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Advisory opinion to the interim report of Dr Sarah Calvert dated 03.01.2019

[1] 1.11: Dr. Calvert stated: *"He has not provided further information about that"*.

3.21: Dr. Calvert stated: *"Axel has suggested that a person known to him, resident in Australia, could provide such therapy. For a psychologist to practice legally in New Zealand, they must be registered with the New Zealand Psychologists Board. He has also said he is in contact with other therapists in New Zealand but has provided no information about them"*.

3.13: Dr. Calvert stated: *"None of those she suggested were ultimately prepared to accept the Brief for counselling (Footnote: It is unclear whether one of those recommended subsequently indicated this after contact from Axel"*.

The signatory informed the Tauranga Family Court with memorandum dated 16.12.2018 that the signatory is able to provide a therapist for Clara on 10.01.2019. A copy is attached and marked as **Annex 1**. The signatory informed the Tauranga Family Court with memorandum dated 13.01.2019, that Mr Nic Norval, Child, Adolescent & Family Counsellor, Specialising in Child & Adolescent Psychology, Hamilton, is able and willing to work with Clara Larissa Schmidt. He offered a first appointment at 06.03.2019. A copy is attached and marked as **Annex 2**. The clinical psychologist Jo Clarkson, Hamilton can also offer support for Clara – but not before April or May 2019. The psychotherapist Alan Jones Robert Street Clinic Auckland is able and willing to support Clara directly.

There is a misunderstanding regarding an expert from Australia. The Authorities of the Federal Republic of Germany have ordered an expert opinion of this case from a well-known expert from Australia.

So the signatory cared about a therapist for Clara Larissa Schmidt in New Zealand after the refuse of therapists to Mr Blair.

The signatory asked the Tauranga Family Court one year ago for therapy with his memorandum dated 26.01.2018. The Tauranga Family Court did not react. A copy is attached and marked as **Annex 3**.

He signatory is surprised that Ms Dr. Clavert stated that the signatory contacted one or both of the therapists that Ms Dr. Calvert recommended. The signatory had no contact to both recommended therapists.

- [2] 2.15: Dr. Calvert stated: *"In June 2017 Mr Blair, Clara's lawyer, indicated his view that Clara needed independent help and support given the situation she found herself in. This was the beginning of the Hague Part One process. Mr Blair was unsuccessful in having Axel and Lisa agree to this."*

The signatory was not aware that Mr Blair asked for independent help and support for Clara. This must be a misunderstanding. If Mr Blair wanted to have support for Clara why Mr Blair did not react on the signatory's memorandum dated 26.01.2018?

- [3] 2.2: Dr. Calvert stated: *"Lisa alleges that the separation was occasioned by an incident of Family Violence (Axel towards her)"*.

After the separation on 11.06.2009, Ms Lisa Hopfengärtner called two days later the police. Of significance is the statement made by the attending officer in the police report dated 13.06.2009 to the effect that: *"the aggrieved party showed no signs of physical injury"*. A copy is attached and marked as **Annex 4**. On 27.07.2010 The Public Prosecutor stated: *"Ultimately, your statement and the statement of the Accused incompatibly stand against each other, while neither portrayal of the facts can be ascribed higher evidential that the Accused be*

convicted". A copy is attached and marked as **Annex 5**. The signatory did not on that day, nor at any other time commit domestic violence against the applicant.

This was the beginning of a campaign with false accusations which was continued in New Zealand.

In 2011 Ms Lisa Hopfengärtner sought a temporary injunction under s 1 of the Protection Against Violence Act the Court recorded in a memorandum dated 03.11.2011 the following: *"The Court again points out that the Public Prosecutors stopped those proceedings and that they cannot be the basis for a temporary injunction under the Protection Against Violence Act now in the year 2011. Since then no more assaults of that kind have occurred. There were also no more threats with injuries to life or limb at least not in 2011. The respondent declares that such threats have not existed prior either."* A copy is attached and marked as **Annex 6**. Ms Lisa Hopfengärter herself discontinued the complaint with letter to the court dated 15.11.2011. A copy is attached and marked as **Annex 7**.

Also in New Zealand Ms Lisa Hopfengärtner accused Clara's father. In May 2017 the Police came to the apartment of the signatory and told him that they had had a call from Ms Lisa Hopfengärtner saying that the signatory would use violence towards her. The Police left the apartment of the signatory and informed the signatory that everything was in order. A copy is attached and marked as **Annex 8**.

The signatory is concerned that Ms Lisa Hopfengärtner has not only painted a false picture of the signatory to the Courts in Germany and now in New Zealand but she has also frightened Clara with those views. This was confirmed through the affidavits of Emma Preece, dated 01.03.2018 and Nicholas Michael Preece, dated 01.03.2018. A copy is attached and marked as **Annex 9** and **Annex 10**.

Clara repeated her mother's version of events which have been clearly designed to cause her unnecessary distress and anxiety.

- [4] 2.9: Dr. Calvert stated: *"In 2011 Lisa sought to access psychological intervention for Clara who was described as being distressed in her situation".*

The "distress" was caused by the prevention of visitation rights. In the expert report of Dr. Marianne Schwabe-Höllein dated 31.01.2013 is stated:

"An inquiry with the therapist, who has been treating Clara since February 2012, revealed that Clara had been looking forward to meetings with her father, but was very disappointed, when those did not happen, such as in the summer of 2012 (on the occasions of the two scheduled court appearances) and that the irregularity of the contact with her father had a rather negative effect of the child. As the child did not know how to handle the situation, according the therapist, she applied adopted avoidance strategies and sometimes said that she did not want to meet with her father or even defended his non-appearance towards third parties. The situation demanded a lot of adjustment from the child and for her to be able to find her place within her new family. She said, Clara had suffered setbacks in reading, was clearly fully occupied with the current issues and further therapeutic assistance was desirable (this conversation took place on 29.10.2012, being before the first meeting with the father on the same afternoon)" (page 22, expert report Dr. Marianne Schwabe-Höllein, 31.01.2013). A copy is attached and marked as **Annex 11**.

Ms Dr. Marianne Schwabe-Höllein stated further that in the phases of contact between Clara and her father Clara's adjustment improved significantly: *"From the Expert point of view, the child's wellbeing has significantly improved over the observation period of the Expert Report. This specifically also shows the flowing communication in which Clara showed the Expert on an i-Pad, how good she already was at reading and writing. Irritations caused by the contacts with her father could not be observed and were not reported either"* (page 23, expert report Dr. Marianne Schwabe-Höllein, 31.01.2013).

- [5] 2.13: Dr. Calvert stated: *"In 2014 Clara left Germany with her mother, half-sister and step father. This was prior to a decision of a German Court transferring custody to Axel"*.

Ms Dr. Calvert has had probably not access to the facts in this point. In February 2014 Clara left Germany to Brazil, Scotland, England, Portugal, Austria and was back in Germany in September 2014. Ms Lisa Hopfengärtner participated in person in a Court hearing dated 29.09.2014. On 22.10.2014 Clara participate in person in an appointment with the expert Ms Doris Zimmermann. A copy is attached and marked as **Annex 12**. The decision of custody transfer was made 17.12.2014. On 08.11.2013 the custody proceeding began.

- [6] 2.10: Dr. Calvert stated to the conviction of Mr Simon Hopfengärtner for grievous bodily harm in December 2014 and the issue of an arrest warrant against Mr Simon Hopfengärtner: *"That incident is the subject of significant dispute between the parents and rulings in German Court (which Axel relies on) both about what happened and about the impact on Clara"*.

Facts and Figures

There is no dispute between the parents what happened. On 20.09.2013 Mr Simon Hopfengärtner, Clara's stepfather, overrun Clara's father twice with his car in the presence of Ms Lisa Hopfengärtner and Clara, which were sitting in the car, to prevent an access between Clara and her father, ordered by the Court. After hearing of witnesses and an expert report of the Court, Clara's stepfather is searched by arrest warrant dated 27.11.2014 for grievous bodily harm against Clara's father. He conducted this criminal act with a weapon – a car. His wife Ms Lisa Hopfengärtner did not prevent this criminal act – she was able to do so. The perpetrators should be accountable for their abusive behaviour.

The responsible Judge in Germany argued further that this act was based on irrational behaviour: *"The Accused has already demonstrated that he is willing, in the pursuit of personal interests, even if those essential relate to his wife, to make significant personal sacrifices. If set free prior to the completion of these proceedings, further such behavior driven by a similarly irrational pattern can be expected. A suspending of this arrest warrant on the condition of a registration*

upon establishing the place of residence through the nearest District Judge is thus opposed" (page 3-4, Arrest Warrant Simon Hopfengärtner, District Court Fürth, Germany 27.11.2014, Az. 461 Cs 703 Js 74456/13). A copy is attached and marked as **Annex 13**.

