

# Ending family violence in Slovakia – confronting physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women from the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)), September 2015

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## Introduction: family violence in Slovakia and CEDAW's examination of the fifth/sixth state party report

Violent punishment of children has a long and deep rooted history of social and legal acceptance. Even to this day, unless it is severe it is not readily perceived as “violence” per se or as an assault on a child’s human dignity. Except in states where it has been explicitly challenged through law reform and public education and awareness raising, it remains taken for granted in childrearing. For all these reasons, unless the law sends a clear message that all physical punishment, however light, is prohibited, it will continue to be considered lawful. In Slovakia, the Government is committed to reforming its laws to prohibit corporal punishment and legislation which would achieve this is being drafted.

**We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of Slovakia. In particular, we hope the Committee will:**

- **in its concluding observations on the fifth/sixth state party report, welcome the state party’s commitment to prohibiting all violent punishment in the home and recommend to Slovakia that draft legislation to achieve this is introduced and enacted as a matter of priority, thereby ensuring that *no* form of violence within the domestic sphere is condoned, including by parents against their children.**

The remainder of this briefing provides the following further details:

1. Information provided to CEDAW by Slovakia in respect of corporal punishment
  2. The current law relating to family violence and corporal punishment of children in Slovakia and immediate opportunities for reform
  3. Treaty body and UPR recommendations on the issue made to Slovakia to date.
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## 1 Information provided by Slovakia to CEDAW in respect of corporal punishment

- 1.1 With reference to the Committee’s recommendation in its previous concluding observations to Slovakia that corporal punishment of children be prohibited in the home, Slovakia’s fifth/sixth report to the Committee confusingly states that “Slovak legislation fully reflects the recommendation to prohibit corporal punishment” while also saying that “it does not expressly prohibit them within the area of family law, which 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”.<sup>1</sup>
- 1.2 The legal situation regarding corporal punishment of children in the home in Slovakia is set out below. We would emphasise that in the absence of clear and explicit prohibition of all forms of

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<sup>1</sup> 14 July 2014, CEDAW/C/SVK/5-6, Fifth/sixth state party report, para. 266

corporal punishment, so called “reasonable discipline” is inevitably regarded as allowing for some level of physical punishment. The human rights imperative to prohibit all corporal punishment of children – and therefore to ensure that girls and boys are legally protected from this form of domestic violence – requires that all defences for the use of such punishment (such as recourse to a concept of “reasonable discipline”) are explicitly repealed or amended to send a clear message that this must not entail the use of corporal punishment.

## **2 Laws on domestic violence and corporal punishment of children in Slovakia and immediate opportunities for prohibiting violent punishment of girls and boys**

### *Summary*

2.1 In Slovakia, legal reform in recent years has strengthened prevention of and protection from domestic violence, but it has so far failed to prohibit all violent punishment of children at the hands of their parents: the promotion of homes free from violence continues to be undermined by an inadequate legislative framework. However, the Government is committed to prohibiting all corporal punishment and efforts are under way to draft the necessary legislation.

### *Detail*

2.2 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;<sup>2</sup> others question this.<sup>3</sup> In any case, it provides for state intervention only when corporal punishment reaches some degree of severity.

2.3 The Family Act 1963 (amended 2002) does not explicitly prohibit corporal punishment. Rather, it authorises the use of “adequate” childrearing methods, stating in article 31(2) that in exercising their parental rights and duties, parents “must rigorously protect the child’s interests, manage his or her behaviour and exercise a surveillance over him or her in accordance with the level of his or her development” and that they “may use adequate upbringing measures so that the child’s dignity is not violated and his or her health, emotional, intellectual and moral development are not endangered”. 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.

**2.4 Protecting children from violent punishment in the home in Slovakia requires clear prohibition of all corporal punishment. The Civil Code is being revised, and the Government has reported that proposals have been made to include prohibition of corporal punishment by parents.<sup>4</sup> This reform provides an immediate opportunity for explicitly prohibiting corporal punishment of children by parents and thereby sending a clear message that the family home is a place where no form of violence is tolerated.**

## **3 Recommendations by human right treaty monitoring bodies and during the UPR**

3.1 Slovakia has received recommendations concerning prohibition and elimination of corporal punishment of children from the Committee on the Elimination of Discrimination Against Women

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<sup>2</sup> 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

<sup>3</sup> Coalition for Children Slovakia, correspondence with the Global Initiative, 24 June 2015

<sup>4</sup> 8 November 2013, A/HRC/WG.6/18/SVK/1, National report to the UPR, para. 25; 3 June 2015, CAT/C/SVK/Q/3/Add.2, Reply to list of issues, para. 148

(2008),<sup>5</sup> the Committee on the Rights of the Child (2007, 2000)<sup>6</sup> and the Human Rights Committee (2011).<sup>7</sup> The European Committee of Social Rights has twice found the situation in Slovakia to be not in conformity with the European Social Charter because all corporal punishment is not prohibited (2012, 2003).<sup>8</sup>

3.2 The Government accepted recommendations to prohibit all corporal punishment made during the Universal Periodic Reviews of Slovakia in 2009 and 2014.<sup>9</sup>

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<sup>5</sup> 18 July 2008, Part of A/63/38, Concluding observations on second-fourth report, paras. 34 and 35

<sup>6</sup> 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

<sup>7</sup> 20 April 2011, CCPR/C/SVK/CO/3, Concluding observations on third report, para. 12

<sup>8</sup> January 2012, Conclusions 2011; 30 September 2003, Conclusions XVI-2, page 804

<sup>9</sup> 5 June 2009, A/HRC/12/17, Report of the working group, paras. 89(40) and 89(42); 26 March 2014, A/HRC/26/12, Report of the working group, paras. 110(72) and 110(73)