

Progress towards prohibiting all corporal punishment of children in EU member states

Summary

This briefing highlights the human rights imperative to prohibit all violent punishment of children in European Union member states. It summarises progress so far towards prohibition in each state and what remains to be done. Aiming to promote national action for prohibition, it emphasises the many immediate opportunities for working to fulfil children's right to protection in law from all corporal punishment in all settings. Many EU states are reforming their laws to strengthen children's protection from violence. Of the 28 EU member states, 19 have already prohibited all corporal punishment including within the family home and another three are committed to doing so.

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on the Rights of the
Child, June 2015*

Why prohibit corporal punishment?

Everyone has a right to protection in law from being hit and hurt, regardless of where they are, who they are with or what the circumstances are. Children are particularly vulnerable to violence – and yet in so many states they are the last to receive this basic legal protection. In many societies, the belief that physical and other humiliating punishment is a necessary part of “disciplining” children is widely held. Some people view the use of violent punishment in childrearing and education as a religious imperative. But seeing children as human beings in their own right – and due the protection of their human rights in the same way as adults are – means that corporal punishment and other violations of their physical integrity and human dignity cannot be justified.

Since 2006, the EU has emphasised the promotion and protection of children's rights as a priority issue. The European Parliament, in a 2009 resolution on the situation of fundamental rights across the EU 2004-2008, called for a total ban on corporal punishment in all member states. And again in November 2014, the Parliament adopted a resolution calling on member states to uphold their obligations and combat any form of violence against children, “including by formally prohibiting and sanctioning corporal punishment against children”. The EU Guidelines on the Rights of the Child prioritise action to combat all forms of violence against children, with an implementation strategy based on the UN Secretary General's Study on Violence against Children: the Study recommended prohibition of all corporal punishment. The EU Agenda for the Rights of the Child refers to the work of the UN Committee on the Rights of the Child and its interpretation of the Convention on the Rights of the Child. It affirms that the EU “is strongly committed to eliminating all forms of violence against children.”

Legal protection from all corporal punishment is a right in itself. But prohibition is also critical in fulfilling children's rights to health, development and education. Experience of corporal punishment as a child is associated with poor mental health in childhood and adulthood. Physical punishment is linked to increased aggression and antisocial behaviour in children and an increased likelihood of perpetrating, experiencing and accepting violence as an adult. Corporal punishment damages family relationships and teaches children that violence is an acceptable way to resolve conflict.

Opportunities for action in states still to achieve prohibition

Law reform to prohibit corporal punishment is achieved when legislation sends a clear message that corporal punishment, whatever level of severity and regardless of perceived impact in terms of “injury” or “harm”, is prohibited in all settings, including within the family home. The law must be absolutely clear that discipline of children must never involve physical punishment.

The deeply held view that some degree of violent punishment is necessary or even a duty in childrearing means it is not perceived as an abusive or violent act unless it reaches some level of severity. This is reflected in laws that authorise parents and others to impose “moderate” correction or “reasonable” punishment on children – provisions that typically constitute a legal defence against charges of assault. These defences must be explicitly repealed or amended so as to unequivocally rule out the use of corporal punishment as a “disciplinary” method.


The following tables identify the nine EU member states where children are not fully protected in law from all forms of corporal punishment. In three of these, Governments have expressed a commitment to prohibiting all corporal punishment of children by clearly accepting recommendations to do so made during the Universal Periodic Review of their overall human rights record. The tables summarise the progress made towards prohibition in each state and what remains to be done. Crucially, they identify immediate opportunities for drafting and introducing prohibiting legislation. We welcome comments and updates: email sharon@endcorporalpunishment.org.

States committed to prohibition of all corporal punishment		
State	Opportunities for law reform and progress towards prohibition	Immediate action required to achieve full prohibition
 Lithuania	Government stated intention to prohibit to Committee on the Rights of the Child in 2006 and accepted 2011 UPR recommendation to prohibit; new Child Protection Bill under discussion includes prohibition.	Ensure Child Protection Bill, including clear prohibition of all corporal punishment in the home and all forms of care, is enacted as a priority.
 Slovakia	Government accepted 2009 UPR recommendation to prohibit; law reform in 2009 did not achieve protection from all corporal punishment; Government reported to UPR (2014) that proposed new Civil Code would include prohibition.	Ensure new Civil Code includes clear prohibition of all corporal punishment, without exception, including in the home, and is introduced to Parliament at the earliest opportunity.
 Slovenia	Government accepted 2010 UPR recommendation to prohibit; Family Code Bill which would have achieved prohibition was rejected by referendum; Government reported to Human Rights Council (2015) that new Family Code being prepared will include prohibition.	Ensure new Family Code includes clear prohibition of all corporal punishment, including in the home and all forms of care, and is introduced at the earliest opportunity.



