

Corporal punishment of children in Slovakia

LAST UPDATED June 2020

Also available online at

www.endcorporalpunishment.org

Child population 984,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home.

There is no specific defence available to parents and others who use corporal punishment but the Family Law provides for the right to use “adequate upbringing measures”: corporal punishment is tolerated in society and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, without exception, is prohibited.

Current legality of corporal punishment

Home

Law reform to date has not yet fully prohibited corporal punishment in the home. Article 7(3) of Act No. 305/2005 Coll. On Social-Legal Protection of Children and Social Guardianship, as amended by Act No. 27/2009, states (unofficial translation): “By implementing measures according to this law, it is forbidden to use any form of corporal punishment of the child and other cruel or degrading forms of treatment and forms of chastisement of the child, which cause or may cause the child the physical or mental harm.” This law is regarded by some as a “zero tolerance” approach to corporal punishment;¹ others question this.² In any case, it provides for state intervention only when corporal punishment reaches some degree of severity. In reporting to the Committee on the Elimination of Discrimination Against Women, the Government confirmed that corporal punishment is prohibited except with regard to the family, stating that family law “is governed by the principle that parents have the right and also the duty to choose reasonable forms of discipline in bringing up their children”.³ The same confirmation was provided to the Committee on the Rights of the Child in 2015.⁴

The Family Law 2005 does not explicitly prohibit corporal punishment. Rather, it authorises the use of “adequate” childrearing methods, stating in article 30(3) that in exercising their parental rights and duties, parents “may use adequate upbringing measures in such a way that the child’s health, dignity and mental, physical and emotional development are not endangered”. The Government argued in 2016 that this provision necessarily means that corporal punishment is not tolerated – “given the fact that corporal punishment in an ordinary sense may induce threat to health, dignity, mental, physical and emotional development of the child”⁵ – but this fails to take account of the near universal acceptance of some degree of physical punishment in childhood and the fact that those who advocate its use do not perceive it as harmful. Law reform to clearly prohibit corporal punishment in childrearing is essential.

Provisions against violence and abuse in the Penal Code 2005, the Civil Code 2002 and the Constitution 1992 are not interpreted as prohibiting all corporal punishment in childrearing.

The Government had initially signalled its commitment to reform in 2009 by accepting the recommendations to prohibit made during the Universal Periodic Review of Slovakia.⁶ In reporting to the Universal Periodic Review of Slovakia in 2014, the Government stated that the Civil Code is being prepared and there are proposals to include in it “the ban of physical punishment in exercising parental rights and obligations”.⁷ A similar statement was made by the Government to the Committee Against Torture in 2015.⁸ In May 2015, drafting was still under way.⁹ The Government reported in September 2016 to the Human Rights Committee that the “re-codification of the Civil Code ... will be completed during this parliamentary term”;¹⁰ we have no further information. The Global Initiative no longer considers Slovakia committed to prohibiting all corporal punishment of

¹ Information provided to the Global Initiative from Detský Fond Slovenskej Republiky, July 2013; see also 8 November 2013, A/HRC/WG.6/18/SVK/1, National report to the UPR, para. 25; 23 September 2014, CAT/C/SVK/3/Rev.1, Third state party report, para. 96; 14 July 2014, CEDAW/C/SVK/5-6, Fifth/sixth state party report, para. 266

² Coalition for Children Slovakia, correspondence with the Global Initiative, 24 June 2015

³ 14 July 2014, CEDAW/C/SVK/5-6, Fifth/sixth state party report, para. 266

⁴ 16 September 2015, CRC/C/SVK/3-5, Third-fifth state party report, para. 73

⁵ 12 May 2016, CRC/C/SVK/Q/3-5/Add.1, Reply to list of issues, para. 35

⁶ 5 June 2009, A/HRC/12/17, Report of the working group, paras. 89(40) and 89(42)

⁷ 8 November 2013, A/HRC/WG.6/18/SVK/1, National report to the UPR, para. 25

⁸ 3 June 2015, CAT/C/SVK/Q/3/Add.2, Reply to list of issues, para. 148

⁹ Slovakia Ministry of Foreign Affairs, correspondence with the Global Initiative, 13 May 2015

¹⁰ 15 September 2016, CCPR/C/SVK/Q/4/Add.1, Reply to the list of issues, para. 52

children without delay, as despite having drafted prohibiting provisions back in 2014, Slovakia has yet to enact prohibition. It is unclear whether a ban is still being considered.

