

IN THE COURT OF APPEAL OF NEW ZEALAND REGISTRY

CA 398/2018

UNDER

the Care of Children Act 2004

AND IN THE MATTER OF

an appeal from a decision of the High Court at
Tauranga on 18 May 2018 (CIV 2017-470-141)

BETWEEN

Dr. AXEL SCHMIDT
APPELLANT

AND

LISA HOPFENGARTNER
RESPONDENT

Memorandum to the interim report of Dr Sarah Calvert dated 13.05.2019

Dated 15.07.2019

MAY IT PLEASE THE COURT:

A. Objective

1. The signatory makes in person a "Comment with Some Questions" to the report of Ms Dr. Sarah Calvert dated 13.05.2019, received 14.06.2019 - one month after preparation.
2. In the minute of Brown J the signatory was informed that "*the provision of the report to the appellant and the respondent is on the condition that it is not to be given or shown to any other person without the permission of the Court having been first obtained*". For two reasons the signatory could not consider the report of Ms Dr. Calvert dated 13.05.2019. A) The signatory receives support and advisory from authorities "The University Auckland" and "Victoria University Wellington" and from a former Partner of Meredith Connell, Wellington. All these persons have reasonable restrictions to support the signatory at the Court. As agreed, the signatory did not show the report of Dr. Calvert to anyone and did not include the content of the expert report in his synopsis. B) The signatory has to deliver his synopsis on 18.06.2019 to the Court of Appeal. The signatory has had only 3 days to consider this report. For both reasons, there was no opportunity to consider the report of Ms Dr. Calvert dated 13.05.2019. Nevertheless, the expert report requires some comments and corrections.
3. The signatory does not deem it necessary to respond to every statement made by Ms Dr. Calvert. The not responding however should not be taken as an indication that the signatory agrees with what is stated. The signatory intends to respond only to those matters which are of particular significance.

B. Grounds

I. Briefing of Dr. Calvert

1. *"1.8 In this Report I am asked to provide an opinion in respect to the following Direction*

: Having regard to the child's objection to return:

- a. What is the basis of that objection?*
- b. Does it appear as if the objection is reality based and/or affected by undue influence and/or able to be addressed by explanation or intervention?*
- c. Does the child have sufficient maturity and understanding to recognise the implication of the objection?*
- d. Having regard to the child's age, cognitive ability, maturity and options available, how might the child respond if the Court makes an Order for a return despite the objection.*
- e. What, if any, would be the psychological impact on the child of an order for a return to Germany.*
- f. Is the child psychologically settled or integrated with respect to being in her environment in New Zealand (focusing only on the emotional constituent denoting security and stability and not the physical/factual elements of being settled)".*

II. Dr. Calvert's view on the facts

2. ***Unspecified material***

1.10: Dr. Calvert stated: *"No reliable data is available to determine how Clara viewed her removal from Germany in 2014"*.

This statement is incorrect. The child was removed to New Zealand in 2015 and not in 2014. Dr. Calvert did not ask Clara about her view of being removed from the Federal Republic of Germany in 2015. But Dr. Calvert asked the child in 2019 about her view about an incident in September 2013. The expert report writer Dr. Calvert did not explain why she did not make an evaluation about Clara's abduction. But in number 7.5.6 Dr. Calvert stated: *"If the Court were to make an Order returning Clara to Germany it would be, for her, in my opinion replicating the likely damaging process created when her mother removed her in 2014. However, in my opinion, the psychological harm would be, now, even greater because the 'return' is to a feared and unknown parent and place without support"*. Without any *"reliable data"* the expert expresses her personal opinion and gave the Court of Appeal a recommendation without any diagnostic process.

3. 2.2: Dr. Calvert stated: *"Axel Schmidt and Lisa Hopfengärtner began a relationship in 2006-7. There are disputed accounts of the nature and duration of that relationship but Clara was born in 2007. The couple separated in 2009 although the situation between 2009-10 is disputed"*.

This statement is incorrect. The signatory and Ms Lisa Ansorge (born Gehringer), now Hopfengärtner had a relationship since 2002. Ms Lisa Hopfengärtner was in 2002 married with Mr Florian Ansorge. In annex 1 there are two letters of Ms Lisa Hopfengärtner which stated in the end "Ich liebe Dich" ("I love you"). The relationship of the signatory and Ms Lisa Hopfengärtner separated in 2010.

Evidence:

Letter of Ms Lisa Hopfengärtner dated 23.12.2003 and 24.12.2003 – Annex 1

4. 2.6: 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 with support of all leading media in the Federal Republic of Germany. Clara's mother was convicted in 2018 for child abduction in 2014. In the December 2016 the signatory found Clara in New Zealand.

5. 2.7: 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 concerning Clara's custody were decided. Clara's father has sole custody for the child since December 2014 and May 2016 (**BOD page 21-34** and **BOD 287-315**). Clara's father has the right to take the child since October 2016 (**BOD page 35-42**).

6. 2.9: Dr. Calvert stated: *"Clara is a child whose entire life has been (likely) impacted by the conflicts between her parents. The genesis of that conflict and the contribution of each parent are a part of the fundamental dispute between her parents which will need to be addressed in subsequent proceedings either in Germany or in New Zealand"*.

and

2.12: Dr. Calvert stated: *"2.12 Expert opinions are available from the 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's perceptions of her situation and on her psychological wellbeing prior to the removal from Germany"*.

These statements are not correct. Clara's welfare was and is impacted by the loss of her relationship to her father. There are no conflicts between Clara's parents. There is an alienation strategy in place to destroy the relationship of Clara to her father: *"In the present case, the respondent's deliberate and egregious*

breach of the orders of the German courts means that significant weight is to be attached to upholding and respecting the German court orders and condemning the respondent's actions. Having flouted and frustrated the German courts' orders, the respondent seeks to take advantage of the extended period of time during which she has managed to conceal Anna's whereabouts from the appellant by opposing Anna's return on the grounds that she is now settled" (**BOD page 1649**).

There is no need to address the *"fundamental dispute ... in subsequent proceedings either in Germany or in New Zealand"*. The appeal custody decision (30.05.2016) and the decision to take the child (18.10.2016) were determined at a time Clara lived in New Zealand (**BOD page 21-34** and **BOD 287-315; BOD page 35-42**).

In the opinion of Dr. Calvert parents can abduct children when then lose a case in one country they can move to another country, here New Zealand and the Court is saying it is ok to run and hide to win your case. This is totally abhorrent to the design of the convention which is to strongly deter people from thinking this could be a winning strategy.

7. 2.10: Dr. Calvert stated: *"In 2010 Ms Hopfengärtner sought to access psychological intervention for Clara who was described as being distressed by her situation. Clara would then have been under age of five"*.

In her interim report to the Tauranga Family Court dated 03.01.2019 Dr. Calvert stated: 2.9: Dr. Calvert stated: *"In 2011 Lisa sought to access psychological intervention for Clara who was described as being distressed in her situation"*.

In the current expert report of Dr. Calvert dated 13.05.2019 she stated that Ms Lisa Hopfengärtner searched for psychological intervention for Clara in 2010. In her statement of 03.01.2019 she stated that Ms Lisa Hopfengärtner searched for support in 2011.

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 to 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, **BOD page 912-920, 917**).*

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; **BOD page 912-920, 918**).

8. **Facts to Mr Axel Schmidt**

5.4: Dr. Calvert stated: *"Dr Schmidt believes that Clara has 'searched' for him (on the Internet) since coming to New Zealand. He believed this indicates that she misses her father 33".*

"33 Clara, previously clearly indicated she did miss her father".

This statement is incorrect.

The signatory did not believe that Clara searched for him in the internet. This statement of Dr. Calvert is totally fabricated. The signatory referenced in the telephone call on 08.05.2019 to the affidavit of Millicent Preece. Dr. Calvert agreed to that, but in her report the affidavit of Millicent Preece did not occur.

Evidence:

Audio recording of the telephone interview of Dr. Calvert with Axel Schmidt dated 08.05.2019 – Annex 2

In Appendix 2 of her report Dr. Calvert stated that this telephone interview had duration of 30 minutes. This is incorrect. The duration was 17 minutes.

Evidence:

Audio recording of the telephone interview of Dr. Calvert with Axel Schmidt dated 08.05.2019 – Annex 2

9. 5.10: Dr. Calvert stated: *"Dr Schmidt did support Clara having access to independent counselling and felt that, given that is occurring, she should be able to have contact with him so that her view of a 'return' to Germany was an informed one 36".*

"36 He has now applied to see Clara when he is in New Zealand for the Court of Appeal hearing".