Clara was sitting in the car which overruns her father. The impact of Clara is also clear: *"There is converging evidence that children exposed to their parents' IPV [remark of the signatory: intimate partner violence] are at an increased risk for emotional and behavioral difficulties. Emotional difficulties (also referred to as internalizing problems) include, for example, symptoms of posttraumatic stress disorder such as sleep disturbances, eating problems, and loss of previously acquired development skills (Bogat, DeJonghe, Levendosky, Davidson, & von Eye, 2006; De Bellis & Thomas, 2003; Insana, Foley, Montgomery-Downs, Kolko, & Mc Neil, 2014; Levendosky, Bogat, & Martinez-Torteya, 2013), as well as depression anxiety, and withdrawal (Lichter & McCloskey, 2014; Litrownik, Newton, Hunter, English, & Everson, 2003; McCloskey, Figueredo, & Koss, 1995; McCloskey & Lichter, 2003; Moffitt & Caspi; Vega, Osa, Granero, & Ezeleta, 2013). Behavioral difficulties (also referred to as externalizing problems) include, for example, aggression, delinquency, and violence in the offspring's own intimate relationships (Ehrensaft et al. 2003; Herrenkohl, Sousa, Tajima, Herrenkohl, & Moylan, 2008; Herrera & McClosky & Lichter, 2003; Suderman & Jaffe, 1997)" (Rossi, Holtzworth-Munroe, & Rudd, 2016, p. 347-348).*

All these findings of the human sciences were shown by Clara and made her to a *"particular vulnerable child"* (4.4: Dr. Calvert). The observation of Dr. Calvert seems to be correct – but it needs to be considered who causes these problems and developmental risks of Clara and who is able to change this. *„Some have characterized exposure to high levels of marital conflict and violence as a form of emotional abuse (Jaffe, Wolfe, & Wilson, 1990)" (Cummings, Goeke-Morey, & Papp, 2001, S. 119).*

In addition to Clara's observation that her father was overrun by her stepfather with a car, Clara was told by Ms Lisa Hopfengärtner, that her father had run over with a car the foot of Mr Simon Hopfengärtner and that Clara's father wanted to murder Clara's mother. These evidences could be found in the affidavits of Emma Jane Preece dated 01.03.2018 and Nicholas Michael Preece 01.03.2018.

In the affidavit of Emma Jane Preece, dated 01.03.2018 was stated:

"11. Lisa told me that her ex husband who I now know to be named Axel had run over Simons foot with his car injuring Simon in the process.

15. Again during this time, Lisa again told me about the car accident where her partner had run over Simons foot.

17. During this time Lisa said to me that she felt her ex husband was going to MURDER her."

In the affidavit of Nicholas Michael Preece, dated 01.03.2018 was stated:

"38. That he was violent and abusive and that he had run over her new partner Simon's foot using a vehicle.

54. I have read the German Court Files and it is clear to me, that Simon, Lisa's new partner was the aggressor who ran over the foot of the Father Axel.

55. This is important because Lisa has told us and her children and my children that Clara's father was the aggressor, who had run over Simon's foot with a car.

56. This lie has been perpetuated by Lisa to gas light the father to the children, and to others Lisa has met so as to paint the Father Axel in a very bad light, most dishonestly."

Clara's view

a)

Clara was heard two times regarding the criminal act of Mr Simon Hopfengärtner:

- Higher Regional Court Nuernberg, Germany, Access Decisions, Hearing of Clara, 28.03.2014
- Expert report Ms Doris Zimmermann, Hearing of Clara, 04.12.2014

Higher Regional Court Nuernberg, Germany, Access Decisions, Hearing of Clara, 28.03.2014:

Clara was heard by three judges from the Higher Regional Court Nuernberg and the lawyer of the child Mrs Christiane Winckelmann on 20.02.2014. In that hearing Clara's mother submitted a version of a "traumatization of the child".

Mrs Lisa Hopfengärtner declared at the court: *"By now, daughter Clara Larissa was no longer willing to have contact, due to the incident on 20.09.2013. The findings made by the Fuerth District Court in this matter were inconclusive. The assumption of the Court of First Instance, that it was plausible that the child was 'shocked' by the behavior of the father, is not consistent with the statement that the child's wish for contact with the father had not suffered under this. The District Court – Family Court – Fuerth had not conducted a hearing of the child on this matter. **It would have resulted in the determination of a traumatization of the child through the incident on 20.09.2013**"* (page 13, Higher Regional Court Nuernberg, Germany, 28.03.2014, Az.: 9 UF 53/14). A copy is attached and marked as **Annex 14**.

The Senate of the Higher Regional Court Nuernberg assumed that there is no traumatization of Clara but that Clara adopts the will of her mother.

After the hearing of Clara the Higher Regional Court Nuernberg declared in his access decision dated 28.03.2014: *"Just because the conflict on 20.09.2013 alone, which took place in the presence of the child, the arrangement of contact supervision has become necessary, with it being irrelevant in this individual case, who contributed to what extent to the Applicant being hit and struck by the car of the Respondent's husband in front of the school building. Therefore, the taking into account of the criminal file against the husband of the Respondent (file ref.: AG Fuerth 461 Cs 703 Js 74456/13) for failing to stop after an accident and for bodily harm is not deemed necessary.*

The Respondent has been regarding her apartment and the school as a sanctuary for her daughter for quite some time, both of which the Applicant has not been allowed to approach. She, therefore, insisted that Applicant were not authorized to collect, when he suggested picking up his daughter from school. She referred to the child being collected from the café 'Cool Bits'. The Applicant invoked that

the child, according to the access regulations in the decision (not signed by the Judge) of Fuerth District Court dated 09.07.2013, which he had believed to be legally valid, the child was to be picked up from the school. To prevent the father picking up the child at school, the mother left the school together with her child through a side exit and together with the child got into the vehicle driven by her husband. The Applicant was hit and struck by the car as it started moving.

The daughter Clara also witnessed the incident. **In a hearing of the child conducted by the Senate, it mentioned of its own accord that her father, caused by the incident on 20.09.2013, has continuously been causing her fear and that she for that reason did not currently want contact with him. The Senate assumes that this is not the independent and sustained will of the child. The fact is rather that Clara, with this, adopts the will of her mother**" (page 17, Higher Regional Court Nuernberg, Germany, 28.03.2014, Az.: 9 UF 53/14).

Expert report Doris Zimmermann, Hearing of Clara, 04.12.2014:

The expert and contact supervisor Doris Zimmermann spoke at the end of 2014 with Clara. The expert states: "When asked, Clara says that she last saw her father a year ago. **Clara indicates that she would like to see her father again.** "I would like to show him how well I can swim". The father would only know that she had passed her beginners swim exam (Seepferdchen). Further, she would like to: "Watch films, because he has such beautiful films with really great ballerinas, Swan Lake, I really like that movie: I would like to watch that again". Later Clara declares: "I would also like to see my grandfather in Moenchengladbach". When prompted, Clara says that she had also been at the 'Tucherland' adventure playground with her father. Clara asks the Undersigned Contact Supervisor: "Do you know Schloss Thurn? I went there for my birthday with my other grandfather". **She can imagine talking a trip there with her father as well. "I would like to do so many things, but I don't dare. Daddy hit our car and he showed on his mobile phone that he is calling the police". Following, Clara describes the incident in front of her school. She explains: "Daddy, that is my other daddy, Simon, started driving. Daddy rolled on his side and pretended he was hurt". After being asked, whether she has seen that herself, Clara declares: "I did see it and we**

knew that he (the father) did it on purpose and lied as well". "I would like to do everything with him again, but I don't dare to" (page 2, expert report Doris Zimmermann, 04.12.2014).

Furthermore Clara explains to the Contact Supervisor, she can imagine meeting her father again, if he 'doesn't do any nonsense' and doesn't go to court anymore: **"Clara then explains to the Undersigned Contact Supervisor, she can imagine meeting with her father again, if he 'doesn't do any nonsense' and doesn't go to court anymore. If he managed to do that for one year, then she wanted to see him again"** (page 2, expert report Doris Zimmermann, 04.12.2014).

In the expert report of Prof. Dr. Gottfried Spangler dated 04.02.2016 is also stated that Clara's perception to be afraid is influenced by her mother: *"When determining the wishes of the child the findings clearly indicated that Clara wishes contact with her father. Also, in the last conversation with her contact supervisor, she stated that wish. **At the same time, she also expressed a fear of contacts with her father; the reasoning she gave, however, seemed hardly authentic, but influenced by the mother.** The assessment of the child's wishes in the preliminary expert report, however, was in regard to contact sessions, so that we cannot readily make deductions from this as to her wish to stay with her father. There have not been any statements to the contrary suggesting that she would refuse staying with her father"* (page 71, expert report Prof. Dr. Gottfried Spangler, 04.02.2016).

The conclusion of Prof. Dr. Gottfried Spangler based on the risks and problems of Clara also caused by the 'car incident' was: **"In conclusion, we can state that in Clara's case a number of risks and problems exist, to which the mother significantly contributes, and for the managing of which she requires support, emotional support and encouragement from her parents** [remark of the signatory: both parents]" (page 71, expert report Prof. Dr. Gottfried Spangler, 04.02.2016). A copy is attached and marked as **Annex 15**.

