



The Honourable
Judge _____
Judge of the Tribunal d'arrondissement de Luxembourg
Cité Judiciaire - Plateau du Saint-Esprit
L-2010 Luxembourg

March 22nd, 2019 Luxembourg

Dear Judge _____,

We are the Luxembourg Fathers from FAD - Fathers Against Discrimination a.s.b.l. and we have taken the liberty to send this letter with a wish to present you with the results of over 40 years' worth of research on 50/50 Equal Shared Parenting – Alternating Residence model.

In this correspondence you will find collection of facts, evidence and examples of empirical studies leading to scientific conclusion and consensus among internationally recognized psychologists and top specialists in the field favoring 50/50 Equal Shared Parenting - Alternating Residence as a default model during separation and after divorce.

The model assuring emotional stability and the well-being of the children, protecting them from being used by either parent as an instrument of blackmail and reducing a risk of developing Parental Alienation Syndrome (PAS), a subtle form of emotional child abuse recognized by World Health Organization. As of May 25th, 2019 included in the *International Statistical Classification of Diseases and Related Health Problems* and considered to be extremely traumatizing experience many children become victims of when not having adequate and equal access to both parents during separation and after divorce.

For a parent and child, being together is an essential part of family life. European Convention on Human Rights, UN Convention on the Rights of the Child and European Council Resolution 2079 is very clear about this. Parent-child separation has irremediable negative effects on their relationship and the up-bringing of the children. It leaves a trace and has long-term effect on kids when they are eventually adults.

Although overwhelming scientific evidence leads to the conclusion that 50/50 Equal Shared Parenting – Alternating Residence is the most beneficial for the children when experiencing



separation and divorce, the model is only considered as an option and rarely introduced.

Divorce is a dramatic life change, at the time it happens and then for the rest of the lives for those involved. Luxembourg as a society can set example for the rest of Europe and start introducing legal approach to make sure equality between parents is guaranteed and promoted from the moment the child arrives.

FAD - Fathers Against Discrimination™ a.s.b.l. has reached out to women of all ages, non-profit organizations, LGBTI, feminist groups, men, fathers and everyone who really cares for gender equality and a well-being of children asking to support 50/50 Equal Shared Parenting – Alternating Residence.

Now we are reaching to the Luxembourg Family Court asking to start introducing 50/50 Equal Shared Parenting - Alternating Residence but not as a subject of custodian parent approval but when possible a rule and a starting point for all custody hearings in Luxembourg. We are entrusting in your experience and judgment to set example to promote gender and parental equality but most importantly to protect the children, assuring their well-being and respecting their rights guaranteed under the Article 24 of the Charter of Fundamental Rights of the European Union, the right of the children to express their views freely, the right for their views to be taken into consideration on matters that concerns them and for their right to equal access to both parents.

Being a member of a chosen group of Luxembourg family judges deciding every day about children's future and their well-being as a judge you have a legal instrument in your hands to do the right thing. Article 378-1 of the Luxembourg Civil Code allows immediate introduction of 50/50 Equal Shared Parenting - Alternating Residence.

"Mir wëlle bleiwe wat mir sinn an mir kënnen e Beispill fir den Rescht vun Europa sinn." ---
"We want to remain what we are and we can be an example for the rest of Europe".

Thank you in advance for taking the time to read the below materials.

Respectfully,

Patryk P. RYBIŃSKI
FAD - Fathers Against Discrimination a.s.b.l.

Please find below cited paragraphs from renown specialists in the field of psychology followed by Annex A with an article from “Psychology Today” by Edward KRUK, Ph.D. and Annex B including the study of Richard A. WARSHAK, Ph.D.

Edward KRUK, Ph.D. – “Research demonstrated that children do better in shared care arrangements even if there is conflict between the parents, and that sustaining both relationships is a protective factor for children in high parental conflict situations. Not all conflict is bad for children. Ongoing and unresolved conflict, however, is harmful to children; in such situations, rather than depriving children of a relationship with one parent, interventions to reduce conflict and support child development, such as assisting parallel parenting, therapeutic family mediation, and parenting education programs, were found to be most protective of child well-being.”

