**Corporal punishment of children in The Former Yugoslav Republic of Macedonia**



**Report prepared by the Global Initiative to End All Corporal Punishment of Children (**[**www.endcorporalpunishment.org**](http://www.endcorporalpunishment.org)**), last updated February 2014**

**Child population**

445,000 (UNICEF, 2011)

# Summary of necessary legal reform to achieve full prohibition

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

# Detailed country report

**Prohibition of corporal punishment**

**Home**

Corporal punishment is unlawful in the home. Article 12(2) of the Law on Child Protection 2013 prohibits all forms of corporal punishment (unofficial translation): “All forms of sexual exploitation and sexual child abuse (harassment, child pornography, child prostitution), forced procuring, selling or trafficking children, psychological or physical violence and harassment, punishment or other inhuman treatment, all kinds of exploitation, commercial exploitation and abuse of children that violates basic human freedoms and rights and rights of the child, are prohibited.” Article 12(6) states that children are to be protected in all settings: “The state and institutions are obliged to take all necessary measures to ensure the right of the children and prevent any form of discrimination or abuse regardless of the place where they are committed, the severity, intensity and duration.” In reporting to the Universal Periodic Review in 2013, the Government confirmed that the Law prohibits all corporal punishment of children.[[1]](#footnote-1)

### Alternative care settings

Corporal punishment is prohibited in alternative care settings (foster care, institutions, places of safety, emergency care, etc) under article 12 of the Law on Child Protection 2013 (see under “Home”).

### Day care

Corporal punishment is prohibited in early childhood care (nurseries, crèches, preschools, family centres, etc) and in day care for older children (day centres, after-school childcare, childminding, etc) under article 12 of the Law on Child Protection 2013 (see under “Home”).

### Schools

Corporal punishment is prohibited in all education settings under article 12 of the Law on Child Protection 2013 (see under “Home”). The Law on Elementary Education 1995 makes no provision for corporal punishment, though does not explicitly prohibit it. The Law on Secondary Education prohibits corporal punishment in article 64 (unofficial translation): “Physical punishment and mental maltreatment of students is forbidden.” Article 128 of the Law punishes the breach of this prohibition with a fine.

### Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the prohibition of corporal punishment in article 12 of the Law on Child Protection 2013 (see under “Home”). Corporal punishment is not among permitted disciplinary measures in the Law on Execution of Sanctions 2006, and the Law on Juvenile Justice 2007 protects the rights of children in conflict with the law.

### Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not available as a sentence under the Criminal Code 2004, the Criminal Procedure Code, the Law on Execution of Sanctions 2006, the Law on Misdemeanours 2006, the Law on Offenses 2006 or the Law on Juvenile Justice 2007.

## Prevalence/attitudinal research in the last ten years

The 2011 report of the Ombudsman, acting as National Preventive Mechanism under the Optional Protocol to the Convention Against Torture, documented the use of solitary confinement as a punishment and of insults and physical violence by guards against juveniles in penitentiary-correctional and educational-correctional institutions.[[2]](#footnote-2)

A UNICEF report published in 2010 states that 72% of children aged 2-14 experienced violent discipline (physical punishment and/or psychological aggression) in 2005-2006. Nearly six in ten experienced physical punishment, while a much smaller percentage (7%) of mothers and caregivers thought that physical punishment was necessary in childrearing, and non-violent discipline was also widely used: experienced by 90% of children. More than one child in seven experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement) and 61% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). Boys were slightly more likely than girls to experience violent discipline: 77% compared to 68%. No significant differences in children’s experience of violent discipline were found according to age, household size, level of education of adults in the household or engagement in child labour.[[3]](#footnote-3)

According to statistics from UNICEF on violence in the family, in 2005-2006, twelve per cent of disabled children aged 2-9 were hit or slapped on the face, head or ears or hit over and over as hard as possible with an implement, compared to 20% of non-disabled children. Twenty-one per cent of girls and women aged 15-49 thought that a husband is justified in hitting or beating his wife under certain circumstances.[[4]](#footnote-4)

