

XXXX

Committee on the Rights of the Child (CRC)  
Office of the United Nations High  
Commissioner for Human Rights (OHCHR)  
CH-1211 Geneva 10  
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Date: 2018-11-01

# Individual Communication to the Committee on the Rights of the Child of the United Nations

## ON THE ADOPTION OF INTERIM MEASURES

for

**children**

- Complainant -

XXXX,

XXXX,

XXXX,

XXXX,

all resident in

XXXX,

and

XXXX,

Germany,

represented by

Father XXXX,

XXXX,

Germany,

versus

**Federal Republic of Germany**

- Respondent -

Federal Ministry for  
Justice and Consumer Protection

Federal Ministry for  
Families, Seniors, Women and Youth

represented by  
Chancellor Dr. Angela Merkel,  
Willy-Brandt-Straße 1, DE-10557 Berlin,  
Germany,

represented by  
Federal Minister Katarina Barley,  
Mohrenstrasse 37, DE-10117 Berlin, Germany  
Germany,

represented by  
Federal Minister Franziska Giffey,  
GlinkasträÙe 24, DE-10117 Berlin,  
Germany,

and

**State of Baden-Wuerttemberg**

Ministry of Justice and for Europe  
Baden-Wuerttemberg

Ministry of Social Affairs and Integration  
Baden-Wuerttemberg

District Office Alb-Danube-Region

Local Court Ulm

represented by  
Prime Minister Winfried Kretschmann,  
Richard-Wagner-Str. 15, DE-70184 Stuttgart,  
Germany,

represented by  
Minister Guido Wolf,  
Schillerplatz 4, DE-70173 Stuttgart,  
Germany,

represented by  
Minister Manne Lucha,  
Else-Josenhans-StraÙe 6, DE-70173 Stuttgart,  
Germany,

represented by  
District Administrator Heiner Scheffold,  
Schillerstr. 30, DE-89077 Ulm,  
Germany,

represented by  
Director of the Local Court Josef Lehleiter,  
Zeughausgasse 14, DE-89073 Ulm,  
Germany,

by reason of

the decision of the Ulm Local Court,  
Zeughausgasse 14, DE-89073 Ulm, Germany,  
file number 1 F 1301/18, effective as of 2018-10-11,  
by judge at the local court  
XXXX

under the assurance that

the complainants are individuals;  
they're procedural children;  
they claim a current infringement;  
the infringement is asserted in the name of their biological father;  
there are violations of the United Nations Convention on the Rights of the Child;  
the complaint is not anonymous;  
the complaint is made in writing;  
the complaint is not abusive;  
the same matter has not been examined by the Committee nor has it been or is being examined  
under another procedure of international investigation or settlement;  
unreasonable delays and possible irreparable damage in complying with the  
domestic legal process are to be feared;  
there is no obvious unfoundedness or lack of substantiation  
and also no facts to be assessed retroactively;  
the facts that are the subject of the communication occurred after the entry into force of the  
present Protocol for the State party concerned  
(see in detail under "Admissibility").

## I. Requests

Pursuant to Article 6 of the Third Optional Protocol to the Convention on the Rights of the Child (CRC) of the United Nations (UN), the Committee on the Rights of the Child (CRC Committee) of the UN is requested to call upon the Federal Republic of Germany (FRG) to take such interim measures as may be necessary in exceptional circumstances to prevent acts which may result in irreparable damage to the complainants as victims of alleged violations of the Convention on the Rights of the Child (CRC) of the UN by the decision of the Local Court Ulm.

## I. Object of the Complaint

Germany has ratified the CRC, including the Third Optional Protocol. Germany has thus undertaken to respect the agreements of the State Treaty of the CRC and to give assurances to its citizens.

The subject-matter of this individual complaint concerns violations by the state authorities of the Federal Republic of Germany in respect to the state obligations arising from the State Treaty of the CRC. These violations by the state authorities of the FRG violate the children's rights of the above-mentioned complainants to an appalling extent as follows:

- A. **According to the court, education about children's rights endangers the welfare of a child:** The Local Court Ulm has apparently prevented the children from informing themselves about their children's rights with the help of their father within the context of the divorce of their parents by means of an unnecessary accompanied contact:

"The court currently sees unaccompanied contact on the basis of the children's father's statement that he will continue to discuss shared parenting with his children in the case of unaccompanied contact with them and will actively advocate shared parenting - also through his internet Website - unaccompanied contact on the basis of the psychological burdens on the children as not compatible with the welfare of the child [...]" (Appendix 3, page 10).