Dr. Calvert suggested in her telephone conference with the signatory to ask for access to Clara during the time of the proceedings of the Court of Appel. The signatory has had some doubt that the authorities will allow access, because since the beginning of 2017 there were no attempts to re-establish the relationship of the abducted child Clara with her father.

Evidence:

Audio recording of the telephone interview of Dr. Calvert with Axel Schmidt dated 08.05.2019 – Annex 2

10. 5.12: Dr. Calvert stated: *"Dr Schmidt said he would want to tell Clara that she would, if returned to Germany that she would see her mother for every second week (if Ms. Hopfengärtner lived in Germany) and he would not look to maintain a sole custody order. He considered that returning Clara to Germany on the basis of his having sole custody "would make no sense"".*

and

5.19: Dr. Calvert stated: *"Ms. Hopfengärtner wondered if Clara might also be concerned given that the current German Court orders provide for Clara to be solely in the care of her father should she live in Germany, that she would not, in reality, have contact with her mother".*

and

5.20: Dr. Calvert stated: *"I noted to Ms. Hopfengärtner that Dr Schmidt has said he would provide contact for her with Clara (should she also return to Germany) and she said she did not trust that would be the case and that there are current legal proceedings in Germany which effectively, as she thinks about it, preclude her returning to Germany".*

and

5.21: Dr. Calvert stated: *"Ms. Hopfengärtner noted that if she were to return she would have to initiate new legal proceedings to see Clara and she considered that would then led to further years of Court processes. She said "I do not believe Clara's father will facilitate contact on a voluntary basis and will rely on me being a kidnapper as a his 'risk' factor(to oppose contact)". She said "social circles have been destroyed (in Germany), The pressure we were under through constant harassment and lawsuits was hard on our wellbeing as individuals and as a family"".*

and

5.13: Dr. Calvert stated: *"However Dr Schmidt also said he wanted Clara returned to Germany "Because in Germany I can determine what happens"".*

The signatory follows the recommendations of the human science that children should continue their relationship to both parents if their parents separate. So Clara's father will guarantee that Clara can have access to both parents in a joint custody model.

There is clear evidence that Clara's mother preventing the child from having contact with her father for some years.

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".

There is clear evidence that Clara has lost the 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, **BOD 287-315, 296**).

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.

There is clear evidence that there is no continuity and no stability in Clara's life. Up to now Clara's life is a life of multiple transitions.

Clara changed her residences from 2007 to 2014 10 times. From 2015 to 2019 Clara changed her residences 8 times. After the criminal act against Clara's father on 20.09.2013, the family Hopfengärtner hid 5 month 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.

11. ***Facts to Ms Lisa Hopfengärtner***

5.17: Dr. Calvert stated: *"Ms. Hopfengärtner noted Clara had been in various Family Court processes since she was aged 3 and she had already been questioned by a number of adult professionals as a result. She felt that Court processes made Clara feel uneasy and unsettled. She said "I think that is what is keeping her from having a good feeling about Germany""*.

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 1 illustrated the court decisions from 2011 to 2016. The statement of Prof. Dr. Bernd von Heintschel-Heinegg summarized all procedures (**BOD page 894-896**).

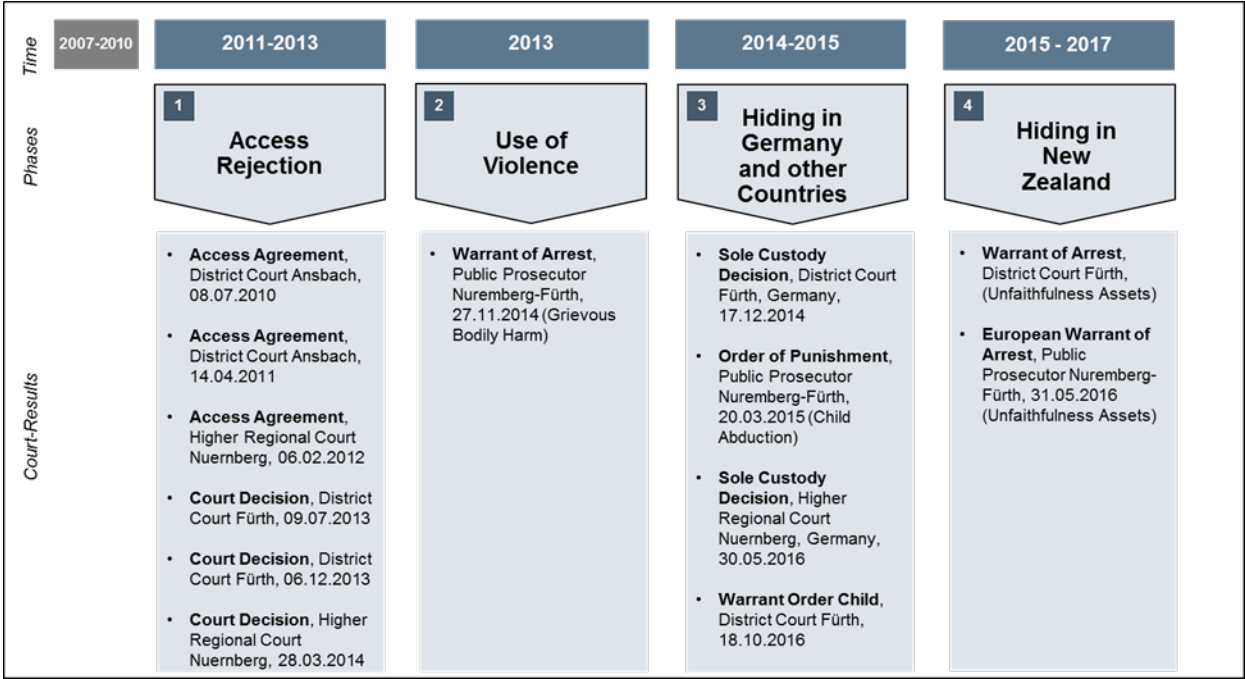


Figure 1: Court decisions from 2011 to 2016

12. **Criminal Act 20.09.2013 – The use of violence against Clara’s father**

2.11: Dr. Calvert stated: *"There was an incident in 2013 which took place outside of Clara’s school. Subsequently in her (Part One) Sec. 133 Report Ms. Lightfoot formed the view that Clara suffered from Post-Traumatic Stress Disorder as a result of that incident. That incident is the subject of significant dispute between the parents and ruling in German Courts (which Dr Schmidt relies on) both about what happened and about the impact on Clara. It is alleged that in that incident Dr Schmidt was stuck on the foot by a car being driven by Mr Hopfengärtner".*

and

3.10: Dr. Calvert stated: *"Clara spoke spontaneously to Ms. Lightfoot, about an incident which she was witness to in Germany. That incident is the subject to conflicting accounts by her parents and step father but has been the subject of a 'finding' by a German Court. In that incident Mr Hopfengärtner 'ran over' Dr Schmidt's foot. That incident appears to have formed some of Clara's developing negative views of her father which is supported by a contemporaneous account of her saying to a Youth Welfare office in Germany that she did not have the 'courage' to see her father after this incident 14. It also may have had a psychological impact on her increasing anxiety".*

and

3.78: Dr. Calvert stated: *"In my professional opinion Clara was probably traumatised by the event which occurred in Germany in 2013 and that her association to that was her memory of seeing her father's 'angry' face looking at her. Developmentally it would be normal for a child of the age that Clara was to assume that the person with the angry face looking at her was angry with her. I have indicated that there is some contemporaneous independent data which would support my view".*

and

5.3: Dr. Calvert stated: *"Dr Schmidt continues to believe that Clara has been influenced by the event in Germany involving Dr Schmidt and Mr Hopfengärtner. He also believes that Clara has been told that he has threatened to 'murder' her mother" 32.*

32 Clara has never mentioned this to me. She did not mention it to Ms. Lightfoot.

and

5.18: Dr. Calvert stated: *"Ms. Hopfengärtner noted that the incident in 2013 had created a change in Clara's mind, although there were times when this had 'faded' for her. Ms. Hopfengärtner said "after that she did refuse to see him...she had not done that previously...and he, her Dad started to say she had been*

influenced". Ms. Hopfengärtner noted that information about Clara's views at that time was on record in some of the German Court documents".

These statements are not correct.

a)

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, **BOD page 148-156**).

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"* (7.5.8: 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" (BOD page 1779-1789).

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" (BOD page 1783-1789).*

Clara's view

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, **BOD page 922-925, 922**).

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, **BOD page 922-925, 923**).

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, **BOD page 927-930, 928**).

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, **BOD page 927-930, 928**).

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, **BOD page 265-286, 268**).

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, **BOD page 265-286, 268**).

