Corporal punishment of children in Romania

LAST UPDATED August 2024
Also available online at
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Children population 3,588,000 (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 Law No. 272/2004 on the Protection and Promotion of the Rights of the Child, promulgated through Decree No. 481/2004 (in force 2005), states: "(1) The child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishment or to other humiliating or degrading treatments. (2) Disciplinary measures concerning the child can only be taken in accordance with the child's dignity, and under no circumstances are physical punishments allowed, or punishments which relate to the child's physical and mental development or which may affect the child's emotional status." Article 90 states: "It is forbidden to enforce physical punishment of any kind or to deprive the child of his or her rights, which may result in endangerment of the life, the physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child, both within the family as well as in any institutions which ensures the protection, care and education of children."

Romania is a Pathfinder country with the Global Partnership to End Violence Against Children, which was established in 2016. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

Alternative care settings

Corporal punishment is unlawful in alternative care settings under articles 5 and 9 of the Internal Regulations governing schools and care institutions and article 28 of Law No. 272/2004 on the Protection and Promotion of the Rights of the Child 2004 (see under "Home").

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under articles 5 and 9 of the Internal Regulations governing schools and care institutions and article 28 of Law No. 272/2004 on the Protection and Promotion of the Rights of the Child (see under "Home").

Schools

Corporal punishment in schools has been prohibited since 1948. This is confirmed in the Education Law (art. 157) and the Internal Regulations governing schools and care institutions (arts. 5 and 9). The Law on the Protection and Promotion of the Rights of the Child 2004 also applies (see under "Home").

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the Law on the Execution of Punishment 1969, the Ruling on the execution of punishment and on the measure of preventive arrest approved by the Decision of the Council of Ministers (2282/69), Government Ordinance no. 92 of 2000 on the organisation and functioning of criminals' supervision and reintegration services, Law no. 275 of 2006 on measures taken by judicial bodies in the course of the criminal trial, Decree 545 of 1972 on serving the educative measure of children's internment in a rehabilitation centre and the Law on the Protection and Promotion of the Rights of the Child 2004 (see under "Home").

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under the Penal Code and the Constitution 1991.

Universal Periodic Review of Romania's human rights record

Romania was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). In response to a recommendation to prohibit corporal punishment, the Government confirmed that the law explicitly prohibits all corporal punishment of children.[1]

The second cycle review took place in 2013 (session 15). In its national report, the Government confirmed that corporal punishment is prohibited in all settings in Law No. 272/2004 and is punishable under criminal law.[2] During the review the following recommendation was made:[3]

> "Strengthen the full implementation of legislation on corporal punishment of children, including through awareness raising, education programmes, and appropriate complaints mechanisms (Liechtenstein)
>
> "Consider introducing legislation prohibiting corporal punishment of children (Poland)"

The Government rejected both recommendations, stating that they are already implemented:[4]

> "109.99. Not accepted; already implemented – Romania has and will continue to develop strategies and measures aimed at making aware the society about the forbidding of all corporal punishment on children. Regarding the complaint mechanisms, Romania has in place a number of tools whose role is to support a friendly and easy way to address complaints regarding a possible violation of children rights. In this regard, at the level of each local Child Protection Directorate and at national level there are toll free lines where children or other persons can notify a possible situation of abuse or neglect of a child, the local authorities having the obligation to make an immediate intervention whose role is to verify such allegations and adopt the necessary measures.
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> "109.100. Not accepted; already implemented – Romania is one of the few countries who have introduced in the national legislation a clear prohibition of all forms of corporal punishment on children. Law no. 272/2004 on the protection and promotion of children rights clearly prohibits

[1] 3 June 2008, A/HRC/8/49, Report of the working group, para. 56
[2] 3 December 2012, A/HRC/WG.6/15/ROU/1, National report to the UPR, para. 104
[3] 21 March 2013, A/HRC/23/5, Report of the working group, para. 109(99)
[4] 28 May 2013, A/HRC/23/5/Add.1, Report of the working group: Addendum, paras. 109(99) and 109(100)

all forms of corporal punishment on children within the education system, special protection, family etc."

