



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

## **LITHUANIA – COUNTRY REPORT**

Child population: 629,000 (UNICEF, 2009)

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#### ***Is there a legal defence for corporal punishment which must be repealed?***

Yes – Article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child (1996, amended 2002) states that “parents and other legal representatives of the child may appropriately, according to their judgment, discipline the child”. The prohibition of discipline involving “physical and mental torture, other cruel behaviour and the humiliation of the child’s honour and dignity” in the same article is not interpreted as prohibiting all corporal punishment. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in legislation that no corporal punishment is acceptable. Article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child should be repealed and explicit prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

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

*Schools* – Explicit prohibition of corporal punishment in all education settings, public and private, is necessary.

*Penal institutions* – Explicit prohibition should be enacted in relation to all institutions accommodating children in conflict with the law.

*Alternative care settings* – Explicit prohibition needs to be enacted in legislation that is applicable to all alternative care settings, including public and private day care, residential care, foster care, etc, in addition to repeal of article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child (see above).

# DETAILED COUNTRY REPORT

## Legality of corporal punishment

### Home

Corporal punishment is lawful in the home. Article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child (1996) states: “Parents and other legal representatives of the child may appropriately, according to their judgment, discipline the child, for avoiding to carry out his duties and for disciplinary infractions, with the exception of physical and mental torture, other cruel behaviour and the humiliation of the child’s honour and dignity.” Provisions against violence and abuse in this Law and in the Criminal Code (2000), the Constitution (1992), the Civil Code (2000), and the Code of Administrative Offences of the Republic of Lithuania (2002) are not interpreted as prohibiting all corporal punishment in childrearing.

Under examination by the Committee on the Rights of the Child in 2006, the Government stated that legislation was being drafted to prohibit corporal punishment (CRC/C/SR.1103, Summary record, para. 11). In the same year, the Ministry of Social Security and Labour commissioned research by the Institute of Law which concluded that prohibition required amendments to the Civil Code and the Law on the Fundamentals of the Rights of the Child, rather than a separate law. In March 2010, a bill which would have explicitly prohibited all corporal punishment of children by amending article 49 of the Law on the Fundamentals of Protection of the Rights of the Child was rejected by parliament. A new bill was drafted in May 2010 and as at December 2010 was under consideration by parliament, but we have yet to confirm that it would explicitly prohibit all corporal punishment by parents. The Government accepted the recommendation to prohibit corporal punishment in the home made during the Universal Periodic Review of Lithuania in 2011 (A/HRC/19/15, Report of the Working Group, para. 88(37)).

### Schools

Corporal punishment is considered unlawful in schools, but there is no explicit prohibition. Article 25 of the Law on Education (1991) states that “parents, guardians, and teachers who do not carry out their responsibilities, or who cause physical, psychological, or moral harm to their pupils, shall be accountable in accordance with the procedures established by law”. Article 49.2 of the Law on the Fundamentals of Protection of the Rights of the Child states: “Disciplinary and educative enforcement measures: criticism, reprimand, severe reprimand, appropriate evaluation of behaviour and other enforcement means, established by laws, may be applied to a child for violations of internal order regulations of teaching and educative (care) institutions.”

The bill rejected by parliament in March 2010 (see above) would have explicitly prohibited corporal punishment in schools. We do not know if explicit prohibition is included in the revised bill under consideration in December 2010.

### Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted punishment under the Criminal Code (article 90), the Law on the Fundamentals of Protection of the Rights of the Child (article 49.3), the Criminal Code, the Code of Criminal Procedure (2002) and the Code of Serving Punishments (2002).

Corporal punishment is considered unlawful as a **disciplinary measure** in penal institutions, but there is no explicit prohibition in law.

## Alternative care

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

## Prevalence research

Thirty-eight per cent of respondents to a 2009 survey of 500 15-74 year olds believed that corporal punishment should never be used, 56% said that corporal punishment “should not be used in general but in certain situations it is justifiable” and 5% felt that corporal punishment was acceptable “if the parent believes that it will be effective”; 29% of respondents in 2009 believed that corporal punishment was experienced by more than 65% of children in Lithuania. (Children Support Centre (2009), *Attitude towards physical punishment of children*, Part of the Childhood Without Abuse project, which includes studies carried out in Bulgaria, Lithuania, Latvia, Macedonia, Moldova, Poland, and Ukraine in 2005 and 2009)