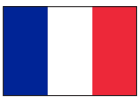


“A child should never be hit. In our times, in our world, corporal punishment has to be treated as a form of violence, not as a form of education. In our Intergroup on Children’s Rights in the European Parliament, we are committed to fight any violence against children and we are driving for a zero tolerance policy against corporal punishment. Last autumn, we obtained a significant result with the adoption of an important resolution for the 25th Anniversary of the UN Convention on the Rights of the Child, calling on Member States to formally prohibit and sanction corporal punishment of children. Corporal punishment is too often tolerated and too few Member States have put in place legislation to protect children from being hit. We will do all we can to accelerate progress across Europe, working with NGOs and civil society to raise awareness and to pressure more Member States to formally prohibit and sanction corporal punishment on children, also by training law enforcement authorities to protect children.”

Anna Maria Corazza Bildt, Co-Chair of the Intergroup on Children’s Rights, European Parliament

****Confirmation required in legislation of Supreme Court ruling
against corporal punishment****

State	Opportunities for law reform and progress towards prohibition	Immediate action required to achieve full prohibition
Italy 	1996 Supreme Court ruling outlaws all violence in childrearing and Government has repeatedly stated this means children are adequately protected from all corporal punishment, but prohibition has not been confirmed through law reform; Government rejected 2010 and 2014 UPR recommendations to prohibit.	Drafting and introduction of legislation clearly prohibiting all corporal punishment, including in the home and all forms of care, and explicitly excluding corporal punishment as a lawful method of "correction".

****States which have not yet committed to law reform****

State	Opportunities for law reform and progress towards prohibition	Immediate action required to achieve full prohibition
Belgium 	Government rejected 2011 UPR recommendation to prohibit and has repeatedly stated it considers existing law adequate; law protects from violence and provides for respect for physical integrity etc but does not clearly prohibit all corporal punishment.	Drafting and introduction of legislation clearly prohibiting all corporal punishment, including in the home and all forms of care.
Czech Republic 	Government rejected 2012 UPR recommendations to prohibit and has repeatedly stated law adequately protects children from "inappropriate" punishment; Civil Code 2014 does not prohibit all corporal punishment.	Drafting and introduction of legislation clearly prohibiting all corporal punishment, including in the home and all forms of care.
France 	Government accepted 2013 UPR recommendation to prohibit but stated acceptance did not necessarily imply commitment to further action; 2014 bill amending Family Law to prohibit failed to progress through Parliament.	Drafting and introduction of legislation clearly prohibiting all corporal punishment, including in the home and all forms of care, and explicitly repealing customary law "right of correction". Law reform should also be undertaken in the overseas territories.
Ireland 	Government has repeatedly stated that the issue of prohibition of corporal punishment is under continuous review but is yet to progress towards law reform.	Drafting and introduction of legislation explicitly repealing common law defence of "reasonable chastisement".
UK 	Government rejected 2008 and 2012 UPR recommendations to prohibit corporal punishment and has repeatedly defended legality of "reasonable punishment" of children.	Drafting and introduction of legislation repealing "reasonable punishment" defence in England, Wales and Northern Ireland and similar defence in Scotland. Law reform should also be undertaken in the British Overseas Territories and Crown Dependencies.

"Hitting children is disrespectful and dangerous. Children deserve at least the same protection from violence that we as adults take for granted for ourselves...."

"We urge Governments without delay to introduce legislation prohibiting all corporal punishment, and initiate/support education programmes in positive, non-violent forms of discipline. We commit ourselves, as offices committed to improving the lives of all children in Europe, to work actively on this fundamental human rights issue."

European Network of Ombudspersons for Children (ENOC)

The reality of corporal punishment for children ...

Many states which have prohibited all corporal punishment in legislation are seeing a decrease in its prevalence and in public approval of it. These trends are clearest in Sweden, where prohibition has now been in place for over 35 years; similar evidence of the impact of prohibition on children's exposure to violent punishment has been documented in Finland, Austria, Germany, Latvia, Bulgaria and Poland.

But research in countries which have not yet achieved full prohibition reveals high levels of violent punishment of children. For example, a survey in France (2007) found that 96% of children had been smacked, 30% reported being punished with a martinet (a small whip). A study in Belgium (2011) found that nearly a quarter of the 10-18 year olds surveyed had suffered "extreme violence" (being beaten with an object, locked in a small room or tied up and forced to stand in the same position or do physical exercises). In a survey in the Czech Republic (2009), 50% felt that corporal punishment may be sometimes necessary. In Ireland (2013), 62% of parents reported they had slapped a child to "discipline" him/her, 45% of primary caregivers of 3 year olds had smacked them. In Italy (2009), 63% of parents reported slapping their 3-5 year olds. In the UK (2009), 42% of parents said they had physically punished their child in the past year.

(For further details of research in states with and without full prohibition, go to www.endcorporalpunishment.org.)

