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MICROANALYSIS

based on preliminary study of attitudes
about the corporal punishment of children in
Bulgaria



PULSE Foundation - Pernik

Analysis conducted within the framework of a project:

***Children Help movement Against Physical Threatening and Emotional Repression;
JUST/2015/RDAP/AG/CORP/9176***

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I. BACKGROUND

Microanalysis Objectives

This microanalysis is developed within a project "**Children Help movement Against Physical Threatening and Emotional Repression**", which is implemented under a Grant Agreement Contract with Reg. № **JUST/2015/RDAP/AG/CORP/9176**.

The purpose of the analysis is to investigate the use of "corporal punishment" in the context of its understanding as a form of education in child care and upbringing, and what is the legal basis governing such relationships, as well as is there a program of care in identifying and empowering children and their parents and authorities to step out of the inertia position of the pattern of violence. The emphasis on the study is the need to identify the necessary changes in both legal and practical terms that minimize its use and ensure respect for children's rights. The analysis also constitutes a preliminary study of the attitudes of the Bulgarian society on the "corporal punishment" of children in the Republic of Bulgaria, and in the implementation of the project the research will be further developed and further developed.

Violence against children is a serious crime against human dignity and prevents children from benefiting from the fundamental rights guaranteed by the **United Nations Convention on the Rights of the Child (UNCRC)** and other relevant international instruments adopted by the Council of Europe and the United Nations.

"**Analysis of violence**" finds that "*violence against children occurs in any country in the world, regardless of the culture, ethnic group, or family environment from which children are born. It does not matter whether their families are well-educated or uneducated, whether they are rich or poor. Violence can happen everywhere. Moreover, although most people are aware that children have rights and must be protected against violence in order to grow healthy, in many countries violence against children is allowed because it is customary or because it is widely used punishment*".¹

"Corporal punishment" of a child, perceived as a form of physical punishment, is humiliating treatment of the child, affecting his human dignity, which occurs in silence and is often accepted with universal indifference in homes all over the world. This problem affects us all, which is why one of the objectives of the analysis is to go beyond this framework and to break the silence by focusing public attention on the values defended by the Council of Europe and the United Nations in the context of human rights protection.

Children's rights are basic human rights!

In the Republic of Bulgaria, "corporal punishment" is still perceived as an acceptable act of disciplining the child by the majority of people in the country. The attitude towards corporal punishment is very tolerated by Bulgarian society. The corporal punishment is in no way associated with the physical violence (defined by the Child Protection Act, prom., SG, no. 48 of 13th June 2000, v. 7/2000, p. 12, p. 1, p. 3, No. 190).

The corporal punishment against children in the Republic of Bulgaria is a niche that urgently needs to be explored and to find a precise settlement in all spheres of social, social and economic life.

II. OVERVIEW

Corporal punishment against children - definition

The Committee on the Rights of the Child determines² "corporal" or "physical" punishment as "any punishment in which physical force is used and which is intended to cause some degree of pain or discomfort, no matter how light it is. Most physical punishments include punching the children

1 The United Nations; Secretary General's Survey on Violence against Children (Authors Elizabeth Quast and Sophie Loz); www.unicef.org

2 General Comment No. 8 (2006); The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (Article 19, Article 28, §2 and Article 37, among others); CRC, 42 Session, Geneva, 15 May - 02 June 2006



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("smacking", "slapping", "squeaking") with a hand or with a tool - a whip, a stick, a belt, a shoe, a wooden spoon, etc. These may include kicking, shaking or throwing of children, scratching, pinching, biting, plucking or simultaneous heavy blows with palms on both ears, forcing children to stand in awkward position, burning, scalding or forcible swallowing (eg rinsing the child's mouth with soap or forcing it to swallow hot spices). According to the Committee, corporal punishment is invariably humiliating. In addition, there are other, non-physical forms of punishment, which are also cruel and degrading and accordingly incompatible with the Convention. These include, for example, punishments that undermine, humiliate, abuse, turn into a scapegoat, threaten, frighten or mock the child."

The "corporal punishment" is a violation of the child's human dignity!

What do we know about "corporal punishment" against children?

"Educational approach" or a form of physical violence of children?

The current analysis is based on the understanding that forms of education of children through "corporal punishment" are unacceptable and should be replaced by others that guarantee children a non-violent environment, applying disciplinary positive approaches and forms based on mutual respect and tolerance. At the same time, many cultures require the child to mainly "obey". Often, the most readily recognizable way of obedience is punishment, and the most humiliating - the fight. One of the consequences of the application of corporal punishment is the affirmation in the eyes of the child of the right to a strong and reproduction of a model in which violence is a justified means of achieving the goals. This understanding justifies the severe need to counteract and protect children from the "corporal punishment," which we recognize as an expression of helpless parenting, information deficit and lack of understanding of human suffering and its deconstructive impact on the adolescent personality. By "corporal punishment" in the home and deliberately causing physical pain or discomfort to a child in response to some unwanted behavior, it is intended to obey and follow the rules set by adults. Bodily punishment and the violation of the physical and mental space of children puts them in a weakened position and deprives them of personal dignity and the right to personal physical and emotional integrity.

Violence also exists when people are unaware that this is happening to them. Children growing up in systematic physical violence become "insensitive" to both their suffering and the suffering of others. The high degree of internal anxiety, fear, and helplessness are prerequisites for increased aggression in children and disobedience over time.

Forms of education through physical violence are perceived and tolerated by part of Bulgarian society as an educative approach. This is because "slap" for years was a method of education deeply planted in our culture. Therefore, the disciplined physical punishment of a parent is often recognized as parental law. This trend has grown in the last ten years.