View of the Courts of the Federal Republic of Germany

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, **BOD page 21-34, 31**).*

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, and **BOD page 287-315 and 297-298**).

13. b)

Despite these findings Dr. Calvert reported the following opinion of the view of Clara regarding this criminal act against her father on 20.09.2013. Clara was interviewed on 23.04.2019 for one hour by Dr. Calvert – nearly 6 years after the event.

3.18: Dr. Calvert stated: "*Clara was first asked to tell me about the incident in Germany (which had been the focus of Ms. Lightfoot's concern). Clara said that she had been upset when it happened and she (now) thought that it was the first time she really understood the 'anger' between her parents* 16. Clara *acknowledged to me that prior to this she had enjoyed visits with her father*

although she thought that she would have 'always' wanted to live more with her mother".

and

3.20: Dr. Calvert stated: *"I asked Clara to walk me through what she now remembered of the (first) incident. Clara then said "it is a bit strange....because for a time I sort of forgot it, it was not in my mind....and then it came back". I asked Clara exactly what she remembered and she said "he was banging on the window with his hand....bang bang and what I remember was his face....how he looked....he was looking at me and he was very angry". Clara was extremely agitated and distressed, showing signs of psycho-motor agitation, starting to display emotional constriction and then she began to cry".*

and

3.21: Dr. Calvert stated: *"Clara's comment is important. She was not addressing perception of the event or what she had been told about the actual event, but her perception about the memory she has of her father looking at her".*

and

3.22: Dr. Calvert stated: *"Although Clara was very upset I was mindful of the need to gather robust data for the Court and I asked her if we could go back over exactly what she recalled 17. Clara agreed but said "it was a long time ago....I do remember being in the car and feeling scared...I think I understood everyone was angry...but I was sitting in the car and my father was just banging...that was what was making me scared...he was banging on the window....I remember seeing his face and feeling scared....I saw a very angry face". Clara did not know what happened after that. Clara's recall (in my opinion) was associated with a cognitive, behavioural and emotional presentation consistent with a traumatic experience".*

and

3.23: Dr. Calvert stated: *"Clara reported that this was not now what worried her most however. She then, in my opinion, suffered a significant period of cognitive*

and emotional distress (crying, rocking, being somewhat dissociative and showing psycho-motor agitation). I allowed Clara to calm herself and we agreed to see if I would be able to continue to ask her questions".

The perception of Clara did not correspond with the facts.

In the expert report of Ms Sue Lightfoot, dated 15.06.2017 was reported: *"7.11 I asked Clara if she ever thinks about her father. Clara said she does, and then spontaneously began to tell me about the incident on 20/09/13 – "we were at school, and me and Dad were going to meet at the café after school, but Dad wanted to pick me up from school, and Mum said no, at the café. **And when we were in the car he did this. Like banging on the car with his hand.** And that was the first time I was scared, that gave me such a big fright". I asked Clara what she had thought at the time? Clara responded- "I don't know, I was so petrified, I didn't think of anything" (BOD page 739-763, 747).*

In 2017 Clara reported that her father was banging on the car. In 2019 Clara reported that Clara's father was banging on the window.

Clara's father was not *"banging on the car"* and he was not *"banging on the window with his hand....bang bang"*.

The audio tape in annex 3 recorded the complete day. At minute 17. the situation began where Clara's father was overrun with the car two times and was catapulting through the air.

There were no noises in the home recording which can give evidence that Clara's father was doing anything which could have a negative impact on the wellbeing of Clara or the other children in the car.

Evidence:

Audio recording of the criminal act against Clara's father dated 20.09.2013 – Annex 3

The expert report of Mr Volker Fürbeth in annex 4 shows the position of Clara's father at that day before the car of Ms Lisa Hopfengärtner and Mr. Simon Hopfengärtner. In this position Clara's father was physical unable to knock at the window of the car. Clara's father did not *"bang on the car"* or *"bang on the*

“window” he was hit by the car and he was catapulting through the air. It may be that Clara’s father’s face was not a lucky one at this moment. The car was driven before his left knee and on his foot. Until today Clara’s father is in medical treatment to mitigate the problems – now in the 6. year after the “car incident”.

Evidence:

Technical expert report of Mr Volker Fürbeth dated 12.06.2014 to the criminal act dated 20.09.2013 – Annex 4

On 20.09.2013 three children were sitting in the car of Mr Simon Hopfengärtner and Ms Lisa Hopfengärtner:

- Clara Larissa Schmidt (daughter of Lisa Hopfengärtner and Axel Schmidt)
- Emma Hopfengärtner (daughter of Tanja Hopfengärtner and Simon Hopfengärtner)
- Charlotte Hopfengärtner (daughter of Lisa Hopfengärtner and Simon Hopfengärtner)

The signatory is regularly in contact with Ms Tanja Hopfengärtner (Erlangen, Federal Republic of Germany). Ms Tanja Hopfengärtner and Mr Simon Hopfengärtner are parents of Emma Hopfengärtner (10 years old). Emma Hopfengärtner did not report about this criminal act and did not need therapeutic support, she did not report, that the man before the car looked very angry or knock at the car or at the window of the car. Only Clara had these impressions.

There is a clear evidence that the view and opinion of Clara **"seemed hardly authentic, but influenced by the mother"** (page 71, expert report Prof. Dr. Gottfried Spangler, 04.02.2016, **BOD page 265-286, 268**).

The signatory has some difficulty reconciling Ms Dr. Calvert 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" (BOD page 1772).*

14. c)

Despite these findings, Dr. Calvert resumed in section seven "summary opinions": *"7.2 Does it appear as if the objection is reality based and/or affected by undue influence and/or able to be addressed by explanation or intervention?"* her opinion as an expert:

7.2.6: Dr. Calvert stated: *"In addition to her more general formation of 'views and wishes' Clara did have a significant psychological response to the incident in 2013. Her response was noted in Germany itself and Clara has subsequently spoken about this incident and the impact it had on her. In my opinion that incident was causative of a childhood trauma response in Clara which impacted on her previously positive view of her father. Clara did not receive treatment for that trauma. However the data indicates that, over time, Clara's trauma response (to this event) diminished significantly".*

and

7.2.7: Dr. Calvert stated: *"Dr Schmidt has focused on the adult issues associated with the event which took place in 2013 whereas, in my opinion, Clara's distress (and trauma based response) has been associated directly with her perception (as a young child) of her father's anger which she (in a developmentally normal manner in the circumstances) assumed was about or directed at her. That is Clara's response to that event was not specifically or majorly influenced by others".*

and

7.2.8: Dr. Calvert stated: *"At the time of the initial Family Court hearing in New Zealand, although likely 'influenced' by her mother and by her own experiences, Clara's evidence is that she was prepared to engage with her father and even (it transpires) to think about going to Germany to see him".*

and

7.2.9: Dr. Calvert stated: *"However, in my opinion, currently (and for the last 18 months) Clara's views are most significantly impacted by her direct experiences*

of the events of September 2017. That is her uplift/abduction, by her father and persons unknown to her, in front of her classmates at school. I have provided to the Court data about that event as perceived by Clara and independent collateral data provided contemporaneously. I have indicated that it is my professional opinion that the uplift/abduction caused Clara to develop (or re-develop) Post Traumatic Stress Disorder because she did believe she might die and she was terrified. There have been alterations in her cognition and in her emotional and social responses as a result of this experience and they persist into the present”.

and

7.2.10: Dr. Calvert stated: *“The experience of more than one traumatic event is also known to have cumulative consequences for human beings. In my opinion Clara had, generally, recovered from the initial trauma associated with her experience of the 2013 event but that the more recent event has not only been traumatic in its own right but has reactivated trauma from the earlier event”.*

Despite of the facts above, Dr. Calvert did not consider or mentioned that the day of 20.09.2013 was an act of violence against Clara’s father occurred in the presence of Clara.

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).

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).

In the proceedings from 2010 to 2016 both parents were evaluated by different experts and different courts of the Federal Republic of Germany.

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, **BOD page 265-286, 268**).

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 76, expert report Prof. Dr. Gottfried Spangler, 04.02.2016, **BOD page 265-286, 273**).

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, **BOD page 265-286, 272-273**).

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 73 expert report from Prof. Dr. Gottfried Spangler, 04.02.2016, **BOD page 265-286, 270**).

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, Higher Regional Court Nuernberg, Germany, 30.05.2016, Az.: 9 UF 149/15, **BOD page 287-315, 297**).

The expert report of Ms Dr. Calvert showed now again developmental problems and risks for Clara; similar to that what Prof. Dr. Spangler 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" (BOD 1775-1778).

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, **BOD page 265-286, 268**).

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 20.09.2013 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.

