

EU APPROACH V. THE CZECH REPUBLIC: INVISIBLE GAP IN CZECHS HUMAN RIGHTS' LEGISLATION AND ITS CONSEQUENCES IN IMPLEMENTING A LEGISLATION AGAINST DOMESTIC VIOLENCE

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To date, the Czech Republic is the one of only two countries in EU, where corporal punishment of children is still legally allowed. Together with Slovakia, the Czech Republic is not only behind the Nordic countries, where corporal punishment was banned in the last century, but also behind countries like Turkmenistan, which adopted the protective legislation in 2007. Corporal punishment is used as a common educational tool in 2/3 of Czech families¹. According to the collective [research](#) provided by the EU², children in countries with a ban on corporal punishment have less aggressive behavior, another [analysis from US](#)³ demonstrated that the number of child suicides decreases significantly and the crime rate decreases. Although child suicide statistics across the EU are led by Latvia, where physical punishments are banned, the Czech Republic regularly appears in the top third of the EU rankings and in comparison with EU, an amount of children suicides is rapidly rising.

What is in the core of Approach vs. the Czech Republic?

Nevertheless, it is not only a mistaken values' framework - Czech attitudes also have repercussions on an international level. Czech Republic is verifiably violating Article 17 of the [European Social Charter](#)⁴ ("Charter") and the EU already adapted solution: made an [Approach EU \(by Association for the Protection of All Children\) vs. Czech Republic](#)⁵ in 2015, which resulted in the recognition of the right to complain and the obligation of the Czech Republic to bring its national legislation into conformity with Article 17 of the Charter.

¹ LOM and Nielsen Admosphere agenture: Corporal punishments, 2018.

² duRivage N, Keyes K, Leray E, Pez O, Bitfoi A, Koç C, et al. (2015) Parental Use of Corporal Punishment in Europe: Intersection between Public Health and Policy. PLoS ONE 10(2): e0118059. <https://doi.org/10.1371/journal.pone.0118059>

³ Heilmann A, Mehay A, Watt RG, Kelly Y, Durrant JE, van Turnhout J, Gershoff ET. Physical punishment and child outcomes: a narrative review of prospective studies. Lancet. 2021 Jul 24;398(10297):355-364. doi: 10.1016/S0140-6736(21)00582-1. Epub 2021 Jun 28. PMID: 34197808; PMCID: PMC8612122.

⁴ Council of Europe: European social chart, 1993.

⁵ No. 96/2013 Association for the Protection of All Children (APPROACH) Ltd v. Czech Republic

On 31 January 2020, the ECSR considered a follow-up to the above decision of the Czech Republic, and the Czech Republic is considered guilty of insufficient action on the issue and failure to implement the prohibition of physical punishment for educational purposes. "In the light of the above decision and the conclusions of the ECtHR, the Government hereby submits that this report on the implementation of that decision. The report deals with the review of the decision at a national level and on the measures already taken and planned."⁶

In order to meet the EU requirements, the Czech Republic has developed the "Action Plan 2019-2022 for the Prevention of Domestic and Gender-Based Violence for 2019–2022", whose main objectives include "ensuring specialized services are accessible to persons threatened by domestic and gender-based violence and especially their children". In response to Czech approach, The European Council prepared a "[NATIONAL STRATEGY FOR THE PROTECTION OF CHILD RIGHTS FOR 2021-2029](#)".

The step of banning corporal punishment is also very important for compliance with the legislative protection of victims of domestic violence. Although the legislation for the protection of adult victims of domestic violence has progressive aspects (e.g., the institution of eviction of the abuser from the common dwelling with the victim is an exception in Europe), its implementation is problematic.

Violence is normalized in society through corporal punishment, which is transmitted to other areas of society (as shows [research](#) of the organization "End Corporal Punishments" in cooperation with "End Violence Against Children" from 2021). Simultaneously, an ongoing societal stigma leads to [the belief](#) that only those with visible signs of physical assault on their bodies are victims.