German Courts view

In the following documents the 'car incident' dated 20.09.2013 was evaluated by different courts:

- District Court Fürth, Germany, Sole Custody Decision, 17.12.2014
- Higher Regional Court Nuernberg, Germany, Sole Custody Decision, 30.05.2016

In the Decision of District Court Fürth, Germany dated 17.12.2014 is stated:

*"The transfer of parental custody to the father is in the best interest of the child. The ingrained resentment the mother of the child holds against the father of the child, by now significantly impairs the mother's ability to raise her daughter. It has now developed into the driving force behind the actions taken by the mother. With her actions, the mother willfully and significantly disregards the interests of her daughter. **From numerous statements the child made at access proceedings, from the psychological assessment created on that occasion by expert Dr. Marianne Schwabe-Höllein, from statements made by the Youth Welfare Office and the Guardian ad litem, it is not only known to the court, but also to the mother of the child, that her daughter desperately yearns for contact with her father. This has not changed to this day. Even after her having spent several months at an unknown location and even in light of an incident that happened on 20.09.2013, where Clara became eye-witness to a dramatic encounter between her father and her mother's husband, who was operating a passenger vehicle at the time, and on which the child only has the perspective of her mother for explanation, Clara told the contact supervisor that she would like to do 'everything with her father' again. That Clara, in light of her mother's hugely rejectionist attitude, which would not have gone unnoticed by her and her mother's prerogative of interpretation of the events on 20.09.2013, also entrusted in the contact supervisor that she did not have the courage, does not seem surprising and is not to be interpreted as a limitation of the clear wish of the child to see her father.***

The defendant [remark of the signatory: the respondent], however, has been ignoring this, her daughter's dearest wish, all-out and consistently

for years. For this, she is prepared to accept further significant disadvantages for her daughter. She, time and again, changes their place of residence, practically being on the run from the claimant, and keeps in hiding" (page 6, District Court Fürth, Germany, 17.12.2014, Az.: 201 F 1835/13). A copy is attached and marked as **Annex 16**.

In the Decision of Higher Regional Court Nuernberg, Germany dated 30.05.2016 was declared:

"The Respondent puts down developmental and health problems of the child to the father's wish for access. She does not reflect on stresses on the child originating from her own family. A further risk, according to the expert, lies in the repeated change in place of residence.

While in the past strong bonds of daughter Clara with both her parents were detected, the disappearance of the Hopfengaertner family poses a risk for those bonds and the quality of them in the relationship to her father as well as to her mother. In how far the quality of the bonds has actually been impacted, only the future can tell.

*The wishes of the child are described by the expert as such, that the daughter - also after the preliminary expert report - wishes for contact with her father. According to the expert, this is substantiated by the daughter's behaviour towards the father, the joy to see him again at the beginning of contact sessions, the child's cheerfulness during the sessions and her sadness at the end, as it could be seen on the video recordings. **At the end of 2014, daughter Clara expressed her wish for contact with her father to contact supervisor Zimmermann, after not having had any contact with him for over a year.***

The daughter's wish for contact was, however, accompanied with fear, which she associated with the incident that occurred on 20 September 2013. According to the expert, it is very likely that her utterances about that incident are not authentic, but that she has been repeating what the adults in her family said. This is indicated by her choice of words, when describing her father's behaviour during the incident, during which the father tried to enforce access to the child and the husband of the Respondent did not stop the car, in which the daughter was also sitting.

Followed by Clara, when talking to the contact supervisor, attaching the wish for contact to the condition that her father was not allowed to "start any nonsense or go to court again." These are arguments adults would use. Overall, the expert determined that Clara has the wish for contact with her father - even after a separation of more than a year. The reservations uttered by the child speak for a manipulation of the daughter with a tendency to achieve estrangement. On several occasions, the Respondent - already in the previous proceedings - adopted the position that having contact with the father was, due to his strongly manipulative behaviour, harmful for the child and detrimental to her development. She took the view that having contact with the father made it more difficult for the child to settle in with her new family. Neither the expert report by Dr. Marianne Schwabe-Hoellein, prepared in the course of the previous access proceedings, nor the expert report in the current proceedings confirm the assumptions of the Respondent.

After Prof. Dr. Spangler's expert report, it remains open, how Clara would currently express herself in regard to contact with her father. He would not exclude the possibility that she would express her wish for contact with the father increasingly less. Against the background of increasing manipulation that would not necessarily have to be seen as authentic. He also correctly noted that the child, to date, had only ever been interviewed in regard to contact sessions, but not on a permanent stay with her father. In regard to the child's wishes, her bond with her half-sister Charlotte and her mother's husband may also be significant.

In conclusion, the expert ascertained that problems exist with the child Clara to which the mother has significantly contributed and contributes still.

*In a comparison of the psychological characteristics and behavioural patterns of both parents, the expert determined differences, which led him to the expectation that the father was better suited to raise a child. He stated, in conclusion, that the mother of the child probably had basic parental skills for the care and education of her daughter Clara and that she was able to apply these skills in the first years of her daughter's life. While initially supporting contact with the father after the separation, she later ignored court decisions and did not allow the Applicant to have access to the child. **In doing so, she endangered***

the child's bond with the father. In her effort to keep the daughter away from the father, she hazarded significant developmental risks for the child" (page 10-12, Higher Regional Court Nuernberg, Germany, 30.05.2016, Az.: 9 UF 149/15). A copy is attached and marked as **Annex 17**.

- [7] 2.16: Dr. Calvert stated to Clara's perception of this criminal act on 20.09.2013: *"Ms Lightfoot noted the relationship between Clara's psychological distress and her (Clara's) perception of the event which occurred in 2013. Axel has been critical of Ms. Lightfoot's clinical assessment"*.

As explained above Clara is of course distressed about this situation – but in concordance with arguments of the New Zealand Psychologists Board dated 26.06.2018, the signatory assessed that not Clara's father was fault in this situation and that Clara has a false perception of this criminal act: *"The Committee has some difficulty reconciling Ms Lightfoot's assertion that there is no evidence that the child's view had been influenced by parental alienation with the undeniable evidence of the mother preventing the child from having contact with her father for some years and failing to correct the child's erroneous belief that her father was at fault in the "car incident"."* A copy is attached and marked as **Annex 18**.

- [8] 2.18: Dr. Calvert stated: *"On 28th September 2017 (following the Decision of Judge Coyle) Axel with other people he 'knew' or engaged uplifted Clara from her school classroom during a school day. The New Zealand Police were involved and Clara was eventually returned to her mother's care after being found in Auckland with her father"*.

Since March 2017 no contact between Clara and her father has been ordered and arranged by the lawyer of the child Dean Blair or the Family Court Tauranga in New Zealand. In April 2010 the New Zealand Family Court introduced the National Early Intervention Process, which would have been the best solution in this case for a reunification of a kidnapped child with one parent. Furthermore an inclusion of Clara in counseling and mediation in Family Court dispute resolution processes did not happened. New Zealand's Family Court judges did not consider

utilizing existing legislative provisions (in particular § 10 (4) and § 19 (1) of the Family Proceedings Act of 1980 to enable children to participate in state funded counseling which the Court has ordered for their parents.

The signatory asked three times to arrange contact between Clara and her father in New Zealand (Michael Roots to Alexander Ashmore 14.03.2017, Michael Roots to Alexander Ashmore 09.05.2017, Lynda Kearns to Alexander Ashmore 29.05.2017) without any reaction. An "expert report" was made without contacting the father and seeing Clara interacting with her father. Because of the fact that none of the parents had day-to-day care in New Zealand on 28.09.2017 it was possible to take Clara legally from school to start re-establishing the relationship between the child and her father. This option was discussed with several lawyers and the police before and a decision was made to use this opportunity although knowing about possible disadvantages. The written recommendation of the Queen Counsel Murray Earl was: *"I indicated to him that it appeared from the information that he had provided under New Zealand Law as long as the children's mother did not have an Order in her favour, that he had as much right to the care of the child as she did"* (Murray Earl, Hamilton, 28.08.2017). A copy is attached and marked as **Annex 19**.

The Police filed the question under the file number 161026/8310. After 4 years of no contact Clara was able to re-establish her relationship with her father after 2 hours. Clara's father was aware of this. In the expert reports of Prof. Dr. Gottfried Spangler (University of Nuernberg-Erlangen) dated 04.02.2016 and the expert report of Dr. Marianne Schwabe-Höllein (University Regensburg), dated 31.01.2013, this outcome was also expected. Clara's father was present for Clara as if the last contact was last week. The coalition pressure and the loyalty conflict of Clara could also be detected. Further lasting contact would be necessary to re-establish the relationship of Clara to her father in the long term and to overcome the coalition pressure. The signatory asked the Tauranga Family Court for therapy with his memorandum dated 26.01.2018. The Tauranga Family Court did not react.

Tauranga High Court Judge Davidson stated in his decision reasons dated 11.06.2018: *"[37] ... While it is clear from Anna's comments to her counsel, Mr Blair, that she was unsettled and traumatised by these events and the appellant's*

*action it is relevant to note that at the time of that occurrence, the German custody order was the only custody order in place, and furthermore that the German Court had made an order in which it had said that the respondent had shown by her conduct that without the use of direct force she would not release Anna". A copy is attached and marked as **Annex 20**.*

The German Court decision the warrant to take the child dated 18.06.2016 was stated: *"Final decision: 1. The defendant is obligated to release the child Clara Larissa Schmidt, born 03.07.2007, into the care of the Claimant. 2. For the execution of the release claim the use of direct force – if required – may be ordered"*. A copy is attached and marked as **Annex 21**.

- [9] 2.19: Dr. Calvert stated: *"Axel was (and is) of the view that Clara was not upset by the uplift by contact with him. He has said he is the only person who can give evidence as to Clara's response to his uplifting her in the manner that he did"*.