- B. **Children's will is ignored and suppressed by the court:** The children's right to have their will taken into account and to spend the same amount of time with both parents after their divorce was insufficiently investigated and used against them by the Ulm Local Court:

"They [i.e. the children] want to see their father regularly and sometimes more

often [...]" (Appendix 4, page 9)

- C. **The court punishes the exercise of children's rights by the children:** The Local Court of Ulm apparently punished the children for informing themselves about their children's rights and exercising them. The Court has ordered surveillance by third parties and the extreme shortening of the time shared with her father.

"Finally, the children are considerably burdened by the constant confrontation with the parental conflict issue of shared parenting. [...] The order of accompanied contact [...] is necessary to safeguard the best interests of the child." (Annex 4, page 10).

- D. **Quality deficiencies at the Youth Welfare Office prevent contact with the father:** Due to obvious qualitative deficiencies both at the Youth Welfare Office and at the service provider obviously illegally selected by the Youth Welfare Office, the accompanied contact did not take place (Appendix 10). As things stand at present, the four children will not see their father for an unforeseeable period of time.

### III. Facts of the Case

The biological parents of the four children,

- XXXX, Germany
- XXXX

were married when the four children were born. The parents have been legally divorced since 2018-09-01.

The children would like to continue to be looked after by both parents, namely within the realm of "shared parenting". This means an equal and flexible care of the joint children after the separation of the parents. This includes the principle of shared residence, as defined by the Parliament of the Council of Europe in Resolution 2079, with the additional component that the children can spontaneously and flexibly stay overnight with the parent which they would not actually be with according to the alternating care at that time.

Both parents are very suitable and ready to look after the children. The parents still live close together. Further care of the children by both parents is still very easily possible according to the wishes of the children. There are no educational, family or other concerns against any of the parents.

In March 2017, shortly after the end of the separation year, the father applied to the local court in Ulm for the children to be taken care of within the framework of shared parenting. In March 2018, the father reached an agreement with the mother on a contact agreement approved by the Ulm Local Court, which provides for the mother to provide the main care, because the father did not see a fair chance of enforcing shared parenting in court.

The agreement guaranteed contact of the children with the father every second weekend from Friday at 11:45 am to Sunday evening at 6:30 pm and every week one afternoon from 11:45 am to 6:30 pm and half of the school holidays.

Since April 2018, all four children have expressed orally and in writing their wish to spend the same amount of time with both parents.

At the beginning of July 2018, the eldest daughter wrote a letter to the mother (Appendix 1) on her own initiative, asking her to say "simply yes" to shared parenting. On 2018-09-02, the eldest daughter wrote a letter to the mother again on her own initiative on behalf of all the children (Appendix 2) and asked her to be allowed to live together with her other siblings together with their parents in shared parenting beginning at the end of the summer holidays 2018 (i.e. 2018-09-10).

On 2018-09-17 the father applied again for shared parenting at the Local Court Ulm.

On 2018-10-05, the proceedings were heard orally at Ulm Local Court. In this hearing, an official representative of the Youth Welfare Office accused the father of being convinced of the advantages of shared parenting and of respecting the wishes and interests of the children ("Obsession with the fixed idea of shared parenting", Appendix 6).

By order of 2018-10-11 (Appendix 3), the Local Court of Ulm amended the existing contact regulation to the detriment of the children and ordered only weekly accompanied contact: The children should see their father in the future only under guard of two women as well as every Tuesday beginning on 2018-10-23, for 90 minutes from 4:30 pm to 6:00 pm, ending on 2019-01-29. In fact, the meetings never took place because of up to now not cleared up quality deficiencies of the Youth Welfare Office and will probably not happen for unforeseeable time.

The Local Court of Ulm gave the following reasons for the decision:

"The court currently sees unaccompanied contact on the basis of the children's father's statement that he will continue to discuss shared parenting with his children in the case

of unaccompanied contact with them and will actively advocate shared parenting - also through his internet Website - unaccompanied contact on the basis of the psychological burdens on the children as not compatible with the welfare of the child. This is intended to ensure that the children are able to deal with the applicant [i.e. the father] as the person entitled to contact without strain and to avoid influencing the children against the parent taking care of them and to rule out any danger to the physical and psychological development of the children."

The conditions for accompanied contact are obviously not present, because these would have to be physical encroachments, or verbal attacks against the children or bad interference into the life with the mother. Talking to children at the educational level about after-divorce care models and cooperation models such as "shared residence" or "shared parenting" and associated child rights cannot be a reason for accompanied contact.