A source of data reported at the Conference on the Prevention of Corporal Punishment for Toddlers is a study by the University of Sofia, Children and Space Association, UNICEF, the Ministry of Health and the Child Protection Agency. The study was conducted among 497 people over 18 years of age. Every third of respondents think that in recent years, parents have more often used corporal punishment.

A survey of parents' and young people's attitudes to children's rights commissioned by the National Network for Children shows that 39% of Bulgarians support slaps as an educational method.

International studies have shown that children from 0 to 3 years of age are the most vulnerable to corporal punishment. In general, society is divided - is "corporal punishment" an educative method or violence? 7% accept unconditionally slaps, and for **30 per cent** of Bulgarians, physical violence is an option if all others are exhausted. About **60%** of parents admit to resorting to beating as a means of educational approach. According to the study, parents of rural and small towns, as well as those with low education, are more likely to apply physical punishment.

The "corporal punishment" of children is a form of physical violence of children, not a method of upbringing!



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III. CORPORAL PUNISHMENT AGAINST CHILD - SCOPE OF THE LEGISLATIVE FRAMEWORK

Eliminating the "corporal punishment" of the child - a positive duty of the states

The struggle to ban corporal punishment is lengthy and difficult. Poland first introduced a ban in 1783. Austria, Belgium and Finland follow it in 1900, and Russia in 1917. In the United Kingdom, where the general ban continues to be a matter of dispute, the first recorded attempt dates back to 1669 when an "awaked boy" petitioned the Parliament "on behalf of the children in the state" to stop corporal punishment in schools. His desire was only satisfied after more than three centuries - thanks to the 1983 Education Act, the Rome Statute of the International Criminal Court provides for punishment for anyone who has committed violence against a child even if the offense is committed outside his own country.

Before adopting the **Convention on the Rights of the Child, the International Charter of Human Rights**, made up of the Universal Declaration and the two international Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, affirms the right of every person to be respected for his/her human dignity and physical integrity and equal protection under the law. While asserting the obligation of states to prohibit and abolish all corporal punishments and all other cruel or degrading forms of punishment, the Committee draws attention to the fact that the Convention on the Rights of the Child is on this basis. The dignity of every human being is the main guiding principle of international human rights law.

Article 37 of the UN Convention on the Rights of the Child (UNCRC) requires states to ensure: "*no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment*". This decree is supplemented and extended by **Article 19**, which requires states to "*take all necessary legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, abuse or abuse, carelessness or neglect, abuse or exploitation, including sexual offenses, while under the care of his/her parents or one of them, of legal guardian or any other person to whom it is entrusted*".

Although the international community is taking measures at all levels to put the child in a position of high value for the family and society and the Council of Europe calls for the corporal punishment of children to be declared illegal in all its 47 member states, communities in which the corporal punishment of children is still practiced and even encouraged as a form of criminal and educational act. That is why, after the 2000 and 2001 two days for a general discussion on violence against children, the **Committee on the Rights of the Child** decides to issue a series of **General Comments** on the eradication of violence against children. The aim of the Committee is to guide States Parties to understanding the provisions on the protection of children from all forms of violence. One of the first General Comments focuses on "corporal punishment" and other cruel or degrading punishments, which are currently widely accepted and practiced forms of child abuse.

According to the Committee, "corporal punishment" is invariably humiliating. In addition, there are other, non-physical forms of punishment, which are also cruel and degrading and accordingly incompatible with the Convention. These include, for example, punishments that undermine, humiliate, blaspheme, turn into a scapegoat, threaten, frighten or mock the child. At the same time, the Committee stresses that not only the adoption of measures by the states but also a key strategy is needed to achieve a change in the existing attitudes of acceptance and tolerance of corporal punishment and the abolition of corporal punishment in family and school to reduce and prevent all forms of violence in societies".³

The Committee recommends the UNESCO Handbook on "Removing corporal punishment: the road to constructive discipline of children."⁴ It presents a set of principles of constructive discipline rooted in the

3 Objectives of General Comment No. 8 (2006); The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (Article 19, Article 28 (2) and Article 37, among others), unofficial translation, p. 5

4 UNESCO Publishing House, Paris, 2005



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Convention. Links to Internet pages with materials and programs available from around the world are also included. Dealing with the widespread acceptance and tolerance of "corporal punishment" of children and the abolition of corporal punishment in the family, in schools and in other settings is not only an obligation under the Convention of the States Parties. It is also a key strategy for reducing and preventing all forms of violence in societies.

It is also important to emphasize that for the period since the adoption of the UNCRC until the General Comment, the Committee on the Rights of the Child has made recommendations for the prohibition of corporal punishment in the family and in other settings in more than 130 countries. Over 100 countries have introduced statutory bans on corporal punishment in schools and criminal justice systems over children, and more countries are in the process of introducing a ban on corporal punishment in the family.

The Convention on the Rights of the Child - a fundamental foundation for the protection and support of children's rights

The United Nations Convention on the Rights of the Child has been ratified by the Republic of Bulgaria in 1991, and the Bulgarian state has committed itself to make every effort to ensure that the principles and rights described in this Convention are respected. It provides protection and support for all children as a universally accepted set of non-negotiable standards and obligations. Additionally, with the ratification in 2012 of the **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)**, adopted in 2007, by the Committee of Ministers of the Council of Europe, we have become part of the countries that are irreconcilable with the sexual exploitation and sexual abuse of children.

Review of national legislation governing the protection of children from all forms of violence

Since the accession of the Republic of Bulgaria to the European Union, our legal framework has generally developed in the direction of protecting and protecting children from violence. There are, however, legal gaps to be filled with the aim of **HARMONIZING domestic legislation with the principles and provisions of the EUROPEAN LAW to protect and promote children's rights**.

