



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

## **MONTENEGRO – COUNTRY REPORT**

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

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

home, ?penal institutions, alternative care settings

#### ***Is there a legal defence for corporal punishment which must be repealed?***

No – There appears to be no confirmation in legislation of a right of parents and others with parental authority to administer physical punishment, but legal provisions against violence are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, however “light”, is prohibited.

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

*?Penal institutions* – Explicit prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

*Alternative care* – Explicit prohibition should be enacted in legislation applicable 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 provisions against violence and abuse in the Criminal Code (2004), the Family Act (2007), the Charter on Human and Minority Rights and Civil Liberties (2003) and the Law on Family Violence Protection (2010) are not interpreted as prohibiting all corporal punishment in childrearing.

In 2008, the Deputy Minister of Justice Mr Lukas Redziniak signed the Council of Europe petition against all corporal punishment of children. To our knowledge there have been no moves towards law reform to achieve prohibition.

### Schools

Corporal punishment is prohibited in schools in the General Law on Education (article 111). The Law on Primary Education (article 66) and the Law on High School (article 49) do not include corporal punishment among permitted disciplinary measures.

### Penal system

Corporal punishment is unlawful as a **sentence for crime** under the Criminal Code and the Law on Juvenile Perpetrators of Criminal Acts and on Criminal Legal Protection of Minors, which make no provision for judicial corporal punishment.

Corporal punishment is considered unlawful as a **disciplinary measure** in penal institution, but we have not identified an explicit prohibition in law.

### Alternative care

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

## Prevalence research

According to statistics from UNICEF on violence in the family, 61% of children aged 2-14 experienced physical punishment and/or psychological aggression in 2005-2006: 35% experienced physical punishment and psychological aggression, 19% experienced psychological aggression only and 7% experienced physical punishment only. In total, 42% of children experienced physical punishment, while only 5% of mothers and caregivers believe that physical punishment is necessary in childrearing. Disabled children were more likely to experience harsh discipline: 8% of disabled children aged 2-9 were hit on the face, head or ears, hit repeatedly or hit hard, compared with 6% of non-disabled children. Of girls and women aged 15-49, 11% think that a husband is justified in hitting or beating his wife under certain circumstances.<sup>1</sup>

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<sup>1</sup> UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF

Interviews with young offenders, carried out as part of a UNICEF assessment of the juvenile justice system, revealed that many had experienced physical punishment during custody in penal institutions.<sup>2</sup>

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

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

(1 October 2010, CRC/C/MNE/CO/1 Advance Unedited Version, Concluding observations on initial report, paras. 36 and 37)

“The Committee is concerned at the lack of information provided by the State party on the prohibition of corporal punishment. Furthermore, the Committee is concerned that corporal punishment is widely practiced in the family, in schools, in institutions, in the juvenile justice system and in other settings. Furthermore, the Committee is deeply concerned at the high prevalence of use of corporal punishment against children with disabilities.

“The Committee urges the State party, by taking into account its general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), to:

- a) amend all relevant laws to ensure that corporal punishment is explicitly prohibited in all settings, including the family and alternative care settings, and ensure the effective implementation of these laws;
- b) conduct awareness-raising campaigns to inform the public about the negative impact of corporal punishment on children and actively involve children and the media in the process;
- c) promote non-violent, positive, participatory methods of childrearing and education and reinforcing knowledge among children of their right to protection from all forms of corporal punishment; and
- d) bring offenders before the competent administrative and judicial authorities.”

### *Committee Against Torture*

(19 January 2009, CAT/C/MNE/CO/1, Concluding observations on initial report, para. 22)

“The Committee notes that corporal punishment of children is not explicitly prohibited in the home and in alternative care settings (art. 16).

Taking into account the recommendation in the United Nations Secretary General’s Study on Violence Against Children (A/61/299), the State party should adopt and implement legislation prohibiting corporal punishment in all settings, supported by the necessary awareness-raising and educational campaigns.”

## **Universal Periodic Review**

Montenegro was examined under the Universal Periodic Review process in 2008. No recommendations were made concerning corporal punishment of children.

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>2</sup> Conragan, C. (2002), *Children in conflict with the law: Victims of the transition – An assessment of the juvenile justice systems in the Republics of Serbia and Montenegro*, UNICEF