

**BRIEFING ON SLOVENIA FOR THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, PRE-SESSIONAL WORKING GROUP
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**This briefing describes the legality of corporal punishment of children in Slovenia. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to Slovenia by the Committee on the Rights of the Child, the Committee Against Torture, the European Committee of Social Rights and during the Universal Periodic Reviews of Slovenia in 2010 (accepted by the Government), we hope the Committee on Economic, Social and Cultural Rights will:**

* **in its List of Issues for Slovenia, raise the issue of corporal punishment of children, in particular asking what steps are being taken to ensure that legislation is drafted and enacted which explicitly prohibits all forms of corporal punishment, including in the home?**
* **in its concluding observations on Slovenia’s second report, welcome Slovenia’s commitment, made during the UPR, to prohibiting corporal punishment of children and recommend that the new Family Law is drafted as a matter of priority and that all possible measures are taken to ensure its passage through Parliament.**

**1 Slovenia’s report to the Committee on Economic, Social and Cultural Rights**

1.1 The second state party report to the Committee on Economic, Social and Cultural Rights includes information on legal and other measures to address domestic violence.[[1]](#footnote-1) However, it makes no reference to corporal punishment, violence which may lawfully be inflicted on children in their homes in the guise of “discipline”.

1.2 In fact, the Government of Slovenia is committed to enacting legislation to prohibit all corporal punishment of children. It accepted recommendations to do so made during the Universal Periodic Review of Slovenia in 2010[[2]](#footnote-2) and introduced a Bill which would achieve this. In 2012, the Bill was rejected by referendum before enactment; a new Bill is currently being drafted. **We hope the Committee will welcome the Government’s commitment to prohibition of corporal punishment and recommend that all possible measures be taken to ensure the necessary legislation passes through Parliament as a matter of priority.**

**2 The legality and practice of corporal punishment of children in Slovenia**

2.1 *Summary:*Corporal punishment of children in Slovenia is unlawful in schools, in some forms of day care and in the penal system; it is lawful in the home, in alternative care settings and in some day care settings.

2.2 *Home (lawful):* According to the Law on Marriage and Family Relations 2004, parents must ensure their children’s successful physical and mental development (art. 4) and are obliged to support, care for and educate their children (art. 103). There is no confirmation of a “right” or “duty” to correct or punish children, but neither is there an explicit prohibition of corporal punishment in childrearing. Provisions against violence and abuse in the Criminal Code 2008 are not interpreted as prohibiting all corporal punishment in childrearing.

2.3 The Law on Prevention of Domestic Violence 2008 defines domestic violence as “any form of physical, sexual, psychological or economic violence by one family member against another family member … irrespective of age, gender or any other personal circumstance of the victim or perpetrator of violence”; physical violence is defined as “any use of physical force by a family member that can cause pain, fear or shame, regardless of whether injuries were inflicted”. However, these provisions are not interpreted as prohibiting all forms of corporal punishment.

2.4 *Alternative care settings (lawful):*There is no explicit prohibition of corporal punishment. The Provision of Foster Care Act 2002 sets out the standards required for foster care and the obligations of foster carers but makes no reference to corporal punishment or related matters; similarly, there is no prohibition of corporal punishment in the Rules on the Conditions and Procedures for Implementing Foster Care 2003.

2.5 *Day care (lawful):* Corporal punishment is considered unlawful in educational day care centres and residential school institutions under the rules relating to schools (see para. 2.6), but there is no explicit prohibition in other early childhood care and in day care for older children. The Kindergarten Act 1996 does not prohibit corporal punishment.

2.6 *Schools (unlawful):*The Law on Primary Schools 1996 is silent on the issue of corporal punishment, stating only that the rights and duties of students and matters concerning discipline shall be determined by the Minister (art. 59). The Regulations on rights and responsibilities in primary school 2004 explicitly state that corporal punishment is not allowed (art. 34).