The legal and administrative framework in place in Bulgaria regulates several judicial, administrative and child protection systems that operate simultaneously and sometimes in parallel without guaranteeing the best interests of the child and meeting the requirements of international standards in the field of child protection. Despite the efforts made by the state to set up a child protection system in recent years, there is still a lack of a holistic approach that, on the one hand, ensures that protection measures are taken against children who are victims of violence and, on the other, to provide real support, reintegration and re-socialization.

For the first time in 2000, the **Child Protection Act (CPA, SG, No. 48 of 13th June 2000)** introduced the prohibition of the use of corporal punishment as a method of education of the child by defining the right of the child "of protection against the methods of upbringing, physical, psychological or other violence and forms of influence contrary to his or her interests" (Article 11 (2) of the Child Protection Act). The text introduced the child's right to protection from violence, including in the family, provided for in Article 19 (1) of the UN Convention on the Rights of the Child. **In particular, the law states that every child has the right to protection against:** *Involvement in activities that are unfavorable to his / her physical, mental, moral and educational development, his / her dignity, methods of upbringing, physical, psychological or other violence and forms of influence contrary to his / her interests and use for begging, prostitution, and receiving illicit material income as well as against sexual violence.*

In the supplementary provisions to the Regulation on the Implementation of the Child Protection Act (RICPA, adopted by Council of Ministers No 153 of 14th July 2003) the definitions of different types of



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violence are given in our legislation for the first time. However, there is no definition of "corporal punishment" against child.

The new **Family Code (FC, SG, No. 47 of 23rd June 2009, in force since 01st October 2009)**, for the first time in family law **regulates such a ban on the parent** – *“The parent has no right to use violence as well as methods of upbringing that undermine the dignity of the child”* (Article 125 (2) of the FC). The text prohibits not only the physical punishment of the child, but also the use of inappropriate methods of upbringing, which can be verbal and psychological. With this text, Bulgaria has joined the legislation of Europe, explicitly formulating such a ban - Austria, Denmark, Finland, Germany, Greece, Norway, Italy, Lithuania, Portugal, Russia, Sweden and Switzerland.

With very few exceptions, the **Penal Code (PC, SG, No. 26 of 02nd April 1968, in force since 01st May 1968, last amended and supplemented, No. 95 of 29th November 2016)** does not specifically distinguish the victims of age-related crime - children aged 0 to 3 years. The most common sign of "age" is the importance in determining the qualified composition of the offense if the victim is a minor. Most cases of crimes committed against minors are considered to be a higher degree of public danger and are subject to more severe penalties. An exception is the case of causing death by negligence by the mother of a child who has not been born or has just been born under Art. 125 of the PC, where no punishment is imposed on the perpetrator. The punishment stipulated by the provisions of Art. 120 PC (for murder committed by the mother on a child at birth or immediately after birth) and under Art. 121 PC (for the murder of a newly born child of a monstrous species when the perpetrator is a parent). In all other cases, the offenses against juveniles and minors, which involve direct violence, are concentrated in Chapter Two "Crimes Against Personality" and Chapter Four "Crimes Against Marriage, Family and Youth" in the Special Part of the PC. **Art. 131, para 1, item 4 of the PC⁵ classifies as a more serious crime the infliction of bodily harm to minors, както и злепоставянето на такива лица** according to Article 137 of PC (“Who puts a person deprived of the opportunity to self-preserve because of minors ... in such a way that his life may be in danger, and knowing that he does not come to his aid, shall be punished by imprisonment of up to three years.”). In the section dealing with sanctions for violence (in different forms) on children, special attention is required by the text of **Art. 187 - "A person who tortures a minor or a minor under his care or who has been instructed to do so, if the act does not constitute a more serious crime, shall be punished by imprisonment for a period of three years or by probation and public reprobation."**

Since 2005, the Protection against Domestic Violence Act (PDVA) has been in force in Bulgaria, which responds to the acute social needs that are exciting to society, because domestic violence is not only a fact in our existence but it is also more and more threatening. The PDVA provides a legal definition of the term "domestic violence", regulates domestic violence relations and provides protection measures that ensure that the perpetrator is prevented from acting further by warning, using certain social programs, or by removing from the house and to protect the injured party from heavier damage.

Thus, according to Art. 2 of the PDVA, "domestic violence is any act of physical, sexual, psychological, emotional or economic violence, as well as the experience of such violence, the forced restraint of privacy, personal liberty and personal rights committed against persons who are in a kinship Who are or have been in a family relationship or in a factual cohabitation". Effective from 22nd December 2009 amendments to the PDVA were adopted in order to complement the definition of "domestic violence" and the writing as an imperative norm that **"domestic violence committed in the presence of a child is considered as psychological and emotional violence and on it"**.

On 02 June 2011, a **Regulation on the implementation of the Protection against Domestic Violence Act** was adopted, which undermines the implementation of the protection measures and the interaction of the state authorities and the legal representatives working for protection against domestic violence as

5 Art. 131, paragraph 1, item 4 of the Penal Code for causing bodily injury: to a pregnant woman, to a minor or to more than one person;



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well as the positive obligation of the state to finance projects implemented by non-profit legal entities as well as the implementation of programs and training under the PDVA.

On 10th April 2009, a number of changes were made to the PC, as an important change was also made in the field of protection against domestic violence. Art. 296 para. 1 of the PC⁶, Where a penalty for non-compliance with a domestic violence protection order issued by the court for the Protection against Domestic Violence Act is introduced. Criminalization of non-execution is an extremely important guarantee for the effective protection of victims of violence.