A 2009 survey of 123 teachers in primary schools in Vilnius found that 64% believed that corporal punishment is humiliating for the child and 59% believed that it meant that “the parents are not good at rearing children”; 15% of respondents felt that the use of “spanking” as a punishment would justify intervention by a third party. In an identical survey of a similar sample in 2005, 13% believed this. On average, respondents in 2009 estimated that 42% of children in Lithuania experience spanking as punishment, compared to an average estimate of 58% in 2005. (Children Support Centre & Nobody’s Children Foundation (2009), *Vilnius teachers’ attitudes toward child abuse*, Part of the Childhood Without Abuse project, which includes studies carried out in Bulgaria, Lithuania, Latvia, Macedonia, Moldova, Poland, and Ukraine in 2005 and 2009)

In 2008, a survey of 1,143 children aged 10-15 found that almost half (48%) had experienced corporal punishment and 5% reported being constantly physically punished. A quarter of children (24%) reported being physically punished for talking back or lying to adults, 20% for smoking or drinking alcohol, and 16% for disobedience or non-compliance. Only 29% of children believed that corporal punishment should never be used. (Save the Children (2008), *Children’s interview on relations in their families*. Reported in Kromelyte, I. (2011), “Lithuania: Changing a Culture of Violence Towards Children”, in Durrant, J. E. & Smith, A. B. (eds) (2011), *Global Pathways to Abolishing Physical Punishment: Realizing Children’s Rights*, New York: Routledge, pp.146-153)

## Recommendations by human rights treaty bodies

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

(17 March 2006, CRC/C/LTU/CO/2, Concluding observations on second report, paras. 8, 37 and 38)

“While welcoming measures taken to bring national legislation into conformity with the Convention, notably the Strategy of State Policy on Child Welfare and its implementation plan for 2005-2012 ..., the Committee notes that the national legislation in some areas, inter alia, protection from violence, corporal punishment and physical and psychological recovery and reintegration of the child victim, has still not been brought into full conformity with the Convention.

“While welcoming the commitment from the State party during the dialogue to prohibit corporal punishment in the family, the Committee remains concerned at the continued use of corporal punishment, in particular within the family, due to the generally tolerant attitude towards this practice.

“The Committee recommends that the State party:

- a) explicitly prohibit corporal punishment in the family and implement existing prohibitions;
- b) conduct a comprehensive study to assess the causes, nature and extent of corporal punishment as well as an evaluation of the impact of measures undertaken so far by the State party to reduce and eliminate corporal punishment; and

c) develop measures to raise awareness on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of childrearing and education.”

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

(21 February 2001, CRC/C/15/Add.146, Concluding observations on initial report, paras. 25 and 26)

“The Committee expresses its concern at the widespread use of corporal punishment, in particular within the family and in institutions, due to the generally tolerant attitude towards this practice. Further, it notes the lack of data and information available on this topic.

“In light of articles 19, 28(2) and 37 of the Convention, the Committee recommends that the State party adopt appropriate legislative measures to explicitly prohibit the use of any form of corporal punishment within the family. It also encourages the State party to develop measures to raise awareness on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice. The State party should promote alternative forms of discipline in families, schools and other institutions, administered in a manner consistent with the child’s dignity and in conformity with the Convention. The Committee also recommends that the ban on corporal punishments in schools and other institutions be enforced.”

#### *European Committee of Social Rights*

(March 2005, Conclusions 2005)

“The Committee notes that the Criminal Code, which was applicable until 1 May 2003, envisaged penal liability for violence against minors. The Committee notes that according to the Act on Fundamentals of Protection of the Rights of the Child, a child can be taken away from the parents in case of abuse or violence of the child. The Committee asks that the next report clarify whether corporal punishment is prohibited in schools and institutions.

“From another source, the Committee notes that corporal punishment within the family is not prohibited and it further notes that the UN Committee on the Rights of the Child has recommended that the Lithuanian Government adopt legislation to explicitly prohibit all forms of corporal punishment of children within the family. The Committee recalls that Article 17 of the Revised Charter 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 provided for in legislation and combined with adequate sanctions in penal or civil law. Therefore, it considers that since there is no prohibition in legislation of corporal punishment within the family, the situation in Lithuania is not in conformity with Article 17 of the Revised Charter.

...

“The Committee concludes that the situation in Lithuania 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**

Lithuania was examined in the first cycle of the Universal Periodic Review in 2011. The Government accepted the recommendation to prohibit corporal punishment in the home (A/HRC/19/15, Report of the Working Group, para. 88(37)). Examination in the second cycle is scheduled for 2016.

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