

FAD - Fathers Against Discrimination a.s.b.l.  
"Both Parents for All Children™"  
29, Boulevard Prince Henri  
L-1724 Luxembourg  
Luxembourg

Luxembourg, 5 October 2020

Tribunal d'arrondissement de Luxembourg  
L'honorable Bâtonnier Valérie DUPONG  
Cité judiciaire - Bâtiments TL, CO, JT  
L-2080 Luxembourg  
Luxembourg

Dear Ms. DUPONG,

My name is Patryk P. RYBIŃSKI and I am the President of FAD – Fathers Against Discrimination a.s.b.l. "Both Parents for All Children™", a non-profit association based in Luxembourg.

First, we would like send our congratulations with regards to your long awaited appointment for the position of Luxembourg Bâtonnier.

Our organization has been created to become a platform of dialog to promote gender equality of chance for both parents, to stop violation of children's rights and to assure their well-being. We believe that a child should never be deprived of his natural human right to family life and equal access to both parents. Nor does anyone have the right to decide which of his parents' love has more value.

Considering the above we seek equal treatment of both parents during custody hearings in Luxembourg family courts and oppose gender-bias parental discrimination in Luxembourg



institutions. We support the rights of fathers and mothers to equal parenthood and successful professional career.

As an organization promoting gender equality of chance for both parents we advocate the positive impact a fully respectful healthy family and after separation **both parents** have on children's upbringing. While assuring that children's rights and gender equality are respected in Luxembourg we work against any type of discriminatory practices that are not respectful of children's rights. We therefore put all our efforts to make 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence Alternée) to be the **legal default** after separation of parents so that all children can remain with both parents and thereby fighting the root cause of a subtle form of child abuse called Parental Alienation.

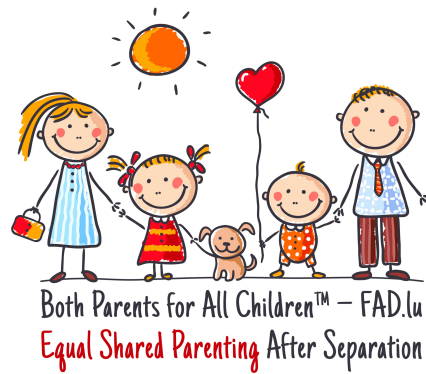
FAD – Fathers Against Discrimination a.s.b.l. is continuously alerted by parents, unfortunately mostly fathers, of illogical and gender bias decisions of Luxembourg Family Courts causing great damage to children's emotional stability undermining their future.

We collect children custody decisions from Luxembourg Family Courts. Along with our legal advisers we study arguments raised by the judges, attorneys and children lawyers and we are often struck if not to say deeply concerned by our findings. Mostly because of backward and discriminatory nature of the argumentation raised in these decisions.

In 2015 European Council voted on [Resolution 2079](#) calling all EU member states to introduce 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence Alternée) as a base for Family Law and a rule for all children custody proceedings. So far, FAD – Fathers Against Discrimination a.s.b.l. has been unable to obtain explanation from the current Luxembourg government why after 5 years from the European Council vote, Luxembourg Parliament has still not voted on the Resolution calling for gender-parental equality in Luxembourg institutions.

The reasons behind the non-vote of the Luxembourg Parliament on the European Council Resolution 2079 remain a mystery, especially since the Resolution 2079 was initiated in 2015 by [Ms. Françoise HETTO-GAASCH](#), Luxembourg politician (CSV), former Minister of Equal Opportunities between Woman & Men, past and present member of the Luxembourg Parliament.

Despite the changes in the Luxembourg Code Civil introduced in November 2018 and presented to the public by the Luxembourg government as “revolutionary”, vast majority of judges from the Luxembourg Family Courts (12 women and 2 men) rely on children attorneys' opinion and in most cases remain immune to the evidence provided by over 40 years of empirical studies, scientific conclusions and consensus among over 100 internationally recognized psychologists and experts in the field confirming that 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence



Alternée) is the most effective model bringing emotional stability to children during separation and after divorce of parents.