According to the aforementioned legal framework, in the Republic of Bulgaria is banned the corporal punishment with respect to all citizens. However, a formal definition of "**corporal punishment**" does not exist. In our legal framework, concepts such as "**violence**", "**harm**", "**damage**" are used. However, there is no body that lawfully regulates corporal punishment as a "**form of upbringing**", resulting in irreversible destructive consequences for the child. The Penal Code of the Republic of Bulgaria, in Art. 137 mentions "Juvenile delinquency", but again there is no correlation between corporal punishment and the experience. There is no criminal sanction relevant to the act.

6 Penal Code - Art. 296. (Amended, SG No. 92/2002) (1) (Supplemented, SG No. 27/2009) Any person who prevents or frustrates in any way the execution of a judgment or does not fulfill an order to protect against domestic violence shall be punished by imprisonment of up to three years or a fine of up to five thousand levs.



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IV. GUIDELINES FOR CHANGES

Following the objectives of this analysis, one of the highlights is the need to identify the necessary changes both in the normative and practical terms that minimize its use and ensure that children's rights are respected. The political will to eliminate violence against children, in particular the "corporal punishment" of children and change of public attitudes, is a major and decisive factor in the fight against this phenomenon.

Several types of actions are possible:

1. Clear and firm position on the "corporal punishment" against children:
 - It is necessary for the Parliament to discuss activities to eliminate the "corporal punishment" of children;
 - Organizing public and parliamentary debates on the importance of the issue, as well as parliamentary hearings / sessions to review relevant legislation and other planned measures to tackle the problem and assess their effectiveness;
 - Taking a political and public stance against the "corporal punishment" of children.
2. Adoption of legislation and other measures to eliminate the "corporal punishment" of a child - analyzing the legal framework in the Republic of Bulgaria in the sphere of protection of children's rights, we believe that in our national legislation it is necessary to take action on **legislative changes** and on The practice of eliminating the child's "corporal punishment" problem, and in this sense we offer:

IN THE CHILD PROTECTION ACT

Chapter One, Section "Rights and obligations of parents, guardians, custodians or other persons who care for a child" (Title Suppl., SG No. 14/2009): **Article 8⁷ para 5** (Past par. 4 - SG, no. 36 of 2003, rev. 14 of 2009, new, num. - SG 42/10, in force from 2.06.2010, rev. 40 in 2012, in force as of 1.06.2012) to add a new text with the following content: "Parents, guardians, custodians or other caregivers are responsible for his / her breeding, upbringing and development, including the provision of appropriate guidance and guidance according to the deployment capabilities of the child without any form of violence."

Chapter One, section "Protection against Violence" In **Article 11⁸, para 2.** to be added after the word "protection", the term "*of corporal punishment and other cruel or degrading forms of punishment, as well*" is added, with the following content: *(2) Every child has the right to protection from corporal punishment and other cruel or degrading forms of punishment, as well as the methods of upbringing, physical, psychological or other forms of violence that violate his dignity, and forms of influence contrary to his or her interests.*

IN THE RULE OF APPLYING THE CHILD PROTECTION ACT

§1⁹ RACPA, to add with new, legal definitions of the term "corporal punishment".

7 RACPA. Art. 8. (5) (Renumbered from Paragraph 4 - SG 36/03, revoked, issue 14 of 2009, new, issue 42 of 2010, in force as of 2.06.2010., Revoked, No. 40 of 2012, in force as of 1.06.2012)

8 RACPA., Art. 11. - (2) Every child shall have the right to protection against the methods of education, physical, psychological or other violence infringing his / her dignity, and forms of influence contrary to his / her interests.

9 RACPA. § 1. For the purposes of the regulations: 1. "**Violence**" against a child is any act of physical, psychological or sexual abuse, neglect, commercial or other exploitation leading to actual or possible harm to the child's health, life, development or dignity, Which can take place in a family, school and social environment. 2. "**Physical Violence**" is the cause of bodily harm, including the induction of pain or suffering without disruption of health. 3. "**Psychological violence**" means any act that may have a detrimental effect on the mental health and development of the child; 4. **Sexual abuse** is the use of a child for sexual satisfaction. 5. "**Ignoring**" is the failure of the parent, guardian and custodian or caregiver to ensure the child's development in one of the following areas: health, education, emotional development, nutrition, home security and safety when is able to do so.



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Motives: **The Regulations for the Application of the Child Protection Act** give for the first time in our legislation the definitions of the different types of violence (physical, psychological, sexual violence, neglect). The "**corporal punishment**" of a child does not fall within this legal scope.

According to Article 2 of the **Law on Protection against Domestic Violence** (adopted by the National Assembly of the Republic of Bulgaria in 2005, amended and supplemented in 2009), "*domestic violence*" is "*any act of physical, sexual, psychological, emotional Or economic violence, as well as the experience of such violence, the forced restraint of privacy, personal liberty and personal rights committed against persons in a family relationship who are or have been in a family relationship or in a factual cohabitation*". The law treats "*psychological and emotional violence against a child*" and any act of domestic violence committed in its presence.

In general, however, Bulgarian law does not use the term "**corporal punishment**" over a child. The World Health Organization defines sexual abuse as "*the involvement of a child in sexual activities that he or she does not fully understand and for whom it is unable to give informed consent or for which the child is not prepared in terms of development and cannot give consent or are in violation of the laws or social taboos of society*".

The existing clear definition of "**corporal punishment**" defined by the World Community / Convention on the Rights of the Child - Child's right to protection from corporal punishment and other cruel or degrading forms of punishment (Articles 19, 28 (2) and 37 among others, is not integrated in its absolute sense in Bulgarian law and supported by the patriarchal, inert, model of "body education" leads to a complete rejection and misunderstanding of the problem.