Richard A. WARSHAK, Ph.D. p. 15-16 – “A meta-analysis reported better emotional, behavioral, and academic functioning for children in joint physical custody compared to children in sole custody, regardless of the level of conflict between parents. Rather than magnify harmful effects of parental conflict, several studies suggested that joint physical custody may protect children from some of the potential negative consequences of conflict.”

Richard A. WARSHAK, Ph.D. p. 17-18 – “A policy of automatically restricting children’s time with one of the parents when a couple is labeled as “high conflict” brings additional drawbacks and deprives children of the protective buffer of a nurturing relationship with one of their parents. This policy sends parents the message that generating or sustaining conflict can be an effective strategy to override shared custody. This discourages civil communication and cooperation, and may reduce children’s time with the parent who is less angry, who does a better job of shielding the children from conflict, and who recognizes and supports the children’s need for positive relationships with both parents. Any policy that encourages the instigation and maintenance of conflict between parents by suggesting that such behavior might be rewarded with more parenting time puts the needs of the children second to the desires of whichever parent opposes sharing parenting time. Such a policy contradicts the best-interest standard whose primary purpose is to ensure that the child’s welfare trumps parental entitlements. A policy focused on children’s best interests will decrease the risks of harm to them by discouraging rather than encouraging inter-parental conflict.”

Annex A:

“COUNTERING ARGUMENTS AGAINST SHARED PARENTING IN FAMILY LAW”

An article from “Psychology Today” - Oct. 10th, 2018 by **Edward KRUK, Ph.D.** - Associate Professor of Social Work at the University of British Columbia, specializing in child and family policy with extensive experience in the fields of welfare rights, child protection, school social work, hospital social work, and family services. Currently teaching and practicing in the areas of family mediation. An author of many books including *The Equal Parent Presumption: Social Justice in the Legal Determination of Parenting After Divorce*; *Divorced Fathers: Children's Needs and Parental Responsibilities*; *Mediation and Conflict Resolution in Social Work and the Human Services*; and *Divorce and Disengagement*. President of the International Council on Shared Parenting:

“Have we reached a tipping point in the child custody debate?”

Despite strong public support and mounting empirical evidence in its favor as an ideal living arrangement for the majority of children of divorce, shared parenting as presumption in family law has historically been met with skepticism among some legal and mental health professionals. In a recent article in the *Journal of Divorce and Remarriage*, I describe how the past 40 years have produced three distinct “waves” of arguments against shared parenting, and how these have stalled meaningful legislative reform toward the establishment of shared parenting as a legal presumption, placing the burden of proof on shared parenting proponents to defend their position and demonstrate its efficacy, in a way that supporters of more traditional sole custody arrangements have not had to face.

The first wave of arguments was advanced in a manner that considered the idea of shared parenting of children by parents in conflict after divorce as an outlandish proposition. Three distinct arguments were made to discredit the concept:

First, it was asserted that children have one primary attachment figure to whom they become bonded, almost always the mother, and that any period of separation from the primary attachment figure will damage children’s development and compromise their well-being. At the same time this argument was advanced, however, reformulations of attachment theory emphasized the fact that children typically formed primary attachments to both parents, that



these attachments were equally important for children, and that children tenaciously continue these attachments in changing circumstances, including after divorce.

A second line of argument was then put forward, stating that child development would be compromised when children move back and forth between two homes, “bounced around like a yo-yo,” with constant movement, two sets of home rules and different parenting styles. The research on children living in two homes found, however, that children themselves generally did not report such problems, and that sustaining attachments with both of their parents protected them from the adverse child development outcomes often accompanying divorce. In fact, lengthy separations from either primary attachment figure were found to be detrimental to child development.

