



Global Initiative to
**End All Corporal Punishment
of Children**

AUSTRIA – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Corporal punishment is prohibited in all settings, including the home.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is prohibited in the home. Article 146a of the General Civil Code (1989) states: “The minor child must follow the parents’ orders. In their orders and in the implementation thereof, parents must consider the age, development and personality of the child; the use of force and infliction of physical or psychological suffering are not permitted.” The defence of “reasonable” punishment was removed from the law on assault in 1977.

Schools

Corporal punishment was banned in all schools in 1974. Article 47.3 of the School Education Act states: “In order to maintain discipline in schools, teachers may not have recourse to means that would injure the human dignity of pupils, such as corporal punishment or insulting remarks or collective punishments.”

Penal system

Corporal punishment was abolished as a **sentence for crime** by 1867 and is not available as a sanction under the Penal Code, the Penal Execution Act, the Code of Criminal Procedure Reform Act (2004) or the Juvenile Court Act (1988).

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions, but we have yet to identify prohibiting legislation.

Alternative care

Corporal punishment is prohibited in alternative care settings. The prohibition in article 146a of the General Civil Code (see above) applies to all persons with parental authority over children.

Prevalence research

A study carried out in 2007 examined five European countries: Sweden, Austria, Germany, France and Spain. Five thousand parents (1,000 in each nation) were interviewed about their use of and attitude towards corporal punishment, their own experiences of violence and their knowledge and beliefs about the law. One in two Austrian parents (50%) said they had “mildly” slapped their child on the face and 62% had slapped their child on the bottom; 18% had given their child a “resounding” slap on the face and 4.4% had beaten their child with an object. Thirty per cent of Austrian parents never used corporal punishment; 89% agreed that “one should try to use as little corporal punishment as possible” and 86% agreed that “non-violent child-rearing is the ideal”. (Bussmann, K. D. (2009), *The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison*, Martin-Luther-Universität Halle-Wittenberg)

For research published more than ten years ago see the research pages at www.endcorporalpunishment.org.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(31 March 2005, CRC/C/15/Add.251, Concluding observations on second report, paras. 39 and 40)

“The Committee appreciates that corporal punishment has been prohibited by law in all settings, including in the family, the penal system and institutions of childcare. However, the Committee is concerned that corporal punishment may still be practised in the family.

“The Committee recommends that the State party continue its public education and awareness raising campaigns on non-violent forms of discipline and child-rearing. The Committee also recommends that the State party undertake studies on the prevalence of violence in children’s experiences and the negative effects of corporal punishment on the development of children.”

Committee on the Rights of the Child

(7 May 1999, CRC/C/15/Add.98, Concluding observations on initial report, para.3)

“The Committee commends the State party on its prohibition of all forms of corporal punishment through its 1989 ban on ‘any type of physical or psychological abuse of children as means of education’ (CRC/C/11/Add.14, para. 256). It also notes additional efforts to increase the protection of children against abuse, including the adoption of a comprehensive list of measures against violence in family and society and of an Action Plan against Child Abuse and against Child Pornography in the Internet....”

European Committee of Social Rights

(2001, Conclusions XV-2, page 67)

“The Act No.162/1989 on Parents and Children (Amendment) prohibits the use of force and the infliction of physical and mental suffering on children. Section 146a of the General Civil Code states, ‘the application of violence and the infliction of physical or mental harm are unlawful’.”

Universal Periodic Review

Austria was examined in the first cycle of the Universal Periodic Review process in 2011. No recommendations were made concerning corporal punishment of children. Examination in the second cycle is scheduled for 2015.

Report prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
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