In the matter of the above, Bulgarian legislation regulating child protection standards in accordance with the Convention on the Rights of the Child, as **§1 of RACPA, should be supplemented by new, legal definitions of the term "corporal punishment" by proposing:**

- **Paragraph 2 of § 1** should be amended by adding a comma after the word "health" and adding the following text: "*as well as any punishment in which physical force is used and which is intended to cause some degree of pain or discomfort no matter how light it is*";
- **Paragraph 3 of § 1** should be amended by adding "and protected" after the word "supporting", and after the word "environment" a comma is added and the following text is added: "*as well as the domestic violence committed in his presence*";
- **Paragraph 4 of § 1** should be amended, after the word "satisfaction" put a comma and added the following text "*as well as all forms of sexual assault on the child*";

With the suggestions for supplementing items 2, 3 and 4, § 1 of the Regulations for the Application of the Child Protection Act, it has the following:

§1 In the sense of the rules:

1. "**Violence**" against a child is any act of physical, mental or sexual abuse, neglect, commercial or other exploitation that results in actual or potential harm to the child's health, life, development or dignity, which may occur in family, social environment.
2. "**Physical Violence**" is the cause of bodily harm, including the induction of pain or suffering without any health disorder, *as well as any penalty that uses physical force and is intended to cause any degree of pain or discomfort, no matter how light it is.*
3. "**Psychological violence**" means all actions that may have a detrimental effect on the mental health and development of the child, such as underestimation, mockery, threats, discrimination, rejection or other forms of negative attitude, *as well as the inability of the parent, guardian and trustee or of the caregiver to provide a suitable supportive and sheltered environment as well as the domestic violence committed in his / her presence.*
4. "**Sexual abuse**" is the use of a child for sexual well-being, *as well as all forms of sexual abuse of the child;*



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IN THE FAMILY CODE

In section "Parental rights after divorce" in **Article 59, paragraph 4**¹⁰, after the expression "material opportunities", "as well as the incidents of violence in the family so as to ensure the safety of the child" is added, the text should read as:

(4) *The court shall settle the issues under para. 2, after considering all the circumstances in view of the interests of the children, such as: the parenting skills of the parents, the care and attitude towards the children, the desire of the parents, the attachment of the children to the parents, the gender and the age of the children, - parents, social environment and material abilities, as well as incidents of family violence, so as to ensure the safety of the child.*

In **Article 59, para.6**¹¹, second sentence, after the word "alienation" is added "or incidents of violence in the family" and after the word "psychologist", the phrase "which makes a risk assessment for the child" is added, and text should read:

(6) *(Amended, SG No. 100/2010, effective 21.12.2010) The court shall hear the parents as well as the children under the conditions of Art. 15 of the Child Protection Act, takes an opinion from the Social Assistance Directorate and, if appropriate, also listens to other persons. In case there is a parental alienation or incidents of family violence, the court shall hear a psychologist assessing the child's risk.*

In the section "Care, education and supervision of children", **Art. 125**¹², to supplement paragraph 2 by acquiring the following content:

(2) *The parent cultivates the child, shapes his / her views and ensures his / her education according to his / her abilities and according to the needs and inclinations of the child and in order to grow up as an independent and responsible person. The parent has no right to use violence, corporal punishment and other cruel or degrading forms of punishment, as well as methods of upbringing that undermine the dignity of the child.*

In section "Restriction of parental rights" **Art. 131, para 1** (to be added in the first sentence), in which the text should read:

(1) *When the parent's behavior poses a threat to the child's personality, health, education, or property, as well as the imposition of a parental punishment on the child using physical force and intended to cause any degree of pain or disfavor, it doesn't matter how easy/light it is, the district court takes appropriate measures in the best interest of the child by restricting parental rights - withdraws or conditions for the exercise of some of them, and may commission them to another person.*

Art. 132, para. 2, item 1 to be completed by acquiring the following content:

1. In a particularly serious case under Art. 131 as well as when the parent exercises corporal punishment and other cruel or degrading forms of punishment.

In FC, to add a new paragraph 3 containing a legal definition of the term "corporal punishment".

10 FC, Art. 59 (4) the court shall resolve the issues under para. 2, after considering all the circumstances in view of the interests of the children, such as: the parenting skills of the parents, the care and attitude towards the children, the desire of the parents, the attachment of the children to the parents, the gender and the age of the children, - parents, social environment and material opportunities.

11 FC, Art. 59 (6) the court shall hear the parents and the children under the conditions of Art. 15 of the Child Protection Act, takes an opinion from the Social Assistance Directorate and, if appropriate, also listens to other persons. In the case of evidence that there is a parental alienation, the court is hearing an expert psychologist.

12 FC, Art. 125 (2) the parent shall raise the child, form his / her views and ensure his / her education according to his / her abilities and according to the needs and inclinations of the child and in order to grow up as an independent and responsible person. The parent has no right to use violence, as well as methods of upbringing that undermine the dignity of the child.



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§3 Corporal punishment against children is any punishment in which physical force is used and which is intended to cause some degree of pain or discomfort, no matter how light it is.

IN THE LAW OF PROTECTION AGAINST DOMESTIC VIOLENCE

In Chapter One "General", Art.2 - a **new paragraph 3** shall be created with the following content:

(3) For domestic violence against a child is also considered corporal punishment and other cruel or degrading forms of punishment, as well as the violation of his dignity methods of education, physical, psychological or other violence and forms of influence contrary to his interests."

- In Article 5, Paragraph 3 becomes paragraph 4, adding a new text to paragraph 3, with the following content:

(3) Where the injured person is a child, as well as when taking the measure under para 1 item 4, the court shall also determine appropriate protective measures from the ones referred to in art. 59, para. 8 of the Criminal Code so as to ensure the safety of the child.

