

Clara and her father 28.09.2017

I. Pictures and videos of Clara and her father

1. The pictures and videos of 28.09.2017 of Clara and her father can give an impression of the welfare of Clara during that day. The following pictures are structured in **explaining and discussion of options, exploring of environment, re-establishing of relationship**:

1.1 Explaining and discussion of options





Clara and her father

1.2 Exploring environment



1.3 Re-establishing of relationship



2. Sample videos of the 28.09.2017:

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

3. The complete day was recorded.

4. After 4 years without any contact this first day of re-establishing the relationship between Clara and her father was only one step of many which needs to be taken in the future.

II. Activities of Clara and her father 28.09.2017

1. The following arguments are structured in **situation, relationship, facts, discussion of options** and **Clara's wishes**:

1.1 *Situation*

- Since March 2017 no contact between Clara and her father has been ordered and arranged by the lawyer of the child or the Judge in New Zealand.
- It was asked three times to arrange contact between Clara and her father in New Zealand (Michael Roots to Alex Ashmore 14.03.2017, Michael Roots to Alex Ashmore 09.05.2017, Lynda Kearns to Alex Ashmore 29.05.2017).
- 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 one lawyer was: *"I indicated to him that it appeared from the information that he had provided under New Zealand Law as long as the children's mother did not have an Order in her favour, that he had as much right to the care of the child as she did"* (Murray Earl, Hamilton, 28.08.2017). The Police filed the question under the file number 161026/8310.

- Due to the fact that the Family Court never made an access arrangement during the Hague proceeding there was no alternative to stop further alienation in New Zealand.
- Furthermore it was necessary to inform Clara about a true and fact-based framework for her future. This has been missed up to now. The lawyer of the child, the expert report writer did not tell the child the truth about her future and about well-known facts. The Court did not correct this mistake.
- The final decision of Immigration New Zealand on the Deportation Liability Note dated 31.07.2017 regarding Section 157 Immigration Act 2009 and the appeal before the Immigration Protection Tribunal, which is based on humanitarian grounds regarding Section 206 Immigration Act 2009 are new facts which have an implication on Clara's future. A further residence in New Zealand would not be allowed. Clara will have to leave the country.
- The actual activities of the German Authorities regarding the extradition of Clara's mother and the extradition of Clara to Germany are also relevant. In this case Clara would see that her primary care taker would be arrested by the police in New Zealand. This is a question of time because the Federal Republic of Germany and New Zealand have no extradition contract, so that the Ministries of Foreign Affairs need to be involved (see also "Review of the Extradition Act and Mutual Assistance in Criminal Matters Act", 2014).
- The investigations of the Commissioner of Police regarding abduction of, and conspiracy to abduct, a young person under 16, Section 210 (1) and Section 310 of the Crimes Act 1961 started in Mai 2017 and will be still finalized yet. Both Clara's mother and Clara's stepfather are under investigation. The result has also impact on the Deportation Liability Note regarding Section 154 Immigration Act 2009. Clara's mother and her stepfather must leave New Zealand.
- These facts will have to be explained to Clara in a child-related way so that Clara has time to prepare and would be able to express her wishes regarding this new situation.

- The consequences of all these facts have never been considered by the Court but they are reality and have impact on the future of Clara.
- Clara's father has not only sole custody for her in the documents, he is also available in critical and difficult situations. The responsibility for a child and the right of custody is a duty.

1.2 **Relationship**

- 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 (Universität Erlangen) dated 04.02.2016 and the expert report of Dr. Marianne Schwabe-Höllein, dated 31.01.2013 this outcome was also expected (Universität Regensburg).
- 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.
- Clara and her father shared the following activities based on Clara's wishes:
 - Clara wanted to go to Butterfly Creek in Auckland.
 - Clara wanted to go to a swimming pool in Auckland to show her father how she can swim (could not be realized).
 - Clara showed and explained to her father the nature and taught him how to eat flowers.
 - Clara explored the environment with her father.
 - Clara showed her father how fast she can run in a running competition with her father (nobody could win).