The assumption of a sustained risk to children presupposes that damage to the children would have already occurred or that significant damage can almost certainly be foreseen. In the decision, the assumed damage caused by an assumed risk to the welfare of the child is obviously not presented either qualitatively or quantitatively, let alone proven, be it by witnesses or experts, nor in the written or recorded oral statements of the counsel of the children (so-called Verfahrensbeistand) or the Youth Welfare Office. The Local Court Ulm itself writes in the decision that it "appears" to the judge as if damage were being caused and thus admits that he lacks the necessary expertise.

Due to the obvious lack of a description in the court order of exactly what endangers the children through their conversations with their father about shared parenting, the children do not know how they could prevent accompanied contact in the future without giving up their children's rights.

With its decision, the Local Court Ulm apparently punishes the complainants for the exercise of their children's rights, which they communicate to their father and who stands up for them before the court. The children are obviously compelled by the accompanied handling that they do not stand up any longer for shared parenting and no more for their child rights in the future.

By ordering the order, the Local Court violates the rights of the child and the United Nations Convention on the Rights of the Child:

- Guarding the children and the father, prevents the children from being able to inform themselves about children's rights with the help of the father, because they are currently in conflict with the mother's ideas about the after-divorce parenting model;

- Not to take into account the clear wishes expressed by the children, as is clear from the court's decision itself ("The children want above all a pacification of the relationship between the parents"). They want to see their father regularly and sometimes more often [...]);
- Radically restricting the children's contact with the father, because the father continues to be committed to equal contact with both parents as desired by the children;

The children's rights are apparently deliberately denied, ignored, withdrawn and violated by the Ulm District Court.

## **IV. Risk of Irreparable Damage**

The decision of the Local Court Ulm creates facts which cannot be easily reversed, in particular because the accompanied contact with the father ordered by the court leaves too little or no time for the children and will probably not come about at all in the foreseeable future. Since 2018-10-10, the children could not live with their father anymore.

Without rapid correction, there is a risk of the children becoming alienated from their father, which is likely to cause immediate and long-term psychological, psychosomatic and cerebral damage to the children, with transgenerational effects.

German Prof. Dr. med. Ursula Gresser comments on the psychological consequences of a restriction or interruption of contact with a parent: "Regardless of the child's age at the beginning and the duration of the loss of contact, loss of contact with biological parents leads to an increased risk of developing severe depression, anxiety disorders, panic disorders, alcohol dependence, drug abuse, drug addiction and phobias. Loss of contact with mother or father both cause increased risk of disease with different risk constellations." (quoted from: Prinz, Gresser (2015): Does breaking off contact with one's biological parents make children sick? An analysis of scientific literature, in *Neue Zeitschrift für Familienrecht*, 2015-11-06).

The neurobiological implications and effects of a contact restriction or interruption to a parent are described in science as follows.

Already a very short time of separation of the joint children from the father damages the brains of the children. At the beginning of the separation, the sympathetic nervous system is activated in the brain. It drives the children to deal with the situation. The normal behaviour is that a child screams or cries for the missing parent, or tries in some other way to bring him back.



The sympathetic nervous system wants to restore the ideal state for the children, namely that the father is available again, as a source of security and regulation of the emotional balance. If the children are still denied access or contact with the father, the brain of a child is flooded with the stress hormone cortisol, which brings the children into fight or flight mode.

A long-lasting high level of cortisol in the brain is extremely harmful for all four children because it destroys brain cells. Cells in the hippocampus die where memories are stored. The electrical activity in the brain is reduced if the separation from the father that has existed since 2018-09-10 continues. Also affected is the Amygdala, the centre for fight or flight response. The amygdala is overactive if contact with one of the parents is broken off. This affects the children's ability to realistically assess risks and make good decisions.

The loss of the father, even if only for a short time, not only affects the cerebral structures of the brain, it also has a long-term effect on the health of the children and can lead to an earlier death. Subsequent generations can also be harmed by the genetic transmission of the trauma of parental loss.

The attachment to both parents is essential for the long-term mental and physical health of the children. Based on a strong bond, children develop their ability to explore the world, act autonomously, be curious, and negotiate confidently with others. Therefore, the most important determinant for the healthy development of the child is the time it spends with its two parents.

These connections are described in the scientific publications of Prof. Dr. Gerald Hüther (neurobiologist, University of Göttingen, Germany), Prof. Karlen Lyons-Ruth (psychologist at Harvard Medical School, USA), Dr. Robin Deutsch (psychologist, Director of the Center of Excellence for Children, Williams James College, USA) and Prof. Habib Davanloo (psychiatrist, McGill University, Canada) on trauma therapy.

These scientific findings of psychology, neurobiology and epigenetics are scientifically recognized. In the new ICD-11 catalogue, such damage will be listed as a mental illness and risk to children as part of the diagnosis of Parental Alienation Syndrome (PAS). The possible consequences of the actions of the Local Court Ulm could already be determined today with the diagnostic criterion V995.51 Child Psychological Abuse, Confirmed (pathogenic parenting) of the DSM-5.