2.7 With regard to secondary education, the Law on Gymnasiums 1996, which regulates general education and technical secondary schools, does not include corporal punishment among permitted measures for dealing with disciplinary violations (art. 27), though it does not explicitly prohibit it. Similarly, the Law on Vocational Education and Training 2006 makes no provision for corporal punishment among permitted disciplinary measures (art. 56). The Rules of behaviour for upper secondary schools 2004[[3]](#footnote-3) state that students have the right to protection from all forms of violence in school (art. 2) and do not include corporal punishment among the specified measures for dealing with violations of school rules (art. 32).

2.8 *Penal institutions (unlawful):* Corporal punishment is unlawful under the Constitution 1991 and the Criminal Code 2008 but there is no explicit prohibition. The Rules on the Implementation of Education Measures in the Juvenile Detention Centre 2000, the Rules on the Enforcement of the Sentence of Imprisonment 2000 and the Law Amending the Law on Enforcement of Penal Sanctions 2008 do not provide for corporal punishment as a disciplinary measure, though they do not explicitly prohibit it.

2.9 *Sentence for crime (unlawful):* There is no provision for judicial corporal punishment in criminal law.

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 *CRC:* The Committee on the Rights of the Child has twice recommended prohibition of all corporal punishment in the home and other settings in Slovenia – in its concluding observations on the second state party report in 2004[[4]](#footnote-4) and on the third/fourth report in 2013.[[5]](#footnote-5)

3.2 *CAT:* In 2011, the Committee Against Torture recommended the adoption of legislation prohibiting corporal punishment of children in the home.[[6]](#footnote-6)

3.3 *ECSR:* The European Committee of Social Rights has concluded three times that the situation in Slovenia is not in conformity with the Revised European Social Charter because corporal punishment is not prohibited in the home – in 2003[[7]](#footnote-7), in 2005[[8]](#footnote-8) and again in 2012.[[9]](#footnote-9) The Committee is currently considering a complaint brought against Slovenia by the Association for the Protection of All Children (APPROACH) Ltd, under the collective complaints procedure.[[10]](#footnote-10) The complaint alleges that, in breach of the European Social Charter, there is no explicit and effective prohibition of all corporal punishment of children, in the family and other settings, and that Slovenia has failed to act with due diligence to eliminate such punishment in practice. The complaint was registered by the Committee in February 2013; it was declared admissible on 2 July 2013.

3.4 *UPR:* The Government accepted recommendations made during the Universal Periodic Review of Slovenia in 2010 to adopt the draft law prohibiting corporal punishment.[[11]](#footnote-11)

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. 26 June 2013, E/C.12/SVN/2, Second state party report, especially paras. 29, 30 and 135ff [↑](#footnote-ref-1)
2. 15 March 2010, A/HRC/14/15, Report of the working group, paras. 111(8) and 111(9) [↑](#footnote-ref-2)
3. Official Gazette, 82/2004 [↑](#footnote-ref-3)
4. 26 February 2004, CRC/C/15/Add.230, Concluding observations on second report, paras. 40 and 41 [↑](#footnote-ref-4)
5. 8 July 2013, CRC/C/SVN/CO/3-4, Concluding observations on third/fourth report, paras. 37 and 38 [↑](#footnote-ref-5)
6. 20 June 2011, CAT/C/SVN/CO/3, Concluding observations on third report, para. 15 [↑](#footnote-ref-6)
7. 1 October 2003, Conclusions 2003 Vol. 1, page 511 [↑](#footnote-ref-7)
8. March 2005, Conclusions 2005 [↑](#footnote-ref-8)
9. January 2012, Conclusions 2011 [↑](#footnote-ref-9)
10. Collective complaint No. 95/2013, *Association for the Protection of All Children (APPROACH) Ltd v Slovenia* [↑](#footnote-ref-10)
11. 15 March 2010, A/HRC/14/15, Report of the working group, paras. 111(8) and 111(9) [↑](#footnote-ref-11)