

PORTUGAL (fourth periodic report – CAT/C/67/Add.6)

Corporal punishment is lawful in the **home**. In April 2006 the Supreme Court ruled that slaps and spankings are “legal” and “acceptable”, and that failure to use these methods of punishment could even amount to “educational neglect”. Previously, in 1991, the Supreme Court had ruled that a simple slap, which caused no injury and no physical or mental suffering, is considered as “light corporal assault” and punishable under the Criminal Code. This ruling was confirmed in subsequent Supreme Court Decisions (21 January 1999 and 4 March 1999), and a Court of Appeal Decision (12 October 1999) refers to the absence of a “right” to use physical discipline in the Civil Code.

The lack of prohibition of corporal punishment in the home is the subject of a collective complaint brought against Portugal by the World Organisation Against Torture under the Collective Complaints procedure of the European Social Charter (OMCT vs Portugal Collective complaint No. 34/2006). The Committee declared the complaint admissible in June 2006. As at April 2007, Portugal is committed to introducing prohibition and the Criminal Code is under review.

Telephone interviews with 809 adults aged 18 years and over in April 2004, revealed that 83% believe it is acceptable for parents to smack their children, including one in six (16%) who believe it is always acceptable and a further two thirds (67%) who believe there are some circumstances in which it is acceptable.¹ Just over one in ten (13%) believe it is unacceptable in any circumstances.

Corporal punishment is prohibited in **schools** and in the **penal system**, but there is no explicit prohibition in relation to **alternative care settings**.

Following examination of the state party’s second report in 2001, the **Committee on the Rights of the Child** expressed concern at the lack of legislation prohibiting corporal punishment in the home, and recommended that the state party “adopt legislation prohibiting corporal punishment in the family and in any other contexts not covered by existing legislation” together with public information campaigns and mandatory reporting systems for professionals (CRC/C/15/Add.162, paras. 26 and 27). In 2005, the **European Committee of Social Rights** questioned the state party on corporal punishment in the home (September 2005, *Conclusions XVII-2*, vol. 2, p.695), as it had done in 2001 and 1996.

¹ Market & Opinion Research International, 2004, “Attitudes towards smacking children: Portugal”, Research conducted for the Association for the Protection of All Children