The dangers described apply to the decisions of the Ulm Local Court that have been made to date, which are likely to expose the complainants unnecessarily and directly to irreparable damage. These can have immediate psychological, psychosomatic, cerebral and transgenerational effects.

## **V. Violations by the Local Court Ulm of the Convention on the Rights of the Child**

The violation of the following children's rights of the complainants as a result of the decision of the Ulm Local Court is alleged.

### **1. Violations of the Preamble of the CRC**

#### **1.1. Relevant Wording**

"Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,"

"Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,"

#### **1.2. Illegality**

Basically, the District Court of Ulm accuses the father of preparing his children for an "individual life in society" according to the preamble of the CRC "in the spirit of the ideals proclaimed in the Charter of the United Nations": At the children's request, he talks to them about their wishes and interests, e.g. shared parenting, because they would like to spend the same amount of time with both parents. Shared parenting deeply relates to the ideals of the United Nations Charter:

- It follows the ideal of equality between father and mother and
- shows the children what tolerance between separated parents looks like.
- Parents who support shared parenting with their children behave in solidarity with them, and
- by perceiving the need of the children for both parents, they teach them dignity as self-respect and
- allow them freedom of expression.
- All of which aims at a peaceful balance and a harmonious post-separation family.

By classifying the children's discussions with the father about shared parenting as damage to the children, the Local Court Ulm not only violates the CRC, but also the ideals of the United

Nations Charter. Instead of ordering the parenting model that corresponds to the ideals of the United Nations Charter, it considers this idea of living together after marriage as a danger to children.

To what extent talking about shared parenting should be harmful, while the actual life of the children in the single residence model (i.e. spending most of their time with their mother) should instead be good for their well-being, although this does not correspond to their desire, is not being explained by the Local Court Ulm.

The decision of the Local Court sends a fatal signal to the children: If you are committed to yourselves to live with your father as well, and if your father supports you in this in court, then you lose your dignity by seeing your father even less often than before and being humiliated by the supervision of two persons during contact.

In addition, the Local Court Ulm seems to have forgotten: Even after the separation and divorce of the parents, the family continues to exist for the children, albeit in a different form. The CRC assures that children shall keep their parents as a resource so that they can fully and harmoniously develop their personality in accordance with their rights.

The Local Court Ulm has almost completely deprived the complainants of their father as a parental resource for no understandable reason. Instead, the court should have protected the father and ensured him having contact with his children, in particular because he informed his children about their children's rights in accordance with the ideals of the United Nations Charter within the framework of the talks on shared parenting and he will continue to inform them about their rights as well as the ideals.

The Local Court Ulm deprives the children of the opportunity to have their parents explain various parenting models to them. Instead, the Court restricts the free time of the children with their father. This deprives the children of the opportunity to fully develop their personality with the help of both of their parents.

The father is not a danger to the children, as the Local Court Ulm claims. To the contrary, he shows understanding for their wishes to spend the same amount of time with both parents. By championing their desires, interests and rights, he is championing their happiness, which is an act of love.

The Local Court of Ulm neglects the current or contemporary "subject position of children" and obviously falls back into an outdated or, since the introduction of the Convention on the Rights of the Child, obsolete "object position of children", which ruthlessly ignores the children's rights,

interests and wishes.

## **2. Violations of Article 12 CRC**

### **2.1. Relevant Wording**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

### **2.2 Illegality**

In the present case, the children should have been properly heard. The children's views on the following question would have come into question: What are the children's views and wishes regarding parenting and contact with their parents?

Four variants would have been available for clarification:

- A. Equal care by both parents (shared parenting).
- B. Care by mainly one parent and occasional care by the other, e.g. only every second weekend (single residence model).
- C. Limitation of contact with parents and possible supervision of these contacts of the children to one parent by one or more third persons (accompanied contact).
- D. Complete exclusion of contact to parents (contact exclusion).

The Local Court of Ulm conducted the hearings of the children incompletely or incorrectly (Appendix 4). Although all four of the above-mentioned variants would have come into question, it did not discuss all of these four variants with the children and did not take the children's views into account.

The Ulm Local Court has only allegedly discussed the wishes of the children on A) with the children, although the questions are not apparent from the hearing records (Appendix 4). The children have repeatedly and very clearly expressed their wishes according to A). However, the

Local Court Ulm ignored these wishes of the children and did not comply with them.

