

Corporal punishment of children in the Republic of Moldova

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Child population 777,000 (UNICEF, 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.

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home. In 2008, the Family Code 2001 was amended to confirm the right of the child “to be protected against abuse, including corporal punishment by his parents or persons who replace them” (art. 53). Article 62 of the Code states that the methods chosen by parents in educating their children “will exclude abusive behaviour, insults and ill-treatments of all types, discrimination, psychological and physical violence, corporal punishments [etc]”.

Alternative care settings

Corporal punishment is unlawful in alternative care settings under the prohibition of its use by those with parental authority in article 53 of the amended Family Code (see under “Home”).

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under the prohibition of its use by those with parental authority in article 53 of the amended Family Code (see under “Home”).

Schools

Corporal punishment is prohibited in schools in article 87(1)(b) of the Education Act 2008, which states (unofficial translation): “The application of corporal punishment and any other form of physical or psychological methods is prohibited.”

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the prohibition of its use by those in the place of parents in the amended Family Code (see under “Home”).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted punishment under the Penal Code 2003 and the Criminal Procedure Code (amended 2006).

Universal Periodic Review of the Republic of Moldova’s human rights record

The Republic of Moldova was examined in the first cycle of the Universal Periodic Review in 2011 (session 12). The Government accepted a recommendation to prohibit all corporal punishment of children, stating that this has already been achieved.¹

Examination in the second cycle took place in 2016 (session 26). No recommendations was issues specifically on corporal punishment of children. However, the Government accepted the following recommendations:²

“Take concrete measures to eliminate violence against children, protect and support victims including by implementing measures to ensure that such abuse is more frequently denounced and reported by different stakeholders in contact with children (Belgium); Create mechanisms for preventing and fighting against all forms of exploitation, abuse and violence against children (Bulgaria); Redouble its efforts to eradicate child labour and all forms of exploitation, abuse and violence against children (Panama); Further address the elimination of violence against children, including sexual violence (Kyrgyzstan); Undertake efforts to prevent violence against children, including sexual violence (Poland)”

The Republic of Moldova will be examined in the third cycle in 2021.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(29 September 2017, CRC/C/MDA/4-5, Concluding observations on fourth/fifth report, Advance unedited version, para. 19)

“While noting efforts to combat corporal punishment as a means of discipline, which is still widespread and culturally acceptable in the State party, the Committee, with reference to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment, and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, urges the State party to enforce the legislative prohibition of corporal punishment in all settings, including through awareness-raising programmes; and also recommends the expansion of parenting education programmes, and training for professionals working with and for children to promote positive, non-violent and participatory forms of child-rearing and discipline.”

¹ 14 December 2011, A/HRC/19/18, Report of the working group, para. 74(2)

² 17 November 2016, A/HRC/WG.6/26/L.9, Draft report of the Working Group, paras. 121(103), 121(104), 121(105), 121(106), and 121(107)

Committee on the Rights of the Child

(20 February 2009, CRC/C/MDA/CO/3, Concluding observations on second/third report, paras. 37 and 38)

“The Committee is concerned at reports that corporal punishment is a common phenomenon at home and is frequently used to discipline children at school. The Committee also regrets the absence of official statistics on corporal punishment of children by parents.

“In light of the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party enforce the legislative prohibition of corporal punishment in all settings, including through awareness-raising campaigns aimed at families, the school system and other educational settings.”

Committee on the Rights of the Child

(31 October 2002, CRC/C/15/Add.192, Concluding observations on initial report, paras. 31 and 32)

“The Committee notes the establishment of a National Centre for the Prevention of Child Abuse, but is nevertheless concerned about the extent of domestic violence, the absence of a legislative framework, the lack of standardized procedures for the identification, reporting, investigation and prosecution of cases of neglect, ill-treatment and abuse, the lack of a legal prohibition of corporal punishment in schools, institutions and at home, and the limited availability of skilled services for the support of victims.

“In light of article 19 of the Convention, the Committee recommends that the State party:

- a) undertake studies on domestic violence, violence against children, ill-treatment and abuse, including sexual abuse, in order to assess the extent, scope and nature of these practices;
- b) take all necessary steps to introduce the legal prohibition of the use of corporal punishment in schools and other institutions and at home;
- c) adopt and implement effectively adequate multidisciplinary measures and policies, including public campaigns, and contribute to changing attitudes;
- d) investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure, in order to ensure better protection of child victims, including the protection of their right to privacy....
- f) take into account the Committee’s recommendations adopted at its day of general discussion on violence against children within the family and in schools (see CRC/C/111).”