- Clara compared similarities in appearance between herself and her father: similar feet, knees, fingers.
- Clara mentioned similarities in activities between herself and her father: Clara's 2nd place in running at school last week of September 2017 and Dad's marathon in New York.
- Clara compared similarities of herself, her mother and her father: slim figure, tall. Clara also wanted to discuss the competence of both parents. Clara's father explained to Clara that mother and father have different abilities and that this is an advantage for her.
- Clara explained her father that her father taught her breaststroke and that in New Zealand children start with crawl. So she has now competence in two disciplines.
- Clara wanted to find out the code of the mobile phone of her father and asked if it is her birth day
- Clara asked her father if he found his first name acceptable. Her father told her that his name is fine. Directly Clara explained that her first name Clara was chosen by Mom and Dad and her second first name Larissa was chosen by her Dad and that this name has a relationship to a well-known book. Clara's father explained that Larissa comes from Boris Pasternak's Dr. Schiwago.
- Clara and her father told stories about Moms and Dad's common past activities: vacations, activities in our private park, cooking, swimming in Ghana.
- Clara and her father compared nature in New Zealand and nature in Germany especially in the private park in Mönchengladbach, Germany.
- Clara's father told Clara about his projects with schools in Germany and Clara directly told him about similar activities in her school.
- Clara and her father discussed the differences in food between New Zealand and Germany. Clara told her father that her mother for that reason baked bread and that flour for Clara has been ordered.

- Clara taught her father not to spit and gave him a hit on his butt for every spit he made.
- Clara mentioned that she is good at school especially at mathematics and that her grandpa Jochen Schmidt was a teacher in mathematics and sports. Clara and her father found out that all grandparents of Clara were teacher at High School.
- Clara was happy to receive new sport dresses and shoes which fit her. She asked if she could change her clothes immediately and her father agreed. Clara took most of the new clothes home.
- Clara wanted to go for a pizza. So friends (a former trainer of New Zealand judo national team and his wife, a former Olympic athlete of New Zealand's national team) drove Clara and her father to a pizza place. Clara and her father shared the food. Afterwards Clara and her father walked a long way back, sometimes walking hand in hand.
- Clara also missed her mother during that day. For that reason we bought a magnetic mom-sticker and watched pictures and videos of Mom and Dad on the computer.

1.3 **Facts**

- Clara did not know that her stepfather run over her daddy with a car in September 2013 and that her father was in hospital. She thought her daddy had done something wrong.
- Clara did not know that she will have to leave New Zealand because of the Deportation Liability Note.
- Clara wants to stay in New Zealand.
- Clara was told that her father causes trouble to her life and wants to disturb her life in New Zealand.
- Clara adopts the negative argumentation of her mother and of her stepfather regarding her father – she showed strong coalition pressure to

her mother and this caused loyalty conflicts which she wanted to avoid with several reactions.

- Clara told she is doing no sports and she is in no club. She stays at school and at home.
- Clara wants to go to Paris again – but her mother cannot take her to Europe because of the European and Schengen arrest warrant.

1.4 ***Discussion of options***

- After discussion Clara was aware of the new situation. She argued: I understand that all – but I do not want that and I do not want to hear that”.
- Clara was offered to come to Germany if she has to leave New Zealand and if she has to go to an unknown third country. Clara agreed to come to Germany if her mother also came to Germany.
- Clara also argued that Mom cannot come to Germany because she would be arrested. Clara was explained that there is a chance to come back voluntarily so that the Court will consider its decision.
- Clara was offered that her mother and her father could take care of her in Germany in joint custody. Clara agreed to that.
- Clara would be happy if she also had her family back: grandparents, uncle, aunt, great grandmother.
- Clara also understood and mentioned that her stepfather could not take care in New Zealand of his 8-year-old daughter Emma, who lives in Germany. This relationship has also been disturbed since 2014.

1.5 ***Wishes of Clara***

- Clara agreed to come to Germany if she has to leave New Zealand and if her mother came to Germany.
- Clara does not want to go to a third country and start again (over 14 residences up to now).
- Clara's argumentation strategy is dominated by a coalition pressure. This is a mental form of child abuse und must be stopped immediately. This could cause developmental risks, which are all described in the expert report from Prof. Dr. Gottfried Spangler 2016 and in the decisions of the German Courts.



Axel Schmidt

28. September 2017