A 2009 report by the office of the Ombudsman of the Republic of Macedonia found that corporal punishment was very common in institutions. Fifty-three children living in three institutions took part in the research. Of these, 21% said physical violence occured often in institutions and 21% said it occured rarely. Seventeen per cent said they were often psychologically abused, and 11% rarely. Only about half of the children had never experienced physical violence, and half had never experienced psychological violence. Children were afraid to report experiencing corporal punishment, and also did not know where to report it.[[5]](#footnote-5)

In a 2009 survey of 662 adults, 65.3% said they believed that corporal punishment should never be used, compared with 42.8% in a similar 2005 survey of 519 adults. In 2009, 1.5% said that corporal punishment was acceptable “if the parent believes that it will be effective”, compared with 14.5% in 2005.[[6]](#footnote-6)

In a 2009 survey of 208 teachers in primary schools in Skopje, 73% said they believed that corporal punishment is humiliating for the child and 70% believed it meant that “the parents are not good at rearing children”. Sixty-eight per cent felt that the use of “spanking” as a punishment would justify intervention by a third party. In an identical survey of a similar sample in 2005, 62% believed this. On average, respondents in 2009 estimated that 30% of children in Macedonia experience spanking as punishment, compared with an average estimate of 52% in 2005.[[7]](#footnote-7)

The First Children’s Embassy in the world-Megjashi, carried out research on children’s rights, discrimination and violence in 2009, involving over 2,200 students. According to the report, 56% of children named hitting/beating as a form of violence that happens in schools, and 57% said they knew a child who had been beaten by a teacher or headteacher, including slapping (63%), caning (34%), and kicking (15%).[[8]](#footnote-8)

**Recommendations by human rights treaty bodies**

***Committee on the Rights of the Child***

(23 June 2010, CRC/C/MKD/CO/2, Concluding observations on second report, paras. 38, 39, 40 and 41)

“While welcoming the strengthening of anti-torture provisions through amendments of the Criminal Code and the amending of the Law on the Ombudsman in 2009 to bring the institution into line with the Optional Protocol to the Convention against Torture, the Committee is deeply concerned about allegations of solitary confinement, corporal punishment and use of batons in the Educational-Correctional Institution.

“The Committee recommends that the State party take immediate measures to remove batons and to abolish the use of corporal punishment in the Educational-Correctional Institution. In line with article 37 (c), the State party should review or limit as far as possible the use of solitary confinement in the institution.

“While noting the prohibition of corporal punishment in schools and the penal system, the Committee is concerned that applicable law is not interpreted as prohibiting corporal punishment in the home and is further concerned about the high prevalence of physical punishment and aggression in the family.

“The Committee recommends that the State party:

a) prohibit corporal punishment in the home as a matter of urgency;

b) undertake a review of current legislation with a view to identifying protection gaps and ending the use of corporal punishment in all areas, including in schools, in the home, in the penal system, and in alternative care settings;

c) take due account 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 (CRC/C/GC/8).”

*Committee on the Rights of the Child*

(23 February 2000, CRC/C/15/Add.118, Concluding observations on initial report, paras. 23 and 24)

“Recognising the State party’s efforts to end corporal punishment practices in schools, the Committee is nevertheless concerned that such practices have not been entirely ended in schools and also continue outside of the school context.

“The Committee urges the State party to continue its efforts to end corporal punishment practices in schools, to monitor and record the use of corporal punishment against children in all contexts, and to make every effort to prevent the practice of corporal punishment including through its prohibition by law. The Committee further encourages the State party to undertake campaigns to raise the awareness of parents, in particular, of the harmful effects of corporal punishment.”

### *Committee Against Torture*

(21 May 2008, CAT/C/MKD/CO/5, Concluding observations on second report, para. 21)

“The Committee notes that corporal punishment of children is not explicitly prohibited in all settings and it is a common and accepted means of childrearing.

The State party, taking also into account the recommendation in the United Nations Secretary General’s Study on Violence Against Children, should adopt and implement legislation prohibiting corporal punishment in all settings, supported by the necessary awareness-raising and public education measures.”

### *European Committee of Social Rights*

(January 2012, Conclusions 2011)

“The Committee recalls that under Article 17 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 prohibiting corporal punishment must be sufficiently clear, binding and precise, so as to preclude the courts from refusing to apply them to violence against children. There will be no sufficient prohibition of corporal punishment in law unless a state can demonstrate that legislation is interpreted as prohibiting corporal punishment and effectively applied as such.