The Local Court of Ulm did not discuss the variants B), C), D) with the children at all, i.e. it did not determine the children's wishes for these variants. Accordingly, the District Court of Ulm did not take into account the views of the children on B), C), D) and, due to the aforementioned errors of the District Court of Ulm, could not take them into account.

Contrary to these errors, omissions and infringements of Article 12 CRC, which are obviously present at the Ulm Local Court, the Ulm Local Court even made an absurd decision in the direction of C) in an incomprehensible manner. This decision was completely contrary to the wishes expressed by the children to date. The children would of course reject variant C), since they would like to have free access to their father.

At the moment it can even be assumed that the Local Court Ulm deliberately did not ask for variant C) in order not to have to consider the very clear wishes, interests and rights of the children.

Since the ordered accompanied contact is in no way related to the factual situation, it must be assumed that the Ulm District Court is trying to suppress the will of the children and the father and is abusing its judicial position of power against them in order to prevent the children from being strengthened in their quest for shared parenting through their exchange of views with the father.

Contrary to the prohibition of discrimination in Article 2 of the CRC, the Local Court of Ulm did not consider the opinion of the children individually. Linguistic tricks such as "The children have not spoken out in favour of shared parenting in their judicial hearing" are used to suggest that all children are against shared parenting - whereas, for example, the youngest daughter simply made no comment at all on it in the judicial hearing (Appendix 4).

The Local Court Ulm also ignores the very clear and unambiguous expert advice of the psychologist and child and adolescent psychotherapist XXXX from the KJP XXXX, i.e. the Clinic for Child and Adolescent Psychiatry/Psychotherapy at the University Hospital XXXX (Medical Director Prof. Dr. XXXX). The KJP XXXX has already established at a very early stage and pointed out emphatically that a shared parenting is desired here and damages are to be expected if these wishes are ignored (Annex 11).

Instead of objectively determining these clear wishes, interests and opinions of the children, the District Court of Ulm accuses the father of negatively influencing the children, even though he has stated to the Court in writing and objectively that this is the uninfluenced will of the

children. The Local Court Ulm has obviously not yet put forward any conclusive arguments to the contrary.

### **3. Violations of Article 18 CRC**

#### **3.1. Relevant Wording**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

#### **3. Illegality**

This article, in conjunction with Article 2 CRC, states that children have the non-discriminatory right to be cared for by both parents in broken homes. As a ratifying state in accordance with Article 18, the FRG is obliged to do everything in its power to ensure that this care guaranteed by the CRC can be provided by both parents.

Apparently, the Local Court in Ulm has not ensured that both parents are jointly responsible for the upbringing and development of the children. On the contrary, it has probably made it more difficult to find an amicable joint solution.

In the present case it is obvious that the Local Court Ulm violated Article 18 CRC and the wishes, interests and rights of the children and that the Local Court Ulm either completely ignored Art 18 CRC or even deliberately disregarded it. Herewith, the Local Court Ulm offends against the state obligations assured by the CRC.

In particular, breaches of duty on the part of the FRG can be established here, since these negligent or reckless failures of the Ulm Local Court also violate other articles of the CRC which oblige the contracting states to take measures in accordance with the CRC (e.g. Article 4 CRC).

### **4. Violations of Article 19 CRC**

#### **4.1. Relevant Wording**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse,

neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

#### **4.1. Illegality**

The Ulm Local Court is aware that at least one of the children was beaten in the mother's environment according to the child's own statement (Appendix 12 and Appendix 13) in order to suppress or prevent this child's wishes for shared parenting in the future. As can be seen from the court files, the Ulm District Court ignored this physical abuse of children and did not clarify it.

The Local Court Ulm also ignored the fact that the exemplary father clearly positions himself for the protection of children and can, of course, ensure the non-violent upbringing of his children in a completely reliable manner.

The Local Court Ulm, on the other hand, abuses the children's staged "shared parenting emergency situation" in the proceedings as an argument against the children. The children's statements that they would like the situation to calm down are interpreted unilaterally and probably abusively by the Local Court Ulm in such a way that the father should stop talking to the children about shared parenting.

The children obviously do not say this at any point of the judicial hearing (Appendix 4). The obviously untruthful interpretation of the Local Court Ulm, takes the Local Court Ulm to the cause for the arrangement of the accompanied contact - thus intensifying the real emergency situation of the children missing their father. What the children do not need is a court order, which obviously continues to burden them emotionally through an act of public authority and arbitrariness.

Instead of ordering free access of the children to both parents without delay, as requested by the father of the children, because the mother boycotted the contacts with the father since 2018-09-10, the Local Court apparently ordered accompanied contact without a comprehensible basis.

