Corporal punishment of children in Slovakia: Briefing for the Universal Periodic Review, 46th session, Jan./Feb. 2024

From End Corporal Punishment, October 2023

This submission provides an update on the legality of corporal punishment of children in Slovakia since its review in the third cycle UPR in 2019. Corporal punishment prohibition is still to be fully achieved in the home.

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 lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, other human rights treaty bodies, and during the 3rd cycle UPR of Slovakia in 2019.

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 next year and make a specific recommendation that Slovakia accelerates its efforts to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use, as a matter of priority.

1 Review of Slovakia in the 3rd cycle UPR (2019) and progress since

1.1 Slovakia was reviewed in the third cycle of the Universal Periodic Review in 2019 (session 32). A recommendation to prohibit corporal punishment in all settings was made and supported by the Government.[1]

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

1.2 Following the review, no legislation to explicitly prohibit corporal punishment of children in all settings seems to have been adopted.

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 next year and make a specific recommendation that Slovakia intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.

2 Legality of corporal punishment in Slovakia

Summary of current law and opportunities for achieving 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.

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;[2] others question this.[3] 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".[4] The same

[2] Information provided to the Global Initiative from Detsky 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

[3] Coalition for Children Slovakia, correspondence with the Global Initiative, 24 June 2015

[4] 14 July 2014, CEDAW/C/SVK/5-6, Fifth/sixth state party report, para. 266

confirmation was provided to the Committee on the Rights of the Child in 2015.[5]

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 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"[6] – 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 to 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.

2.3 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.[7] 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".[8] A similar statement was made by the Government to the Committee Against Torture in 2015.[9] In May 2015, drafting was still under way.[10] 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";[11] 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 (see under "Home").

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 (see under "Home").

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

[5] 16 September 2015, CRC/C/SVK/3-5, Third-fifth state party report, para. 73
[6] 12 May 2016, CRC/C/SVK/Q/3-5/Add.1, Reply to list of issues, para. 35
[7] 5 June 2009, A/HRC/12/17, Report of the working group, paras. 89(40) and 89(42)
[8] 8 November 2013, A/HRC/WG.6/18/SVK/1, National report to the UPR, para. 25
[9] 3 June 2015, CAT/C/SVK/Q/3/Add.2, Reply to list of issues, para. 148
[10] Slovakia Ministry of Foreign Affairs, correspondence with the Global Initiative, 13 May 2015
[11] 15 September 2016, CCPR/C/SVK/Q/4/Add.1, Reply to the list of issues, para. 52

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- in its concluding observations on the state party's initial report in 2000,[12] on the state party's second report in 2007,[13] and on the third-fifth report in 2016.[14]

3.2 ***HRC:*** In 2016[15] and 2011,[16] 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.

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,[18] 2012,[19] 2003[20]).

[12] 23 October 2000, CRC/C/15/Add.140, Concluding observations on initial report, para. 32
[13] 10 July 2007, CRC/C/SVK/CO/2, Concluding observations on second report, paras. 36 and 37
[14] 3 June 2016, CRC/C/SVK/CO/3-5, Concluding observations on third-fifth report, paras. 26 and 27
[15] 22 November 2016, CCPR/C/SVK/CO/4, Concluding observations on fourth report, paras. 34 and 35
[16] 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
[19] January 2012, Conclusions 2011)
[20] 30 September 2003, Conclusions XVI-2, page 804

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