Orders last until the child is 16 or 18. Special Guardianship Orders last until 18.</p>
<p>Any recent changes in these provisions?</p>	<p>No</p>