“The Committee notes from another source that corporal punishment is lawful in the home. Provisions against violence and abuse in the Law on Protection of Children (2000), the Criminal Code (2004), the Family Law (2004) and the Constitution (1991) are not interpreted as prohibiting all corporal punishment in childrearing. Corporal punishment is prohibited in schools in the Law on Elementary Education (1995) and Articles 64 and 128 of the Law on Secondary Education (1995). There is no explicit prohibition of corporal punishment in alternative care settings.

“The Committee considers that the situation is not in conformity with the Charter as corporal punishment is not explicitly prohibited in the home and in institutions.

“The Committee concludes that the situation in ‘the former Yugoslav Republic of Macedonia’ is not in conformity with Article 17 of the Charter of 1961 on the ground that corporal punishment is not explicitly prohibited in the home and in institutions.”

## Universal Periodic Review

The Former Yugoslav Republic of Macedonia was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). The following recommendations were made:[[9]](#footnote-9)

“Adopt and implement legislation prohibiting corporal punishment under all circumstances and accompany this with a public awareness-raising campaign (Austria); adopt appropriate measures, consistent with international standards, to avoid corporal punishment of children in all areas and to carry out education and awareness-raising campaigns in schools and in society at large (Argentina)”

The Government accepted the recommendations.[[10]](#footnote-10) In its Mid-term report, dated February 2012, the Government confirmed its acceptance of the recommendations and drew attention to the Law Amending the Law on Protection of Children 2009.

The second cycle review took place in 2014 (session 18). In its nation report to the UPR, the Government confirmed that the law prohibits corporal punishment: “The legislation prohibits corporal punishment of children. Article 9 of the Law on Child Protection prohibits psychological and physical ill-treatment, punishment or other inhuman treatment or abuse of children. Chapter XV of this Law contains misdemeanour provisions. Corporal punishment of children amounts to domestic violence, according to the Law on the Family and a crime according to the Criminal Code. The Laws on Primary and on Secondary Education prohibit physical and psychological ill-treatment of students.”[[11]](#footnote-11) The following recommendation was made during the review:[[12]](#footnote-12)

“Implement legislation prohibiting corporal punishment of children in the home and conduct awareness-raising campaigns on the harmful effect of corporal punishment and on the use of alternative and non-violent forms of discipline in a manner consistent with the child’s dignity (Liechtenstein)”

The Government’s response is due by June 2014.

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. 8 November 2013, A/HRC/WG.6/18/MKD/1, National report to the UPR, para. 88 [↑](#footnote-ref-1)
2. Ombudsman: National Preventive Mechanism (2012), *Annual Report,* Skopje: Ombudsman [↑](#footnote-ref-2)
3. UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF [↑](#footnote-ref-3)
4. UNICEF (2009), *Progress for Children: A report card on child protection,* NY: UNICEF [↑](#footnote-ref-4)
5. First Children’s Embassy in the World Megjashi (2009), *Overview of the situation of children in institutions in Republic of Macedonia* [↑](#footnote-ref-5)
6. BRIMA (2009), *Overview of the perception about the corporal punishment of the children in Republic of Macedonia and comparative analysis between the research results from 2005 and 2009 year*. 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 [↑](#footnote-ref-6)
7. Nobody’s Children Foundation et al. (2009), *Skopje teachers’ attitudes toward child abuse***.** 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 [↑](#footnote-ref-7)
8. First Children’s Embassy in the world-Megjashi (2009), *Perception of Children’s Rights, Discrimination and Children’s Exposure to Violence* [↑](#footnote-ref-8)
9. 5 June 2009, A/HRC/12/15, Report of the working group, para. 77(23) [↑](#footnote-ref-9)
10. 5 June 2009, A/HRC/12/15, Report of the working group, paras. 34 and 77(23); 25 February 2010, A/HRC/12/50,Report of the Human Rights Council on its twelfth session, para. 595 [↑](#footnote-ref-10)
11. 8 November 2013, A/HRC/WG.6/18/MKD/1, National report to the UPR, para. 88 [↑](#footnote-ref-11)
12. 4 February 2014, A/HRC/WG.6/14/L.8, Draft report of the working group, para. 103(56) [↑](#footnote-ref-12)