- Paragraph 4 becomes paragraph 5

IN CRIMINAL PROCESSING LAW

Amendment to the CPL in relation to Bulgaria's commitment to transpose EU Directive 2012/29 / EC:

A draft amendment to the Code of Criminal Procedure should be submitted urgently to the National Assembly to fulfill Bulgaria's commitment to transpose **EU Directive 2012/29 / EC establishing minimum standards on the rights, support and protection of victims of crime , including hearing and / or interrogation in special premises.**

The data from a report on "Child-friendly justice - prospects and experience of workers with children" prepared by the EU Fundamental Rights Agency based on a study in 10 EU Member States (Bulgaria, Croatia, Estonia, Finland , France, Germany, Poland, Romania, Spain and the United Kingdom) in 2014, show that practices of child participation in criminal and civil judicial proceedings vary significantly not only between individual Member States but also within themselves, which states about the need for clear and consistent standards and guidelines as well as systematic monitoring of their implementation. **These findings motivate us to seek an approach to change in the child justice system by exploring good practices that will be multiplied and enforced as part of our internal practice, consolidated with statutory changes in the CPA, FC, PDVA, PC, and others.**

It is time to assume that children do not receive sufficient support when they are involved in criminal or civil proceedings. Immediate steps should be taken to respond to the needs and emotional maturity of children, preventing direct child encounters with the abuser or witnesses in court, and ensuring that the child is informed of the procedure and understands it. Establishment of **specialized children's court chambers and trained specialists for working with children as well as conditions for a friendly hearing / questioning of child victims or witnesses of violence is part of the pending reform of the judiciary**, which has not yet been implemented.

IN THE OMBUDSMAN LAW

Up to now, there is no PUBLIC PROTECTION OF CHILDREN'S RIGHTS - Children's Ombudsman. We note that at the end of 2016, there is a launched project within which a change in the administrative structure of the Ombudsman of the Republic of Bulgaria is to be established, revealing a unit / department whose priority is the protection of children's rights. This change is necessitated by the many recommendations made to our country by the UN Committee on the Rights of the Child (CPC)¹³ to get an independent body

¹³ As early as June 2008, the United Nations Committee on the Rights of the Child (CPC) adopted its final recommendations on the latest periodical report by Bulgaria on the UNCRC. The issue of observing and protecting children's rights once again is affected by the Committee. It is reported that the recommendations of the first report in 1997 on the establishment of an independent body to monitor the respect of children's rights have not been implemented. The Committee urges the state to make every effort



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to monitor the respect of children's rights. An argument for this change is also the fact that among the functions of the Ombudsman described in Art. 19, para. 1 of the Ombudsman Act is added a new point 9 "**protects the rights of the children with the means stipulated in this law**". In order to implement this provision, an urgent change is needed in the administrative structure of the Ombudsman of the Republic of Bulgaria for independent monitoring and control over the respect of children's rights. Without taking such a measure, even the administrative and structural criteria were not met in order for the Bulgarian ombudsman to become a member of the European Network of Children Ombudsmen (ENOC). 23 of all 27 EU Member States and 11 other non-EU countries that are part of the Council of Europe have a special child protector who may be an Ombudsman or a Commissioner for the Rights of the Child.

The legislative framework outlined here in the Republic of Bulgaria shows that in principle there is a legal base in the sphere of protection of children's rights, but there are regulatory shortcomings that should be filled in to declare that as a member of the European Union (EU) we can guarantee the protection of the best interests of the children. Especially in the the area of protection of children, victims of violence, which will provide them with real support, reintegration and resocialization.

Ratification by the Bulgarian Government of the Council of Europe Convention on the Prevention and Combating of Violence against Women and Domestic Violence (Istanbul, 11.05.2011).

As an urgent measure for Bulgaria to achieve the commitments to reform the judiciary, there is also a need for urgent ratification by the Bulgarian government of the Council of Europe **Convention on the Prevention and Combating of Violence against Women and Domestic Violence (Istanbul, 11.05.2011)**. The signing of the Istanbul Convention has a strategic role not only to overcome violence against women but also to achieve maximum prevention and protection of the rights of children victims of violence; children, witnesses of domestic violence and other forms of gender-based violence and girls suffering from gender-based violence.

Harmonizing the internal legislation with the principles and provisions of the European legislation in order to protect and promote the rights of children - all the Member States of the European Union (EU) are obliged to ensure that the best interests of the children are of paramount importance. Led by the Strategy for the Rights of the Child 2016-2021, priority areas for guaranteeing the rights of children in the Republic of Bulgaria, **urgently needs to harmonize the internal legislation with the principles and provisions of the European legislation in the direction of protection and promotion of children's rights to focus on the main working methods for implementing the strategy** - multidisciplinary, sustainable partnerships and effective communication. By following the outlined guidelines and reforming the social and judicial system, we could make more successful steps to protect children's rights.

Support for the preparation of national strategies, plans, programs and mechanisms for the prevention of violence and exploitation of children. Part of the process of implementing the UN Convention on the Rights of the Child and the enforcement of children's rights is also the implementation of the **recommendations of the UN Committee on the Rights of the Child**. The Committee examines Bulgaria's second periodic report (CRC / C / BGR / 2) at its 1318 and 1319 meetings (CRC / C / SR.1318 and 1319) of 21 May 2008 and adopts a series of final recommendations on system reform on child-related justice. For example, The Committee recommends that the state continue to harmonize its legislation with the principles and provisions of the Convention, fully incorporate the provisions of the Convention into the Child Protection Act and ensure effective implementation of domestic legislation on children's rights. In response to the recommendations, the **National Strategy for the Child 2008-2018** was adopted. Thus, the state policy for the child is implemented on the basis of a National Strategy for the Child, adopted by the

to implement the final recommendations of the initial report that have not yet been implemented: Final Recommendations of the UN Committee on the Rights of the Child on the Second Periodic Report of Bulgaria (CRC / C / BGR / 2) adopted at its 1342th meeting on 6 June 2008

Web source: <http://sacp.government.bg/polezna-informacia/metodicheski-ukazania/preporaki-oon/>



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National Assembly, based on the principles of the Child Protection Act and in line with the recommendations of the Committee.