European Committee of Social Rights

(January 2016, Conclusions 2015)

“In its previous conclusion the Committee held that the situation was not in conformity with the Charter as there was no explicit prohibition of corporal punishment of children in the home.

“The Committee notes from another source (Global Initiative to End Corporal Punishment of Children) that corporal punishment is prohibited in the home. In 2008, the Family Code (2001) was amended to establish the right of the child “to be protected against abuse, including corporal punishment by his parents or persons who replace them” (Article 53). Article 62 of the Code states that the methods chosen by parents in educating their children will exclude abusive behaviour,

insults and ill-treatments of all types, discrimination, psychological and physical violence, corporal punishments.

“The Committee also notes that corporal punishment is prohibited in schools and in institutions.”

European Committee of Social Rights

(January 2012, Conclusions 2011)

“In its previous conclusion the Committee held that the situation in the Republic of Moldova was not in conformity with the Charter as there was no legal prohibition of corporal punishment of children. It notes from the report of the Governmental Committee to the Committee of Ministers (TS-G (2005) 25, §83) that the Criminal Code of the Republic of Moldova of 23 July 2002 contains a separate chapter on violence against family and minors. Besides, the Law on Education stipulates that the educational staff is obliged to ensure life safety and health protection of children.

“The Committee recalls that according to its case law, to comply with Article 17 with respect to the corporal punishment of children, states' domestic law must prohibit and penalise 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 holds that the legislation of the Republic of Moldova does not expressly prohibit the corporal punishment of children in the home and in institutions.

“The Committee notes from another source² that the corporal punishment is a common phenomenon at home and is frequently used to discipline children at school. The UN CRC recommends that the State Parties enforce the legislative prohibition of corporal punishment in all settings. Having found no information on this issue in the report, the Committee thus notes that the situation in this regard has not changed. Therefore it reiterates its conclusion that there is no explicit prohibition of corporal punishment which amounts to a violation of Article 17§1 of the Charter.

...

“The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 17§1 of the Charter on the following grounds:

- corporal punishment of children is not prohibited....”

European Committee of Social Rights

(March 2005, Conclusions 2005)

“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.

“The State guarantees any child the right to life and to physical and psychological integrity. No child shall be submitted to torture or to cruel, inhuman or degrading treatment or punishment (Law on Child Rights, No. 338-XIV of December 1994). The report does not state whether legislation prohibits all forms of corporal punishment of children. The Committee notes from another source that there is no legal prohibition of the corporal punishment of children. It therefore concludes that the situation is not in conformity with the Revised Charter.

...

“The Committee concludes that the situation in Moldova is not in conformity with Article 17.1 of the Revised Charter on the grounds that:

- corporal punishment of children is not prohibited...”

Prevalence/attitudinal research in the last ten years

According to a survey conducted in 2012, 76% of children had experienced some form of violent “discipline” (psychological or physical punishment) in the month preceding the survey; 48% of children had experienced physical punishment, which was more common for boys (51%) than girls (45%), and notably so for younger children aged 2-9 years (52-59%) than older children aged 10-14 years (37%); 22% of children only experienced non-violent methods of discipline, slightly more common for girls (23.6%) than boys (19.8%) and more common in the richest households (24.4%) compared to the poorest (14.8%). In contrast to the actual prevalence of physical punishment (48%), only 15% of respondents believed the child needs to be physically punished; this belief was more common in relation to boys (17.2%) than girls (12.8%).

(National Centre of Public Health & UNICEF (2014), *Republic of Moldova Multiple Indicator Cluster Survey 2012: Final Report*, Chişinău, Republic of Moldova: National Centre of Public Health & UNICEF)

In a study involving 500 people aged 15 and over, 50% thought corporal punishment should never be used – an increase from 37% in a similar survey in 2005; 73% of parents said they had “smacked” their child (compared to 76% in a similar survey in 2010), 29% said they had beaten or hit them (66% in 2010), 19% said they had beaten them with a belt (26% in 2010) and 19% that they had slapped their child on the face (46% in 2010).

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

In a 2009 survey of 206 teachers in primary schools in Chişinău, 68% believed corporal punishment is humiliating for the child, 58% believed it meant that “the parents are not good at rearing children”; 51% felt the use of “spanking” as a punishment would justify intervention by a third party. In an identical survey of a similar sample in 2005, 40% believed this. In a 2009 nationwide study, 55% of respondents believed corporal punishment should not be used, compared to 37% in 2005. In 2005, 11% of respondents said corporal punishment “may be used if the parent believes it will be effective”; in 2009, 5% of respondents said this.

(National Center for Child Abuse Prevention & Nobody’s Children Foundation (2009), *Chişinău teachers’ attitudes toward child abuse* www.canee.net/files/Teachers%20studies%20Moldova%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)