Third cycle examination took place in 2018 (session 29). No recommendations specifically on corporal punishment were extended.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(13 July 2017, CRC/C/ROU/CO/5, Concluding observations on fifth report, para. 24)

"While noting that corporal punishment is prohibited in all settings and, with reference to its 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:

(a) Ensure that the prohibition of corporal punishment is properly enforced in all settings and adequately monitored;

(b) Promote positive, non-violent and participatory forms of child-rearing and discipline through awareness-raising programmes and campaigns;

(c) Ensure that offenders are brought before the competent administrative and judicial authorities."

Committee on the Rights of the Child

(30 June 2009, CRC/C/ROM/CO/4, Concluding observations on third/fourth report, paras. 58 and 59)

"The Committee notes with appreciation that following the adoption of Law No. 272/2004, the State party has now explicitly prohibited all forms of corporal punishment. The Committee is, however, concerned that given the prevalence of corporal punishment in the home prior to the prohibition, as well as the persistence of attitudes and low level of involvement in known cases by the general population, the practice of corporal punishment persists in the home, The Committee notes that corporal punishment persists also in schools and institutional settings despite the fact that they have been prohibited by law for several decades.

"The Committee recommends that the State party, taking into account 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, intensify its awareness-raising and public education campaigns, in order to promote the use of alternative non-violent forms of child-rearing in accordance with the Convention and Council of Europe 2009-2011 Strategy for Building a Europe for and with children."

Committee on the Rights of the Child

(18 March 2003, CRC/C/15/Add.199, Concluding observations on second report, paras 42 and 43)

"... [The Committee] is also concerned that corporal punishment and other forms of abuse and neglect continue to be practised in the family.

"The Committee recommends that the State party:

a) expressly prohibit corporal punishment in the home, school and institutions;

b) promote alternative methods of discipline;...

g) reinforce its efforts to prevent and combat domestic violence and abuse, including through awareness-raising campaigns designed to change public attitudes."

Human Rights Committee

(9 November 2017, CCPR/C/ROU/CO/5, Concluding observations on fifth report, paras. 23 and 24)

“The Committee reiterates its concern over the high number of cases of domestic violence, including cases of violence against children and allegations that cases of violence against women and children remain underreported. The Committee is also concerned about the high-rate of withdrawal of complaints by victims, the limited scope of ex officio prosecution, the manner of use of mediation, and insufficient commitment of the State party to address domestic violence effectively (arts. 2, 3, 7, 24 and 26).

“The State party should strengthen its efforts to prevent and supress domestic violence against women and children, including (a) by taking further action to raise awareness of the unacceptability and adverse impact of violence against women and children; (b) by enforcing the prohibition of corporal punishment in Law no. 272/2004; and (c) by ensuring that all reports of domestic violence are promptly, thoroughly and effectively investigated, including, where appropriate, ex officio, that the perpetrators are prosecuted and, if convicted, punished with commensurate sanctions and that the victims have access to effective remedies and means of protection. It should also intensify training State officials, in particular law enforcement officials, judges, prosecutors, and health professionals to ensure that they are able to respond promptly and effectively to cases of domestic violence.”

European Committee of Social Rights

(March 2020, Conclusions 2019)

“The Committee recalls that all forms of corporal punishment are prohibited in all settings (Conclusions 2015). There has been no change to this situation.”

European Committee of Social Rights

(January 2016, Conclusions 2015)

“The Committee notes from the Global Initiative to End Corporal Punishment of Children that corporal punishment is prohibited in all settings- in the home, in schools and in institutions.»

European Committee of Social Rights

(January 2012, Conclusions 2011)

“In its previous conclusion (Conclusions 2005) the Committee held that the situation was not in conformity with the Charter as corporal punishment within the family was not prohibited. It now notes from the report of the Governmental Committee of the Social Charter to the Committee of Ministers (TS-G (2005) 25) that new legislation was enacted to prevent and combat domestic violence. It notes from another source that corporal punishment is now prohibited in the home.

“Section 28 of Act No. 272/2004 on the Protection and Promotion of the Rights of the Child, promulgated through Decree No. 481/2004 (in force in 2005), provides that a child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishment or to other humiliating or degrading treatment. Besides, disciplinary measures concerning the child can only be taken in accordance with the child’s dignity, and under no circumstances are physical punishments allowed, or punishments which relate to the child’s physical and mental development or which may affect the child’s emotional status.

“The Committee notes that the situation has thus been brought into conformity.”