In implementation of the national strategy, the Council of Ministers adopts a **National Program for Child Protection**. These documents are based on the principle of ensuring the best interests of the child and of respecting the rights of all children in Bulgaria by combining the efforts of all the involved institutions in the planning and implementation of the activities.

In order to improve the work with children who were victims of violence, the **Coordination mechanism for Interaction in the workplace for children victims of violence or at risk of violence and for Interaction in crisis Interventions was adopted on 15 March 2010**. The mechanism was adopted by all institutions that are protection authorities. The General Prosecutor's Office joined him.

And in response to the recommendations for creating a comprehensive mechanism for more effective protection of children victims of violence, on 7 December 2010 the Minister of the Interior, the Minister of Labor and Social Policy, the Minister of Foreign Affairs, the President of the State Agency for Child Protection and the Executive Director of the Agency for Social Assistance, signed the updated text of the **Coordination mechanism for referral and care of cases of unaccompanied children and child victims of trafficking returning from abroad**. With the elaboration of the Coordination Mechanism, the approach of the Bulgarian institutions to take coordinated actions and to clearly differentiate the responsibilities with the purpose of effective implementation of the anti-trafficking legislation, is unified, including child victims of trafficking and sexual abuse.

Although the Committee's recommendations are laid down in the above-mentioned normative documents, and the Bulgarians adopt it, **our legislation is still not in line with our recommendations**. Thus, in the Child Protection Act (Article 15); The concept of state policy in the field of child justice and the National Program for Child Protection 2016 **there are no legislative and administrative norms to bring about a real change in the situation of the children** despite some targeted, systematic and adequate efforts by the Ministry of justice, international and local non-governmental organizations and separate courts in the country.

Some progress has been made with the adoption of the National Program for the Prevention of Violence and the Exploitation of Children.

V. MEASURES AND MECHANISMS FOR THE PREVENTION OF CORPORAL PUNISHMENT

According to Art. 4 of the Child Protection Act, child protection measures in Bulgaria are implemented in the following sequence through: assistance, support and services in family environment; accommodation in a family of relatives or relatives; accommodation in a foster family; accommodation in a specialized institution; police protection.

Social services provided to children who have experienced violence in Bulgaria are related to: social and psychological counseling of children and families, therapeutic work with children and their families, counseling and information, interinstitutional mediation, attendance, legal counseling, emergency admission. Some of the providers also work on municipal and regional programs to prevent violence.

However, the subject of "corporal punishment" and its consequences is yet to be understood by our society. We do not share the attitudes that still exist that we may, by fighting, impose on the children the habit of not imposing their position by fighting. The law promotes the resolution of controversial issues by other means - something we all have to learn. As well as the refusal of psychological violence - insults, ridicule, underestimation - in the upbringing of children.

VI. POSITIVE PARENTING

How parents are supported by state and municipal authorities, public organizations and school authorities.



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The first objective of the legislative reform to ban the corporal punishment of children in the family is prevention: to prevent violence against children by changing attitudes and practices, highlighting the right of children to equal protection and providing an unequivocal basis for child protection and for the promotion of positive, non-violent and involving child-raising forms of upbringing.

Children learn from what adults do, not just what the same adults say. When adults, to whom the child is most attached, apply violence and humiliation in their relations with them, they show disrespect for human rights and make a strong and dangerous message that these are legitimate ways of resolving conflicts or changing behavior.

In Section II. Developing the services of the four levels according to the needs of the community, the section Prevention of STRATEGIC MANAGEMENT PLAN FOR INTEGRATED SERVICES provides for the development and implementation of educational programs for parenting.

In Bulgaria there are examples of good practices across the country that are documented in a number of reports, but they are not applied in a systematic way by representatives of the NGO sector without having a uniform standard in this respect.

VII. PLATFORM FOR COOPERATION BETWEEN PARENTS AND SCHOOLS

Family and school cooperation is a social necessity. The meaning of family-school cooperation (the sense of purpose) is to create the environment that is most conducive to stimulating and directing individual and social development; an environment that is normal for a happy, happy and enriching child, parents and teachers life. This cooperation is, by its very nature, not an outward target for each institution but a consequence of their inherent and basic activities, objectives and principles of the pedagogical process. That is why its development and enrichment is equal to the care and responsibility of both parties.

What are the functions of school-family cooperation?

- Information: It aims to inform each other and to get to know each other. The school, through its teachers and other representatives, informs parents and parents inform teachers and the school as an institution about their expectations for them.
- Social: School-to-family interaction also has a societal impact. A particular social community, where the two institutions legitimize their activity by publicizing the results of the training and upbringing of adolescents and through their cooperation. Another part of this function is to attract the public into more attention and effort to teach and educate adolescents.

Forms oriented to the information function:

- Messages to parents, which can be informal and formal - informational letters, invitations to parents, notes on purpose-designed notebooks, etc.), by phone, by e-mail. Message boards are also a good means of realizing this form.
- Newsletters - They are informative and are mainly directed by the school (the class) to the parents.
- Homes visits - their task is based on openness and knowledge of family teachers, the conditions (material, cultural and sociopsychological) in which the person grows and develops, build trust and understanding between the two institutions.