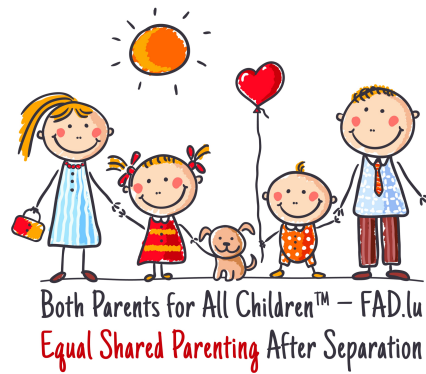
Discriminatory and gender bias decisions of the Luxembourg Family Courts assigning children to one of the parents during custody hearings (in Luxembourg 97% to 3% ratio in favor of mothers) using template approach and without consideration for family life, ignoring gender-parental equality and children's rights stand in violation of numerous conventions and international legal instruments including:

- Article 3(3) of the Treaty on European Union established in 1992 to "combat social exclusion and discrimination, to promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child".
- Article 24 of the Charter of Fundamental Rights of the European Union introduced as part of the Treaty of Lisbon in 2009 "to guarantee the protection of the rights of the child by the EU institutions and by EU countries when implementing EU law".
- The United Nations Convention on the Rights of the Child from 1989. The first universal instrument of a legally binding nature to address the rights of the child. There are currently 193 parties to the Convention including all 28 members of the EU. Although the Convention addresses the civil, political, social, economic and cultural rights of children there are continuous examples of violations of the children's rights across all EU members states including Luxembourg.
- Article 8 of the European Convention on Human Rights ratified by Luxembourg in 1953 providing a right.

Luxembourg Family Court rulings depriving Luxembourg children equal access to both parents can be easily put back in 1950's or the 60's of the last century as these decisions simply ignore the fact that our society has gone through significant changes in the past decades. The roles of a mother and father are no longer defined as they were in the past. Yet, the approach often taken by the judges of Luxembourg Family Courts accompanied by children lawyers follow some sort of closely undefined 19<sup>th</sup> century doctrine and the set of mind falsely assuming that a mother is the only appropriate caretaker of children undermining the important role fathers play in children's lives.

This gender bias ideology can be vividly observed when reading arguments introduced by children attorneys as part of custody rulings. Conclusions that 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence Alternée) cannot be introduced if there is no communication between parents or if there is high conflict between them.

It is important to note that the above mentioned argument contradicts current Luxembourg Law where the Article 378-1 of the Luxembourg Civil Code clearly states that Alternating Residence



(Résidence Alternée) can be introduced in the best interest of a child even despite of opposition of either parent.

Rejecting Résidence Alternée on the basis of insufficient communication between parents stands in opposition to multiple international conventions, Luxembourg Code Civil but also to the results of over 60 scientific meta-analysis empirical studies performed by different institutions across the world over the last 40 years. The decisions ignores conclusions from over 100 scientists and international acclaimed psychologists confirming that 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence Alternée) is the optimal solution for children following separation of parents. A legal frame that protects children by bringing emotional stability into their lives. **This especially includes cases when there is no communication or high conflict between the parents.**

Communication between parents after separation is important but not the most important. What is essential is the well-being of children, the most important element to be considered during custody proceedings.

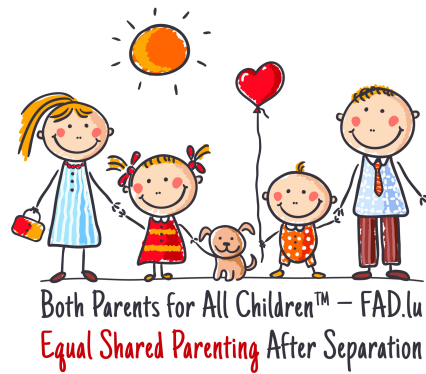
It is a well-known proven scientific fact that it is not the one physical residence, the argument continuously used in Luxembourg Courts, but rather the equal access to both parents that brings emotional stability to children. Especially when both parents were actively present in their lives prior to separation. Yet, most judges and children attorneys in Luxembourg continuously ignore these facts.

Unless there are reasons such as criminal convictions following false allegations, proven severe substance abuse of any kind, physical violence (but not alleged but confirmed), the 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence Alternée) should be considered as a starting point for all children custody proceedings.

Presenting arguments that Résidence Alternée cannot be introduced because of insufficient communication or because of the conflict between parents only incentivizes the custodian parent (in Luxembourg 9 out of 10 mothers) to act obstructively and not communicate. Another utopic gender-bias ideological approach leading to deprivation of equal access of Luxembourg children to both parents after their separation.

**Richard A. WARSHAK, Ph.D.** confirms that “meta-analysis reports 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.” **Edward KRUK, Ph.D.** confirms that the “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.”

50/50 Résidence Alternée model prevents parent-child separation, brings emotional comfort, clear schedule to children’s lives and reduce tension between parents. The model is also a fundamental solution protecting kids by removing possibility for either parent to use them as an instrument of blackmail. Behavior that in severe cases can lead to Parental Alienation (PA) and a drastic emotional abuse of children.

