

# Corporal punishment of children in Iceland

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Child population 79,000 (UNICEF, 2020)

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 28 of the Children's Act 2003 states: "It is the parents' obligation to protect their child against any physical or mental violence and other degrading or humiliating behaviour." This is interpreted as prohibiting all corporal punishment. In 2009, the Child Protection Act No. 80/2002 was amended to clarify that corporal punishment is considered to be abuse and the child is legally protected from it in all settings. Article 1(2) as amended states: "Parents are under an obligation to treat their children with care and consideration, and to fulfil their duties of guardianship and upbringing of their children in the best manner for their circumstances and needs. They are under an obligation to provide their children with acceptable conditions during their upbringing, and to safeguard their welfare at all times. Others involved in the raising of children shall show them respect and care." Article 99(1) as amended states: "Any person who inflicts punishments, threats or menaces upon a child, that may be expected to harm the child physically or mentally, is subject to fines or imprisonment for up to three years." According to the Government, the amendments are "intended to fully provide for the criminalisation of subjecting a child to mental or physical punishment [and] to be complementary to the provisions on abuse and other violations against children contained in the General Penal Code".<sup>1</sup> The Penal Code 1940 punishes assault in articles 216 to 219.

### Alternative care settings

Corporal punishment is prohibited in alternative care settings. Rules on the rights of children and coercive measures in state treatment homes, issued in 1999, explicitly prohibit corporal punishment, stating that "application of physical punishment and solitary confinement, administration of drugs without medical consultation, and any application of restraints, such as ropes, adhesive tape, belts or other similar means of physical restraint, are prohibited, whether as a means of punishment or for the purpose of treatment or upbringing". Corporal punishment is prohibited in other homes and institutions in article 82 of the Child Protection Act 2002, which prohibits "any physical or mental punishment upon the child" and "confinement, isolation and other comparable coercive measures or disciplinary

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<sup>1</sup> 14 October 2010, RAP/Cha/IC/XXIV(2011), National report to European Committee of Social rights, p. 31

penalties unless necessary”. In other alternative care settings, the provisions of the Child Protection Act 2002 as amended in 2009 apply (see under “Home”).

### Day care

Corporal punishment is prohibited in early childhood care and in day care for older children under the provisions of the Child Protection Act 2002 as amended in 2009 apply (see under “Home”).

### Schools

Corporal punishment is unlawful in schools under the Child Protection Act 2002 as amended in 2009 (see under “Home”). There is no provision for corporal punishment as a disciplinary measure in the Preschool Act No. 90/2008, the Compulsory School Act No. 91/2008 and the Upper Secondary School Act No. 92/2008.

### Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the provisions in the Child Protection Act 2002 as amended in 2009 (see under “Home”).

### Sentence for crime

Corporal punishment is unlawful as a sentence for crime under the General Penal Code No. 19/1940.

## Universal Periodic Review of Iceland’s human rights record

Iceland was examined in the first cycle of the Universal Periodic Review process in 2011 (session 12). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:<sup>2</sup>

“Coordinate preventive measures for the elimination of this trend (of cases of violence and sexual abuse of children) and develop preventative training programs, in particular for teachers and other professionals working with children (Uruguay);

“Strengthen the protection framework for the rights of the child, particularly through measures to prevent child abuse, exploitation and violence against children, as well as facilitating access to justice and legal aid, and medical and psychological support to victims (Mexico)”

Examination in the second cycle took place in 2016 (session 26). No recommendation was issued specifically on the subject of corporal punishment of children. However, the Government accepted the following recommendations:<sup>3</sup>

“Advance its activities aimed at ensuring full realization of the rights of women, children, elderly people and the persons with disabilities (Mongolia)”

“Support comprehensively increased efficiency in fighting violence against children (Tajikistan)”

“Take further steps to protect the rights of the child, prevent child abuse, exploitation and violence (Ukraine)”

Iceland will be examined in the third cycle in 2021.