The indications of the father on a psychological endangerment of the children and a possible alienation from the loving and responsible father, by the arbitrary boycott of contact operated by the mother, were obviously ignored by the Local Court Ulm in the decision.

## **5. Violations of Article 2 CRC**

### **5.1. Relevant Wording**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

### **5.2. Illegality**

The complainants are likely to be discriminated against and disadvantaged as children by parents who are not separated in comparison with other children, merely because the children have an interest in post-marital parenting models because of their life situation and, according to a court order of the Local Court Ulm, have themselves been deprived of free contact to their father, because they have been informed about parenting models by him.

## **6. Violations of Article 3 CRC**

### **6.1. Relevant Wording**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

### **6.2. Illegality**

The Local Court of Ulm apparently disregards Article 3 CRC, because it does not give priority to the welfare of the child. Since the justification of the accompanied contact follows the statements of the counsel of the children (so-called Verfahrensbeistand) and the Youth Welfare Office, which in turn correspond to those of the mother, it can be assumed that the welfare of the mother, but not that of the children, was given priority.

The Local Court of Ulm apparently does not state in its decision why the children's wishes and interests as well as the children's conversations with their father about shared parenting allegedly represent a danger to the children - while the mother's refusal to respond to the children's wish expressed over months should not represent a danger. This shows once again that it is probably the local court that places the welfare of the mother above the welfare of the



children.

The rights and duties of the children were apparently violated by the Local Court Ulm, because the father was probably sanctioned with accompanied contact on the basis that he acted to ensure the protection and care of his children and to discuss the parenting model desired by them, also with the mother and to apply for it if necessary before court.

The children are not being supported by the Local Court Ulm, but recognize that by articulating their wishes they do not experience self-efficacy. Instead, family court in Ulm has determined a alienating policy which defies their wishes and ignores the priority of their wishes, interests and rights and obviously ignores the priority of the children's welfare.

## **7. Violations of Article 4 CRC**

### **7.1. Relevant Wording**

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

### **7.2. Illegality**

The Local Court Ulm obviously disregarded all relevant indications as well as statements of the children (among other things in the judicial hearing (appendix 4)), from which their wishes and interests emerge. Instead, it relied on the unfounded and unproven allegations of the counsel of the children (so-called Verfahrensbeistand) and the Youth Welfare Office regarding assumed damage to the children in the event that the father would continue to talk to the children about shared parenting. The Local Court Ulm shows a thoughtless and unfounded behavior. Thus, the Local Court Ulm counteracts Article 4 of the CRC, which calls upon all contracting states to take all appropriate measures to implement the CRC.

## **8. Violations of Article 5 CRC**

### **8.1. Relevant Wording**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

## **8.2. Illegality**

According to Article 5 CRC, it is not the Local Court Ulm that is responsible for the upbringing of the children, but the parents. The Ulm Local Court apparently constructs an unproven risk to the welfare of the child on the basis of a father's view of human rights (known as "shared parenting"), because it is allegedly contrary to the mother's view. In this way, the Local Court Ulm intervenes probably partisanly in the father's right of education and despises the tasks, rights and duties of the father as a parent.

With its decision, the Local Court Ulm obviously prevents the father from adequately leading and supporting his children in accordance with the CRC in a manner corresponding to their development as far as the desired parenting model called "shared parenting" is concerned.

## **9. Violations of Article 9 CRC**

### **9.1. Relevant Wording**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

### **9.2. Illegality**

The personal contact of the children with their father was clearly and substantially restricted against the will of the father by the Local Court Ulm and this probably without a judicially founded decision.

## **10. Violations of Article 14 CRC**

### **10.1. Relevant Wording**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

### **10.2. Illegality**

Under the pretext of protecting children's health, the Local Court of Ulm has restricted their freedom of thought, pointing out that it is dangerous for them to share thoughts with their father that are against the mother's opinion.

The personal opinion of the children on the subject of "parenting models after divorce" is sanctioned by the decision in contrast to the opinion of the mother, while the probable real danger from the mother's resistance remains without judicial consequences.

The court decision is probably biased: the well-being of the children is abused as a pretext to prevent the father from showing solidarity with his children and from standing up for them in court. Instead, the Local Court Ulm obviously prefers an outdated or outdated parenting model for children, which is not comprehensible.

Likewise, the Local Court will probably take action against the children's request to spend more time with the father, because it does not correspond to the judicially preferred parenting model, i.e. the court's ideological view of the post-divorce family.

The conscience of the father as a parent with a duty of care is, so to speak, forced by the Local Court Ulm into the accompanied contact, because it is apparently perceived by the court as a danger, unfoundedly. Thereby, the Local Court Ulm subtly tells the children, that they are not allowed to follow their conscience and are not allowed to support equal rights and their wishes.