Ms Dr. Calvert should view the videos from that day on 28.09.2017 and the pictures and documentation from that day. A copy is attached and marked as **Annex 22**. These are original documents. The complete day is also recorded and is now analyzed by expert from Australia in an order of the Authorities of the Federal Republic of Germany.

The videos from the 28.09.2017 are available:

https://www.youtube.com/channel/UC3RztzSULM0agPTXi5C_f9Q/video

An assessment of Clara after the contact with her mother could be difficult because of the coalition pressure and the loyalty conflicts of Clara. Ms Dr. Calvert also knows that children in the age and same situation of Clara often aligned with one parent and may become parentified. Ms Dr. Clavert published in her "Parental Separation Pamphlet": *"9-12 year olds: sadness, anger, alignment with one parent or the other; may become 'parentified'"*. A copy is attached and marked as **Annex 23**.

[10] 2.20: Dr. Calvert stated: *"The substantive report will address, at length, the issue which arise from this event and their impact on Clara"*.

4.3: Dr. Calvert stated: *"In addition (and the ultimate view of her view on this will be a matter for the Court) Clara reports significant psychological distress associated with two events which have occurred as a result of the inter-parental conflict. Those events are the event on 2013 in Germany and the event in 2017 in New Zealand"*.

The signatory is surprised why the following issues would not be assessed by Ms Dr. Calvert:

- The impact on Clara of the *"undeniable evidence of the mother preventing the child from having contact with her father for some years"*.
- The impact on Clara that she search for her father in New Zealand and that she expressed that she *"really really misses her Dad"*.
- The impact on Clara that her attachment to her father became upset.
- The impact on Clara that she lost the good parenting skills of her father and *"his excellent knowledge of the child's personality"* and his *"emotionally availability for his daughter"*.
- The impact on Clara of the abusive behaviour of her step father against her father 20.09.2013 in the presence of Clara.
- The impact on Clara of her *"erroneous belief that her father was at fault in the "car incident""* on 20.09.2013.
- The impact on Clara of the false allegation of Clara's mother that Clara's *"father had run over Clara's step father foot using a vehicle"* and *"was the aggressor"* on 20.09.2013.
- The impact on Clara of loss of all social contacts in Germany during the hiding 2014 and from 2015 to 2019.
- The impact on Clara that she needed to stop contact to her best friend Millicent Preece after her affidavit, dated 01.03.2018.
- The impact on Clara of the multiple transitions in her life.

- The impact on Clara of the false allegation of Clara's mother that Clara's father wanted to "MURDER" Clara's mother.
- The impact on Clara that Clara's mother *"paint the Father Axel in a very bad light, most dishonestly"* before Clara.
- The impact on Clara that Clara's mother told Clara that her father was *"violent and abusive"*.
- The impact on Clara *"that the child's view had been influenced by parental alienation"*.

[11] 2.8: Dr. Calvert stated: *"Clara is a child whose entire life has been (likely) impacted by the conflict between her parents. The genesis of that conflict and the contributions of each parent are a part of fundamental dispute between her parents and thus a matter for the Court to form a view in respect of"*.

2.11: Dr. Calvert stated: *"Expert opinions are available from various legal proceedings in Germany which indicate that Clara's situation should be characterised as a 'high conflict' Family Court matter. As such, regardless of ultimate findings by various Family Courts as to the causative factors and potential responsibility for them (by either adult party) there is likely to have been a significant negative impact on Clara"*.

4.2: Dr. Calvert stated: *"As indicated Clara is a high vulnerable child because she has been in the midst of intractable parental conflict for the most of her life (see 2.2; 2.6; 2.7; 2.10; 2.11). There is a substantial literature which demonstrates the negative impact of this on children. In addition Harold and Sellers have recently published an authoritative review on this topic"*.

Ms Dr. Calvert informed the Court in paragraph 2.8, 2.11 and 4.2 that "conflict" and "high conflict" of parents could have negative impact on children and on Clara.

Social science research can assist judges in knowing what is likely to be in the best interests of children, as a matter of statistical probability. The best interests decision is, to a significant extent, based upon predictions about what is likely to be best for a child in the future even though there can be little certainty in predicting how a child is likely to fare in the coming months and years under

different conditions. The signatory agreed to this but pointed out that the research must be complete and the findings needed to reflect general scientific consensus in the field.

There is a common sense in human sciences that parental conflict could be associated with negative effects on children and child feelings of involvement on conflict might exacerbate negative outcomes. These findings were independent of family status. Furthermore the research gave evidence that parental conflict could be an important predictor of long-term outcomes and child involvement in conflict might have as much or more of an impact than conflict itself. *"Continuing conflict is a significant predictor of variability in several aspects of adjustment, including externalizing problems, internalizing problems, self-esteem, social competence, cognitive competence, academic achievement, and young adult attitudes toward marriage and quality of romantic relationships"* (Buchanan & Heiges, 2001, p. 339, see also: Cummings, Goeke-Morey, & Papp, 2001, p. 121-124; Margolin, Oliver, & Medina, 2001, p. 10).

There is also common sense in the human sciences that conflict between parents is not the only factor which can cause stress on children and that conflict of parents can be compensated by other factors of the model in figure 1.

Amato (2009, p. 26) summarized all factors which have influence on the development of children after separation: **"First**, divorce usually lowers children's standard of living, particularly if they live with their mothers following separation. **Second**, divorce usually decreases the amount of contact and support their children receive from non-resident parents – usually fathers. **Third**, single parents usually experience a good deal of stress following divorce. Stress tends to interfere with the quality of parenting skills. For this reason, single parents, compared with married parents, tend to exhibit less warmth toward their children, engage in harsher forms of punishment, and are more inconsistent with discipline. **Fourth**, a significant minority of parents (about 10%) continue to engage in a high level of conflict following divorce with respect to custody, visitation, and child support. **Finally**, divorce brings about a variety of changes in children's lives. These changes often include moving, which means that many children lose contact with neighbourhood friends and classmates. **In addition**, most divorced parents initiate new relationships with partners, including

cohabiting relationships, remarriages, and additional divorce. All of these factors create additional stress in children's lives" (see also: Amato, 1993, p. 35-36; Amato, 1999, p. 148-149; Amato, 2000, p. 1271; Amato, 2001, p. 366; Amato, 2010, p. 656-657; Amato & Booth, 1991, p. 909-913; Amato & Booth, 1997, p. 81; Beelmann, 2002, p. 52; Grych & Fincham, 1997, p. 165-171; Hetherington, Bridges & Insabella, 1998, p. 168-169; Kelly, 2002b, p. 22; Kelly & Emery, 2003, p. 352-353; Lamb, 2002b, p. 101-103; Lamb & Kelly, 2009, p. 188-196; Schmidt-Denter, 2000, p. 212-213; Schmidt-Denter, 2001, p. 302; Schmidt-Denter & Beelmann, 1997, p. 39; Walper, 2003, p. 153; Walper, 2004, p. 237; Walper & Fichtner, 2011, p. 91).

Figure 1 shows, on the basis of the process-oriented model of Amato and Sobolewski (2001, p. 902), Cummings and Cummings (1988, p. 299), Kline, Johnston and Tschann (1991, p. 299), Cummings and Davies (2002, p. 33-34), Cummings, Davies and Campbell (2000, p. 90) and on the basis of the research structure of Cummings, Goeke-Morey and Dukewich (2001, p. 41), Cummings and Davies (2010, p. 25) an empirical based model of the relevant variables which accounted for the adjustment of a child after separation of their parents (Schmidt & Westhoff, 2020: in print, P. 121).