In the complete report of Dr. Calvert there is no comment to the activities of Clara's mother and her environment relating to Clara's development.

15. 2.13: 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".*

This statement is incorrect.

Dr. Calvert quoted one word of the expert report of Prof. Dr. Gottfried Spangler dated 04.02.2016 – knowing that this has a 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, **BOD page 265-286, 274**).

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"* (**BOD page 39**).

16. 2.14: Dr. Calvert stated: *"In 2014 Clara left Germany with her mother, half-sister and step father".* And in 2.15: *"This was prior to a decision of a German Court transferring custody to Dr Schmidt. Ms. Hopfengärtner appealed that decision. However the German Court subsequently upheld the original sole custody decision in Dr Schmidt's favour".*

This statement is incorrect.

Ms Lisa Hopfengärtner left the Federal Republic of Germany in January 2015 to New Zealand – not in 2014 (**BOD 867-869, 868**).

17. 2.19: Dr. Calvert stated: *"In 2016 a European arrest warrant was issued against Ms. Hopfengärtner. Subsequently a German Court ruled that Clara was to be released into her father's custody".*

This statement leads to misunderstanding.

In 2016 a European Arrest Warrant was issued against breach of trust against Ms Lisa Hopfengärnter (**BOD page 133-147 and BOD page 832-837**). The Warrant to take the child has nothing to do with this decision. The District Court Fürth decided on 18.10.2016 that Clara's father can take Clara also with *"the direct use of force – if required"* to care for Clara in person (**BOD page 35-42**). There is also an obligation for Clara's father to care for the assets of Clara. See

the memorandum of Ms Liesle Theron to the international law situation dated 02.06.2017 in annex 4.

Evidence:

Memorandum of Liesle Theron to the international obligation regarding Clara's assets dated 02.06.2017 – Annex 5

18. 2.21: 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 at the beginning of the Hague Part One process. Mr Blair was unsuccessful in having Dr Schmidt and Ms. Hopfengärtner agree to this".*

This statement is incorrect.

Mr Blair never indicated that Clara needs independent support. The signatory asked the Tauranga Family Court one year ago for therapy with his memorandum dated 26.01.2018 (**BOD page 2001**). The Tauranga Family Court did not react.

19. 2.26: Dr. Calvert stated: *"Dr Schmidt had sought to inform the New Zealand Police that he intended to do this and has said that the Police told him he was entitled to do so".*

This statement is incorrect.

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 counselling 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, **BOD page 908**; Michael Roots to Alexander Ashmore 09.05.2017, **BOD page 909**; Lynda Kearns to Alexander Ashmore 01.05.2017, **BOD page 642**, Lynda Kearns to Dean Blair 01.05.2017, **BOD page 643**) 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, 28.09.2017, annex 6).

Evidence:

Letter Murray Earl Queen Counsel dated 28.8.2014 – Annex 6

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.

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"* (**BOD page 35-42**).

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"*(**BOD page 1622**).

20. 2.31: Dr. Calvert stated: *"Any substantive report (whether prepared in New Zealand or Germany) will need to address, at length, the issues which arise from these events and their impact on Clara"*.

This statement is incorrect.

In the Federal Republic of Germany all decisions in relations to *"these events"* were done (see comments under number 8. and 9.). Ms Dr. Calvert has had no briefing and no assignment to make an *"substantive report"* about *"the issues which arise from these events and their impact on Clara"*.

21. 3.3: Dr. Calvert stated: *"I note those areas where initial observations (made by Mr Blair, Ms. Lightfoot, video material provided to me and documents provided by Mr and Mrs Preece¹³ prior to the event of September 2017) are at odds with Clara's current presentation. This is because this data is important in forming the views I have in this matter" 13.*

Footnote to 3.3: " ¹³ *"Mr and Mrs Preece are friends of Dr Schmidt's. They may or may not have been involved in the uplift of Clara from the school. They have provided 'evidence' which is not currently (as far as I am aware) before the Court but which was sent to me and which, at the time I assumed was in proper*

affidavit form (and may be but has not been forwarded to me). I did review the documents because they provided data about Clara's presentation prior to September 2017".

This statement is incorrect.

Mr Nicholas Preece and Ms Emma Preece were no friends of the signatory. They contacted the signatory after the release of this case in the New Zealand Herald and contacted the signatory and told the signatory that Ms. Lisa Hopfengärtner put Clara's father in front of Clara in a bad mood (**BOD page 1779-1789** and **BOD page 1783-1789**) and that Clara searched for her father in New Zealand (**BOD 1775-1778**). The signatory never meets Mr Nicholas Preece and Ms Emma Preece or her daughter Millicent Preece.

Mr Nicholas Preece also informed the signatory that Clara was not allowed to continue her relationship to her best friend Millicent Preece in 2018. Annex 6 give evidence that Clara was not allowed to see Millicent Preece again and she was not allowed to greet Millicent when she met her.

Nicholas Preece informed the signatory on 17.06.2018:

"Her lies have also destroyed the friendship Millie had with Clara ... Since Lisa won't let them kids see each other!!! Running away from the last singing evening when she saw us!!! That woman has a lot to answer for axel!! Just like my ex and my sister!! The corrupted legal system currently protecting all of them!!!"

Nicholas Preece informed the signatory on 04.07.2018:

"Saw Clara today mate... She was with Simon alone... He gave our family the evil stare. Clara ran past Millie and floss and was clearly told not to speak to us... Emma said hello Clara three times and she ignored us"

Evidence:

SMS Nicholas Preece to Axel Schmidt dated 17.06.2018 and 04.07.2018 – Annex 7

The statement of Dr. Calvert that the affidavits of the Family Preece *"have provided 'evidence' which is not currently (as far as I am aware) before the*

Court” is an attempt to say that this is new evidence and should not be considered by the Court. It is not the task of Dr. Calvert to evaluate if documents which appear in the bundle of documents were new evidence or not. Dr. Calvert is not the counsel of the respondent.

22. 3.6: Dr. Calvert stated: *"To Mr Blair, Clara reported in 2017 that she was opposed to being returned to Germany, a country she associated with parental conflict and unhappiness and further (at that time) reported a reluctance to have any contact with her father. She repeated similar views to Ms. Lightfoot".*

a)

Clara was told by her mother and by others (e.g. Dean Blair, lawyer of the child) in 2017 that she would not see her mother again if she would return to Germany. For that reason Clara believed that after the loss of her father also the loss of her mother could be a realistic scenario.

The report writer Sue Lightfoot stated in her report 15.06.2017: *"Ms Hopfengaertner has indicated by affidavit, and also confirmed to myself, that she will not be able to return to Germany if the Court directs that Clara return – "my Husband is here, my other kid is here, and Germany would be a disaster. Her father wouldn't let me see her, so what would I do. **I would have to let her go, that's just how it is.** And it's not because I want to let her go, I want to make that clear". **Ms Hopfengaertner told me she has tried to explain the position to Clara – "but I think she didn't want to hear it"**"* (page 7, expert report Sue Lightfoot, 15.06.2017, **BOD page 739-763, 745**).

b)

Clara's mother also instructed Clara that even if she would join her to go back to Germany Clara's father would not allow any contact between Clara and her mother. Clara made the experience of the loss of her father during the period from 2011 to 2017. Clara's mother did not support the wish of the child to see her father.

The report writer Sue Lightfoot stated in her report 15.06.2017 for Clara's mother: *"Ms Hopfegaertner does not believe this will occur, and suggested it is likely mother and daughter will completely lose their relationship. Ms Hopfengaertner considers it is likely Mr Schmidt will seek to isolate her from Clara, and influence Clara against her"* (page 18, expert report Sue Lightfoot, 15.06.2017, **BOD page 739-763, 756**).

The report writer Sue Lightfoot stated in her report 15.06.2017 the corresponding reaction from Clara: *"Clara spontaneously added – "let's say she comes but Dad won't let me see her. That would be really terrible"* (page 8, expert report Sue Lightfoot, 15.06.2017, **BOD page 739-763, 746**).

Clara has had no access to her father for since September 2013 with the exception of half a day in September 2017. In Clara's perception her mother is the only person who is available for her. All wishes to see her father were not granted by her mother.

So the expert Dr. Marianne Schwabe-Höllein stated in her report dated 31.01.2013: *"In the 3-wishes game which followed (Clara was to imagine that she was also granted three wishes by the fairy), Clara said without hesitation: "See daddy again". Upon further inquiry through the Expert: "And how can we achieve this? The child replied sadly: "Mummy does not drive me to daddy's house!" Expert: "Did you tell Mummy that this is what you want? Clara: "I told her that I want to see daddy". Expert: "And what would you like to do with daddy?" Clara: "He takes me to the swimming pool every day"* (page 25, expert report Dr. Marianne Schwabe-Höllein, 31.01.2013, **BOD page 912-920, 920**).

