



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

## **GERMANY – 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. A 2000 amendment to the Civil Code states (article 1631): “Children have the right to a non-violent upbringing. Corporal punishment, psychological injuries and other humiliating measures are prohibited.” German childcare law was amended to place a duty on authorities to “promote ways in which families can resolve conflict without resort to force”.

### Schools

Corporal punishment has been prohibited in schools since the 1970s, but we have no details of current prohibiting legislation other than the Civil Code (see above).

### Penal system

Corporal punishment is unlawful as a **sentence for crime** under the Juvenile Courts Act, the Criminal Code and the Criminal Procedure Code.

Corporal punishment is not a permitted **disciplinary measure** in penal institutions under the national administrative regulations on juvenile punishment, the Act on the Execution of Sentences, the Juvenile Detention Execution Order, the Act on the Execution of Remand Detention, the Juvenile Courts Act and the Youth Prison Act.

### Alternative care

Corporal punishment is unlawful in alternative care settings under the Civil Code (see above).

## 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. Forty-three per cent of German parents said they had “mildly” slapped their child on the face and 68% had slapped their child on the bottom; 13% had given their child a “resounding” slap on the face and 5.2% had beaten their child with an object. Twenty-eight per cent of German parents never used corporal punishment; 88% agreed that “one should try to use as little corporal punishment as possible” and 87% 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)

Government research was undertaken in 2001 and published in 2003 into the reception and initial impact of the prohibition of corporal punishment in childrearing in November 2000. Interviews were held nationwide with 3,000 parents of children below 18 years and 2,000 young people aged 12-18 years. Surveys were also administered to 1,074 government and nongovernmental institutions, with 30 representatives of relevant institutions interviewed in depth. The research found that around 28% of parents rarely resorted to disciplinary sanctions and “as far as possible” did not use corporal punishment; 54% frequently used “minor” but never “serious” corporal punishment (such as beatings and spankings); 17% frequently used “serious” corporal punishment, including beatings and

spankings, as well as psychological punishments. Boys were more commonly hit than girls, and more commonly experienced “serious” corporal punishment. Based on parents’ reports, in comparison with previous studies the report notes a substantial decrease in corporal punishment at all degrees of severity. For example, in 1996 a third of parents (33.2%) reported they had hit their child’s bottom, compared with just over a quarter (26.4%) in 2001. (Federal Ministry of Justice & Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2003), *Violence in upbringing: An assessment after the introduction of the right to a non-violent upbringing*)

A Government-commissioned follow up survey in 2005 involved 1,000 parents of 12-18 year olds, 1,000 adolescents, and 350 staff of counselling and welfare services. Knowledge of the law was found to have increased among parents since 2001 but had decreased among adolescents exposed to violent childrearing. (Bussmann, K.-D. (2007), reported in Bussmann, K.-D. (2011), “Germany: Background and Legal Consequences of the Right to be Raised Without Violence”, in Durrant, J. E. & Smith, a. B. (eds) (2011), *Global Pathways to Abolishing Physical Punishment: Realizing Children’s Rights*, New York: Routledge, pp. 134-145)

For research published more than ten years ago, see the research pages at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org).

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

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

(26 February 2004, CRC/C/15/Add.226, Concluding observations on second report, para. 40)

“The Committee welcomes the introduction in 2000 of the law to prohibit violence in the upbringing of children, which prohibits corporal punishment within the family, and of various other legal instruments to fight against domestic violence (e.g. 2002 Act for Further Improving Children’s Rights) but remains concerned that there is a lack of comprehensive data and information on the impact of the new legislation....”

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

(27 November 1995, CRC/C/15/Add.43, Concluding observations on initial report, para. 30)

“...The Committee encourages the State party to pursue its efforts towards changing attitudes with a view to eradicating all forms of violence against children, including the use of corporal punishment within the family. In this regard, it further encourages that, in the ongoing process of reform of the Civil Code, consideration be given to the incorporation of an absolute ban on corporal punishment.”

### *Committee Against Torture*

([November 2011, Advance Unedited Version, Concluding observations on fifth report, para. 32)

“While taking note that corporal punishment is prohibited in all circumstances in the German legal system (section 163 of the Code of Civil Law), the Committee expresses concern at the absence of information about the efforts to provide appropriate and ongoing public education and professional training on the prohibition of corporal punishment in all settings (art. 16).

The Committee recommends that the State party actively promote positive, participatory and non-violent forms of education and childrearing as an alternative to corporal punishment.”

### *European Committee of Social Rights*

(2005, Conclusions XVII-2, vol. 1, pages 282-283)

“The Committee notes that a number of provisions in the German Penal Code ensure the prohibition of personal injury. Article 223 et seq. of the German Penal Code stipulates that it is a punishable offence to physically maltreat a person and to endanger a person’s health. This prohibition applies regardless of the place of the offence. The Committee notes from another source that the law to prohibit violence in the upbringing of children of 2 November 2000 grants children the right to an upbringing free of violence and prohibits all forms of violence against children, including the application of physical punishment for the purposes of upbringing.”

*European Committee of Social Rights*

(1 June 2001, Addendum to Conclusions XV-2, pages 59-61)

“The Committee wishes to know whether legislation prohibits the corporal punishment of children in institutions, in schools, in the home and elsewhere....”

## **Universal Periodic Review**

Germany was examined in the first cycle of the Universal Periodic Review in 2009. No recommendation was made concerning corporal punishment (prohibition was achieved in all settings in 2000). Examination in the second cycle is scheduled for 2013.

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*  
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*December 2011*