

Corporal punishment of children in Lithuania: Briefing for the Universal Periodic Review, 26th session, 2016

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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 Lithuania, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Human Rights Committee, the Committee Against Torture, the Committee on Economic, Social and Cultural Rights and the European Committee of Social Rights, and the recommendation made during the 1st cycle UPR of Lithuania in 2011 (accepted by the Government). A Bill which would achieve prohibition is under discussion in Parliament.

We hope the Working Group will note with concern the legality of corporal punishment of children in Lithuania. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Lithuania clearly prohibit all corporal punishment of children in all settings including the home.

1 Review of Lithuania in the 1st cycle UPR (2011) and progress since

- 1.1 Lithuania was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² The Government accepted the recommendation to explicitly prohibit corporal punishment in the family.³
- 1.2 Since the initial review in 2011, progress has been made towards prohibiting corporal punishment but the necessary law reform has not yet been achieved. A Bill that would have achieved prohibition was rejected in 2013. However, new legislation has been drafted which would achieve prohibition: the draft Child Rights Framework Law No. 1-1234 has been approved by the Government and is under discussion in Parliament.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Lithuania. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Lithuania clearly prohibit all corporal punishment of children in all settings including the home.**

¹ 25 July 2011, A/HRC/WG.6/12/LTU/2, Compilation of UN information, paras. 10 and 39

² 22 July 2011, A/HRC/WG.6/12/LTU/3, Summary of stakeholders' views, para. 22

³ 19 December 2011, A/HRC/19/15, Report of the working group, para. 88(37)

2 Legality of corporal punishment in Lithuania

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Lithuania is unlawful in the penal system, schools and some day care provision but it is not prohibited in the home, alternative care settings and in all forms of day care. A Bill which would achieve prohibition is under discussion in Parliament.

- 2.1 **Home (lawful):** Article 49.1 of the Law on the Fundamentals of Protection of the Rights of the Child 1996 states: “Parents and other legal representatives of the child may appropriately, according to their judgment, discipline the child, for avoiding to carry out his duties and for disciplinary infractions, with the exception of physical and mental torture, other cruel behaviour and the humiliation of the child’s honour and dignity.” Provisions against violence and abuse in this Law and in the Criminal Code 2000, the Constitution 1992, the Civil Code 2000, the Code of Administrative Offences 2002 and the Law on Protection against Domestic Violence 2011 are not interpreted as prohibiting all corporal punishment in childrearing.
- 2.2 Efforts to prohibit all corporal punishment have long been under way. Under examination by the Committee on the Rights of the Child in 2006, the Government stated that legislation was being drafted to prohibit corporal punishment.⁴ In 2010, a Bill that would have explicitly prohibited all corporal punishment was rejected by Parliament. Another Bill which would have achieved prohibition was rejected in 2013. New legislation has now been drafted which would achieve prohibition, in the form of the draft Child Rights Framework Law No. 1-1234: at the time of writing (March 2016) the Bill is under discussion in Parliament.
- 2.3 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings: corporal punishment is lawful as for parents.
- 2.4 **Day care (partially prohibited):** Corporal punishment is unlawful in preschool provision under education law (see below) but it is not explicitly prohibited in other early childhood care and in day care for older children.
- 2.5 **Schools (unlawful):** Article 25 of the Law on Education 1991 states that “parents, guardians, and teachers who do not carry out their responsibilities, or who cause physical, psychological, or moral harm to their pupils, shall be accountable in accordance with the procedures established by law”. Article 49.2 of the Law on the Fundamentals of Protection of the Rights of the Child 1996 states does not include corporal punishment among the permitted “disciplinary and educative enforcement measures” for education institutions.
- 2.6 **Penal institutions (unlawful):** Corporal punishment is considered unlawful though it is not explicitly prohibited.
- 2.7 **Sentence for crime (unlawful):** 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 three times recommended to Lithuania that all corporal punishment of children be prohibited, including in the family – in its concluding

⁴ 27 January 2006, CRC/C/SR.1103, Summary record, para. 11

observations on the state party's initial report in 2001,⁵ on the second report in 2006⁶ and the third/fourth report in 2013.⁷

- 3.2 **CESCR:** In 2014, the Committee on Economic, Social and Cultural Rights expressed concern at corporal punishment of children in the home in Lithuania and recommended that it be prohibited.⁸
- 3.3 **CAT:** In 2014, the Committee Against Torture recommended to Lithuania that national legislation be amended to prohibit and criminalise all corporal punishment in all settings.⁹
- 3.4 **HRC:** In 2012, the Human Rights Committee recommended to Lithuania that corporal punishment of children be ended in all institutional settings.¹⁰
- 3.5 **ECSR:** The European Committee of Social Rights has on two occasions – in 2005 and again in 2011 – found the situation in Lithuania to be not in conformity with the Revised European Social Charter because corporal punishment is not prohibited in the family.¹¹

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

⁵ 21 February 2001, CRC/C/15/Add.146, Concluding observations on initial report, paras. 25 and 26

⁶ 17 March 2006, CRC/C/LTU/CO/2, Concluding observations on second report, paras. 8, 37 and 38

⁷ 30 October 2013, CRC/C/LTU/CO/3-4, Concluding observation on third/fourth report, paras. 24 and 25

⁸ 24 June 2014, E/C.12/LTU/CO/2, Concluding observations on second report, para. 14

⁹ 17 June 2014, CAT/C/LTU/CO/3, Concluding observations on third report, para. 24

¹⁰ 31 August 2012, CCPR/C/LTU/CO/3, Concluding observations on third report, para. 10

¹¹ March 2005, Conclusions 2005; January 2012, Conclusions 2011