Alternative care settings

Corporal punishment is unlawful in all alternative care settings under article 7(3) of the Act No. 305/2005 Coll. as amended by Act No. 27/2009 (see under “Home”).

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under article 7(3) of the Act No. 305/2005 Coll. as amended by Act No. 27/2009 (see under “Home”).

Schools

Corporal punishment is explicitly prohibited in schools in article 3 of Act No. 245/2008 Coll. on Upbringing and Education (the Education Act): “Education and training under this Act are based on the principles of ... (r) prohibiting the use of all forms of corporal punishment and sanctions in education.”

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 3(1) of the Act No. 475/2005 Coll. on the exercise of the confinement penalty, which prohibits cruel, inhuman or degrading forms of punishment or treatment.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in criminal law.

Universal Periodic Review of Slovakia’s human rights record

Slovakia was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). The following recommendations were made:¹¹

“Take further steps to ensure that the legislation on violence against women and girls is fully in line with international standards and includes prohibition of corporal punishment in the home (Sweden);

“Prohibit corporal punishment by law in all settings, including the home (Brazil)....”

The Government accepted the recommendations.¹²

The second cycle review of Slovakia took place in 2014 (session 18). In its national report, the Government stated: “Since 2009, the so-called zero tolerance of physical punishment of children has

¹¹ 5 June 2009, A/HRC/12/17, Report of the working group, paras. 89(40) and 89(42)

¹² 5 June 2009, A/HRC/12/50, Report of the Human Rights Council on its twelfth session, para. 650

been introduced into legislation. It means that according to the Act on Social and Legal Protection of Children and on Social Care, it is prohibited to use any forms of physical punishment against children and other gross or degrading forms of treatment or punishment which cause or may cause physical or mental injury. Everybody has the obligation to report the violation of children's rights to the socio-legal protection authority. The ban of physical punishment in exercising parental rights and obligations is proposed to be included in the new Civil Code, currently under preparation."¹³

The following recommendations were made:¹⁴

“Take steps for comprehensive prohibition of corporal punishment, including when exercising parental rights (Estonia);

“That legislation on the ban of corporal punishment in the exercise of parental rights be approved (Portugal)”

The Government accepted the recommendations.¹⁵

Third cycle examination took place in 2019 (session 32). The following recommendation was extended:¹⁶

“Put an end to corporal punishment of children in all settings and encourage non-violent forms of discipline as alternatives (Austria)”

Slovakia supported the recommendation.¹⁷

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(3 June 2016, CRC/C/SVK/CO/3-5, Concluding observations on third-fifth report, paras. 26 and 27)

“The Committee deeply regrets that the 2005 Family Code, despite the amendments made in June 2015, still tolerates the use of ‘reasonable physical punishment’ in the raising of children in families.

“In the light of its general comment No. 8 (2006) on corporal punishment and its previous recommendations (CRC/C/SVK/CO/2, para. 37), the Committee urges the State party to explicitly prohibit corporal punishment within the home without further delay.”

Committee on the Rights of the Child

(10 July 2007, CRC/C/SVK/CO/2, Concluding observations on second report, paras. 36 and 37)

“The Committee notes with appreciation that corporal punishment in schools, alternative care contexts, and the penal system is unlawful and notes that the new Penal Code protects children from physical and psychological violence, insults, abuse, neglect and mistreatment without referring explicitly to corporal punishment. While the Committee welcomes the Government's stated intention to prohibit corporal punishment in the home, it nevertheless expresses its concern that, to date, corporal punishment within the home remains lawful.