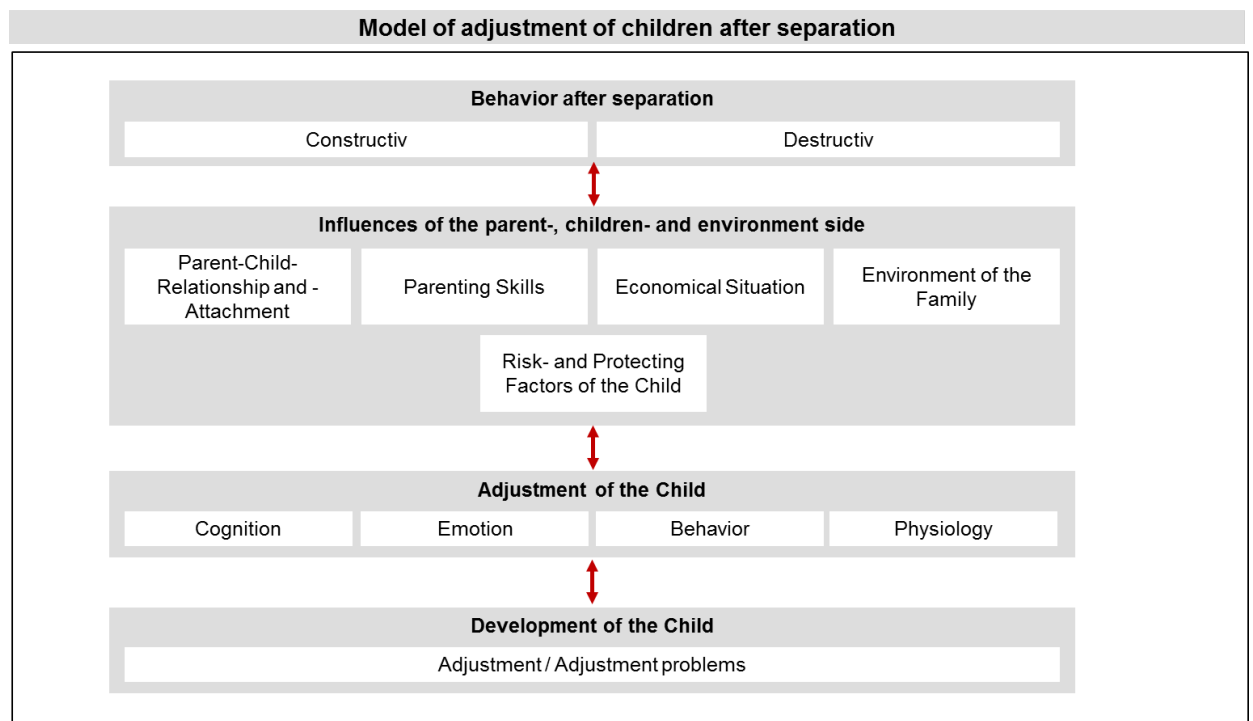


Figure 1: Model of adjustment of children after separation

The human sciences found that multiple theories could explain this model: *"Thus, regardless of the specific theory or theories that served as a guide for existing studies, a common caveat of previous empirical studies is that multiple theories may 'provide viable mechanisms that help account for links between marital discord and child adjustment' (Davies & Cummings, 1998, p. 135)"* (Davies, Harold, Goeke-Morey, & Cummings, 2002, p. 21). Results indicate that the cognitive-contextual framework, the emotional security hypothesis, the indirect-effects-model and social learning theory all have something to contribute in explaining the relation between interparental conflict and children's behavior problems.

There were many factors which need to be considered why Clara could felt distressed:

- the loss of contact of Clara to her father (with she had secure attachment and a loving relationship),
- loss of quality parental skills of her father (see report of Dr. Marianne Schwabe-Höllein, report of Prof. Dr. Gottfried Spangler, and several Court decisions),
- multiple transitions in her live (see commends of the signatory afterwards),
- conflicted situation of her parents (which are based on the loss of contact and
- kidnapping of the child and
- alienation of the child.

These reasons could not be viewed isolated – they were interdependent to each other.

Loss of contact to her father

In the expert report of Dr. Marianne Schwabe-Höllein dated 31.01.2013 is stated: *"As described above already, there was clear indication, in all three visits the Expert was able to observe, that there is a secure bond with her father. This not only became evident in the reunification situations, but in a whole number of other situations, in which the child had been briefly insecure and had then been reassured by her father's presence, that she was, so to speak, able to utilize him*

as a means of security. That this had been the case prior to this, is evident in film clips provides by the father, for example, showing them at a swimming pool, at a sporting facility or in Paris; it is apparent that the father had been available for Clara during the sensitive phase of bond development" (page 23, expert report Dr. Marianne Schwabe-Höllein, 31.01.2013);

and

"In the stories within the "Attachment Story Completion Task" ASCT, Clara only made statements that related to the her mother's surroundings, which is, however, not surprising, as the child has very little experience of her parents living together and she is only now able to make her first experiences of family life in the form of a patchwork family. Therefore, this does not need to be discussed in greater detail. When it comes to the "questions of trust" her father certainly places on the representation level and very positively so" (page 24, expert report, Dr. Schwabe-Höllein, 2013).

There is clear evidence that Clara's mother preventing the child from having contact with her father for some years. So the child's need for a positive relationship of Clara with both parents could not be achieved.

There is common sense in human sciences that the loss of contact to one parent is vulnerable for children:

- Fabricius, Sokol, Diaz and Braver (2016, p. 75) stated: *"We have argued (Fabricius et al., 2010), consistent with much theory and findings in the developmental, family, and health literatures, that more parenting time leads to better father-child relationships (the "missing link"), and that better parent-child relationships lead to better child outcomes. Without considering this causal chain, one is easily led to ask the either-or question, "Which is more important, the quantity of parenting time or the quality of the father-child relationship?" This is a false, straw-man dichotomy".*
- Lamb & Kelly (2009, p. 191) stated: *„Relationships with parents continue to play a crucial role in shaping children's social, emotional, personal and cognitive development into middle*

childhood and adolescence (Lamb & Lewis, 2005). Indeed, the quality of both mother- and father-child relationships remains the most reliable correlates of individual differences in psychological, social, and cognitive adjustment in infancy, as well as in later childhood (Lamb & Lewis, 2005; Thompson, 2006). Not surprisingly, therefore, children in both two- and single-parent families appear better adjusted when they enjoy warm positive relationships with two actively involved parents (Amato & Gilbreth, 1999; Hetherington, 1999; Lamb, 1999, 2002b; Thompson & Laible, 1999). Children are better off with insecure attachments than without attachment relationships, however, because these enduring ties play essential formative roles in later social and emotional functioning. There is also a substantial literature documenting the adverse effects of disrupted parentchild relationships on children's development and adjustment, with a linear relationship between age of separation and later attachment quality in adolescents. The weakest attachments to parents are reported by those whose parents separated in the first 5 years of their lives (Woodward, Fergusson, & Belsky, 2000). Similarly, in a retrospective study of adolescents whose parents had divorced, Schwartz and Finley (2005) found that age at time of divorce was associated with ratings of both paternal involvement and nurturance, indicating that the earlier the separation, the greater the impact on the quality of the children's relationships with their fathers".

- Amato & Sobolewski (2001, p. 905) stated: „Therefore, if strong parent-child ties promote psychological well-being, and if parental discord and divorce weaken these ties, then the quality of parent-child relations may explain the association between parental discord, divorce, and offspring's psychological well-being" (see also: Spangler & Bovenschen, 2013, p. 207).
- Warshak (2014, p. 48) summarized: „Further, the research indicates that because infants develop attachment relationships

with both of their parents, there is a danger of disturbing one of those relationships by designating one parent as primary and limiting the infant's time with the other parent. Policies and parenting plans should encourage and maximize the chances that infants will be raised by two adequate and involved parents. It stands to reason that if a secure attachment with at least one adequate parent is a sine qua non of optimal development, having relationships with two parents gives infants two chances to develop a secure attachment and thus increases the odds of accomplishing this important developmental milestone. ... In sum, based on child development research, policymakers and decision-makers cannot support a priori assumption that parents of infants and toddlers can be rank ordered as primary or secondary in their importance to the children, and that mothers are more likely to be the 'psychologically primary' parents".

Loss of quality of parenting skills of her father

Effective parenting is characterized by warmth, authoritative discipline (setting limits, noncoercive discipline and control, enforcement of rules, appropriate expectations), academic skill encouragement, and monitoring of child's activities (i.e. Baumrind, 1971, p. 100-101). Effective parenting requires active involvement (i.e., help with homework and projects, emotional support and warmth, talking about problems and involvement in school).

Clara could benefit from the "*rearing competencies*" of her father and "*his excellent knowledge of the child's personality*" and his attitude "*to allow generous contact with the mother of the child*".

In the Decision of Higher Regional Court Nuernberg, Germany from 30.05.2016 is declared: "*While support opportunities are given with both parents, the child has developed a secure bond with both parents and the aspect of continuity speaks against the father, the child rearing competencies of the Applicant are to be regarded as much higher than those of the Respondent. Her deficits in child rearing behaviour clearly surpass the disadvantages that may occur for the daughter Clara with a change of place of residence.*"

The father possesses an appropriate attitude towards child rearing, has positive behavioural competencies and care motivation. We would like to especially emphasize his excellent knowledge of the child's personality. He is emotionally available for his daughter. His adequate attitude towards child rearing refers to the emotional needs of the child as well as competencies acquisition and promotion of performance. A small risk factor is his own insecure bonding representation, which is compensated through other strengths and protective factors. The Applicant displays bonding tolerance in regards to the other parent's <relationship to the child, which will allow the child access to her mother after the transfer of residence. His social circumstances are in order. He is very involved in his profession, successful, well off and shows social commitment. He lives together with his partner and her daughter. There is no doubt that he will make sure the child has an optimal education" " (page 9-10, Higher Regional Court Nuernberg, Germany, 30.05.2016, Az.: 9 UF 149/15).

Clara has no access to her father since September 2013. She searched several times for her father in New Zealand 2016 and has had half a day contact on 28.09.2017.

Multiple transitions

Clara changed her residences from 2007 to 2014 10 times. From 2015 to 2019 Clara changed her residences 8 times. There is no continuity and no stability in Clara's life.

After the criminal act against Clara's father on 20.09.2013, the family Hopfengärtner hid 5 months later in February 2014 to Brazil, Scotland, England, Portugal, Austria and in September 2014 back to Germany. End of January 2015 the family hid to Australia, to New Zealand, to Australia and later to New Zealand. Since 2015 Clara's place of living changed 8 times. These multiple transitions to keep Clara away from her father and to hide from the Authorities of the Federal Republic of Germany caused additional stress to Clara. The unstable lifestyle and the frequent changes in residence have caused enormous disruption to Clara.

After the announcement of Millicent Jane Preece's affidavit Clara was not allowed to have further contact with her best friend anymore. On 17.06.2018 and 04.07.2018 the signatory was informed by Nicholas Michael Preece that Clara ignored Millicent Jane Preece. A copy is attached and marked as **Annex 24**.

