

**Legal challenges in dealing with
Parental Alienation: a view from
Belgium!**

**And especially from the family
Court of Dinant**

By Marie-France CARLIER, Judge in the Family Court of Dinant (Belgique)



In Belgium, it's raining...



Rain pearls...

...Excellent laws..

- 1) **the law of 13 April 1995** on the joint exercise of parental authority even in the event of separation

 - 1) **the law of 18 July 2006** tending to favor the equal custody (we have more or less 65% of shared parenting in Belgium)

 - 3) **the law of April 27, 2007** on the divorce without fault, called the divorce TGV
→ No more fight to win the divorce
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4) the law of 30 July 2013 establishing the Family and Youth Court:

- **ONE FAMILY, ONE FILE, ONE JUDGE**
 - Favors the Alternative Methods of Conflicts Resolution (ADMCR)
 - Creates the amicable settlements Chambers chaired by a judge(ASC)
 - Simplifies and speeds up the proceeding (the deadline for fixing the applications is 15 days maximum)
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5) the law of 15 June 2018 : provides that the judge shall hear the parties (introducing hearing) to determine whether an amicable resolution is possible

6) the law of 18 June 2018 :

- promotes alternative modes of conflict resolution
 - states that conciliation is part of the judge's task
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**From Cochem
(Germany)...**



...to Dinant (Belgium)

In April 1st 2012: transposition of the Cochem model, called the Parental Consensus model in Dinant

- Created in 1992 by judge Jurgen RUDOLF, visionary and forward thinking
- Adversarial system (winner-loser): the children - always losers - crystallize the conflict

→ Solution: orderly cooperation: rapid and interdisciplinary management of separation to bring conflicting parents to find amicable solutions focused on the needs of their children

Parental consensus practice in the Court:

- Change of the role of the lawyer, the judge and the expert
 - Responsibility of parents for the suffering of children in the conflict
 - Less custodial arrangements imposed by judgment
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And more concretely:

- More simplified request (content limited to the necessary)
 - 1st hearing: 3 weeks later (avoid loss of family ties in conflict situations)
 - Writings limited to the strict minimum
 - Models of agreement available to lawyers and parents
 - Possibilities of agreement:
 - *Total or partial agreements without dialogue → mediation and/or communication workshops for separated parents*
 - *No agreements → provisional measures + mediation*
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The expertise focused on parental collaboration

- Born from the dissatisfaction of the classic expertise maintaining the logic of confrontation;
 - Needs the cooperation between the judge, the lawyers and the expert;
 - The professional articulation is the key to success;
 - No stigmatization of the close or alienating parent to allow a progressive rebuilding of the ties between the targeted parent and the child;
 - Collaboration of the alienating parent without which this work is not possible – Important task of the lawyer
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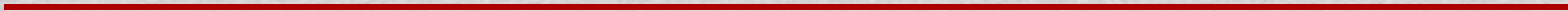
The secret of successful collaboration : the interdisciplinary youth commission

- Set up in December 2012
 - Composition (judges, lawyers, mediators, experts, psychologists, youth welfare services, family plannings, justice house ...)
 - Monthly meetings:
 - Introducing reciprocal trust
 - Constant evolution of the practice
 - Organization of conferences et seminars
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CONCLUSION:

- ✓ Resolution 2079 of the Council of Europe Assembly of 02/10/2015 - point 5.9: "to encourage and, where appropriate, develop mediation in court proceedings in family matters involving children, in particular ... *by promoting multidisciplinary cooperation based on the COCHEM model* »;
 - ✓ All the European countries should promote this model that prevents high conflicts and parental alienation to develop.
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From Quebec to Australia through Slovenia...



And in the Valais (SWITZERLAND), pilot project to implement the Cochem model beginning January 2020!





**The solution: only a change of mentalities:
what future for our children?**