Forms oriented towards the constructive function:

- Consultations and seminars
- Parenting meetings
- School for parents
- Exchange of pedagogical materials
- Parents-volunteers
- Public councils

It is necessary to ensure the general qualification of the specialists working with young children as well as to update their specific qualification (medical, psychological, pedagogical, etc.)



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There is a need in the country to adopt a common standard for all working with children.

It should include competences:

- To understand children's development and the needs of children at any age, to understand the child's best interests;
- Work oriented towards ensuring the best interest of the child, etc.

It is also important to increase the quality of the specialized training of the various specialists in the context of modern understanding and policies for the well-being of children, namely:

- Improvement of pedagogical training of teachers from pre-school and school education, teachers and animators in the field of anti-authoritarian pedagogy, positive education, counseling and support of parents, interaction and partnership with parents and children, resilience approach, etc.

VIII. STUDY OF ATTITUDES FOR THE EXERCISE OF CORPORAL PUNISHMENT AGAINST CHILDREN IN THE REPUBLIC OF BULGARIA

Since the present micro-analysis is a preliminary study of the attitudes of the public to the practice of "corporal punishment" of children, we will refer to the findings of the circumstances, where and under what circumstances, corporal punishment has been applied so far:

Results of an omnibus study conducted among the Bulgarian population in the period 15 August - 15 September 2010 by the GfK Agency, implemented within the project "Childhood Without Child Violence: Towards a Better Child Protection System in Eastern Europe" funded by the OAK Foundation, Presents the data for Bulgaria as follows:

The sample included 497 respondents (221 men and 275 women) across the country aged 18 and over (18+). Some of the questions are asked and refer only to respondents who have their own children - 320 persons (131 men and 189 women).

The respondents' profile is allocated on the basis of the demographic characteristics: gender, age, ethnicity, number of family members with own income, type of settlement, education, number of household members, employment, monthly income of the respondent and monthly household income.

The questionnaire consists of 8 closed questions (including one filter) and they are in the direction of:

- How do responders assess the dynamics of different aspects of child abuse?
- What are the respondents' own declared attitudes towards using physical punishment as a method of parenting?
- What are their attitudes to a legal ban on child fighting?
- How do parents punish their own children?
- Which institutions of the protection and care system provide support to the abusive children?

GENERAL RESULTS OF THE SURVEY

- For the past 10 years, the use of negative patterns of parenting behavior has generally increased. The biggest concern is verbal abuse - shouting and insulting, as well as the lack of parental care.
- Every second Bulgarian is of the opinion that parental sexual abuse of children occurs more often in the last 10 years, and approximately one third thinks that parents are more often using corporal punishment as a model of behavior towards their children. Sexual violence seems to be recognized as a phenomenon that happens more often than corporal punishment for children. At the same time, it remains the phenomenon for which the respondents can not determine the prevalence of the prevalence - almost 1/3 of respondents.
- More than half of respondents rated physical punishment for children as totally inadmissible, but only 39% would support a legal ban on physical punishment. A little over a third of Bulgarians are of the opinion that physical punishment is justified in certain situations.



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- In general, the institutions most reliant on their ability to support a child who has been abused are the authorities of the Ministry of the Interior and the bodies of the Ministry of Justice - the police, the prosecution and the court. The youngest people - those under the age of 18 - vote the strongest confidence in the institutions.
- The most commonly used verbal penalties are criticism and tune-up, and the most commonly used physical ones - spanking, slapping and hand / hitting. Although no parent indicates that he has hit his child with a belt or other object, 4% of the respondents once or several times punished their children in a way that left traces.
- Young people between 15 and 18 years of age are most sensitive to changing trends in negative parenting behavior. They are of the opinion that these negative patterns are repeated more often in the last 10 years and this applies to all categories of violence - corporal punishment, sexual abuse, screaming and insulting. Accordingly, the children are also the hardest opponents of corporal punishment - 69.2%. And together with young people between the ages of 18 and 30, form the group that supports the prohibition of physical violence by law.
- Physical punishments are most often supported by people aged 30-39 and elderly over 59, with people between 50 and 59 years of age reporting the highest degree of physical punishment in certain situations. Older people over the age of 59 are most sensitive to the phenomenon of lack of parental care.
- Bulgarians between 30 and 49 years of age consider the most striking and failing to be forbidden by law, and those between 50 and 59 are the most tolerant of slapping.
- People in smaller towns and villages are more likely to appreciate physical punishments as acceptable, but at the same time almost half of them state that they should not be used.
- The inhabitants of the district towns in the country recognize the most compared to the increase in physical punishment, and over half of them do not allow it as a form of education. Overall, however, they consider that the most frequent models are the lack of parenting and screaming.
- Residents of Sofia are the most vulnerable to the lack of parental care, believing that it has broadened its reach over the past 10 years. Although they do not recognize physical violence as a model that is used more often, nearly 60% of people in Sofia say it is unacceptable.
- People with early and no education less often than the more educated are of the opinion that corporal punishment should never be used. Accordingly, with the lowest degree of tolerance to this model, there are people with higher education, and more than half believe that child-fighting should never be used. The share of people who consider that physical punishment should be banned by law is highest among people with higher education and those without education - 42% and 43% - practically equal (as opposed to people with secondary education - 34%).
- The people of Turkish ethnicity are the most categorical in comparison to the others who oppose paint as a method of education - 60%. The highest possible use of corporal punishment in certain situations is justified by Roma people. People who have not determined themselves by ethnicity (others) most strongly support the prohibition of physical punishment by law.
- In general, women are more sensitive than men to spreading negative patterns of behavior among parents.



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