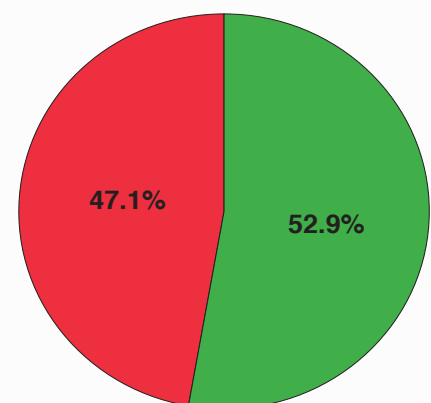
... and strong support for its prohibition

There is considerable support for prohibition and elimination of corporal punishment in Europe. The Council of Europe has since 2008 campaigned explicitly for prohibition of corporal punishment in all settings across all member states. The Parliamentary Assembly called for a Europe-wide ban on corporal punishment in a 2004 recommendation. The European Court of Human Rights has progressively condemned corporal punishment. The European Committee of Social Rights has found persisting legality of corporal punishment to be in violation of the Social Charter, in its conclusions on states' reports and in a series of decisions on collective complaints, stating in a 2015 decision against France: "The Committee notes that there is now a wide consensus at both the European and international level among human rights bodies that the corporal punishment of children should be expressly and comprehensively prohibited in law. The Committee refers in particular in this respect to the General Comments Nos. 8 and 13 of the Committee on the Rights of the Child."

Today, nearly 53% of children in the European Union enjoy full legal protection from corporal punishment – compared with just 9% of children worldwide. But still far too many can lawfully be hit and hurt by those closest to them.

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*European Committee of Social Rights, 2015
(Decision on the merits, collective complaint against France)*



■ EU children fully protected in all settings
■ EU children not fully protected in all settings

Progress towards prohibition

Global progress towards prohibition is accelerating: 46 countries have now prohibited all corporal punishment, including in the home. Among the 28 EU member states, 19 have fully prohibited all corporal punishment of children, including within the family home, and governments in three other member states have expressed a commitment to enacting prohibiting legislation.



<i>Laws prohibiting corporal punishment in the home</i>	
Austria	General Civil Code amended 1989; Federal Constitutional Act on the Rights of Children 2011
Bulgaria	Child Protection Act 2000 amended 2003; Regulations on the Implementation of the Child Protection Act 2003
Croatia	Family Act 1998; Family Act 2003
Cyprus	Violence in the Family (Prevention and Protection of Victims) Law 1994; Act on Violence in the Family 2000; Children's Law 1956 amended 2013
Denmark	Parental Custody and Care Act 1995 amended 1997; Danish Act on Parental Responsibility 2007
Estonia	Child Protection Act 2014
Finland	Child Custody and Rights of Access Act 1983
Germany	Civil Code amended 2000
Greece	Law 3500/2006 on the Combating of Intra-family Violence 2006
Hungary	Child Protection Act amended 2004
Latvia	Children's Rights Protection Law 1998
Luxembourg	Law on Children and the Family 2008
Malta	Criminal Code amended 2014
Netherlands	Civil Code amended 2007
Poland	Family Code amended 2010
Portugal	Penal Code amended 2007
Romania	Law on Protection and Promotion of the Rights of the Child 2004
Spain	Civil Code amended 2007
Sweden	Parenthood and Guardianship Code amended 1979



Taking action for children

Reforming legislation to prohibit corporal punishment provides a firm foundation for eliminating its use and transforming the lives of children. Many opportunities for prohibition exist across the region. Whenever relevant laws (e.g. on children or on domestic violence, civil or criminal codes) are introduced or reviewed, the opportunities afforded to prohibit corporal punishment should not be missed. When these opportunities arise, it is vital to propose that prohibition – including the repeal of all legal defences/authorisations for the use of corporal punishment – is included in the laws and retained as the legislation passes through parliament. Every opportunity to prohibit represents a chance to fulfil children’s right to legal protection, stopping children from being hit and hurt by their parents and others.

Moving swiftly from discussion to action is key. National attention to corporal punishment (e.g. through government consultations, new research, media reports, etc) can be used to promote prohibition: proposals for law reform must be made and followed through. Given children’s clear and immediate human right to protection, it is not necessary to consult on the issue, nor is it justifiable to wait for public attitudes to change before reforming the law.

By prohibiting corporal punishment, governments and parliaments can lead the way. All over the world there is some opposition to prohibition, but the experiences of states which have achieved prohibition show that on this issue those in power must lead rather than follow public opinion. Prohibition, accompanied by appropriate measures to raise awareness of and implement the law, together with promotion of positive, non-violent forms of discipline, is the most efficient way to change attitudes and the only way to fulfil children’s right to protection in law and practice.

“The vision of a world in which violent punishment of children is universally condemned and prohibited is now within our grasp. We cannot let more generations of children suffer these obvious and deliberate violations of their rights. We must not keep children waiting.”

Paulo Sérgio Pinheiro, The Independent Expert who led the UN Study on Violence against Children



Global Initiative to
**End All Corporal Punishment
of Children**

The Global Initiative to End All Corporal Punishment of Children promotes universal prohibition and elimination of corporal punishment.

www.endcorporalpunishment.org



Save the Children

Save the Children opposes all corporal punishment and other humiliating punishment of children and works for its universal prohibition and elimination.

resourcecentre.savethechildren.se