

Corporal punishment of children in Bulgaria

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Child population 1,199,000 (UNICEF, 2015)

Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home. Article 11(2) of the Child Protection Act 2000 states: “Every child has a right to protection against all methods of upbringing that undermine his or her dignity; against physical, psychical or other types of violence; against all forms of influence, which go against his or her interests.” The Regulation on the Implementation of the Child Protection Act (in force 2003) defines violence against children as “any act of physical, mental or sexual violence, neglect, commercial or other exploitation, resulting in actual or potential damage to the child’s health, life, development or dignity that may be performed in a family, school or social environment” (art. 1); physical violence is described as “the infliction of bodily injury, including pain or suffering, without damage being caused to health”.

The prohibition is confirmed in the Family Code 2009, which states in article 125(2): “The parent shall raise the child, form his/her views and provide for his/her education in reference to his/her possibilities and in reference to the child’s needs and aptitudes and in view to his/her growing up as an independent and responsible personality. The parent shall not use force, as well as methods of education, which lower the child’s dignity....”

At the Universal Periodic Review of Bulgaria in 2015, the Government accepted a recommendation to ensure that the law prohibiting corporal punishment is enforced.¹

Alternative care settings

Corporal punishment is unlawful in alternative care settings. The Rules of the Homes for Raising and Educating Children Deprived of Parental Care 2001 prohibit physical, psychological and religious coercion. The Regulation on the Structure and Functioning of Homes for Temporary Placement of Minors and Young Persons and the Regulation on the Structure and Activities of Homes for Children

¹ 2 September 2015, A/HRC/30/10/Add.1, Report of the working group: Addendum, para. 3

Deprived of Parental Care include provisions banning the violation of children's rights and any forms of physical and mental violence derogatory to a child's dignity.

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under article 11(2) of the Child Protection Act 2000 and the Regulation on the Implementation of the Child Protection Act (see under "Home").

Schools

Corporal punishment is unlawful in schools. Articles 128 and 129 of the Regulation on the Implementation of the National Education Act state that a teacher "may not violate the rights of children and students, degrade their personal dignity, or apply any forms of physical or mental violence against them". Similar provisions are made in the Regulation on Educational Boarding Schools and the Regulation on Social and Pedagogical Boarding Schools.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions, but we have yet to identify prohibiting legislation.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime and is not available as a sanction in the Penal Code, the Criminal Procedure Code 2005 and the Sentence Enforcement Act (amended 2002).

Universal Periodic Review of Bulgaria's human rights record

Bulgaria was examined in the first cycle of the Universal Periodic Review in 2010 (session 9). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:²

"Ensure continued emphasis on children's rights and welfare in Bulgaria's budget policy and consider increasing budget allocations for the implementation of the CRC, including in the areas of health, education and family support (Malaysia);

"Put in place sound policies to ensure a safer environment for children, and implement a more effective system for addressing cases of violence against children (Indonesia)"

Examination in the second cycle took place in 2015 (session 22). The following recommendation was made:³

"Promote non-violent methods of childrearing and education and ensure that the law prohibiting corporal punishment is enforced (Poland)"

The Government accepted the recommendation.⁴

² 4 January 2011, A/HRC/16/9, Report of the working group, paras. 80(25) and 80 (50)

³ 8 July 2015, A/HRC/30/10, Report of the working group, para. 123(100)

⁴ 2 September 2015, A/HRC/30/10/Add.1, Report of the working group: Addendum, para. 3

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(3 June 2016, CRC/C/GBR/CO/3, Concluding observations on third report, paras. 31 and 32)

“While the Committee notes as positive provisions in the Child Protection Act (Article 11 (2)) and the Family Code (Article 125 (2)) prohibiting violence in all settings, including the home, as well as the Implementing Regulation on the Public Education Act (Article 129) prohibiting violence in schools, it is concerned that corporal punishment continues to be widely accepted in society as a means of disciplining children, and is not explicitly prohibited or sanctioned in legislation.

“In light of its general comment No. 8 (2006) on corporal punishment, the Committee urges the State Party to:

- a) explicitly prohibit corporal punishment in legislation;
- b) ensure that the prohibition of corporal punishment is adequately monitored and enforced in all settings;
- c) promote positive, non-violent and participatory forms of child-rearing and discipline through awareness campaigns;
- d) ensure that offenders are brought before the competent administrative and judicial authorities.”

Committee on the Rights of the Child

(23 June 2008, CRC/C/BGR/CO/2, Concluding observations on second report, paras. 31 and 32)

“While noting that corporal punishment is unlawful in the home, schools, the penal system, alternative care settings, and in situations of employment, the Committee is concerned that children are still victims of corporal punishment in all the above-mentioned settings.

“The Committee urges the State party, to take 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 enforce the ban of corporal punishment by:

- a) undertaking public and professional awareness-raising;
- b) promoting 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
- c) bringing offenders before the competent administrative and judicial authorities.”

Committee on the Rights of the Child

(24 January 1997, CRC/C/15/Add.66, Concluding observations on initial report, para. 30)

“In the light of articles 19, 34 and 37 (a), the Committee strongly recommends that the State party take all appropriate measures to prevent and combat corporal punishment, sexual abuse and exploitation and ill-treatment of children, including in institutions and in detention centres. The Committee suggests that corporal punishment be prohibited by civil legislation and that appropriate legal measures be taken to combat sexual abuse and exploitation of children....”

