



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

## **SPAIN – COUNTRY REPORT**

Child population: 7,956,000 (UNICEF, 2009)

### **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. The First Schedule to Law No. 54/2007 on International Adoption amended the Civil Code to remove the “right” of parents and guardians to use “reasonable and moderate” forms of “correction” from articles 154 and 268 of the Civil Code. These articles of the Code now state that parents/guardians must exercise their authority with respect for the child’s physical and psychological integrity. The explanatory memorandum to the law clarifies that the purpose of the amendment is to address the concerns of the UN Committee on the Rights of the Child that the “power to correct” breaches article 19 of the Convention on the Rights of the Child.

### Schools

Corporal punishment in schools has been unlawful since 1985, under article 6 of the Right to Education (Organization) Act (8/1985). Article 17 of Royal Decree 732/1995, the statutory framework regulating social relations in schools, states that “all pupils have the right to respect for their physical and moral integrity, and may in no circumstances be subjected to humiliating or degrading treatment”. Article 43.2 prohibits “punishments inconsistent with the physical integrity and personal dignity of the pupil”. Under Organic Law 10/2002 on the Quality of Education, students have the right to be shown respect for their personal integrity and dignity and are protected against all physical or moral aggression (article 2.2).

### Penal system

Corporal punishment is unlawful as a **sentence for crime** under the Criminal Code and article 15 of the Constitution (1978).

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions under the Criminal Code, Organic Law 5/2000 regulating minor criminal liability and the 2007 amendments to the Civil Code (see above).

### Alternative care

Corporal punishment is unlawful in alternative care settings under the 2007 amendments to the Civil Code (see above).

## Prevalence research

A 2009 study by the Defensor del Pueblo (ombudsman) on centres for children without parental care found that “disciplinary regimes” varied widely. Some centres applied positive disciplinary techniques, others relied more on punitive sanctions. In some, punishments included tying two children together, preventing children from attending school and isolating children. The report recommends increased regulation at a regional level and states that regulations must not directly or indirectly provide for corporal punishment or other types of punishment which violate children’s rights. (Defensor del Pueblo (2009), *Centros de Protección de Menores con Trastornos de Conducta y en Situación de Dificultad Social*)

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. Over half (55%) of Spanish parents said they had “mildly” slapped their child on the face and 80% had slapped their child on the bottom; 31% had given their child a “resounding” slap on the face and 6.7% had beaten their child with an object; 16% of Spanish parents never used corporal punishment; 84% agreed that “one should try to use as little corporal punishment as possible” and 85% 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)

Research in 2004 by the National Social Research Centre found that 25.6% of adults believed it necessary to smack children to impose discipline, with 74.4% believing it unnecessary. (Reported in International Save the Children Alliance (2005), *Ending Physical and Humiliating Punishment of Children – Making it Happen: Global Submission to the UN Study on Violence against Children*, Save the Children Sweden)

According to a consultation carried out by Save the Children Spain in the years following the campaign “Educate, do not punish”, public support for physical and psychological punishment fell from 47% to 27%. (Reported by Save the Children Spain, March 2005)

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

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

(29 September 2010, CRC/C/ESP/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 34, 35)

“The Committee highly welcomes the amendment of art. 154 of the Civil Code on corporal punishment by deleting, in line with the Committee’s previous recommendations (CRC/C/15/Add. 185 of 13 June 2002), provisions that parents could reasonably and moderately correct their children, and including that parental authority must always be exercised for the benefit of children, according to their personality “and with respect for their physical and psychological integrity.” It further welcomes the efforts made through sensitization campaigns such as “Corregir no es Pegar” to promote positive non-violent forms of discipline. It reiterates its concern that corporal punishment, in particular in the home, continues to be socially accepted.

“The Committee recommends the State party to continue its efforts through awareness-raising campaigns and parenting education programmes to ensure that positive non-violent forms of discipline are used, in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, while taking due account of general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel and degrading forms of punishment.”