## **11. Violations of Article 16 CRC**

### **11.1. Relevant Wording**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

### **11.2. Illegality**

The children are no longer allowed to use their father's apartment to spend time with him in familiar surroundings. Instead, they are asked to come and placed under surveillance. Moreover, confidentiality between the children and the father is no longer ensured by the presence of two supervisors in the context of the accompanied contact.

The children were probably subjected to an illegal and arbitrary judicial intervention in their private lives, their family and their home with their father. With his application for shared parenting, the father, in the name of the children, requested legal protection for their family life, which, on the contrary, the Local Court Ulm took as a reason to damage the family life of the children.

## **12. Violations of Article 28 CRC**

### **12.1. Relevant Wording**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity [...]

### **12.2. Illegality**

With the help of the father, the children were informed about shared parenting and their children's rights during their joint talks. The Ulm District Court apparently ignores the "children's right to education".

## **13. Violations of Article 39 CRC**

### **13.1. Relevant wording**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

### **13.2. Illegality**

Instead of enabling the children's psychological recovery and their social reintegration with their father after they had been kept away from their father by their mother for four weeks against their and the father's will, the Ulm District Court apparently decided the opposite: the court's decision probably even burdens the children with accompanied contact.

The Local Court Ulm was presumably obligated to work towards the consensuality of the parents in order to minimize the burden on the children. Instead, it presumably endangers the children on its part through a de facto separation from the father taken over from the mother and continued by the court, whereby the Local Court Ulm could turn the parents even more against each other.

Apparently, the local court in Ulm has aligned the accompanied contact with the mother's alienation strategy. Before the decision was made, the mother carried out a four-week boycott against the will of the children. Instead of stopping the mother from depriving her children of their father, the Local Court Ulm probably continued it de facto by its decision.

The children were most likely initially exposed to parent alienation syndrome (PAS) by the mother. Instead of preventing the possible psychological endangerment, it was apparently continued institutionally by the Local Court Ulm, by the power of the judge.

## **VI. Systematic and Structural Deficits of Youth Welfare Offices and Family Courts**

The present decision of the Ulm Local Court, as well as the lack of quality of the Youth Welfare Office, raises the question as to whether the protection of children's rights is being reliably carried out by the German state authorities? Unfortunately, they seem to be regularly ignored and violated. There are numerous well-known cases, some of them of frightening proportions. One of the most publicly known, brutal and shocking case studies in the Federal Republic of

Germany is the court scandal and Youth Welfare Office scandal or the state failure in the Staufen case, also in the state of Baden-Württemberg in the south of the Federal Republic of Germany, where the above-mentioned Local Court Ulm is located.

The systematic and structural problems of the implementation of the CRC in Germany can be seen as follows:

- Despite legal obligations, there is no quality development and quality assurance at the approximately 600 decentralised Youth Welfare Offices in the Federal Republic of Germany, or it is inadequate.
- The family courts in the Federal Republic of Germany even completely lack an obligatory quality development and assurance.
- Even after the entry into force of the Convention on the Rights of the Child, the jurisdiction of the Federal Republic of Germany in family matters is still based on court decisions which treat children mainly as objects of care and not as legal subjects.

If the Government of the FRG did not openly acknowledge in its comments these known systematic and structural problems of CRC enforcement, the Commission could be provided with very ample and very clear evidence of these apparent shortcomings.

In addition, reference is made to the already relatively numerous and clear decisions of the European Court of Human Rights against Germany in family matters:

- Procedure "Kuppinger I and II vs. BRD" (ECHR file no. 41599/09 of 2011-04-21 and ECHR file no. 62198/11 of 2015-01-15),
- Procedure "Moog vs. BRD" (ECHR file no. 23280/08 and 2334/10 of 2016-10-06),
- Procedure "Zaunegger vs. BRD" (ECHR file no. 22028/04 of 2009-12-03),
- Procedure "Görgülü vs. BRD" (ECHR file no. 74969/01 of 2004-02-26).

## **VII. Admissibility**

- A. Due to the decision of the Local Court Ulm and qualitative deficits of the local Youth Welfare Office, the state organs of the Federal Republic of Germany have not given the children any possibility to see their father neither in the context of the unnecessary accompanied contact nor at all in the unguarded contact. These are exceptional circumstances which can lead to irreparable conditions and damage (see IV. Risk of Irreparable Damage). This requires assistance as soon as possible within the meaning of Article 6 of the Third Optional Protocol. Waiting in this situation would be unreasonable.