Conflicted situation of Clara's parents and the exposure to Clara

Framework of the Human Sciences

Harold and Sellers summarized (2018, p. 374): *"Recent research has highlighted that children are affected by attributes of interparental conflict, specifically how parents express and manage conflicts in their relationship, across a continuum of expressed severity and negativity - ranging from silence to violence.*

Furthermore, new evidence highlights that children's emotional, behavioral, social, academic outcomes, and future interpersonal relationships are adversely affected by conflict between parents/carers whether adults are living together or not (i.e. married or separated), or where children are or are not genetically related to their rearing parents (e.g. adoption)".

When interparental conflict is present, studies also show that high-quality parenting by one parent can be protective against negative child adjustment outcomes, even when parenting quality by the other parent is low.

"Recommendations should not decrement parenting time of parents with good quality relationships or the potential for good quality relationships with their children because of high level of interparental conflict between the parents" (Mahrer, Sandler, Wochlik, Winslow, Moran, & Weinstock, 2016, p. 63).

Warshak (2017, p. 199) underlined the importance of the identification of the amount, intensity and type of conflict and the perpetrator of the conflict: *"When considering the impact of parental conflict on the most beneficial parenting plans for children, it is important to recognize the heterogeneity of the dynamics of inter-parental conflict. The label high conflict couple implies that both parents actively engage on conflict. Although this is true in some cases, in other cases the label is a misnomer because one parent may be a victim of the other parent's rage or attempts to marginalize the parent's role in raising the child. In some cases the amount, intensity, and type of conflict resembles the level and type of*

disagreements over child-rearing decisions that occur normally between married or cohabiting parents who have different opinions about what is best for the child" (see also: Goodman, Bonds, Sandler, & Braver, 2004, p. 263-268).

One of the most important influences of conflict of the adjustment of children is the assessment how far each parent exposed the child to the conflict and how far each parent encourage the child to form hostile alliances against the other parent: *"Equally important is the custodial und noncustodial parents' ability to minimize the conflict to which their children are exposed, not encourage the child to form hostile alliances against the other parent, and not allow the child to get caught in the middle of the parental acrimony"* (Hetherington & Stanley-Hagan, 1999, p. 134). Kelly and Johnston (2005, p. 234) enhanced the negative impact of involving children to their differences: *„Parental conflict, for example, is often treated as an undifferentiated variable without awareness of the different effects on children; the intensity and content of conflict; whether conflict is expressed in avoidance, angry words, hostility, or physical violence; whether parents protect or expose their children to their differences and unresolved disputes, and whether buffers exist that ameliorate the potentially negative effects of high conflict"*. Also Margolin, Oliver and Medina (2001, p. 10) described the negative impact of the involvement of children in the parental conflict and the alliances between one parent and the child against the other parent: *„Another proposed intensification is that marital conflict leads to inappropriate generational boundaries in which a distant marital relationship is paired with an excessively close and enmeshed cross-generational alliance between one parent and the child (Minuchin, Rosman, & Baker, 1978). Children experiencing this type of intensified parent-child relationship may feel pressed to ally with one parent against the other as well as to assume characteristics of the adult role. These children may become increasingly symptomatic over time if the enmeshed parents fail to enforce rules or to hold the child to age-appropriate standards of behavior (Nichols & Schwartz, 1995)"* (see also: Buchanan & Waizenhofer, 2001, p. 149-160; Emery, 2012, p. 90; Walper, 2009, p. 42; Walper, Kruse, Noack & Schwarz, 2004, p. 138-140). *"The double-bind is that the availability of the good-mother depends upon the child's relinquishing her real feelings, memories, and perceptions that are associated with a positive connection to father"* (Johnston, Roseby, & Kuehnle, 2009, p. 66-67).

It is also necessary to mention: *"Research on the impact of post- as opposed to predivorce conflict on children's adjustment has yielded mixed results ... The varied findings may reflect the use of different measures, a failure to differentiate between types of conflict after divorce, differing parental styles of resolution, and/or variations in the extent to which children are directly exposed to anger and conflict. By contrast, when parents continue to have conflict, but encapsulate it and do not put their children in the middle, children appear unaffected (Buchanan, Macoby, & Dornbusch, 1991; Hetherington, 1999)" (Lamb, 2016, p. 186).*

In a summary of 44 studies Nielsen 2017 stated: *„First, the level of conflict and the quality of the coparenting relationship are often not as closely correlated with children's well-being as the quality of the parent-child relationship. Second, the connection between conflict and children's well-being is mediated by the quality of the children's relationships with their parents. Third, parents' settling their custody disputes in court or through protracted legal negotiations has not been linked to worse outcomes for children. Fourth, JPC [remark of the signatory: joint physical custody] is associated with better outcomes for children than SPC [remark of the signatory: sole physical custody] even when their parents do not initially both agree to the parenting plan and even when the conflict at the time of separation or in subsequent years is not low. Fifth, most JPC parents do not have substantially less conflict or more collaborative coparenting relationships than SPC parents. And sixth, limiting the time that children spend with one of their parents through SPC is not correlated with better outcomes for children, even when there is considerable conflict and a poor coparenting relationship. In sum, the best research currently available suggests that the quality of the parent-child relationship is more closely linked than parental conflict or the quality of the coparenting relationship to children's outcomes, with the exception of the most extreme forms of conflict to which some children are exposed. Conflict, coparenting, and the quality of the children's relationships with each parent are all connected to children's well-being. This is not an "either – or" issue that ignores the role that parental conflict or coparenting play in children's lives. Still, the data strongly support the idea that the quality of the parent-child relationship is the best predictor of future outcomes for the children. In other words, the role of conflict has too often been exaggerated and should not be the*

determining factor in child custody decisions or in regard to JPC arrangements except in those situations where the children need protection from an abusive or negligent parent. While continuing our efforts to reduce parent conflict and to improve the coparenting relationship, we should be equally – or perhaps even more invested in helping both parents strengthen their relationships with their children and improve their parenting skills” (p. 227-228).

Mahrer, O'Hara, Sandler and Wolchik (2018, p. 343) summarized the consensual findings of the empirical research: *“The current evidence provides guidance as to the factors that should be considered in making decisions about parenting time for high-conflict divorces. It is critical to consider the nature of the IPC [remark of the signatory: inter parental conflict] in terms of severity, frequency, child exposure, and the role each parent plays in maintaining the conflict. It is also critical to assess the potential of both parents to provide moderate- to high-quality parenting in terms of a warm and close relationship with the child. Both fathers and mothers can provide high-quality parenting even if there is high-conflict, and high-quality parenting by either parent can protect children from the deleterious effects of IPC. However, high-quality parenting is most likely to be beneficial if children have adequate time with that parent (Sandler et al., 2013)”.*

When tasked with assigning custody and parenting time, family evaluators must consider how children will benefit from relationships with both their parents in the presence of interparental conflict. *“This requires that evaluators obtain comprehensive measures of quality of parenting provided by each parent and level and extent of conflict between parents” (Mahrer, Sandler, Wochlik, Winslow, Moran, & Weinstock, 2016, p. 63).*

The consensual research of human sciences indicated: *“If one parent is undermining the relationship with the other parent. The court should take steps to counteract such behaviour, such as by making that parents’ parenting time contingent on ceasing their undermining behaviour. If neither parent currently has a positive relationship, the evaluator should consider the potential of either parent to provide a positive relationship and should recommend that parent have sufficient time to develop that relationship and provide supportive services (such as counselling or parent training) to facilitate the development of their relationship with the child. Finally, the pervasive effect of high conflict also needs*

to be taken into account that a parenting plan that is more likely to decrease children's exposure to conflict should be favoured, as long as it does not decrease the amount of contact with a parent who currently has or has the potential to develop a high-quality relationship with the child" (Mahrer, Sandler, Wochlik, Winslow, Moran, & Weinstock, 2016, p. 72).

Court conflicts of Clara's parents

a)

In the case of Clara the signatory was and still is aware of the negative short-term and long-term consequences for Clara of a loss of her father as an attachment figure and the loss of a loving relationship and the possibility of a disruption of the relationship with the resident parent in adolescent. So the alternative strategy to desolate the relationship with Clara was not chose.

Furthermore there exist no reasons for a disruption of the relationship of Clara and her father. The Higher Regional Court Nuernberg, Germany, stated 30.05.2016: *"On several occasions, the Respondent - already in the previous proceedings - adopted the position that having contact with the father was, due to his strongly manipulative behaviour, harmful for the child and detrimental to her development. She took the view that having contact with the father made it more difficult for the child to settle in with her new family. Neither the expert report by Dr. Marianne Schwabe-Hoellein, prepared in the course of the previous access proceedings, nor the expert report in the current proceedings confirm the assumptions of the Respondent"* (page 10-12, Higher Regional Court Nuernberg, Germany, 30.05.2016, Az.: 9 UF 149/15).

Evidence can be given also by different videos:

Videos 2007 - 2013:

https://www.youtube.com/watch?v=psnP0jQTm_0&list=UUIM4qFnMt9hEnyl3WmKu_cw

Videos 28.09.2017:

https://www.youtube.com/channel/UC3RztzSULM0agPTXi5C_f9Q/video

The German Court was first involved with Clara in 2010 to insure the contact of Clara with her father. An order was made by consent in July 2010 confirming that Clara was to have access with her father 6 days every month, that access to take

place in Monchengladbach, Germany. The mother then moved Clara to Fürth, Germany and shortly thereafter sent father a message advising that she would not cooperate anymore (i.e.: would not be allowing access). Then followed a series of interventions by the German Court, making numerous orders for access between Clara and her father. The mother's compliance was poor. In 2011 access only took place on 25 days instead of 75 days. In 2012 and 2013 access occurred on 3 days instead of 60 days. Figure 2 illustrated the court decisions from 2011 to 2016. The statement of Prof. Dr. Bernd von Heintschel-Heinegg summarized all procedures. A copy is attached and marked as **Annex 25**.