⁶ Social rights: Monitoring – Profil of Czech Republic [online]. Council of Europe, (://www.coe.int/en/web/european-social-charter/czech-republic.), [cit. 2023-01- 22].

Nevertheless, in most cases, it is a combination of psychological, sexual, and social coercion, an attempt to make the victim totally dependent on the perpetrator.

(Non)ratification of the Istanbul Convention

Together with the non-ratification of the 'Istanbul Convention', this is a blind spot in the human rights agenda. "The 'Istanbul Convention' (officially known as the ['Convention on Preventing and Combating Violence against Women and Domestic Violence'](#)⁷) is an international document issued by the Council of Europe focused on combating and preventing violence against women and domestic violence. However, it has not yet been ratified in the Czech Republic, along with Hungary, Slovakia and Bulgaria, on the grounds that the document contains "the introduction of elements of gender ideology into school education", while 36 European states, including Romania and Georgia, have ratified the Convention on Preventing and Combating Violence against Women and Domestic Violence.

The paradox is that the Istanbul Convention - officially called the "Council of Europe Convention on preventing and combating violence against women and domestic violence" - has not been ratified. Whether rooted in petty grievance with the name ("Istanbul"), general (national) conservative sentiments or general growing populism of parties and xenophobic sentiment in society is difficult to say. However, with the political affiliation aside, it will affect the most vulnerable part of society - children.

A domestic violence and the Covid pandemic: social stigmatization of victims in full swing

The number of victims of domestic violence has increased rapidly since March 2020, with [research](#) by the Faculty of Humanities of the Charles University and the

⁷ Council of Europe: Convention on preventing and combating violence against women and domestic violence, 2016.

Institute of Sociology of the CAS⁸ reporting a 30-40% increase in new cases. The latest estimates from March 2021 suggest that this may be as high as an alarming 50%. The COVID-19 pandemic has had a negative impact on people's mental health and has highlighted more frequent tendencies towards aggression. Often this is an exacerbation of pre-existing partner problems and an escalation of long-term relationship tensions. At the same time, in the COVID-19 pandemic it was easier for abusers to control and manipulate the victims and the acts consisting of manipulation and control performed by the abuser lessened the possibility of detection of violence by the victim's social circle even more. The result of the aforementioned researches and studies done by academic organizations has highlighted the weaknesses of the state apparatus and the system it produces.

The rise in domestic violence is not just a Czech phenomenon, as cases have skyrocketed across all Europe - in some regions by more than 50%⁹. On the International Day Against Violence Against Women in November 2021, a series of press statements were issued by Europe's leaders the UNO, which published a [report](#)¹⁰ on the impact of the pandemic on domestic violence, a minute's silence was held for victims in Spain, Pope Francis condemned any form of violence against women, and the International Federation of Football Associations (FIFA) launched an awareness-raising campaign. We can therefore say that this is an issue that resonates throughout the European society, but Czech legislation has not had public support to do anything in an attempt to face the problem in preventive wider context.

⁸ Moore, Nyklová: NÁSILÍ NA ŽENÁCH V SOUVISLOSTI S COVID-19 (Výzkumná zpráva), Fakulta humanitních studií UK a Sociologický Institut AV, 2021, Praha.

⁹ UN Women, UNFPA and Quilt.ai. 2021. "COVID-19 and violence against women: The evidence behind the talk. Insights from big data analysis in Asian countries." <https://data.unwomen.org/publications/covid-19-andviolence-against-women-evidence-behind-talk>, , [cit. 2023-01- 22].

¹⁰UN Women, UNFPA and Quilt.ai. 2021. "COVID-19 and violence against women: The evidence behind the talk. Insights from big data analysis in Asian countries.(" <https://data.unwomen.org/publications/covid-19-andviolence-against-women-evidence-behind-talk>) , [cit. 2023-01- 22].

Although the legislation support for victims of domestic violence is slowly but surely emerging within the European Union, it is still a long way off in the Czech Republic. Because of the rooted stigmas in the societal context, it is politically 'disadvantageous' to advocate for 'restriction of physical punishment'. The change must start with the system that sets not only practical but also normative and value frameworks.

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