

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 18th session, 2014

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

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 TFYR Macedonia, corporal punishment of children is lawful, despite the Government’s acceptance of recommendations to prohibit it in all settings made during the UPR in 2009 and the recommendations of the Committee on the Rights of the Child.

We hope the Working Group will note with concern the legality of corporal punishment in TFYR Macedonia. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in TFYE Macedonia to explicitly prohibit corporal punishment of children in the home and all alternative care settings as a matter of priority.

1 The initial review of TFYE Macedonia by the Human Rights Council (2009)

1.1 The Former Yugoslav Republic of Macedonia was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders’ information.² The following recommendations were made and were accepted by the Government:

“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)”

¹ 11 March 2009, A/HRC/WG.6/5/MKD/2, Compilation of UN information, para. 18

² 20 February 2009, A/HRC/WG.6/5/MKD/3/, Summary of stakeholders' views, para. 22

- 1.2 Despite the Government's acceptance of the recommendations, there has been no change in the legality of corporal punishment since the initial review in 2009: corporal punishment is unlawful in schools and in the penal system; in the home and in alternative care settings children have legal protection from some but not all corporal punishment.
- 1.3 The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a "right" to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence: prohibiting laws, as well as recommendations to enact them, are effective only when they explicitly refer to corporal punishment. **It is for these reasons that we respectfully urge members of the Working Group to specifically recommend prohibition of corporal punishment in the review of TFYR Macedonia.**

2 Legality of corporal punishment in TFYR Macedonia

- 2.1 **Home (lawful):** Article 9 of the Law on Protection of Children 2000 (as amended 2009) states: "Any psychological or physical maltreatment or other inhumane treatment or abuse of children is prohibited." Neither this nor provisions against violence and abuse in the Criminal Code 2004, the Family Law 2004 and the Constitution 1991 are interpreted as prohibiting all corporal punishment in childrearing.
- 2.2 **Schools (unlawful):** Corporal punishment is unlawful under the Law on Elementary Education 1995, which makes no provision for corporal punishment, though does not explicitly prohibit it. It is explicitly prohibited in article 64 of the Law on Secondary Education.
- 2.3 **Penal system – sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.
- 2.4 **Penal system – disciplinary measure in penal institutions (unlawful):** 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, but there appears to be no explicit prohibition.
- 2.5 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment. Children are protected from some but not all corporal punishment under article 9 of the Law on Protection of Children 2000 (see above).

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended prohibition of corporal punishment of children in TFYR Macedonia – following examination of the state party's initial report in 2000³ and the second report in 2010.⁴
- 3.2 **CAT:** In 2008, the Committee Against Torture recommended prohibition of corporal punishment of children in all settings in TFYR Macedonia.⁵

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

⁴ 11 June 2010, CRC/C/MKD/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 38, 39, 40 and 41

3.3 **ECSR:** In 2012 the European Committee of Social Rights concluded that the situation in TFYR Macedonia is not in conformity with article 17 of the European Social Charter because corporal punishment is not explicitly prohibited in the home and institutions.⁶

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June 2013

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 in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

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

⁶ January 2012, Conclusions 2011