Finally, a third argument was made that it is harmful to child development to disrupt the caregiving status quo, and that mothers should thus retain their role as the primary day-to-day caregivers of children. Research suggested otherwise, however: shared care of children was becoming the norm in two-parent families and disrupting shared parenting would in fact be more likely to lead to instability in children’s lives.

The second wave of arguments against shared parenting were presented as more concentrated and in-depth rebuttals of the concept, especially in situations where parents disagreed or were in conflict over child care arrangements after divorce. First, it was argued that shared parenting after divorce exacerbates parental conflict, and that children would be drawn into the conflict if shared care arrangements were imposed on families. Shared parenting, therefore, is only suitable for parents with little or no conflict and who get along well as co-parents. Again, research findings challenged this viewpoint: in actuality, an adversarial “winner-take-all” approach to child custody exacerbates parental conflict, leading to adverse consequences for children, whereas conflict is reduced in shared parenting arrangements where neither parent feels marginalized from his or her children’s lives.

Further, research demonstrated that children do better in shared care arrangements even if there is conflict between the parents, and that sustaining both relationships is a protective factor for children in high parental conflict situations. Not all conflict is bad for children. Ongoing and unresolved conflict, however, is harmful to children; in such situations, rather than depriving children of a relationship with one parent, interventions to reduce conflict and support child development, such as assisting parallel parenting, therapeutic family mediation, and parenting education programs, were found to be most protective of child well-being. In response, a second critique of shared parenting was then advanced within the “second



wave”: in high-conflict families, shared parenting exposes victimized parents and children to family violence and child abuse, and a legal presumption of shared parenting will allow

abusive parents to continue their reign of terror in families. This argument, however, misrepresented the position of shared parenting proponents, who made clear that a legal presumption of shared parenting should always be rebuttable in cases of violence and abuse, as in such cases the safety of children and victimized parents is the primary consideration.

The third wave of arguments against shared parenting acknowledged that shared parenting may be beneficial for most children and families of divorce, including those in high conflict, but cautioned against the use of presumptions in family law, arguing that the best interests of children are different in each individual case, and that judges should retain their decision-making authority when it comes to post-divorce living arrangements for children. In response to this viewpoint, it has been pointed out that research on post-divorce outcomes for children and families has now established which living arrangements are most likely to support healthy child development. Without a legal presumption, judges make decisions based on idiosyncratic biases, leading to inconsistency and unpredictability in their judgments. And with two adequate parents, the court really has no basis in either law or psychology for distinguishing one parent as “primary” over the other.

It may be asked, then, after 40 years of debate, whether we have now reached a tipping point, when researchers can conclude with confidence that the best interests of children are commensurate with a legal presumption of shared parenting responsibility after divorce. Summarizing the state of current research in two recent special issues on shared parenting in the *Journal of Divorce and Remarriage* and the *Journal of Child Custody*, leading divorce scholar Sanford Braver asserts, “To my mind, we’re over the hump. We’ve reached the watershed. On the basis of this evidence, social scientists can now cautiously recommend presumptive shared parenting to policymakers...shared parenting has enough evidence [that] the burden of proof should now fall to those who oppose it rather than those who promote it.”

References

Kruk, E. (2018). “Arguments Against Presumptive Shared Parenting as the Foundation of Family Law: A Critical Review,” *Journal of Divorce and Remarriage*, 59 (5), 388-400.

Annex B:

“STEMMING THE TIDE OF MISINFORMATION: INTERNATIONAL CONSENSUS ON SHARED PARENTING AND OVERNIGHTING”

Study by **Richard A. WARSHAK, Ph.D.** - Clinical and research psychologist and author. He is best known for his expertise on child custody, shared parenting, and parental alienation disputes in the context of divorce. WARSHAK has written number of books including, *The Custody Revolution*, *Divorce Poison: Protecting the Parent-Child Bond From a Vindictive Ex*, and the revised edition, *Divorce Poison: How to Protect Your Family from Bad-mouthing and Brainwashing*”: