



Child Abuse and Neglect in Poland

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CHILD ABUSE AND NEGLECT IN POLAND

Introduction

The problems of child abuse and neglect have been extremely complicated and neglected for years in Poland. Traditionally, Polish parents are permitted to use corporal punishment towards their children as a means of disciplining them. When parents stay within certain, unspecified, reasonable limits, they are not subject to punishment.¹ Unofficially, two thirds of Polish parents admit that they use corporal punishment to discipline their children. An additional complication is the fact that the communist authorities pretended that such problems as child abuse did not exist in an enlightened communist society. It was a *taboo*, and the authorities would not collect any statistics or publish any data or reports on the topic.²

This state of affairs existed until the recent transformation of the Polish political system into a democratic one and the subsequent abolishment of state censorship. Apparently, the situation in this area is quite grim. Neither the police nor the public prosecutor's office have any current statistics regarding child abuse and other crimes against children.

International law standards

On November 20, 1989, the United Nations Convention on the Right of the Child was adopted by the General Assembly. It was opened for signatures and ratification on January 26, 1990, and entered into force on September 2, 1990.³ The Republic of Poland ratified the Convention on June 7, 1991 (with some reservations),⁴ and it came into force in Poland on July 7, 1991.⁵

¹ See, R. Sobiech, *The Social Problem of Child Abuse in Poland: the Conflict between Privacy and Control* 169, 175 in M. Maclean & J. Kurczewski, eds., *FAMILIES, POLITICS AND THE LAW* (Oxford, Clarendon Press, 1994) (*Appendix I*).

² The POLISH STATISTICAL YEARBOOK does not contain a special category *child abuse* but lists those crimes under general PENAL CODE Chapter headings, i.e., Crimes Against Liberty and Decency (Chapters XXII & XXIII, PENAL CODE) and Crimes Against the Family, Guardianship, and the Youth (Chapter XXV, PENAL CODE). See, STATISTICAL YEARBOOK, Table I (127), at 86 (1993).

³ Information on the Convention can be found on the UNICEF home page at the following address: <http://www.unicef.org/crc/>. Other international law treaties can be searched at: <http://law.house.gov> and <http://www.un.org/Depts/Treaty/reg.htm>. See *Appendix II*.

⁴ DZIENNIK USTAW (Polish official gazette, Dz.U.), No. 16, item 71 (1991).

⁵ Dz.U. No. 120, item 527 (1991).

Family law requirements

The FAMILY CODE⁶ deals with the content and limits of parental authority. Best interests of the child and social interests require that parental authority be subject to the judicial oversight performed by family courts. The FAMILY CODE provides three types of intervention by the courts.

First, when the best interests of a child are endangered, the family court may undertake appropriate decisions.⁷ The CODE lists some examples of such decisions and provides that family court may, in particular:

- order the parents and a minor to perform a particular conduct;
- define what actions cannot be undertaken by parents without the court's permission;
- establish continuous social control over parental authority;
- direct a minor to a particular organization or institution dealing with vocational training or to another institution performing a partial child care; and
- place a minor in a foster family or foster care institution.⁸

Second, the family court may temporarily suspend parental authority.⁹ And third, the family court may deprive one or both parents of parental authority in the situation of a permanent inability to perform parental authority or abuse or neglect of parental authority.¹⁰ When the best interests of a child so require, the family court may prevent the parents deprived of parental authority from personal contact with a child or provide for limited contacts only.¹¹ Suspension or deprivation of parental authority may also be declared by the court issuing a decree on divorce or annulment of a marriage.¹²

⁶ Ustawa z dnia 25 lutego 1964 r. Kodeks rodzinny i opiekunczy (The Law of February 25, 1964 FAMILY AND GUARDIANSHIP CODE) Dz.U. No. 9, item 59 (1964); amended: Dz.U. No. 45, item 234 (1975); Dz.U. No. 36, item 180 (1986); Dz.U. No. 34, item 198 (1990); Dz.U. No. 83, item 417 (1995), arts. 92-113.

⁷ FAMILY CODE, art. 109, § 1.

⁸ *Id.* art. 109, § 2.

⁹ *Id.* art. 110.

¹⁰ *Id.* art. 112.

¹¹ *Id.* art. 113, in connection with art. 570 of the CODE OF CIVIL PROCEDURE.

¹² FAMILY CODE, art. 112.

Procedures in family and guardianship matters

According to the CODE OF CIVIL PROCEDURE,¹³ cases relating to the relationship between parents and children belong to the jurisdiction of family courts. According to the Law on Courts of General Jurisdiction,¹⁴ family courts are divisions of district courts (courts of the first instance) created by the Minister of Justice. In certain cases, the law provides for participation of the prosecutor, guardian, or other person or organization, in order to protect the interests of a child.

Criminal law

The new CRIMINAL CODE OF MARCH 20, 1997, adopted by Parliament on June 6, 1997,¹⁵ recognizes several crimes against children. Offenses involving child abuse are listed in Chapter XXV "Offenses Against Sexual Freedom and Decency"¹⁶ and Chapter XXVI "Offenses Against the Family and Guardianship."¹⁷

The CRIMINAL CODE provides that whoever commits a lascivious act in relation to a person under fifteen years of age shall be subject to the penalty from six months to eight years' imprisonment.¹⁸ Incest is punishable by three months to five years' imprisonment.¹⁹ Child abuse is punished by three months to five years' imprisonment. Aggravated forms of such crimes are punished more severely.²⁰ Providing a minor with alcohol or occasion to consume it constitutes an offense punished by a fine, limitation of liberty, or imprisonment up to two years.²¹

Recent incentives intended to prevent and eliminate child abuse

The situation of Polish children is not very good and many initiatives are directed at its improvement. In order to improve children's welfare and to fulfill international obligations, on April 29, 1997, the Office of the Government Representative for Children's Affairs was created.²² The

¹³ Ustawa z dnia 17 listopada 1974 r. Kodeks postępowania cywilnego (The Law of Nov. 17, 1997, CODE OF CIVIL PROCEDURE) Dz.U. No. 43, item 296 (1964), as amended.

¹⁴ Ustawa z dnia 20 czerwca 1985 r. Prawo o ustroju sądów powszechnych (The Law of June 20, 1985, on Courts of General Jurisdiction), consolidated text: Dz.U. No. 7, item 355 (1994), as amended, art. 18 in connection with arts. 1 & 2.

¹⁵ The text of the CODE is provided as published in Parliamentary Print No. 1274/RM.

¹⁶ CRIMINAL CODE, arts. 201-209.

¹⁷ *Id.* arts. 210-215.

¹⁸ *Id.* art. 204.

¹⁹ *Id.* art. 205.

²⁰ *Id.* art. 211.

²¹ *Id.* art. 212.

²² Rozporządzenie Rady Ministrów z dnia 29 kwietnia 1997 r. w sprawie Pełnomocnika Rządu do Spraw Dzieci (The

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Representative's duty is to coordinate the full implementation of children's rights and the improvement of their quality of life.²³

Considering the gravity of the situation, as another step to stop child abuse, several Deputies filed a Draft of a Resolution on Preparing the Government Program on Prevention and Elimination of the Sexual Abuse of the Minors was filed by several Deputies in Parliament (*Sejm*).²⁴ On May 9, 1997, a group of Deputies filed a Bill on Children's Ombudsman in the Parliament.²⁵ This bill is presently under consideration. However, the elections for a new Parliament are scheduled for September 1997. It is very unlikely that the bill will become the law in its present form.

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Decree of the Council of Ministers of Apr. 29, 1997 on the Creation of the Office of the Government Representative for Children's Affairs), Dz.U. No. 47, item 302 (1997).

²³ *Id.* § 2.

²⁴ *Sejm* Print No. 2251, Mar. 25, 1997.

²⁵ Parliamentary Print No. 2456.