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

(13 June 2002, CRC/C/15/Add.185, Concluding observations on second report, paras. 30 and 31)

“... the Committee deeply regrets that article 154 of the Civil Code, stating that parents ‘may administer punishment to their children reasonably and in moderation’, has not yet been revised....

“The Committee reiterates its previous recommendation to amend article 154 in order to delete the reference to reasonable chastisement. It further recommends that the State party:

- a) prohibit all forms of violence, including corporal punishment, in the upbringing of children, in conformity with article 19 of the Convention;
- b) conduct awareness campaigns and promote alternative forms of discipline in families.”

*Committee on the Rights of the Child*

(24 October 1994, CRC/C/15/Add.28, Concluding observations on initial report, paras. 10 and 18)

“Furthermore, the Committee expresses concern at the wording of article 154 of the Spanish Civil Code which provides that parents ‘may administer punishment to their children reasonably and in moderation’, which may be interpreted to allow for actions in contradiction with article 19 of the Convention....

“Furthermore, the Committee encourages the Spanish authorities to pursue the law reform to ensure full compliance of the domestic legislation with the provisions of the Convention. In this regard, the Committee recommends that the law reform include the review of the language used in legal provisions and, in particular, the revision of article 154 of the Spanish Civil Code stating that parents ‘may administer punishment to their children reasonably and in moderation’, in order to bring it into full conformity with article 19.”

*European Committee of Social Rights*

(January 2012, Conclusions 2011)

“In its previous conclusion (Conclusions 2005) the Committee held that the situation in Spain was not in conformity with the Charter as corporal punishment was not prohibited in the home. The Committee notes that the report does not provide any information on this point.

“However, the Committee notes from another source that corporal punishment is now prohibited in the home. The First Schedule to Law No. 54/2007 on International Adoption amended the Civil Code to remove the ‘right’ of parents and guardians to use ‘reasonable and moderate’ forms of ‘correction’ from Articles 154 and 268 of the Civil Code. These Articles of the Code now state that parents/guardians must exercise their authority with respect for the child’s physical and psychological integrity. The explanatory memorandum to the law clarifies that the purpose of the amendment is to address the concerns of the UN Committee on the Rights of the Child that the ‘power to correct’ breaches Article 19 of the Convention on the Rights of the Child.

“The Committee considers that the amendments have brought the situation into conformity with the Charter.”

*European Committee of Social Rights*

(March 2005, Conclusions XVII-2)

“With regard to corporal punishment in schools and educational institutions, the 1985 Organic Law regulating the right to education grants pupils the right to their personal integrity and dignity. Pupils are also protected against all physical or moral aggression as a basic right. The Committee asks whether legislation prohibits corporal punishment of children in other institutions.

“The Committee notes that there has been no amendment to Article 154 of the Spanish Civil Code which reads that parents ‘may administer punishment to their children reasonably and in moderation’.

“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 Spain is not in conformity with Article 17 of the Charter.

...

“The Committee concludes that the situation in Spain is not in conformity with Article 17 of the Charter on the ground that corporal punishment in the home is not prohibited.”

*European Committee of Social Rights*

(1 January 2001, Conclusions XV-2 vol. 2, pages 536-538)

“The Committee notes from the Concluding Observations of the Committee on the Rights of the Child in respect of Spain’s first report under the Convention on the Rights of the Child, that Article 154 of the Spanish Civil Code provides that parents ‘may administer punishment to their children reasonably and in moderation’. The Committee notes that this would permit the corporal punishment of children, which is in breach of Article 17 of the Charter and it refers to its general observations on Article 17 in the General introduction. The Committee wishes to know whether this provision of the Civil Code has been amended, and further whether legislation prohibits the corporal punishment of children in schools, institutions and elsewhere. Meanwhile, it defers its conclusion....

...

“Pending receipt of information on the corporal punishment of children, the Committee defers its conclusion.”

## **Universal Periodic Review**

Spain was examined in the first cycle of the Universal Periodic Review in 2010. No recommendations were made concerning corporal punishment of children. (Full prohibition was achieved in 2007.) Examination in the second cycle is scheduled for 2015.

*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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