



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

## **ESTONIA – COUNTRY REPORT**

### **Summary of necessary legal reform to achieve full prohibition**

#### ***Settings where explicit prohibition is necessary***

home, schools, penal institutions, alternative care settings

#### ***Is there a legal defence for corporal punishment which must be repealed?***

No – There is no confirmation in legislation of a “right” of parents to inflict corporal punishment on their children, but laws against violence and abuse are not interpreted as prohibiting all corporal punishment. The near universal acceptance of corporal punishment in childrearing necessitates a clear statement in law that all forms of corporal punishment and other cruel and degrading treatment are unacceptable, however light, whatever the relationship between the child and adult, and whatever the setting.

#### ***Other legislative measures necessary***

*Schools* – Explicit prohibition of corporal punishment should be enacted in legislation applicable to all education settings, public and private.

*Penal institutions* – Explicit prohibition of corporal punishment should be enacted in legislation applicable to all institutions accommodating children in conflict with the law.

*Alternative care settings* – Explicit prohibition of corporal punishment should be enacted in relation to all alternative care settings, including public and private day care, residential institutions, foster care, etc.

# DETAILED COUNTRY REPORT

## Legality of corporal punishment

### Home

Corporal punishment is lawful in the home. There is no legal defence for its use enshrined in law, but it is widely socially and legally accepted. Article 31(1) of the Child Protection Act (1992) prohibits only corporal punishment which is considered to cause harm: “Every child shall at all times be treated as an individual with consideration for his or her character, age and sex. It is prohibited to humiliate, frighten or punish the child in any way which abuses the child, causes bodily harm or otherwise endangers his or her mental or physical health.” Provisions against violence and abuse in the Child Protection Act, the Family Law (1994), the Code of Administrative Offences and the Penal Code (2002) are not interpreted as prohibiting all corporal punishment in childrearing.

The Government is committed to prohibition. During the Universal Periodic Review of Estonia in 2011, the Government stated that the Ministry of Social Affairs was in the process of amending the Child Protection Act to explicitly prohibit corporal punishment.<sup>1</sup>

### Schools

There is no explicit prohibition of corporal punishment in schools, but it is considered unlawful under article 40.1 of the Child Protection Act, which states “Instruction shall not involve physical violence or mental abuse”, and the Basic Schools and Upper Secondary Schools Act (1993) which obligates the school to guarantee the student’s mental and physical security and the protection of his/her health.

### Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted punishment under the Penal Code, the Juvenile Sanctions Act (1998), the Imprisonment Act (2000), and the Child Protection Act.

Corporal punishment is considered unlawful as a **disciplinary measure** in penal institutions, but it is not explicitly prohibited. Article 37 of the Child Protection Act states: “(1) A child whose liberty is restricted or who is detained shall be treated in a manner appropriate for a child, without harm to his or her dignity.” Other provisions protecting detainees’ dignity are found in the Police Act (1991, article 4), the Penal Code (article 324), and the Code of Criminal Procedure (2004, article 9(3)).

### Alternative care

There is no explicit prohibition of corporal punishment in alternative care settings.

## Prevalence research

None identified in the last ten years.

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<sup>1</sup> 28 March 2011, A/HRC/17/17, *Report of the Working Group on the Universal Periodic Review: Estonia*, para. 73

## **Recommendations by human rights treaty bodies**

### *Committee on the Rights of the Child*

(17 March 2003, CRC/C/15/Add.196, Concluding observations on initial report, paras. 30 and 31)

“...The Committee also notes that all violence against children is prohibited. However, it remains concerned that there is still insufficient information on and awareness of the ill-treatment and abuse of children within the family, in schools and in institutions, as well as of domestic violence and its impact on children. Moreover, it is concerned that current efforts in this regard may have limited impact because of a lack of a comprehensive strategy and the inadequate allocation of resources.

“The Committee recommends that the State party:

b) explicitly prohibit corporal punishment and take all measures to prevent all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, in schools and in institutions;

c) continue to carry out public education campaigns on the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment....

j) take into account the Committee’s recommendations adopted at its day of general discussion on ‘Violence against children within the family and in schools’ (CRC/C/111).”

### *European Committee of Social Rights*

(March 2005, Conclusions 2005)

“The Constitution establishes that no one shall be subjected to torture or to cruel or degrading treatment or punishment. The Child Protection Act establishes that it is prohibited to humiliate, frighten or punish a child in any way which abuses him or her, causes bodily harm or otherwise endangers his or her mental or physical health.

“Furthermore, Section 40 of the Act, under the heading Education, stipulates that instruction may not involve physical violence or mental abuse. The Committee asks that the next report confirm that this entails that corporal punishment is indeed prohibited in all schools. It asks that the next report provide information on the prohibition of corporal punishment in institutions.

“The Committee recalls that Article 17 requires a prohibition in legislation against any form of violence against children, whether at school, in other institutions, in their home or elsewhere. It considers that this prohibition must be combined with adequate sanctions in penal or civil law. Therefore, it considers that since there is no prohibition in legislation of corporal punishment in the home, the situation in Estonia cannot be considered to be in conformity with Article 17 of the Charter.

...

“The Committee concludes that the situation in Estonia is not in conformity with Article 17.1 of the Revised Charter on the ground that corporal punishment of children is not prohibited within the family.”

## **Universal Periodic Review**

Estonia was examined in the first cycle of the Universal Periodic Review in 2011. The Government accepted the recommendation to prohibit corporal punishment of children. Examination in the second cycle is scheduled for 2016.

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*  
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