

Corporal punishment of children in Slovakia: Briefing for the Universal Periodic Review, 32nd session, January 2019



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

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The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Slovakia, corporal punishment of children is still lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Human Rights Committee, the Committee on the Elimination of Discrimination Against Women, and the European Committee of Social Rights.

We hope the Working Group will note with concern the legality of corporal punishment of children in Slovakia. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Slovakia fulfil its previous UPR commitment and enact the draft Civil Code as a matter of priority to explicitly prohibit corporal punishment of children in the home.

1 Review of Slovakia in the 2nd cycle UPR (2014) and progress since

- 1.1 Slovakia was reviewed in the second cycle of the Universal Periodic Review in 2014 (session 18). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders' information.² In its national report, Slovakia declared that corporal punishment was fully prohibited, but then went on to state that the ban on parental corporal punishment would be included in the new Civil Code.³ The Government accepted recommendations to prohibit parental corporal punishment.⁴
- 1.2 Since the review, there has been no change in the legality of parental corporal punishment, and no progress has been made on the adoption of the Civil Code.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Slovakia. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Slovakia enact the draft Civil Code as a matter of priority to explicitly prohibit corporal punishment of children in the home.**

¹ 11 November 2013, A/HRC/WG.6/18/SVK/2, Compilation of UN information, para. 25

² 8 November 2013, A/HRC/WG.6/18/SVK/3, Summary of stakeholders' views, para. 15

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

⁴ 26 March 2014, A/HRC/26/12, Report of the working group, paras. 110(72) and 110(73); 12 June 2014, A/HRC/26/12/Add.1, Report of the working group: Addendum para. 17

2 Legality of corporal punishment in Slovakia

Summary of current law and reforms needed to achieve prohibition

Corporal punishment in Slovakia is prohibited in all settings except for the home. Legislation should be enacted to explicitly prohibit all corporal punishment in the family.

2.1 **Home (lawful):** 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;⁵ others question this.⁶ 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”.⁷ The same confirmation was provided to the Committee on the Rights of the Child in 2015.⁸

2.2 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 has argued 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”⁹ – 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. 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. Law reform to clearly prohibit corporal punishment in childrearing is essential.

2.3 In 2009, the Government signalled its commitment to reform in accepting the recommendations to prohibit made during the Universal Periodic Review of Slovakia.¹⁰ 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”.¹¹ A similar statement was made by the Government to the Committee

⁵ 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

⁶ Coalition for Children Slovakia, correspondence with the Global Initiative, 24 June 2015

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

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

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

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

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

Against Torture in 2015.¹² As at May 2015, drafting was still under way.¹³ 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”.¹⁴ We have no further information.

- 2.4 **Alternative care settings (unlawful):** 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.
- 2.5 **Day care (unlawful):** 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.
- 2.6 **Schools (unlawful):** 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.”
- 2.7 **Penal institutions (unlawful):** 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.
- 2.8 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has on three occasions recommended to Slovakia that corporal punishment be explicitly prohibited in the home.¹⁵
- 3.2 **HRC:** In 2016 and 2011, the Human Rights Committee expressed concern at the legality of corporal punishment of children in the home and recommended that Slovakia put an end to corporal punishment in all settings.¹⁶
- 3.3 **CEDAW:** The Committee on the Elimination of Discrimination Against Women recommended to Slovakia that it enact legislation prohibiting all corporal punishment in the home, in 2008.¹⁷
- 3.4 **ECSR:** The European Committee of Social Rights has thrice found the situation in Slovakia to be not in conformity with the European Social Charter because all corporal punishment is not prohibited (2016, 2012, 2003).¹⁸

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

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

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

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

¹⁵ 3 June 2016, CRC/C/SVK/CO/3-5, Concluding observations on third-fifth report, paras. 26 and 27; 10 July 2007, CRC/C/SVK/CO/2, Concluding observations on second report, paras. 36 and 37; 23 October 2000, CRC/C/15/Add.140, Concluding observations on initial report, para. 32

¹⁶ 22 November 2016, CCPR/C/SVK/CO/4, Concluding observations on fourth report, paras. 34 and 35; 20 April 2011, CCPR/C/SVK/CO/3, Concluding observations on third report, para. 12

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

¹⁸ January 2016, Conclusions 2015; January 2012, Conclusions 2011; 30 September 2003, Conclusions XVI-2, page 804

The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and since 2011 the Committee on the Rights of Persons with Disabilities.