¹³ 8 November 2013, A/HRC/WG.6/18/SVK/1, National report to the UPR, para. 25

¹⁴ 26 March 2014, A/HRC/26/12, Report of the working group, paras. 110(72) and 110(73)

¹⁵ 12 June 2014, A/HRC/26/12/Add.1, Report of the working group: Addendum para. 17

¹⁶ 16 April 2019, A/HRC/41/13, Report of the Working Group, para. 121(149)

¹⁷ 13 June 2019, A/HRC/41/13/Add.1 Advance version, Report of the Working Group: Addendum

“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, take steps to ensure that corporal punishment is explicitly prohibited by law in all settings, including the home, and that the State party intensify its awareness-raising campaigns, in order to promote the use of alternative non-violent forms of discipline in a manner consistent with article 28, paragraph 2, of the Convention.”

Committee on the Rights of the Child

(23 October 2000, CRC/C/15/Add.140, Concluding observations on initial report, para. 32)

“In light of articles 19 and 39 of the Convention, the Committee recommends that the State party ensure that all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools and care institutions, are prohibited. Attention should be given to ensuring that the abused child is not victimized in legal proceedings; strengthening programmes for the rehabilitation and reintegration of abused children; and addressing sociocultural barriers that inhibit victims from seeking assistance. The Committee recommends that the State party continue to undertake public education campaigns about the negative consequences of ill-treatment of children, including within the family. The Committee encourages the State party to continue to promote the use of the hotline and other mechanisms to receive complaints throughout the country; to use the disaggregated data collected as a basis for designing preventive and other measures; and to evaluate progress in this area.”

Committee on the Elimination of Discrimination Against Women

(18 July 2008, Part of A/63/38, Concluding observations on second-fourth report, paras. 34 and 35)

“... The Committee also expresses concern about the fact that corporal punishment in the home is lawful and constitutes a form of violence against children, including the girl child...”

“The Committee urges the State party to place high priority on the introduction of comprehensive and holistic measures to address all forms of violence against women in the family and in society.... The Committee also recommends that the State party include in its legislation the prohibition of corporal punishment of children in the home....”

Human Rights Committee

(22 November 2016, CCPR/C/SVK/CO/4, Concluding observations on fourth report, paras. 34 and 35)

“The Committee remains concerned that the State party’s legislation does not explicitly include a prohibition of corporal punishment in the home environment (arts. 7 and 24).

“The State party should take 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 conduct public information campaigns to raise awareness about the harmful effects of corporal punishment.”

Human Rights Committee

(20 April 2011, CCPR/C/SVK/CO/3, Concluding observations on third report, para. 12)

“While taking note of the fact that the current Criminal Code No. 300/2005 Coll. (as amended) criminalizes and punishes the torture and ill-treatment of children, the Committee expresses concern

at the permissibility of corporal punishment in the home where it traditionally continues to be accepted and practised as a form of discipline by parents and guardians (arts. 7 and 24).

The State party should take practical steps 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 conduct public information campaigns to raise awareness about its harmful effects.”

European Committee of Social Rights

(March 2020, Conclusions 2019)

“The Committee previously concluded that the situation was non-conformity with the Charter on the ground that not all forms of corporal punishment are prohibited in the home (Conclusions 2015).

“According to the report following an amendment of the Criminal Code all forms of physical violence, including corporal punishment, against children are prohibited and corporal punishment is classified as a criminal act of violence against a dependent person.

“However the Committee notes from the Global Initiative to End Corporal Punishment that prohibition is still to be achieved in the home. There is no specific defence available to parents and others who use corporal punishment but the Family Law provides for the right to use “adequate upbringing measures”: corporal punishment is tolerated in society and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The Committee asks for the Government’s comments on this.

“In the meantime the Committee concludes that the situation is still not in conformity with the Charter.

...

“The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 17§1 of the Charter on the ground that: • not all forms of corporal punishment are prohibited in all settings; • the maximum length of pre-trial detention is excessive; • it has not been established that children in public care are adequately cared for.”

European Committee of Social Rights

(January 2016, Conclusions 2015)

“In its previous conclusion (Conclusions 2011) the Committee held that the situation was not in conformity with the Charter as all forms of corporal punishment were not explicitly prohibited in the home.

“The Committee notes from the report that the Ministerial Committee for Children stated that a cooperation between the Ministry of Labour, Social Affairs and Family and the Ministry of Justice was established to prepare an amendment of the Civil Code and the Penal Code to explicitly prohibit all forms of corporal punishment of children in the home.