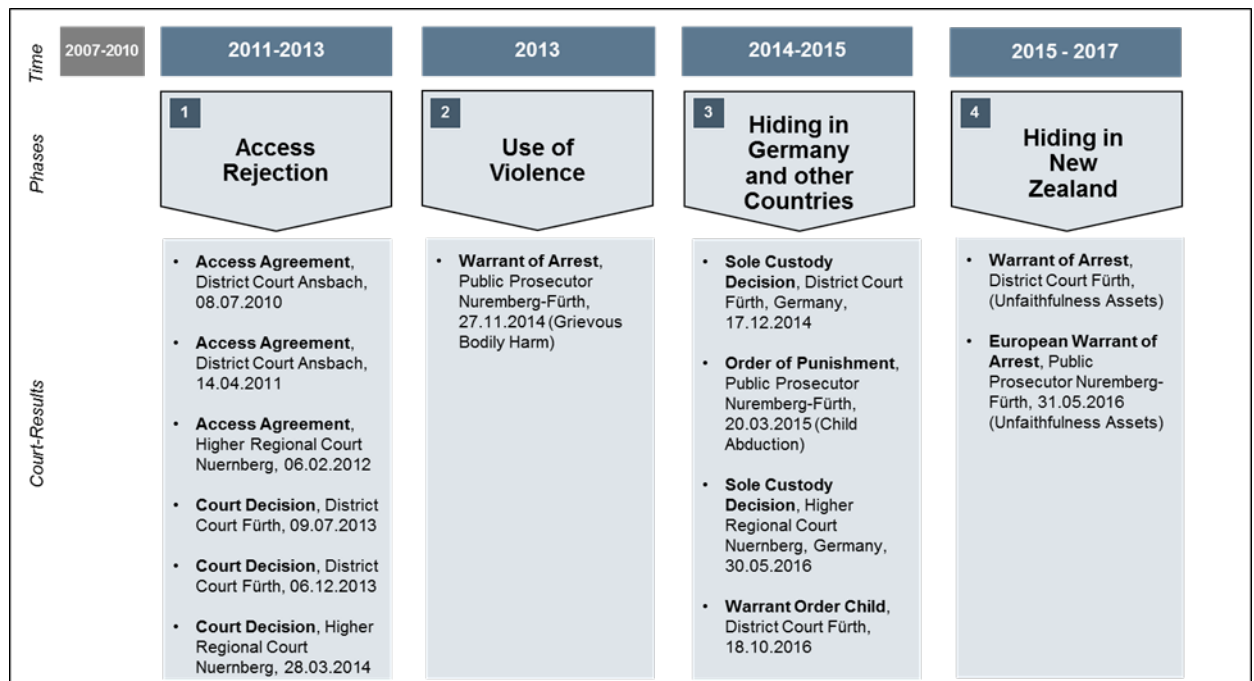


Figure 2: Court decisions from 2011 to 2016

It should be noted that high levels of legal conflict are not necessarily indicative of high level of interparental conflict, and that evidence indicates that children's exposure to interparental conflict is the most salient risk factor for child adjustment problems (Mahrer, Sandler, Wochlik, Winslow, Moran, & Weinstock, 2016, p. 64).

In Clara's case her father has had no chance to involve Clara in conflicts because he has had no contact since September 2013 – more than 5 years! The signatory

has had also no contact to Clara's mother since September 2013. It will be difficult to argue with interparental conflict in this case.

But there is clear evidence that Clara is exposed to her mother's attitudes to Clara's father:

- Clara was exposed to abusive behaviour of her step father (and her mother) against her father on 20.09.2013.
- Clara was and is exposed to the fact of the false allegation of Clara's mother that her "*father had run over Clara's step father foot using a vehicle*" and "*was the aggressor*" on 20.09.2013.
- Clara was and is exposed to the fact of the false allegation of Clara's mother that Clara's father wanted to "*MURDER*" Clara's mother.
- Clara was and is exposed to the fact that Clara's mother "*paint the Father Axel in a very bad light, most dishonestly*" before Clara.
- Clara was and is exposed to the fact that Clara's mother told Clara that her father was "*violent and abusive*".
- Clara was and is kidnapped from Germany to New Zealand in 2015.

All these activities have the capacity to distance, damage, or destroy Clara's relationship with her father.

Clara's mother was the only parent which had access to Clara from September 2013 to January 2019 (approximately 2.000 days). Clara's father had no access to Clara since 09.09.2013 with the exception of a half day at 28.09.2017.

b)

On 20 September 2013 an incident occurred at access changeover ("the car incident"). The father attended at Clara's school to uplift her for his access visit. To prevent the father from uplifting Clara, the mother picked up Clara and left the school at a side exit and got into a vehicle being driven by Mr Simon Hopfengartner. Mr Simon Hopfengartner then ran over the father twice with his car, causing him to fall. There was a defended hearing in relation to this incident, involving third party witnesses. As a result of the hearing, an arrest warrant was issued against Mr Simon Hopfengartner for grievous bodily harm and leaving the scene of an accident. He was convicted for grievous bodily harm in December 2014 and his subsequent appeal was rejected.

Clara was exposed to domestic violence in this situation and could probably felt also responsible for this criminal act – she was sitting in the car when the car was used as a weapon against her father. The human sciences found: Exposure to domestic violence has the potential to negatively affect children emotionally, behaviorally, cognitively, and socially. Exposure to more severe and frequent domestic violence, and to coercive controlling violence, increases risks of poor adaptation in comparison to situational couple violence or domestic violence that occurs one time or intermittently (Hardesty, Haselschwerdt, & Johnson, 2012, p. 450). *“Research has shown that children who have been exposed to DV [remark of the signatory: domestic violence] display elevated levels of emotional and behavioral problems compared to their non-exposed peers. Preschool-aged children from a general community sample who were exposed to DV had elevated posttraumatic stress disorders (PTSD), symptoms (Levendosky, Huth-Bocks, Semel, & Shapiro, 2002). In another general community sample, young children exposed to DV were less able to regulate their emotions than non-exposed peers (Rigterink et al., 2010)”* (Hardesty, Haselschwerdt, & Johnson, 2012, p. 447). Another finding is: *“Levendosky, Huth-Bocks, and Semel (2002) relied on a general community sample and found that exposed adolescents were more likely than non-exposed adolescents to have avoidant attachment”* (Hardesty, Haselschwerdt, & Johnson, 2012, p. 447).

c)

After separation, Clara’s mother prevented the child from having contact with her father. Clara’s step father Mr Simon Hopfengärtner undertook a brutal criminal act against Clara’s father. In 2014 Clara’s mother and Mr. Simon Hopfengärtner kidnapped Clara to different places in the world. In 2015 Clara’s mother and Mr. Simon Hopfengärtner kidnapped Clara to Australia and to New Zealand. These acts have had the objection to alienate Clara from her father. *“After separation and divorce, domestic violence abusers wreck havoc in families by undermining the victim parent’s affection, and using child access as a weapon to hurt, punish, and harass the victim parent. At the same time they are fighting for their parental rights in court, domestic violence abusers can subject their children to erratic role reversal and periodic abandonment. They are likely to view the child as a material possession, which they can use as a vehicle or conduit to the ex-spouse. In such situations, the child is little more than a means of punishment, a*

trophy, or bargaining chip. Children who are consistently treated as an inanimate object, with only a kind of functional or symbolic value (vis-à-vis the dispute with the other parent), are at risk of developing a surreal sense of not existing-feeling and acting as though they are non-person" (Johnston, 2006, S. 23).

Results of the Court conflicts: Evaluation of Clara's parents

In the Court proceedings both parents were evaluated by different experts and different courts.

The result was that the mother "*significantly contribute*" to problems and risk for Clara "*which could endanger a positive development for Clara*". The reason for this assessment is on the side of Ms Lisa Hopfengaertner, that she did not considered Clara's emotions and needs, which are mainly channelled by her own needs and points of view and that Ms Lisa Hopfengärtner is also only to a limited extent able to orient her behaviour towards Clara's needs.

To the risk factors of Clara's parents for Clara's development the expert Prof. Dr. Spangler stated comments which Ms Dr. Calvert should consider. Prof. Dr. Spangler explained: "*In conclusion, we can state that in Clara's case a number of risks and problems exist, to which the mother significantly contributes, and for the managing of which she requires support, emotional support and encouragement from her parents* [remark of the signatory: both parents]" (page 71, expert report Prof. Dr. Gottfried Spangler, 04.02.2016).

