

**BRIEFING ON LITHUANIA FOR THE COMMITTEE AGAINST TORTURE PRESESSIONAL WORKING GROUP, 57th session (Apr/May 2016)**

*From Dr Sharon Owen, Research and Information Coordinator, Global Initiative,* [*sharon@endcorporalpunishment.org*](mailto:sharon@endcorporalpunishment.org)

**This briefing describes the legality of corporal punishment of children in Lithuania. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, the previous recommendations to prohibit corporal punishment made to Lithuania by the Committee Against Torture and other treaty bodies and during the UPR (accepted by the Government), the findings of the European Committee of Social Rights and Lithuania’s stated commitment to prohibiting all corporal punishment, we hope the Committee Against Torture will:**

* **raise the issue of corporal punishment of children in its List of Issues Prior to Reporting for Lithuania, in particular asking what measures are being taken to explicitly prohibit corporal punishment in the home and all other settings, and**
* **recommend to Lithuania, following its examination of the state party’s report, that legislation is enacted as a matter of priority which explicitly prohibits corporal punishment in the home and all other settings.**

**1 The legality of corporal punishment of children in Lithuania**

1.1 ***Summary:***In Lithuania, corporal punishment of children is unlawful in schools, the penal system and some day care settings, but it is not prohibited in the home, alternative care settings and in some forms of day care.

1.2 ***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.

1.3 ***Alternative care settings (lawful):***There is no explicit prohibition of corporal punishment in alternative care settings: corporal punishment is lawful as for parents.

1.4 ***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.

1.5 ***Schools (unlawful):***Corporal punishment is considered unlawful in schools, but there is no explicit prohibition. 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: “Disciplinary and educative enforcement measures: criticism, reprimand, severe reprimand, appropriate evaluation of behaviour and other enforcement means, established by laws, may be applied to a child for violations of internal order regulations of teaching and educative (care) institutions.”

1.6 ***Penal institutions (unlawful):***Corporal punishment is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition in law.

1.7 ***Sentence for crime (unlawful):***There is no provision for judicial corporal punishment in criminal law.

**2 Lithuania’s commitment to prohibiting corporal punishment and progress to date**

2.1 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.[[1]](#footnote-1) In the same year, the Ministry of Social Security and Labour commissioned research by the Institute of Law which concluded that prohibition required amendments to the Civil Code and the Law on the Fundamentals of the Rights of the Child, rather than a separate law. However, in March 2010, a bill that would have explicitly prohibited all corporal punishment of children by amending article 49 of the Law on the Fundamentals of Protection of the Rights of the Child was rejected by Parliament.

2.2 The Government again expressed its commitment to enacting prohibiting legislation in clearly accepting the recommendation to do so made during the Universal Periodic Review of Lithuania in 2011.[[2]](#footnote-2) But a Bill that would have achieved prohibition by amending the Law on the Fundamentals of the Rights of the Child was rejected in autumn 2013. New legislation has been drafted which would achieve prohibition: the draft Child Rights Framework Law No. 1-1234 states in article 18 (unofficial translation): “(1) The child has the right to be protected by their parents, other legal representatives, residential or otherwise, from physical, emotional and sexual abuse and neglect. A child shall not be subjected to torture, humiliation of their honour and dignity, maltreatment or the imposition of corporal punishment; … (4) Torture, mutilation, humiliation of honour and dignity, cruelty and corporal punishment of children incur civil, administrative or criminal liability.” In 2015, the Government had approved the draft but it appears that it has yet to be introduced to Parliament.

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 ***CAT:*** In 2014, in its concluding observations on the third state party report, the Committee Against Torture recommended to Lithuania that its legislation be amended to criminalise corporal punishment of children in all environments and settings.[[3]](#footnote-3)

3.2 ***CRC:*** The Committee on the Rights of the Child has recommended prohibition of corporal punishment of children in the family and other settings in Lithuania on three occasions – following examination of the state party’s initial report in 2001,[[4]](#footnote-4) the second report in 2006[[5]](#footnote-5) and the third/fourth report in 2013.[[6]](#footnote-6)

3.3 ***CESCR:*** In 2014, the Committee on Economic, Social and Cultural Rights recommended prohibition of corporal punishment of children in all settings in Lithuania.[[7]](#footnote-7)

3.4 ***HRC:*** In 2012, the Human Rights Committee expressed concern at the lack of explicit prohibition of corporal punishment and recommended that measures be taken to end it in all institutional settings.[[8]](#footnote-8)

3.5 ***ESCR:*** In its systematic monitoring of implementation of the European Social Charter and Revised Charter, the European Committee of Social Rights has twice found the situation in Lithuania to be not in conformity with article 17 of the Revised Charter because corporal punishment, including in the home, is not prohibited.[[9]](#footnote-9)

3.6 ***UPR:*** During the Universal Periodic Review of Lithuania in 2011, the Government accepted the recommendation to prohibit all corporal punishment.[[10]](#footnote-10)

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

[*www.endcorporalpunishment.org*](http://www.endcorporalpunishment.org)*;* [*info@endcorporalpunishment.org*](mailto:info@endcorporalpunishment.org)

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1. 27 January 2006, CRC/C/SR.1103, Summary record, para. 11 [↑](#footnote-ref-1)
2. 19 December 2011, A/HRC/19/15, Report of the working group, para. 88(37) [↑](#footnote-ref-2)
3. 17 June 2014, CAT/C/LTU/CO/3, Concluding observations on third report, para. 24 [↑](#footnote-ref-3)
4. 21 February 2001, CRC/C/15/Add.146, Concluding observations on initial report, paras. 25 and 26 [↑](#footnote-ref-4)
5. 17 March 2006, CRC/C/LTU/CO/2, Concluding observations on second report, paras. 8, 37 and 38 [↑](#footnote-ref-5)
6. 30 October 2013, CRC/C/LTU/CO/3-4, Concluding observation on third/fourth report, paras. 24 and 25 [↑](#footnote-ref-6)
7. 24 June 2014, E/C.12/LTU/CO/2, Concluding observations on second report, para. 14 [↑](#footnote-ref-7)
8. 31 August 2012, CCPR/C/LTU/CO/3, Concluding observations on third report, para. 10 [↑](#footnote-ref-8)
9. March 2005, Conclusions 2005; January 2012, Conclusions 2011 [↑](#footnote-ref-9)
10. 19 December 2011, A/HRC/19/15, Report of the working group, para. 88(37) [↑](#footnote-ref-10)