Committee Against Torture

(14 December 2011, CAT/C/BGR/CO/4-5, Concluding observations on fourth/fifth report, para. 30)

“While taking note that corporal punishment is explicitly forbidden in law, the Committee is concerned by persistent lack of implementation and notes that the Committee on the Rights of the Child has found that children are still victims of corporal punishment in the home, schools, the penal system, alternative care settings and situations of employment. The Committee is concerned that a 2009 survey shows that 34.8 per cent of public opinion is in favour of corporal punishment in childrearing in some circumstances and that 10.9 per cent felt it was acceptable if the parent believed that it would be

effective. It is concerned in particular that the use of corporal punishment is substantially higher in institutions for children with disabilities and that a number of cases of physical abuse were documented in the children's personal files (art. 16).

"The Committee recommends that the State party carry out professional and public awareness-raising in order to promote non-violent, positive and participatory methods of childrearing and education; and that the State party take a comprehensive approach to ensuring that the law prohibiting corporal punishment is widely enforced and known, including among children with regard to their right to protection from all forms of corporal punishment. There should be an absolute prohibition of corporal punishment in institutional settings, including for children with disabilities. The State party should provide effective and appropriate responses to corporal punishment, including investigations, prosecution and sanctioning of perpetrators."

Human Rights Committee

(19 August 2011, CCPR/C/BGR/CO/3, Concluding observations on third report, para. 14)

"While welcoming the fact that corporal punishment is unlawful in the home, schools, penal system, alternative care settings and situations of employment, the Committee is concerned that children are still victims of such practices and that no information is available on the judicial prosecution of such practices (arts. 7 and 24).

The State party should take practical measures to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment and should continue with public information campaigns to raise awareness about its harmful effects."

European Committee of Social Rights

(January 2012, Conclusions 2011)

"As regards corporal punishment of children, the Committee notes from another source that corporal punishment is prohibited in the home. Article 11(2) of the Child Protection Act (2000) states: 'Every child has a right to protection against all methods of upbringing, that undermine his or her dignity, against physical or other types of violence; against all forms of influence, which go against his or her interests.' According to the same source, corporal punishment is unlawful in schools and in institutions."

European Committee of Social Rights

(2006, Conclusions 2006, vol. 1, pages 114-115)

"The Committee previously asked whether all forms of corporal punishment of children were prohibited, including corporal punishment within the family. According to the report there is no explicit prohibition of corporal punishment in Bulgaria. However it cites the Child Protection Act 2000, which stipulates that children shall have the right to be protected against any activities, which violate their dignity, and includes any physical or psychological violence and all forms of influence, which are not in a child's interest. The Home Violence Protection Act 2005 protects child victims of domestic violence.

The Committee highlights that where legislation which may be interpreted as prohibiting all forms of corporal punishment is relied upon by a state party it must be accompanied by strong evidence that such legislation is so interpreted and applied and that the necessary measures have been taken to ensure that there is widespread awareness of this. The Committee asks the next report to provide such evidence."

European Committee of Social Rights

(30 September 2004, Conclusions 2004 Vol. 1, page 55)

"The Committee asks whether corporal punishment within and outside the family is explicitly prohibited by the existing legislation...."

“Pending receipt of the information requested, in particular regarding any form of exploitation of children other than sexual and about corporal punishment, the Committee defers its conclusion.”

Prevalence/attitudinal research in the last ten years

In 2013, the National Network for Children conducted national research on young people’s and parents’ attitudes towards children’s rights. Regarding the child’s right to protection from corporal punishment, 40% supported slapping children as a disciplinary measure, with 5% said to be “unyielding supporters of slapping”. Nearly 50% reported having witnessed a parent slapping their child and an average of 16% said they had seen a child with marks from slapping (bruises or similar). Regarding the right to protection by state authorities, 57-58% of respondents agreed that the state should intervene in families where parents often spank children; 80-82% said that interfering in family affairs of others “could bring you trouble”.

(ESTAT Research and Consultancy (2013), A national survey on Young People’s and Parental Attitudes toward Children’s Rights, Sofia, Bulgaria: National Network for Children – Bulgaria)

A study involving 500 people aged 15 and over found that 54% thought corporal punishment should never be used – a slight increase from the 47% who thought this in a similar survey in 2005. Sixty-two per cent of parents said they had “smacked” their child, 43% beaten or hit them and 21% slapped their child on the face. These findings on whether parents had ever used these forms of corporal punishment were similar to those of a 2010 survey which asked identical questions.

(Nobody’s Children Foundation (2013), The Problem of Child Abuse: Comparative Report from Six East European Countries 2010-2013, Warsaw: Nobody’s Children Foundation)

Almost half (49.9%) of respondents to a 2009 survey of 1,000 adults believed that corporal punishment should never be used. This was a slight increase compared to an identical 2005 survey of 994 adults, when 47.2% said corporal punishment should never be used. More than a third (34.8%) of respondents in 2009 said corporal punishment “should not be used in general but in certain situations it is justifiable” and 10.9% felt that corporal punishment was acceptable “if the parent believes that it will be effective”. The studies in 2005 and 2009 also examined adults’ perceptions of the prevalence of corporal punishment.

(Vitoshka Research (2009), Physical Punishment in Child-Rearing in Bulgaria www.canee.net/files/Omnibus%20research%20Bulgaria%202009.pdf. 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 202 teachers in primary schools in Sofia found that 82% believed corporal punishment is humiliating for the child and 74% believed it meant that “the parents are not good at rearing children”; 41% felt that the use of “spanking” as a punishment would justify intervention by a third party (compared with 30% in an identical survey of a similar sample in 2005). Almost half (46%) believed that more than 50% of children in Bulgaria experience “spanking” (compared with 51% in 2005).

(Nobody’s Children Foundation et al (2009), Sofia teachers’ attitudes toward child abuse www.canee.net/files/Teachers%20studies%20Bulgaria%202009.pdf. 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)

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