The expert Prof. Dr. Gottfried Spangler considered in his report all risks and opportunities for Clara: "*If we take the child's and the parents' characteristics together, or the risk and protective factors respectively, overall they speak for Clara's place of residence to be with her father. With him, the strengths and protective factors prevail significantly, while with Mrs Hopfengaertner the risk factors prevail, which could endanger a positive development for Clara. Due to the massive conflicts between the parents and the massively limited ability to cooperate between them (already observed in the preliminary expert report)* [remark of the signatory: expert report of Dr. Marianne Schwabe-Höllein, dated 31.01.2013], *also due to Mrs Hopfengaertner's recent complete blockage of communication, this all speaks for a recommendation of the transfer of sole*

custody to the father" (page 75-76, expert report Prof. Dr. Gottfried Spangler, 04.02.2016).

In the expert report of Prof. Dr. Gottfried Spangler is also stated: *"Significant weaknesses and risk factors, however, on the side of Mrs Hopfengaertner, show up in her perception and interpretation of Clara's emotions and needs, which are mainly channelled by her own needs and points of view. She is also only to a limited extent able to orient her behaviour towards Clara's needs. This signals significant limitations to the volition of her care. This, on the one hand, concerns Clara's school attendance and, on the other hand, her contact with her father. In regard to the contact with her father a significant bonding intolerance in regard to the other parent's relationship to the child is given, which she expresses in her opinion and devaluation of the child's father and especially in the total prevention of visitation rights. These characteristics are based on a limitation of her ability to regulate her emotions, which have to be seen in the light of Mrs Hopfengaertner's own shaky bonding history, and the associated and probably not adequately processed traumatising experiences"* (page 75-76, expert report Prof. Dr. Gottfried Spangler, 04.02.2016).

Prof. Dr. Spangler stated that Clara's father has good emotional regulation competences for Clara and that this would be a protecting factor for Clara: *"Based on the existing secure bond with the father (or at least an expected consolidation of the bond) as well as based on the emotionally supporting parental behaviour on the side of the father, the conditions for a transfer of residence are positive on the side of the father"* (page 71 expert report from Prof. Dr. Gottfried Spangler, 04.02.2016).

In the final result the Higher Regional Court Nuernberg declared on 31.05.2016: *"The Respondent puts down developmental and health problems of the child to the father's wish for access. She does not reflect on stresses on the child originating from her own family. A further risk, according to the expert, lies in the repeated change in place of residence. While in the past strong bonds of daughter Clara with both her parents were detected, the disappearance of the Hopfengaertner family poses a risk for those bonds and the quality of them in the relationship to her father as well as to her mother"* (page 10-11, Higher Regional Court Nuernberg, Germany, 30.05.2016, Az.: 9 UF 149/15).

Impact on Clara and current situation of Clara

The interim report of Ms Dr. Calvert showed now again developmental problems and risks for Clara; similar to that what Prof. Dr. Spnagler reported in 2016. Ms. Dr. Calvert should be aware the signatory has had since 5 years no opportunity to be a risk factor for his daughter. But the signatory has also no opportunity to be a protective factor for his daughter and could support Clara in her emotional well-being.

There is clear evidence:

In 2012 and 2013 the signatory has only limited contact to Clara.

In 2014, 2015 and 2016 the signatory has had no contact to Clara.

In 2017 the signatory and Clara have had only a few hours contact on 28.09.2017.

In 2018 and 2019 the signatory has had no contact to Clara.

In 2016 Clara searched several times her father in New Zealand. In the affidavit of Millicent Jane Preece, dated 01.03.2018 was stated:

"12. Clara said to me I was very lucky to have a Dad close to me.

13. She said that she really really really misses her Dad.

15. I heard Lisa saying that Clara's father who I now know to be named Axel had run over Simon Foot with his car.

18. When Clara and her family attended the birthday party at our farm, Clara said to me again she misses her Dad." A copy is attached and marked as

Annex 26.

This behaviour of Clara in 2016 showed the important meaning of her father for her emotional security. This is in concordance with the attachment theory: *"The good news is that attachment security is adaptive. In the same way that security can be eroded in response to stress, it can be rebuilt in response to improved*

parental sensitivity" (Garber, 2009a, p. 46). Prof. Dr. Spangler stated: "According to the information from the preliminary report, Clara had a secure bond with both parents, so that, from this point of view these are good conditions for her staying with both parents. With her current life situation, especially with her contact with her father being suppressed, we can expect in Clara restrictions to her emotional wellbeing or an increased likelihood of emotional stress. For this reason, it is especially important that she has emotionally available attachment figures. There is no current information available on the quality of Clara's emotional ties, so we cannot exclude that in the meantime adverse changes in the quality of her emotional ties with both her parents may have occurred. On the basis of the prior substantially positive experience, we deem a consolidation, once the current restrictions have been eliminated, possible indeed" (page 71, expert report Prof. Dr. Gottfried Spangler, 04.02.2016).

Since September 2013 the signatory has had only half a day to contribute to the welfare and development of Clara in a positive or negative direction. The last contact of Clara with her father was from 06.09.2013 to 09.09.2013 and half a day on 28.09.2017.

- **Clara spent from 10.09.2013 to January 2019 only half a day with her father and has had no further contact (personal, telephone, letter, E-Mail, Skype etc.) with her father.**
- **Clara spent from September 2013 to January 2019 approximately 2.000 days with her mother and her step-father.**

The signatory has some difficulties to understand that he is responsible for Clara's adjustment and development in any direction.

[12] 2.12: Dr. Calvert stated: "*Clara is currently a child subject to legal proceedings in two countries, Germany and New Zealand*".

This statement is incorrect. In Germany all procedures to Clara's custody were decided. Clara's father has sole custody for the child.

- [13] 2.12: Dr. Calvert stated: "*Axel has remained living in Germany*".

The signatory never knows where Clara was. He searched for the child in 2014 and in 2015 worldwide. Clara's mother was convicted in 2018 for child abduction in 2014. In the December 2016 the signatory found Clara in New Zealand. For the on-going child abduction to New Zealand the Public Prosecutor started again investigations in 2019.

The signatory is willing to come to New Zealand to support his daughter.

- [14] 2.12: Dr. Calvert stated: "*In addition one expert, Dr Spangler, noted the possibility of 'risk' to Clara's psychological welfare associated with his recommendation of a return to her father's primary care*".

Dr. Calvert quoted one word of the expert report of Prof. Dr. Gottfried Spangler dated 04.02.2016 – knowing that this has an asymmetric direction which is misleading because the original text is opposite. By considering all risks and opportunities for Clara connected with a shift of caretaking Prof. Dr. Gottfried Spangler made recommendations for the implementation.

The original text was:

*"Against the background of the given scenario, we cannot safely assume that Clara's transfer into the household of the father will go ahead amicably (although this would be desirable). Thus, in case of an implementation of this recommendation, a further **risk** factor will come into play that Clara is removed from her mother delivered to her father, possibly under the use of force. As this measure is considered a temporary risk characteristic, this does not outweigh other risk factors on the side of the mother to such an extent that it would warrant maintaining the current status quo. For a minimisation of this risk (possibly with the involvement of youth welfare or a mediator) it should be ensured that Clara can be prepared for the transfer to her father, and that she has the opportunity to maintain contact with her mother. This requires the cooperation of both parents"* (page 77, expert report Prof. Dr. Gottfried Spangler, 04.02.2016).

Prof. Dr. Spangler noticed that there will be a temporary risk when Clara Larissa Schmidt needed to be transferred with direct force from on household to the other. The Family Court Fürth, Germany was aware of this "temporary risk" and issued a Warrant Order requiring Ms Hopfengärtner to produce the child to her father Mr Axel Schmidt, Az: 201 F 949/15. With decision dated 18.10.2016 the District Court of Fürth ordered the use of direct force if it is required.

- [15] 4.10: Dr. Calvert stated: *"I note the consistent expressions of concern for Clara (including concerns raised by experts I Germany, some of whom had seen Clara and some of whom were using literature and clinical experience on forming their view). The failure of both the parents and the wider system around Clara to attend to her wellbeing and welfare is deeply distressing".*

The human sciences have consensus that most children form attachments to both of their parents. *"Attachment research tells us that the ideal postdivorce situation is one in which children with parents have opportunities to interact with both parents frequently in a variety of functional contexts (feeding, play, discipline, basic care, limit-setting, putting to bed, etc.)"* (Malloy & Lamb, 2015, p. 745). Both of those relationships can significantly shape children's adjustment and well-being, regardless of whether the parents live together. Separation of parents often compromise both of the relationships, and attenuation of at least one is common, unless steps are taken to prevent this from happening. *„Therefore, if strong parent-child ties promote psychological well-being, and if parental discord and divorce weaken these ties, then the quality of parent-child relations may explain the association between parental discord, divorce, and offspring's psychological well-being"* (Amato & Sobolewski, 2001, p. 905; see also: Spangler & Bovenschen, 2013, p. 207).

The signatory is aware of the negative consequences of the intergenerational transmission of separation (Amato, 1996; Amato & Cheadle, 2005; Martin, 1990). In an own research projects with students of the University of Applied Sciences Mönchengladbach, Germany, in Winter 2017/2018 the signatory found empirical evidence for an transfer of separation in the third generation (unpublished).

The attempts of Clara's father's to prevent Clara from a loss of an attachment figure and to maintain the good relationship between the child and both parents could not be evaluated as a "failure".

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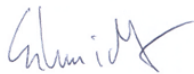
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Dated at Mönchengladbach, Federal Republic of Germany 28.01.2019

A handwritten signature in blue ink, appearing to read 'Axel Schmidt', with a stylized flourish at the end.

Dr. Axel Schmidt