European Committee of Social Rights

(March 2005, Conclusions 2005)

“The Committee recalls that Article 17.1 of the Revised Charter 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 Committee notes that corporal punishment within the family was not explicitly prohibited

during the reference period. Consequently, the situation in Romania is not in conformity with Article 17 of the Revised Charter.

“The Committee notes that the new law on the protection and promotion of the rights of the child contains a provision on the prohibition of corporal punishment of children within the family and in institutions.... The Committee will examine the new legislation in the next examination of Article 17.1 of the Revised Charter.

...

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

- corporal punishment of children within the family was not prohibited during the reference period....”

European Committee of Social Rights

(1 October 2003, Conclusions 2003 Vol. 1, page 406)

“The Committee notes that legislation exists protecting children against any form of violence, ill treatment, abuse or neglect while in their parents care. However it notes that all corporal punishment of children in the family is not prohibited. It notes in this respect that there is a draft children’s law including a provision explicitly prohibiting corporal punishment in the family. It wishes to be kept informed of its progress. Meanwhile the Committee concludes that the situation is not in conformity with the Revised Charter on this point.

“The Committee concludes that the situation in Romania is not in conformity with Article 17.1 of the Revised Charter as the corporal punishment of children within the family is not prohibited...”

Prevalence/attitudinal research in the last ten years

A 2017 report from World Vision Romania of a survey entitled “Why we hit the children” found 9 out of 10 parents consider physical violence against a child has only taken place when it leaves bruises and scars. Half of parents consider physical punishment is beneficial for the child’s upbringing; 8% would hit children, but would not want to; 6% hit children for no reason and 5% say they would hit a child because everyone does. Only 1 in 10 parents would never hit their children and only 3% feel very guilty after hitting. Over 78% of adults surveyed remember being subject to physical violence as a child by their own parents. The survey found violence against children is considered the third most significant social issue in Romania.

(Vişoiu, M. (2017), De ce lovim copiii?, Bucharest: World Vision Romania)

A 2012 study found that fewer children reported experiencing corporal punishment from their parents than in a similar study carried out in 2001. In 2001, 84% of children said their parents hit them with a hand without leaving a mark; by 2012, this had fallen to 62%. In 2001, 29% of children reported being hit with objects by their parents and 10% being hit so hard it left a mark. By 2012 these figures had fallen to 18% and 5% respectively. The study also found a decrease in parents’ use of verbal abuse: 22% of children reported experiencing this in 2001, compared to 16% in 2012.

(Save the Children Romania, (2014), Child Neglect and Abuse: National Sociologic Study (English summary),Save the Children & Child Protection Department, Ministry of Labour, Family, Social Protection and Elderly)

A report on institutions, including psychiatric institutions and care facilities, in Romania found that children with disabilities were kept in permanent restraints, including being tied to chairs, tied up with bedsheets and kept in cribs.

(Ahern, L. et al [n.d.], Hidden Suffering: Romania’s Segregation and Abuse of Infants and Children with Disabilities, Mental Disability Rights International)

A 2007 study included a nationally representative poll of 1,110 people and interviews with 155 teachers, doctors, psychologists and other adults who worked with children. Seven in ten (70%) of the sample polled and 92% of professionals interviewed were aware that Romanian legislation included “provisions that forbid physical punishment and humiliating treatment of children”; 73% of the polled

sample and 95% of professionals were aware that physical punishment and humiliating treatment of children were banned in all environments, including schools and the home; 97% of professionals believed the law was necessary in Romania; 82% of the sample felt that an information campaign for the public on child protection legislation was “greatly needed” and 14% that it was needed to some extent; 90% of professionals thought an information campaign for adults working with children was needed. The poll asked people to define “humiliating treatment of children”. Of the 923 people who answered this question, 60% referred to physical violence and 21% to psychological violence; 12% of the sample interviewed said they were aware of children being treated violently in the families of friends or neighbours.

(Save the Children Romania (2007), Study on the Level of Awareness of Child Protection Legislation Among the General Population and Experts)

End Corporal Punishment acts as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We support and analyse national progress, monitor legality and implementation worldwide, partner with organisations at all levels, and engage with human rights treaty body systems. End Corporal Punishment is hosted by the World Health Organization and supported by a multi-partner Advisory Committee.