

Corporal punishment of children in the Republic of Kosovo

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Child population (0-14) 498,400
(Government of the Republic of Kosovo,
2015)



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

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

Note: Kosovo unilaterally declared independence from Serbia on 17 February 2008. Although under the 1999 United Nations Security Council resolution no. 1244 Kosovo is officially administered by the United Nations Interim Administration Mission in Kosovo (UNMIK), by 2017 more than half of UN member states had recognised the Republic of Kosovo as a sovereign state. Kosovo is a full member of several international organisations such as the International Monetary Fund and the World Bank.

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home. Article 24 of the Law on Child Protection 2019 states (unofficial translation): “1. Corporal punishment and disciplinary measures that would harm and reduce the dignity of the child, including forms of physical and mental violence and behaviours that degrade, disgrace and put child in inappropriate situations are prohibited in each environment at home and family, educational institutions, in child care institutions, bodies of law and the justice system, in the premises of work and the community. 2. It is prohibited for any person to subject the child to torture, inhuman and degrading treatment, as well as physical punishment and degrading treatment. 3. Educational personnel and school related personnel should not use corporal punishment as a means of discipline and rule, but rather should work and build on the basis of respect and justice. 4. The relevant ministries will ensure the issuance and establishment of programs to increase the awareness about the harmful effects of corporal punishment and design and create: 4.1. Education and raising awareness regarding the degrading consequences of corporal punishment; 4.2. Parenting programs that promote non-violent methods of disciplining in family and educational institutions.” Corporal punishment is defined as “any use of physical force, notwithstanding how much force has been used, that aims at causing pain or concern. Corporal punishment includes but is not limited to forms as: beatings, torture, jogging or drive by force, burning, striking (slapping, kicking or whipping, hitting by stick, belt, shoes, or by any means) pinching, laceration, biting, strict reprimand, obligation by force to carry out an action, using the materials that cause pain or concern, forced swallowing” (art. 1(25)). Article 47(1)(7) puts an obligation on the Government to publish regulations to provide “programs that promote education and raise awareness regarding the

degrading consequences of corporal punishment and parenting programs that promote non-violent methods of discipline in the family and school" within one year of the Law being gazetted. The Law was adopted on 27 June 2019 and will come into force one year after its publication in the gazette.

Prior to this, provisions in the Constitution, the Law on Family 2004, the Law on Protection Against Domestic Violence 2010 and the Criminal Code 2011 protected children from violence and abuse but were not interpreted as prohibiting all forms of corporal punishment, however light. A new Criminal Code is under discussion¹ and the Law on the Family 2004 is under review.²

Alternative care settings

Corporal punishment is prohibited in alternative care settings under article 24 of the Law on Child Protection 2019.

Day care

Corporal punishment is prohibited in day care under article 24 of the Law on Child Protection 2019 and in all educational day care settings under article 23.3 of the Law on Child Protection 2019 (see under "Schools"). Before this, corporal punishment and other humiliating punishment was already prohibited in public and private educational day care settings for ages 5 and upwards under article 4.2 of the Law on Pre-University Education 2011 (see under "Schools").

Schools

Corporal punishment is prohibited in schools under article 23.3 of the Law on Child Protection 2019 which states (unofficial translation): "Child attending all forms of pre-university education is protected from all types of violence, abuse, exploitation, corporal punishment, neglecting or any other form that puts at risk his/her life, safety, health, education and development of the child by the educational personnel, by their peers and any other person within the educational system while conducting the activities."

Before this, corporal punishment was already prohibited under article 4.2 of the Law on Pre-University Education 2011, which states: "Corporal punishment and any other form of humiliating punishment are prohibited in all educational and training institutions whether publicly funded or private." Corporal punishment is defined in article 2.1.11 as "any form of striking or other non-accidental physical contact by a teacher or other staff member with a pupil other than obligatory intervention where a pupil imperils the safety of other pupils or staff". Under article 9.1.1, the Law on Pre-University Education 2011 applies to pre-primary (ages 5-6), primary (6-11) and secondary education.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 24 of the Law on Child Protection 2019. The Law on Execution of Penal Sanctions 2012 lists permitted disciplinary punishments in correctional facilities (art. 102) and these do not include corporal punishment. According to articles 122 and 134 of the Juvenile Justice Code 2010, the Law on

¹ See <http://ligjet.assembly-kosova.org/LTS/DraftLawPhase?draftLawId=97&languageid=2>, accessed 10 August 2018

² Information provided by Save the Children Kosovo, October 2017

Execution of Penal Sanctions also applies to minors committed to educational-correctional institutions, except that minors may not be subjected to solitary confinement.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Juvenile Justice Code 2010, the Criminal Code 2011, the Criminal Procedure Code 2012 or the Law on Execution of Penal Sanctions 2012.

Universal Periodic Review

Kosovo is not a UN member state and as such does not undergo the Universal Periodic Review independently; rather it is examined with Serbia.

Recommendations by human rights treaty bodies

Although Kosovo's Constitution integrates several international and regional human rights treaties as part of domestic law, Kosovo is not a signatory to any of the UN human rights treaties and is not a member of a regional organisation.

Prevalence/attitudinal research in the last ten years

Research carried out in 2012, which involved 660 10-14 year olds attending eight schools, 70 parents and 70 teachers, found a high level of acceptance of corporal punishment of children by parents and teachers. When asked whether parents hitting or beating children is justified, 80.5% said it is justified if a child steals, 70.6% if a child is in danger of harming themselves and 58.2% if a child leaves the house without telling their parent. Nearly six in ten children (59.7%) said that teachers hitting or beating a child is justified if a child steals, 37.7% if the child leaves class without permission and 35.5% if a child is disobedient towards a teacher. Fifty-nine per cent of children and 80% of parents said that teachers are violent towards children.

(Krasniqi, V. & Osmani, T. (2012), *Research on Violence Against Children in Schools in Kosovo: Draft*, Save the Children & Social Research Kosova)