1 The human rights obligation to prohibit corporal punishment

1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

Albania recently achieved law reform to prohibit corporal punishment in all settings, complying in this respect with its obligations under international human rights law. The focus must now be on ensuring the law is implemented and corporal punishment is eliminated in practice. We hope the Human Rights Committee will:

- raise the issue of corporal punishment of children in its List of Issues for Albania, in particular welcoming the prohibition of all corporal punishment and asking what measures have been taken to ensure that the law is fully implemented, including in the home, and

- recommend to Albania, in its concluding observations on the state party’s second report, that the state party take measures to ensure full implementation of the legal prohibition of corporal punishment, including through appropriate public education and professional training, the promotion of positive, participatory and non-violent forms of education and childrearing, and ongoing monitoring of the use of corporal punishment in all settings.
2 The law prohibiting corporal punishment of children in Albania

2.1 Corporal punishment of children in Albania is unlawful in all settings, including the home.

2.2 Article 21 of the Law on the Protection of the Rights of the Child (2010) states: “The child shall be protected from any form of … (a) physical and psychological violence, (b) corporal punishment and degrading and humiliating treatment….“ Article 3(ç) defines “physical violence” as “every attempt to damage or actual physical damage, or injury to the child, including corporal punishment, which are not accidental” (official translation). Corporal punishment is defined in article 3(f): “Corporal punishment’ is any form of punishment resorting to the use of force aimed to cause pain or suffering, even in the slightest extent, by parents, siblings, grandparents, legal representative, relative or any other person legally responsible for the child. Corporal punishment includes such forms as: beating, torturing, violent shaking, burning, slapping, kicking, pinching, scratching, biting, scolding, forced action and use of substances to cause physical and mental discomfort.” In addition, article 26 of the Law states: “No child shall be subjected to torture, punishment, cruel, inhuman or degrading treatment.”

2.3 The 2010 Law, which came into force in May 2011, provides for implementation of the law through structures at central and local levels – at central level the National Council for Protection of Child Rights, the Minister Coordinating Action on Protection of Child Rights and the State Agency for the Protection of Child Rights, and at local level the Unit for the Rights of the Child at the Regional Council and the Children’s Protection Unit at municipality/commune level – to work with non-profit organisations in line with rules determined by the Council of Ministers (articles 32 to 39). Article 40 of the Law punishes by fines violations of the rights mentioned in articles 21 and 26 (and others), when they are not offences under criminal law. The Criminal Code, as amended in 2008 by Law No. 9859, punishes “physical or psychological abuse of the child by the person who is obliged to care for him/her” with imprisonment from three months to two years (article 124b).

2.4 There has reportedly been little progress in implementing the law to date, with relatively few Children’s Protection Units established and no awareness raising on the prohibition of corporal punishment.1

3 The prevalence and social acceptance of corporal punishment in Albania

3.1 Research undertaken prior to the achievement of law reform found corporal punishment to be widely used, with substantial public opinion in its favour.

3.2 A major analysis by UNICEF of data relating to 2005-2006 found that 52% of children aged 2-14 had experienced violent “discipline” (physical punishment and/or psychological aggression) in their homes, with 9% being severely punished (hit or slapped on the face, head or ears or being hit repeatedly with an implement).2 A study in 2006 involving 4,500 children, parents and teachers in eight districts found that corporal punishment took the following forms: pulling ears (experienced by 60.1% of children at least once at home within the last year, and 38.5% of children in school within the last year), pinching (55.7% at home, 36.9% at school), hitting with an object (53% at home, 51.8% at school), and smacking with an open hand on the

1 Children’s Human Rights Centre of Albania, in correspondence with the Global Initiative, July 2012
body (52.6% at home, 34.3% at school) and head (49.2% at home, 35.6% at school); in social care institutions children were kicked (78.9%), smacked in the head (68.4%), hit with an object (68.4%), punched on the body (66.7%), grabbed by the throat (35.2%), and punched in the head (25%).

3.3 In attitudinal research in 2009, 59% of parents of children in schools and kindergartens agreed that slapping a child or pulling their ear would not harm them: 51% believed that people slap children “for their own good”, 34% thought that if children were not slapped, they would be out of control and 29% agreed that “if you talk to a child and they don’t obey, you should slap them”. However, 79% agreed that corporal punishment should be banned completely. A survey of teachers found that 30% believed people slap children “for their own good”, 21% believed if children were not slapped they would be out of control and 11% agreed children must be slapped because they make mistakes; 21% agreed that “if you talk to a child and they don’t obey, you should slap them”; 78.4% believed corporal punishment should be banned completely.

4 Recommendations by human rights treaty monitoring bodies

4.1 In 2005, in addition to recommending prohibition of corporal punishment in all settings, the Committee on the Rights of the Child recommended that Albania undertake awareness raising campaigns and education programmes on non-violent forms of discipline and conduct research into the prevalence of corporal punishment in the family.

4.2 In 2012, the Committee Against Torture recommended that perpetrators of corporal punishment be held accountable and that measures be taken at all levels of government to ensure public awareness of the prohibition and harm of violence against children in all sectors.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
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4 Karaj, T. (2009), Parents’ Beliefs about Corporal Punishment of Children, Tirana: Save the Children in Albania
5 Karaj, T. (2009), Teachers’ Beliefs about Corporal Punishment of Children, Tirana: Save the Children in Albania
6 31 March 2005, CRC/C/15/Add.249, Concluding observations on initial report paras. 50 and 51
7 26 June 2012, CAT/C/ALB/CO/2, Concluding observations on second report, para. 14