- B. The four minor children are individuals.
- C. The infringement of rights by the decision of the Ulm Local Court took place on 2018-10-11. This is the time of the court decision coming into effect and the children are currently all under 11 years old.
- D. The violation is reported by the biological and legal father of the four children. He acts without their consent, because he has not seen them since 2018-10-11 due to the court order and quality deficits at the local Youth Welfare Office and therefore he will probably not be able to meet them unobserved or even not at all at least until the end of January 2019.
- E. The subject-matter of the complaint concerns the infringement of the CRC.
- F. The complaint is not anonymous.
- G. The complaint has been made in writing.
- H. The complaint is not abusive.
- I. This case has not been dealt with in any other international legal or arbitration proceedings.
- J. It is to be feared that there will be unreasonable delays in compliance with the national legal process:
  - a. The disputed decision of the Local Court Ulm is not contestable ("The decision is not contestable"). "Annex 3, page 12 and "[...] that procedure 1 F 1301/18 has been completed", page 1, Annex 9). This means that the appeal to the court of law is exhausted.
  - b. In order to avoid serious disadvantages and irreparable damage as far as possible, the violation of the right to a hearing by the Local Court Ulm was immediately challenged on 2018-10-16 (Annex 7).
  - c. A constitutional complaint was submitted to the Federal Constitutional Court of Germany on 2018-10-24 (Annex 8).
  - d. Experience has shown that the to the Federal Constitutional Court of Germany is unlikely to reach a decision in the near future. Whether the to the Federal Constitutional Court of Germany will accept the proceedings at all cannot be foreseen either.
  - e. An immediate individual complaint to the United Nations is therefore necessary to secure the children's rights in a timely manner.
  - f. The European Court of Human Rights (ECHR) has repeatedly reprimanded the Federal Republic of Germany for the lack of opportunities in German family law to speed up excessively long proceedings.
- K. There is no obvious unfoundedness or lack of substantiation.
- L. There are no facts to be assessed retroactively.
- M. The facts underlying this communication occurred on 2018-10-11, i.e. after the entry into force of the present Protocol for the State party concerned (i.e. the FRG).

## **VIII. Personal Concluding Remarks of the Father**

I stand up privately and publicly for equal parenthood in the form of the shared parenting model. As a result of the decision of the Local Court Ulm, our children are likely to suffer personal disadvantages as a result of judicial arbitrariness because I support the ideals of the United Nations Charter. According to the Declaration on Human Rights Defenders, the authorities of the member states of the United Nations must refrain from doing so, including the FRG.

In the hearing on October 5, 2018, the District Court of Ulm submitted a settlement proposal to me which provided for unaccompanied contact with my children from Thursday to Monday. Obviously as a reaction, because I did not accept this settlement proposal, and because, in accordance with our children's wishes, I kept committed to shared parenting and thus to the ideals of the Charter of the United Nations and the Convention on the Rights of the Child, our children and I now have accompanied contact or in fact, at the moment, no contact at all.

The care of the children by both parents - even after a divorce - is self-evident and should also be respected in Germany. Children only get into conflicts as long as there are people who act against children's rights, fundamental rights and human rights - but not by people who inform their children about them and stand up for their children and their rights.

The Local Court Ulm lost sight of the happiness of my four children the FRG seems to put the happiness of children from broken homes generally at risk.

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## IX. List of Annexes

- Annex 1: Letter of the children (beginning of July 2018) (German)  
XXXX
- Annex 2: Letter of the children (2018-09-02) (German)  
XXXX
- Annex 3: Decision 1 F 1301/18 of the District Court Ulm (2018-11-10) (German)  
XXXX
- Annex 4: Minutes of the judicial hearing of the children on 2018-10-02 in the  
case 1 F 1301/18 (2018-10-08) (German)
- Annex 5: Minutes of the court hearing on 2018-10-05 in the case 1 F 1301/18  
(2018-10-11) (German)
- Annex 6: Letter of the mother to the Local Court Ulm with quotation of the youth  
welfare office to the alleged obsession of the father (2018-10-08) (German)
- Annex 7: Notice of Hearing in Case 1 F 1301/18 (2018-10-16) (German)
- Annex 8: Constitutional complaint against the decision of the local court Ulm, file  
No. BvR 2455/18 (2018-10-24) (German)  
XXXX
- Annex 9: Order of the Local Court Ulm dated 2018-10-15 (German)
- Annex 10: Cancellation of dates for accompanied contact by the Child Protection  
League (2018-16-10) (German)
- Annex 11: Findings report KJP XXXX (2017-05-31) (German)
- Annex 12: Descriptions of physical violence by mother's family (2017-05-01) (German)
- Annex 13: Letter of father's lawyer to court about physical violence by mother's  
family  
(2017-05-02) (German)