“The Re-codification Commission has been invited by the Minister of Labour, Social Affairs and Family to prepare a draft amendment of the Civil Code and the Penal Code in this respect.

“The Committee further notes from the Global Initiative to End Corporal Punishment that the Family Act 1963 (amended 2002) does not explicitly prohibit corporal punishment. Rather, it authorises the use of “adequate” childrearing methods, stating in Article 31(2) that in exercising their parental rights and duties, parents “must rigorously protect the child’s interests, manage his or her behaviour and

exercise a surveillance over him or her in accordance with the level of his or her development” and that they “may use adequate upbringing measures so that the child’s dignity is not violated and his or her health, emotional, intellectual and moral development are not endangered”.

“The Committee also notes from the National report submitted to the UN Human Rights Council Working Group on the Universal Periodic Review (Eighteenth session 27 January – 7 February 2014) that since 2009, the so-called zero tolerance of physical punishment of children has been introduced into legislation. It means that according to the Act on Social and Legal Protection of Children and on Social Care, it is prohibited to use any forms of physical punishment against children and other gross or degrading forms of treatment or punishment which cause or may cause physical or mental injury. Everybody has the obligation to report violations of children’s rights to the socio-legal protection authority. The ban of physical punishment in exercising parental rights and obligations is proposed to be included in the new Civil Code, which is under preparation.

“The Committee wishes to be informed of the follow up given to this legislative initiative.

“In the meantime, it considers that the situation which it has previously found not to be in conformity with the Charter has not changed. Therefore, it reiterates its previous finding of non-conformity on the ground that not all forms of corporal punishment are prohibited in the home.”

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

- all forms of corporal punishment are not prohibited in the home...”

European Committee of Social Rights

(January 2012, Conclusions 2011)

“The Committee previously concluded (Conclusions XVI-2) that the situation in the Slovak Republic was not in conformity with Article 17 of the Charter, as the corporal punishment of children was not prohibited.

“The Committee notes from the CRC Concluding Observations that corporal punishment in schools, alternative care contexts, and the penal system is unlawful and notes that the new Penal Code protects children from physical and psychological violence, insults, abuse, neglect and mistreatment without referring explicitly to corporal punishment.

“According to the report, Act No. 305/2005 Coll. on Social-Legal Protection of Children and Social Guardianship, as amended by Act No. 27/2009, forbids the use any form of corporal punishment of the child and other cruel or degrading forms of treatment and forms of chastisement of the child, which cause or may cause the child the physical or mental harm. However, the Global Initiative to End All Corporal Punishment of Children² have established that this is interpreted as providing for state intervention only when corporal punishment reaches a certain degree of severity and ‘light’ physical punishment by parents is not covered by the new legislation. Provisions against violence and abuse in the Penal Code (2005), the Civil Code (2002), the Family Act and the Constitution (1992) are not interpreted as prohibiting all corporal punishment in childrearing.

“Consequently, the Committee concludes that the situation in the Slovak Republic is not in conformity with Article 17§1 of the Charter, as all forms of the corporal punishment of children in the home are not explicitly prohibited.

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

- all forms of corporal punishment of children are not explicitly prohibited in the home....”

European Committee of Social Rights

(30 September 2003, Conclusions XVI-2, page 804)

“The Committee previously asked whether the corporal punishment of children in the home, in schools, institutions and elsewhere was prohibited by legislation. The current report provides no information on this subject, however the Committee notes that the concluding observations of the Committee on the Rights of the Child in respect of the Slovak Republic recommend such a prohibition. Therefore, the Committee notes that there is no prohibition yet in place and concludes that the situation is not in conformity with the Charter on this point....

“The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 17 of the Charter, as the corporal punishment of children is not prohibited.”

European Committee of Social Rights

(1 June 2001, Addendum to Conclusions XV-2, pages 228-230)

“The Committee wishes to know whether legislation prohibits the corporal punishment of children in the home, in schools, institutions, and elsewhere....

“Pending receipt of the requested information the Committee defers its conclusion.”

Prevalence/attitudinal research in the last ten years

None identified.