Custody proceedings should be free of any ideology and should solely focus on the best interest of children. This is all you hear when taking part in children custody proceedings in Luxembourg but in reality Luxembourg judicial system incentivizes gender-bias behavior among lawyers and children attorneys. FAD – Fathers Against Discrimination a.s.b.l. closely monitors these behaviors collecting documents, and materials with an aim to eventually publicize evidence of discriminatory practices of anyone involved in children’s custody proceedings.

Another gender-bias argument frequently used in Luxembourg Family Courts is the conclusion presented by children attorneys and judges insinuating that a father is not biologically fit to look after his child before age 6.

An article from 2002 written by Dr. Maurice BERGER (“Le droit d’hébergement du père concernant un bébé”, Revue Dialogue 2002, n°155, p. 90-104) is commonly used to advocate such argumentation. This one article from almost 20 years ago written by an individual not known to most if not all specialist in the field is supposed to serve to question results of 60 scientific empirical studies and consensus of over 100 internationally acclaimed psychologist concluding that 50/50 Equal Shared Parenting – Alternating Residence (50/50 Résidence Alternée) should be introduced as a default model following separation or divorce of the parents.

Homophobia, pay gap, racism are not the problems Luxembourg government should be most concerned about. The problem is the violation of children’s rights and parental discrimination of fathers in Luxembourg Family Courts that leads to fatherless homes. A serious challenge Luxembourg as a society must face. Yet, we never hear about this neither from the Prime Minister Xavier BETTEL nor any other member of the current Luxembourg government. We do not recall a single time Taina BOFFERDING, Minister of Equality between Women and Men, raising the issue or initiating public discussion about the problem. Why? Is it because there is no political incentive or is it because of fear to antagonize feminist lobby in Luxembourg?



We have reached out to all judges of the Luxembourg Family Courts asking to consider using Article 378-1 of the Luxembourg Civil Code and start introducing Equal Shared Parenting – Résidence Alternée not as an option but a default rule in all custody proceedings in the best interest of children.

It is important to advocate the need for 50/50 Equal Shared Parenting – Résidence Alternée to become a **default law** and a starting point for all custody proceedings and not just as an option as it is for the time being in Luxembourg. It is essential to raise awareness about the importance for children to have equal access to both parents after their separation. The role of a lawyer representing children's rights is essential in changing the set of mind of certain individuals within judicial system in Luxembourg.

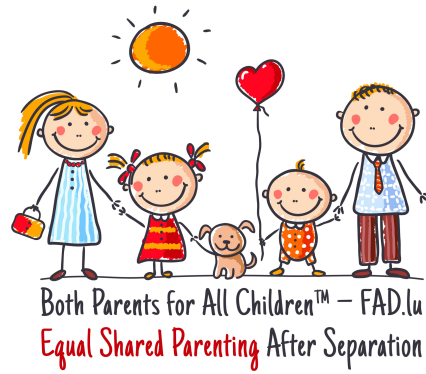
We wish to find people of good will that could be a driving force supporting the efforts to stop child abuse as a result of gender biased discrimination in Luxembourg Family Court system. This can be only done through education of those who decide about the future of the Luxembourg children after separation of parents. Influential and prominent figures such as yourself Ms. DUPONG can help getting this message across and this is why we are asking for your support.

Luxembourg as a society can set example for the rest of Europe by starting to introduce 50/50 Equal Shared Parenting – Résidence Alternée as a **default legal rule** to ensure equality between parents is guaranteed from the moment a child is born.

Children are the most precious and the most important elements of our society. They are because they are our future. Parents have eternal rights, duties and responsibilities with regard to their children. This goes equally for both father and mother. Parents are to look after their children but children are not a property of neither parent. As a matter of fact they are not a property of anyone. They are not half-people as some adults think. They are just like us adults, only better. They have dreams, needs and feelings.

For a parent and child, being together is an essential part of family life. Their separation has irremediable negative effects on their relationship and the up-bringing of the children. Equality between parents must be guaranteed and promoted from the moment the child arrives. A child should never be deprived of his natural human right to family life and equal access to both parents (father and mother alike). Nobody neither has the right to decide which of a child's parents' love has more value.

We remain available for any questions or inquiries you may have.



Most respectfully,

Luxembourg Parents & Grandparents  
with Board Members of the Association & Members

FAD – Fathers Against Discrimination a.s.b.l.  
“Both Parents for All Children™”



**“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.”