The District Court in Fürth which has been involved in this matter since 2011 declared on 17.12.2014: *"The defendant [remark of the signatory: Mrs Lisa Hopfengärtner], 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, **BOD page 21-34, 31**).

The Higher Regional Court Nuernberg has been involved in this matter since 2011 and 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 11, Higher Regional Court Nuernberg, Germany, 30.05.2016, Az.: 9 UF 149/15, **BOD 287-315, 297**).

Clara has made the negative experience that her mother does not accept her wish to see her father. Therefor Clara cannot believe that her father will be available for her in future in Germany or in New Zealand. In Clara's perception and experience the only attachment person who is available for her is her mother. Clara does not want to lose her last parental relationship.

Now at an age of 12 Clara can appreciate that her mother does not want Clara to meet her father. This parental coalition pressure causes loyalty conflicts. And without any contact to her father her decision is without any alternative.

c)

If Clara had not told that her father was always willing to meet her, but he had no chance to see her and that the mother told Clara wrong facts about her father then Clara would have an opportunity to rethink and reconsider her perception. If Clara had a minimum contact a contact of four weeks with her father, she would definitely change her behavior. She then would be able to compare the claims of her environment with the true facts and come to a free decision. The signatory is able and willing to come to New Zealand and to show Clara that he will be available for her as he was in the past. But all requests to have contact with Clara in New Zealand remained unanswered (Michael Roots to Alexander Ashmore 14.03.2017, **BOD page 908**; Michael Roots to Alexander Ashmore 09.05.2017, **BOD page 909**; Lynda Kearns to Alexander Ashmore 01.05.2017, **BOD page 642**, Lynda Kearns to Dean Blair 01.05.2017, **BOD page 643**).

23. 3.13: Dr. Calvert stated: *"Clara also spoke (to Ms. Lightfoot in 2017) of the close nature of her relationship with her mother and her fear that, if returned to Germany, she would not be able to maintain her relationship with her. Reports provided by specialists who assessed Clara in Germany noted a primary attachment to her mother"* 15 Dr Spangler, Pg. 73, 2016.

and

7.4.5: Dr. Calvert stated: *"If Clara is returned to Germany (and her father's care) she will likely lose her primary attachment relationship and her two other significant relationships, one of which is a sibling relationship. Sibling relationships are often the longest continuous relationships humans experience and they are known to be, in many cases, a sustaining aspect of human wellbeing"*.

This statement is incorrect.

a)

With the expression *"primary attachment"* the report writer wanted to express that a hierarchy of Clara's attachments to her mother and her father exists. The assertion *"primary attachment"* person should verify a hierarchy between the relationships of children to parents -a central argument of the whole report to evaluate only the attachments of Clara to her mother and not the attachments of Clara to her father.

These assumptions of the report writer do not correspond with the consensual knowledge of human sciences 2019 and were misleading.

b)

The consensual knowledge of human sciences of attachments of children to both parents is different and much further developed.

The idea of the report writer of a psychologically primary' parent was developed by Bowlby 1958: *"Acknowledging that little is known about the relative influence on personality development of the child's relationship with father and mother, Bowlby speculated that during the early years, the model of self interacting with mother may be more influential because the mother is likely to be the child's*

principal caregiver" (Bretherton & Munholland, 2008, p. 104; see also: Bowlby, 1958, p. 370-371).

The idea of a primary attachment figure was reviewed by Bowlby 1969: *„During their second year of life a great majority of infants are directing their attachment behaviour towards more than one discriminated figure, and often towards several"* (p. 304). Research from Lamb, 1977; Main und Weston, 1981; Grossmann, Grossmann, Huber and Wartner, 1981; Kreppner, 1987; Tavecchio and van IJzendoorn, 1987, identifies the influence of more than one attachment figure, specially to both parents (Grossmann, Grossmann, Huber & Wartner, 1981, p. 175; Lamb, 1977, p. 646; Main & Weston, 1981, p. 939; Kreppner, 1987, p. 236-238, p. 257; Tavecchio & van IJzendoorn, 1987, p. 81). During their second year of life a great majority of infants are directing their attachment towards more than one discriminated figure, and often towards several.

„The infant-caregiver attachment relationship is co-constructed and exists between dyadic partners, as well as within each one" (Vaughn, Bost & van IJzendoorn, 2008, p. 201). Multiple attachment relationships were detected in several studies in all continents: *„We need a radical change from a dyadic perspective to an attachment network approach (Tavecchio & van IJzendoorn, 1987). In Western as well as non-Western cultures, most children communicate with several attachment figures (Lamb, 1977; Main & Weston, 1981), including siblings (Weisner & Gallimore, 1977). Examining the competence hypothesis only on the basis of infant-mother attachment may decrease predictive power substantially"* (van IJzendoorn & Sagi-Schwarz, 2008, p. 900).

Furthermore in human sciences it is consensual knowledge that only four categories of attachment exist (secure, avoidant, ambivalent, disorganized) but no hierarchy of attachments: *„In all, the complexity of our findings suggests that the developmental trajectories from infancy to adulthood with regard to attachment are indeed multifaceted, that developmental outcomes are multidetermined, and that continuity is multidimensional"* (Sagi-Schwarz & Aviezer, 2005, p. 191).

These multidimensional attachment relationships of children to her parents are described by Waters and McIntosh (2011, p. 480): *„The idea that there should be one figure only was not Bowlby's view in the end. It is also difficult when you use*

a term like "hierarchy" which is a very specific claim about superordinate-subordinate relationships; this one is more important than that one, that one is more important than that one; it implies a rank ordering. Rather than saying that there is a hierarchy, I think a better perspective is this: it is possible for infants and children and for adults to use a multiplicity of figures for secure-base support. Multiplicity does not imply any particular relationship among them. You are not more or less, you are just another".

c)

To support her opinion of the existence of a "*primary attachment*" person, the report writer cited the expert report of Prof. Dr. Gottfried Spangler dated 04.02.2016. Prof. Dr. Spangler speaks of a "*primary care*" taker role of Clara's mother not of a primary attachment figure of Clara. This statement of Prof. Dr. Gottfried Spangler is according to the consensual knowledge of human sciences 2019: "*Many of the important functions fulfilled by parents (e.g., providing guidance and limits, socialization of emotional expression, supporting relationships with peers, etc.) are not part of the attachment system and are best not assimilated to it*" (Sroufe, 2005, p. 352-353). "*Babies formed attachments to those with whom they interacted regularly regardless of their involvement in caretaking*" (Lamb, 2002a, p. 99). For that reason "*the infant-caregiver attachment relationship is co-constructed and exists between dyadic partners, as well as within each one*" (Vaughn, Bost & van IJzendoorn, 2008, p. 201).

Macintosh and Waters (2011) argue that there is no correlation of care taking and attachment: "*The notion that attachments differ in strength plays no role whatsoever in current attachment theory. There is no way of measuring the "strength" of attachment. It is important to get rid of this idea of strength of attachment because it makes you think that by sharing the amount of time available, the attachment will be the same strength with each parent. This is simply not true*" (Waters & MacIntosh, 2011, p. 476).

Therefore Prof. Dr. Spangler states rightly: "**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, **BOD page 265-286, 268**).

„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" (Warshak, 2014, p. 48).

Clara has secure attachments to both parents. Not more or less. And **"on the basis of the prior substantially positive experience"** and when **"the current restrictions have been eliminated"** a **"consolidation"** of the attachment bonds between Clara and her father is possible.

The signatory also wants to stress that the report writer made a statement on attachments without seeing Clara and her father together and without seeing Clara with her mother together. The statement *"primary attachment"* of the report writer is a central argument of the whole report to prefer Clara's mother as attachment figure – but this is an invalid and misleading psychological concept.

24. 3.15: Dr. Calvert stated: *"Clara reported, in 2017, to both Mr Blair and Ms. Lightfoot that the incident in 2013 had impacted on her perception of her father. She reported feeling scared and upset. To Ms. Lightfoot Clara reported that her memory was of her father "banging on the window with his hand and that was the first time I was scared, that gave me such a big fright...I was so petrified I didn't think of anything". Ms. Lightfoot reported that her observations of Clara's*

physical, behavioural and emotional presentation when giving her account was consistent with traumatic recall".

This statement is incorrect.

In the expert report of Ms Sue Lightfoot, dated 15.06.2017 was reported: *"7.11 I asked Clara if she ever thinks about her father. Clara said she does, and then spontaneously began to tell me about the incident on 20/09/13 – "we were at school, and me and Dad were going to meet at the café after school, but Dad wanted to pick me up from school, and Mum aid no, at the café. **And when we were in the car he did this. Like banging on the car with his hand.** And that was the first time I was scared, that gave me such a big fright". I asked Clara what she had thought at the time? Clara responded- "I don't know, I was so petrified, I didn't think of anything" (BOD page 739-763, 747).*

Clara told different experts in New Zealand different stories in 2017 and 2019. In 2014 direct after the event Clara did not mentioned that her father was *"banging on the car"* or that he was *"banging on the window with his hand....bang bang"* and that her father *"was very angry"*. These findings occur in New Zealand for the first time and are corresponding to the affidavits of Mr and Ms Preece (**BOD page 1779-1789** and **BOD page 1783-1789**).

In 2014 three Judges of the Regional High Court found: ***"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, **BOD page 922-925, 923**).

25. **Clara and her father 28.09.2017**

3.31: Dr. Calvert stated: *"Clara said her father took her for a walk in Tairua (she thought) and she was worried about what was going to happen so she talked to him about the plants. She did not know why she had done that "I don't*

remember some things....why I did some things anymore because I have tried so hard to forget them.....it was such a terrible moment... I am so scared of Dad...but I don't know why I am so scared...well I feel scared when I think of being made to go back to Germany...my Dad is ruining my life....I am always scared now". That is Clara reported that her overall perception of herself and her life had changed from being one where she 'got on with her life' to one where she was 'always scared'".

and

3.38: Dr. Calvert stated: *"I began by asking Clara about her views of the issues before the Court. She said "I don't want to go to Germany....New Zealand is my home....I don't want to go, not even for a visit....because Axel is there". Clara began to show distress so I re-orientated her to my questions and she recovered and said "I am at home here now, settled, I have friends, my bunnies 23". Clara then told me that she takes her bunny to her counselling appointments because it is a comfort when she feels sad and worried "and worse, sometimes what I feel is worse...then I can stroke Bliss and I feel better".*

and

3.55: Dr. Calvert stated: *"Clara went on "just before Auckland we stopped at a café and another man came to be with Dad...we had something to drink...it was dramatic, pretty dramatic in my mind....that this was happening to me...I was terrified".*

and

3.65: Dr. Calvert stated: *"Clara said that while she can 'feel' being picked up from her stool she cannot 'see' that happening and she does not have any memories of getting to the car and that she next remembers the car driving and she thought she was pressed against the window. She said "my Dad is talking all the time but I cannot hear...I am crying...but maybe there are no tears?...it is like a fog". Clara clutched at her soft toy (she had brought this to comfort herself during the interview) and began to cry".*

and

3.68: Dr. Calvert stated: *"I asked Clara about the 'walk with nature' that Axel has described. Clara is sure that relates to her asking to walk to the Library in Tairua where she hoped to find her sister and a teacher (she also thought that Lotte's friend's Mum might be there). She said "I know I was really thinking hard how to ... well not let him be angry...I was talking to him showing him things....so he would be pleased with me and not hurt me". I asked Clara about how her Dad talked to her and she said " I don't really remember him talking...it is like he is talking but it is in the background....I can't hear him properly". Clara thought she had been working in her mind "to get away".*

and

3.69: Dr. Calvert stated: *"I asked Clara what her Dad was like with her and she said "he was being overly nice...but I was suspicious....he kept saying it would be alright...but he would not tell me what was happening....what was going to happen....that's right he said we would spend the holidays together...but I didn't want to do that...not then...if he has asked? I would have said he should ask Mum or we could have just had a holiday time together in Coromandel 27".*

27" I draw attention to this spontaneous comment, that Clara would have been receptive to 'holiday' contact with her father in New Zealand".

and

3.79: Dr. Calvert stated: *"None the less it is Clara's own evidence (as well as my assessment of her) that the passage of time and positive (as Clara views them) changes in her life meant that her anxiety and distress had diminished and that she was no longer experiencing significant trauma (either as a result of the event in 2013 or even from the conflict between her parents) prior to the event in 2017 which occurred after the Court hearing. In respect to that the information gathered by Ms. Lightfoot is of help to the Court since it was gathered immediately prior to the event occurring in September 2017".*

and

3.80: Dr. Calvert stated: *"Clara's current Post Traumatic Stress Disorder is primarily and directly associated to the experience of being uplifted by Dr Schmidt and his associates from her school, effectively an abduction. However the literature on how trauma impacts on individuals indicates that prior experiences of trauma may cause further trauma to be experienced more intensely. It is likely that that is the case for Clara".*

a)

Dr. Calvert's attitude to that day 28.09.2017 is expressed in her juridical evaluation that this issue is *"effectively an abduction"*. Dr. Calvert uses the term *"abduction"* to describe what occurred. This is offensive and factually inaccurate. Dr. Calvert used the same expression *"abduction"* as Ms Sue Lightfoot in her statement dated 11.12.2017 ; Ms Dr. Calvert and Ms Lightfoot worked together at the Department of Child, Youth and Family in Tauranga, they published articles together: Calvert, S. & Lightfoot, S. (2002). Working with children with complex presentations: A New Zealand approach. *New Zealand Journal of Psychology*, 31, 65-72, and they had a private relationship).

As the father and guardian of Clara the signatory has the legal right to uplift his daughter from school. There were no orders in force at that time which prohibited the signatory from exercising his guardianship rights. The signatory did not abduct his daughter (see letter from Murray Earl, dated 28.09.2017 – annex 5). Mr Bernhard Deadman, New Zealand Police, Constable, BDX753, Whitianga, 3 Campbell Street explained the signatory one day before that the signatory can take Clara out of school and bring her in his physical custody. The Police in New Zealand documented this question under the file number 161026/8310.

Secondly, the word abduction is emotionally charged, critical of the signatory. The fact that Dr. Calvert would use that term to describe the situation shows a significant degree of moral judgment by her contrary to role as impartial expert witness. Ironically, this case involved an acknowledged international abduction by the mother of the child from the Federal Republic of Germany to New Zealand. Dr. Calvert does not pass the same sort of moral judgment against the

mother. This exposes Dr. Calvert's negative view of the signatory. This lack of impartiality also comes through in many aspects of her report – she shows a willingness to interpret data in a way which is negative to the signatory, even though there are other viable interpretations.

Clara's statements should made clear that she is caught in the middle of her parents. The loss of her father resulted in an unbalanced parent-child-parent relationship. Unbalanced parent-child-parent relationships can lead to problems balancing both love and power in the family system. When two family members side against a third, they form an alliance. Siding together also demonstrate loyalty. Clara is now 12 years old and she feel the pressure of divided loyalties, she also is pressured to take side.

Anxiety, anger, and sadness are some of the most common affective reactions that children report when exposed to conflict and anger not directed at them. If two parents allow their children to have separate relationships with each of them, these emotions can dissipate over time. Children can maintain relationships with both of their parents without ongoing emotional tension. For Clara, loyalty dilemmas are a lasting and central aspect of being in the middle. Clara's mother will share their scorn for Clara's father directly with her. She may deride any real or perceived disloyalty on Clara's part. Or she may strongly express her loneliness when Clara is with her father, acting especially hurt if Clara seems to have enjoyed her time with her father.

Clara has now different strategies to avoid her predicament. One option is to pick side. Clara will form a coalition with her mother against her father. Clara can use this strategy even if she loses potential further contact of her father, but she gain the protection of her mother in return. Taking sides makes sense if one parent is not available for the child, because of the gatekeeper function of the other parent. This strategy could also lead to alignment. Alignment may occur if a child gives in to the pressure to side, taking the side of one parent, and also experiencing active anger or disengagement toward the other parent. The anger or disengagement toward the non-allied parent is likely a more defining feature of this relationship than the feelings of closeness toward the allied parent.

If this strategy occurs it could lead to withdraw from both parents. Clara might withdraw emotionally into herself in adolescence when she will realize the true facts. It seems possible that the affective relationship with parents in this instance can be either disengaged or conflictual, but the defining feature is the emotional distance from both parents. All of these patterns ought to have repercussions for children's emotional and behavioral adjustment.

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. Calvert published in her "Parental Separation Pamphlet": *"9-12 year olds: sadness, anger, alignment with one parent or the other; may become 'parentified'"*.

b)

Dr. Calvert ignored to evaluate the pictures and videos of that half day of Clara with her father. In the bundle of documents different pictures and links to videos are included (**BOC page 1791-1794**).

The videos can show that Clara has no fear for her father and that Clara's perception now that this day *"was dramatic, pretty dramatic in my mind....that this was happening to me...I was terrified"* and that Clara shows *"anxiety and distress"* and that this occurrence was for Clara a *"terrible moment"* did not correspondent with the facts in the videos and pictures.

Correct is that Clara agreed to her father that both would have a holiday time together in the region. On 29.09.2017 the school holidays started in New Zealand. The signatory wanted to spend one week with Clara during that period to talk to her and to give Clara a chance to re-establish her relationship with her dad. Clara stated in her interview with Dr. Calvert: *"I would have said he should ask Mum or we could have just had a holiday time together in Coromandel"* .

Evidence:

Video 1, Video 2 and Video 3 of the day of Clara with her father dated 28.09.2017 – Annex 8

III. Dr. Calvert's Response to the brief – Summary opinions

7.1 Having regard to the child's objection to return

26. 7.1.1: Dr. Calvert stated: *"Clara's objections to her being returned to Germany was, originally, set out in Ms. Lightfoot's report. In that report Clara's objections are summarised as (i) She would be taken away from her mother who is very important to her³⁹; (ii) She would be taken away from her family in New Zealand; (iii) She would be taken away from her friends and other relationships; (iv) She would be taken away from her home; (v) She is 'Kiwi' now and enjoys living in this country in comparison to Germany; (vi) She would be returned to an overall context of her father's care in a country which she associates both with adult conflict and being unhappy".*

7.1.2: Dr. Calvert stated: *"In her interview with me Clara said she did not want to return to Germany because (i) She has always lived with her mother and wishes to continue to do so; (ii) New Zealand is home for her; (iii) She did not want to return to Germany, even for a holiday, because her father resides there and because of her previous memory of her experience of high conflict between her parents when living there; (iv) Clara views herself as settled, with friends and a home in New Zealand; (v) That all her mind is put to staying in New Zealand; (vi) That thinking about her situation makes her feel fearful; (vii) That she is scared of her father because of 'one big thing' that is his removal of her from her school in 2017".*

To the expert report of Sue Lightfoot see **BOD page 1404-1466**.

Clara's objection about her father is manipulated:

- the objective of Clara was influenced in Germany in 2013 and 2014 (**BOD page 265-286, 268, BOD page 922-925, 923, BOD page 927-930, 928, BOD page 1772**), so that the findings of Sue Lightfoot 4 years after the criminal act and of Dr. Calvert 6 years after the criminal act were results of the influencing behaviour of Clara's mother,

- Clara was told by her mother, by the lawyer of the child and by the expert report writer Ms Sue Lightfoot in 2017 that Clara's mother will not return with Clara to Germany (**BOD page 745 and 749**),
- that her view was manipulated in New Zealand and that Clara's mother put Clara's father in front of Clara in a bad mood in 2017 (**BOD page 1779-1789 and BOD page 1783-1789**),
- that Clara searched for her father in New Zealand (**BOD 1775-1778**),
- that Clara despite the findings of Dr. Calvert has had no problems on 28.09.2017 with her father (**BOD page 1791-1794**).

7.2 Does it appear as if the objection is reality based and/or affected by undue influence and/or able to be addressed by explanation or intervention?

27. 7.2.1: Dr. Calvert stated: *"In reality Clara will have been 'influenced' by her mother and step father's views of her father. She noted this to Ms. Lightfoot in reporting the impact of the ongoing legal processes on her mother's demeanor".*

The central question of children's views are: is their objection in the best interests of children.

It could be shown over the complete commentary that it is in the best interests of Clara to live with her father and her mother. But only Clara's father can ensure that Clara will have access to both parents.

For this reasons Clara must be returned with her family to the Federal Republic of Germany

In 3.38 Dr. Calvert stated: *"I began by asking Clara about her views of the issues before the Court. She said "I don't want to go to Germany....New Zealand is my home....I don't want to go, not even for a visit....because Axel is there". Clara began to show distress so I re-orientated her to my questions and she recovered and said "I am at home here now, settled, I have friends, my bunnies 23". Clara then told me that she takes her bunny to her counselling appointments*

because it is a comfort when she feels sad and worried "and worse, sometimes what I feel is worse...then I can stroke Bliss and I feel better".

A child at an age of 12 years would never use the term "*settled*". Dr. Calvert did not comment this statement of Clara.

28. 7.2.6: Dr. Calvert stated: *"In addition to her more general formation of 'views and wishes' Clara did have a significant psychological response to the incident in 2013. Her response was noted in Germany itself and Clara has subsequently spoken about this incident and the impact it had on her. In my opinion that incident was causative of a childhood trauma response in Clara which impacted on her previously positive view of her father. Clara did not receive treatment for that trauma 42. However the data indicates that, over time, Clara's trauma response (to this event) diminished significantly".*

and

7.2.7: Dr. Calvert stated: *"Dr Schmidt has focused on the adult issues associated with the event which took place in 2013 whereas, in my opinion, Clara's distress (and trauma based response) has been associated directly with her perception (as a young child) of her father's anger which she (in a developmentally normal manner in the circumstances) assumed was about or directed at her. That is Clara's response to that event was not specifically or majorly influenced by others".*

and

7.2.8: Dr. Calvert stated: *"At the time of the initial Family Court hearing in New Zealand, although likely 'influenced' by her mother and by her own experiences, Clara's evidence is that she was prepared to engage with her father and even (it transpires) to think about going to Germany to see him".*

As stated under number 12., 13, 14. and 24. Clara cannot have trauma in relation to the behaviour of her father. Clara reported false facts of that day due to the influence of her environment. Clara may have a trauma because her

stepfather overrun Clara's father with a car, so that Clara's father needs to go to a hospital. He is still in a medical treatment.

27. 7.2.9: Dr. Calvert stated: *"However, in my opinion, currently (and for the last 18 months) Clara's views are most significantly impacted by her direct experiences of the events of September 2017. That is her uplift/abduction, by her father and persons unknown to her, in front of her classmates at school. I have provided to the Court data about that event as perceived by Clara and independent collateral data provided contemporaneously. I have indicated that it is my professional opinion that the uplift/abduction caused Clara to develop (or re-develop) Post Traumatic Stress Disorder because she did believe she might die and she was terrified. There have been alterations in her cognition and in her emotional and social responses as a result of this experience and they persist into the present".*

and

7.2.10: Dr. Calvert stated: *"The experience of more than one traumatic event is also known to have cumulative consequences for human beings. In my opinion Clara had, generally, recovered from the initial trauma associated with her experience of the 2013 event but that the more recent event has not only been traumatic in its own right but has reactivated trauma from the earlier event".*

Dr. Calvert now connected the trauma of 20.09.2013, which she detected 6 years after this criminal act against Clara's father with the day of Clara with her father on 28.09.2017. As shown before if there was a trauma than was this caused by Clara's stepfather – this was totally ignored by Dr. Calvert. Dr. Calvert also ignored the influencing and manipulating activities of Clara's mother. These activities alienated Clara from her father. Dr. Calvert did not analyse the report, pictures and videos of this day.

7.4 Having regard to the child's age, cognitive ability, maturity and options available, how might the child respond if the Court makes an Order for a return despite the objection

28. 7.4.1: Dr. Calvert stated: *"In my opinion it is likely that Clara will be adversely psychologically impacted if an Order is made for her to return to Germany despite her objection. In my opinion such an outcome will create further trauma*

for her given that the return will be to her father's sole care in a situation where she will have no meaningful supports. Clara is a traumatised child currently and her need (in terms of her welfare and wellbeing) is for stability and consistency within her 'secure attachments' so that she can make effective use of the therapy now being provided for her (finally)".

and

7.4.5: Dr. Calvert stated: *"If Clara is required to return to Germany she will do so alone and in a situation where even professional supports which might be available to her will have been sourced through processes she does not trust (i.e associated with her father). This will likely add to her sense of fear and further embed her existing trauma".*

Dr. Calvert stated that Clara will have no meaningful support in the Federal Republic of Germany. In **BOD page 1458** was expressed:

"If support would be necessary Clara's father has a wide network which can support Clara and her father:

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Neurologist, Psychiatrist, Medical Psychotherapist
Address:
Städtische Kliniken Mönchengladbach GmbH
Elisabeth-Krankenhaus Rheydt
Hubertusstraße 100
41239 Mönchengladbach
Germany
Phone: 0049-2166 394-2311
E-Mail: thomas.jaeger@sk-mg.de
Internet:
www.sk-mg.de

Dr. Bernd Dahmen, Paediatrist (former paediatrist from Clara Larissa Schmidt and neighbor)
Address: Botzelaerstraße 10, 4199 Mönchengladbach, Germany
Phone: 0049-2166-602842

Prof. Dr. Karl Josef Kluge (University of Cologne, former Managing Director of Child and Adolescent Psychiatry of LVR Viersen, Johannisstraße 70, 41749 Viersen, Germany ; author expert report for Clara Larissa Schmidt dated 29.05.2013)
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E-Mail: kluge@euroges.de
Internet:
https://de.wikipedia.org/wiki/Karl-Josef_Kluge

<https://www.hf.uni-koeln.de/35260>

<http://www.karlkluge.de/>

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<https://www.zpid.de/psychauthors/index.php?wahl=forschung&uwahl=psychauthors&uuwahl=p00271KW>

https://www.zpid.de/psychauthors/index.php?wahl=forschung&uwahl=psychauthors&uuwahl=p00271KW_pub

Sabine Nießen, Diplom Sozial-Pädagogin (Youth Welfare Services; she knows Clara since 2009)

Address:

Evangelische Stiftung Hepetha

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Internet:

<https://www.hephata-mg.de/>

Dr. Calvert did not discuss the situation of Clara if Clara will be returned together with her mother.

7.5 What, if any, would be the psychological impact on the child of an order for a return to Germany

29. 7.4.5: Dr. Calvert stated: *"If Clara is returned to Germany (and her father's care) she will likely lose her primary attachment relationship and her two other significant relationships, one of which is a sibling relationship. Sibling relationships are often the longest continuous relationships humans experience and they are known to be, in many cases, a sustaining aspect of human wellbeing".*

The argument of "primary attachment" did not correspond with the consensual knowledge of human sciences 2019 and is misleading. This is explained in detail in number 23.

Dr. Calvert did not discuss the situation of a return of Clara with her mother to the Federal Republic of Germany.

30. 7.5.5: Dr. Calvert stated: *"The most analogous data available in respect to long term outcomes for children in a situation such as might occur (and indeed has already occurred) for Clara is that which relates to children alienated from a parent or abducted by a parent. The severing of relationships by either process is known to have long term adverse outcomes for children (See Footnote 46) "*.

Dr. Calvert described the current situation of Clara that she is in a process of being alienated of her father.

An alienated child is defined as one who expresses, freely and persistently, unreasonable negative feelings and beliefs (such as anger, hatred, rejection, and/or fear) toward a parent that are significantly disproportionate to the child's experience with that parent. *"Alienation describes the child's experience of parent A's negative emotions, words, and behaviors regarding parent B, such that the child resists or rejects contact with parent B without objective cause"* (Garber, 2014, p. 26; see also Kelly & Johnston, 2001, p. 251).

In the literature cited by the report writer can be found: *"Cases of alienation in which the child's relationship with a parent has been damaged or otherwise undermined by input from the alienating parent, and in which there are no elements of estrangement or enmeshment, typically involve a rejected parent who is a psychologically healthy, at least adequate parent who has enjoyed at least a reasonably good, and sometimes very good relationship with the child prior to separation"* (Friedlander & Walters, 2010, p. 101); and *"Specifically, I use the word 'alienation' to describe the convergence of relationship dynamics which together cause an individual to express unjustifiable and disproportionately negative reactions to a targeted individual"* (Garber, 2011, p. 322); and Stahl (2004) gave recommendations for the evaluation of alienation:

"At a minimum, however, it's important to focus on the following potential components:

- *The attitude, beliefs, and behaviors of the aligned parent;*
- *The attitude, beliefs, and behaviors of the rejected parent;*

- *The overall functioning of the child, including his/her temperament and psychological, emotional, and academic functioning. Consideration of the child's peer relationships, extracurricular interests and activities, support systems is also important.*
- *The history of the family relationships. This needs to include an assessment of marital conflict, domestic violence, and abuse. Also to be evaluated is the history of the child's attachment and relationship with each parent and the extent to which each parent has legitimately supported the relationship with the other parent.*
- *The level of parental cooperation or conflict and the extent to which the child is exposed to and brought into the middle of the conflict"* (Stahl, 2004, p. 24).

Stahl (2004) gives also the following recommendations to overcome alienation pressure:

"Thus, rather than arbitrarily changing custody from one parent to the other, I believe that a range of potential options exist. This range of options includes:

- *A change of custody to the other parent;*
- *Joint physical custody with the child spending approximately equal time with each parent in a court-ordered arrangement;*
- *Continued primary custody with the alienating parent while using therapy and parent coordination to assist in supporting and improving the child's relationship with the rejected parent; and*
- *Continued primary custody with the alienated parent while encouraging the rejected parent to withdraw from the child's life until the child is older and more stable and ready to deal with the conflicts that may occur in trying to maintain both relationships"* (Stahl, 2004, p. 24).

Johnston, Roseby and Kuehnle (2009, p. 367-368) mention possible reasons for the behavior of the alienating parent: *„Aligned parents with these dynamics have experienced the separation and subsequent custody litigation as inordinately humiliating, and in defense of themselves they project the blame so that they*

now harbor intense hostility and abiding distrust of the rejected ex-partner. To varying degrees, children are perceived as extensions of themselves, sharing their views, feelings, and experiences. Many aligned parents hold honest but erroneous or exaggerated convictions that the other parent has never loved or cared about the child and is at best irrelevant and at worse a pernicious or dangerous influence on the child. In their minds their child is urgently in need of being rescued from the rejected parent".

Alienating behavior is a form of emotional abuse of a child: „Furthermore, we argue that alienating behaviour by parents is a malignant form of emotional abuse of children and needs to be corrected, whether a parent agrees or not" (Johnston & Kelly, 2004, p. 84-85; see also: Warshak, 2010, p. 54).

31. 7.5.6: Dr. Calvert stated: *"If the Court were to make an Order returning Clara to Germany it would be, for her, in my opinion replicating the likely damaging process created when her mother removed her in 2014. However, in my opinion, the psychological harm would be, now, even greater because the 'return' is to a feared and unknown parent and place without support".*

Dr. Calvert stated in number 1.10: *"No reliable data is available to determine how Clara viewed her removal from Germany in 2014".* If the psychological harm *"would be, now, even greater"* we have no basis to determine the potential harm.

It is not correct that Clara would be returned to *"feared and unknown parent and place without support"*.

Clara's objection about her father is manipulated:

- the objective of Clara was influenced in Germany in 2013 and 2014 (**BOD page 265-286, 268, BOD page 922-925, 923, BOD page 927-930, 928, BOD page 1772**), so that the findings of Sue Lightfoot 4 years after the criminal act and of Dr. Calvert 6 years after the criminal act were results of the influencing behaviour of Clara's mother,

- Clara was told by her mother, by the lawyer of the child and by the expert report writer Ms Sue Lightfoot in 2017 that Clara's mother will not return with Clara to Germany (**BOD page 745 and 749**),
- that her view was manipulated in New Zealand and that Clara's mother put Clara's father in front of Clara in a bad mood in 2017 (**BOD page 1779-1789 and BOD page 1783-1789**),
- that Clara searched for her father in New Zealand (**BOD 1775-1778**),
- that Clara despite the findings of Dr. Calvert has had no problems on 28.09.2017 with her father (**BOC page 1791-1794**).

This needs to be changed and corrected.

It is not correct to say that the custody of Clara's father is a "*place without support*". In number 28. the persons which could support are listed.

Dr. Calvert ignored the findings of the German Courts that Clara's father has good emotional supporting behaviour.

Prof. Dr. Spangler states 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 73 expert report from Prof. Dr. Gottfried Spangler, 04.02.2016, **BOD page 265-286, 270**).

32. 7.5.7: 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 interparental conflict. Those events are the event on 2013 in Germany and the event in 2017 in New Zealand"*.

and

7.5.8: Dr. Calvert stated: *"I have screened Clara for both childhood anxiety and Post Traumatic Stress Disorder as a result of my clinical view of her presentation during my first interview with her. I did so because I was concerned at the direct evidence of Post-Traumatic Stress Disorder symptoms which developed when seeking to ask her normal assessment questions in a situation such as this. That is, in my professional expert opinion, I considered (having seen and assessed Clara) that she had developed (for whatever reason, both those she identified and those others may consider relevant) a clinical condition which made her a particularly vulnerable child".*

The criminal act against Clara's father on 20.09.2013 in the presence of Clara was conducted by Clara's stepfather and her mother and not by her father. The day with Clara 28.09.2017 was described in number 25.

The key problem of Clara was described in the report of Prof. Dr. Gottfried Spangler in this report: *"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, BOD page 265-286, 268).*

In addition to that Dr. Calvert did not evaluate the following issues concerning Clara:

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 searches 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”.

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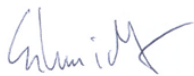
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Dated at Mönchengladbach, Federal Republic of Germany 15.07.2019



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