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<sup>2</sup> 16 December 2011, A/HRC/19/13, Report of the working group, paras. 61(13) and 63(21)

<sup>3</sup> 15 November 2016, A/HRC/WG.6/26/L.4, Draft report of the Working Group, paras. 115(43), 115(90) and 115(94)

## Recommendations by human rights treaty bodies

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

(31 January 2003, CRC/C/15/Add.203, Concluding observations on second report, para. 29)

“The Committee recommends that the State party:

- a) raise awareness among parents, other caretakers, and the public at large of the prohibition of corporal punishment – including in the family – under existing legal provisions;
- b) continue to strengthen and expand the coverage of the Children’s House concept throughout the State party;
- c) conduct public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment....”

### *European Committee of Social Rights*

(March 2020, Conclusions 2019)

“The Committee recalls that it previously found the situation to be in conformity with the Charter. The Committee notes that there has been no change to the situation, all forms of corporal punishment are prohibited in all settings (Conclusions, XX-4 (2015). The Committee notes the information in the report on measures taken to eliminate all forms of violence against children.”

### *European Committee of Social Rights*

(January 2016, Conclusions 2015)

“In interpreting Article 17 of the Charter, the Committee has held that the prohibition of any form of corporal punishment of children is an important measure that avoids discussions and concerns as to where the borderline would be between what might be acceptable form of corporal punishment and what is not (General Introduction to Conclusions XV-2). The Committee recalls its interpretation of Article 17 of the Charter as regards the corporal punishment of children laid down most recently in its decision in *World Organisation against Torture (OMCT) v. Portugal* (Complaint No. 34/2006, decision on the merits of 5 December 2006; §§19-21):

“To comply with Article 17, states’ domestic law must prohibit and penalize all forms of violence against children, that is acts or behaviour likely to affect the physical integrity, dignity, development or psychological well-being of children.

“The relevant provisions must be sufficiently clear, binding and precise, so as to preclude the courts from refusing to apply them to violence against children.

“Moreover, states must act with due diligence to ensure that such violence is eliminated in practice.”

“The Committee asks what measures are taken to eliminate corporal punishment in practice, for example, through information campaigns.”

“Pending receipt of the information requested, the Committee concludes that the situation in Iceland is in conformity with Article 17 of the 1961 Charter.”

### *European Committee of Social Rights*

(January 2012, Conclusions 2011)

“The Committee notes from the report that Act No 52/2009 which amended the Child Protection Act No 80/2002 and completely removed any uncertainty as to the complete illegality of abusing children or employing other degrading conduct.

“The Committee notes from another source that corporal punishment is prohibited in the home, in institutions and in schools.”

### European Committee of Social Rights

(July 2005, Conclusions XVII-2)

“Under Icelandic law, all violence is punishable except where employed as an emergency measure to serve a greater interest. The Committee notes that corporal punishment (and mental punishment) is prohibited in homes and institutions for children (Section 82 of the Child Protection Act, No. 80/2002).

“It notes from another source that corporal punishment of children is prohibited in schools and asks that the next report indicates the legislation laying down this prohibition.

“The Committee notes that the Child Protection Act, No. 80/2002, states that parents are prohibited from using physical violence against their children. Section 1, paragraph 2 makes particular mention of care and consideration as elements in custodial and upbringing obligations. In this context the report states that the Icelandic Parliament, during discussions held on the Child Protection Act, interpreted this paragraph to imply the important principle that children should be shown respect, and not be subjected to corporal punishment. The Committee further notes that said obligation of parents is reinforced by the Children’s Act of 2003, which entered into force in November 2003, which explicitly prohibits all forms of corporal punishment of children in the home.”

### European Committee of Social Rights

(1 January 2001, Conclusions XV-2 vol. 1, pages 281-283)

“The Committee notes that corporal punishment (and mental punishment) is prohibited in homes and institutions for children and youth (Section 53 of the Children and Youth Protection Act). However it wishes to know whether legislation prohibits all forms of corporal punishment of children, in schools, in the home and elsewhere....”

### Prevalence/attitudinal research in the last ten years

In a survey of 827 students aged 12-16, 71.4% thought “a child should never be corporally punished”; 14% “a child can be corporally punished using mild forms of punishment (e.g. smacking)”; 78% disagreed that “parents have a right to use mild forms of corporal punishment on their children (e.g. smacking)”, and 89% agreed that “children must be protected from all forms of violence”.

(UNICEF (2011), Nordic Study on Child Rights to Participate 2009-2010, Innolink Research)

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