



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

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#### ***Is there a legal defence for corporal punishment which must be repealed?***

Yes – The law recognises the “power of correction or discipline”. The near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no degree or form of corporal punishment is acceptable or lawful, without exception. All legal defences for the use of corporal punishment should be repealed and explicit prohibition enacted of all corporal punishment and other humiliating and degrading treatment, in the home and all other settings where adults exercise authority over children.

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

*Penal institutions* – Legislation should explicitly prohibit corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

*Alternative care* – 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. Provisions against violence and abuse in the Family Law (1986), the Criminal Code (1974) and the Declaration on Citizens' Rights and Fundamental Principles (1974) are not interpreted as prohibiting corporal punishment. Article 234 of the Criminal Code confirms the concept of "powers of correction or discipline" (*poteri di correzione o disciplina*) and makes its abuse an offence.

In accepting the recommendations made during the Universal Periodic Review in 2010 (see below), the Government pledged to amend the Criminal Code to abolish all corporal punishment of children.<sup>1</sup>

### Schools

Corporal punishment is unlawful in schools under article 4 of the General Provisions on Education (Law No.21, 1998).

### Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not available as a sentence in the Criminal Code.

Corporal punishment is considered unlawful as a **disciplinary measure**, but there is no explicit prohibition. Article 26 of the Penitentiary Law (1997) states: "The use of physical force on detainees and interned people is not allowed except when indispensable to prevent or impede acts of violence, attempts of jailbreak, to overcome resistance, also of a passive nature, to the execution of orders or to guarantee the safety of the detainee."

### Alternative care

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

### Prevalence research

None identified.

## Recommendations by human rights treaty bodies

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

(27 October 2003, CRC/C/15/Add.214, Concluding observations on initial report, paras. 21 and 22)

"The Committee welcomes the information that article 234 of the Penal Code also includes the prohibition of corporal punishment, but is concerned at the lack of any concrete statistical data and other information on the prevention and prevalence of and intervention in cases of child abuse and neglect.

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<sup>1</sup> 18 June 2010, A/HRC/14/L.10, *Report of the Human Rights Council on its fourteenth session*, para. 440

“The Committee recommends that the State party undertake awareness-raising campaigns on the negative impact of corporal punishment. Furthermore, the State party should undertake studies to assess the prevalence and nature of violence against children and develop a comprehensive plan of action based on this study for the prevention of and intervention in cases of child abuse and neglect, including the provision of services for recovery and social reintegration of victims, taking into account the recommendations of the Committee adopted at its days of general discussion on children and violence (see CRC/C/100, para. 688 and CRC/C/111, paras. 701-745).”

## **Universal Periodic Review**

San Marino was examined under the Universal Periodic Review process in 2010. The Government accepted the recommendations to prohibit all corporal punishment of children.

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*  
[www.endcorporalpunishment.org](http://www.endcorporalpunishment.org); [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)  
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