

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

3 November 2023, Luxembourg

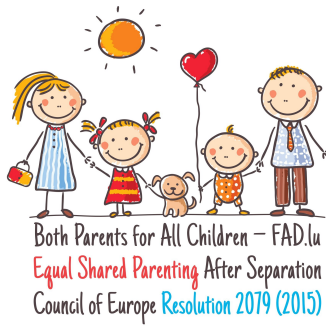
United Nations Headquarters
Dr. Najat Maalla M'jid
405 East 42nd Street
New York, NY, 10017
USA

Dear Dr. Maalla M'jid,

I am the president of FAD – Fathers Against Discrimination a.s.b.l., a non-profit organization based in Luxembourg. FAD has been created as a platform of dialogue to promote equal opportunities for both parents to care for their children, to ensure their well-being and to assure that children's rights are respected in Luxembourg. As an association we believe a child should never be deprived of its natural human right to family life and equal access to both parents. We are also convinced that no one has the right to decide which of the parents' love has more value to a child.

Considering the above, we seek equal treatment of both parents in the Luxembourg institutions and during custody proceedings in the family courts. We support the rights of fathers and mothers to equal parenthood and successful professional careers. We address the importance of family values promoting the positive impact a full and healthy family has on the upbringing of Luxembourg children.

We raise awareness that physical violence against children is not the only form leading to children's suffering. Psychological abuse defined as a passive harm against a child can come in different shapes. Imposing pressure on a child forcing him or her to choose between parents leads to conflict of loyalty. Manipulation of one of the parents to withhold experiences or relationship with the other parent, necessary for healthy emotional development, can in severe cases lead to Parental Alienation (PA) and a drastic emotional abuse.



Unfortunately, since the effects are not immediate, difficult to diagnose and often only detectable after years, psychological abuse is often overlooked. Yet, in terms of their severity, the consequences of emotional abuse are certainly comparable to the damage caused by physical violence.

We recently became aware of your visit to Luxembourg. Our understanding is that the invitation was facilitated by OKaJu, and your visit involved a series of meetings and panel discussions with various stakeholders, institutions, and non-profit organizations.

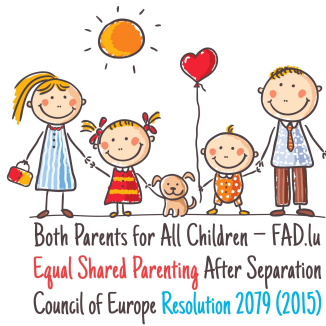
While we understand the importance of such engagements and the need to prioritize certain discussions, we believe that our association, which is deeply committed to the best interests of children, could have provided valuable insights and contributions to the discussions. Our mission aligns closely with the goals of such meetings, and we have always been keen to collaborate and share our experiences and knowledge. We are disappointed that our organization was not informed of the upcoming visit nor any of our representatives invited to take part in any of the discussions that took place.

Luxembourg presents itself as a progressive, inclusive, and egalitarian nation with numerous initiatives including creation of a Space Agency, legalization of cannabis, support for same-sex marriages, adoption of children by same-sex couples, and so on. However, Luxembourg as a state neglects a crucial aspect of everyday life: family wellbeing. Particularly, should a family fall apart because of separation, the handling of such a traumatic event should prioritize minimizing its impact on children, which is currently lacking.

1. Failure to comply with the adversarial principle and access to reports.

In Luxembourg, when we, as parents, are denied access to reports concerning our children (Art. 28, loi du 10 août 1992 and Art. 38, loi du 10 août 1992), it directly impacts their well-being. Our children trust in a system that should prioritize their best interests, ensuring that decisions made about their lives are based on comprehensive, transparent, and objective information.

This lack of transparency not only hinders our ability to advocate for our children but also leaves them feeling unheard and marginalized. According to the CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, Article 11 and Article 41, every individual, including our children, has the right to freedom of expression, to be heard, and to have access to information that concerns them. The Convention on the Rights of the Child's Article 13 further emphasizes a child's right to freedom of expression, allowing them to seek, receive, and impart information. Lastly, the European Convention on Human Rights (ECHR) in Article 6 underscores the importance of a fair trial.



By not providing access to these reports, the system is inadvertently suppressing our children's voices and rights. They deserve to be part of a process that respects their individuality, listens to their concerns, and makes decisions that truly reflect their best interests. It's essential for their emotional and psychological well-being that the system ensures transparency, fairness, and respect for their rights in all its proceedings.

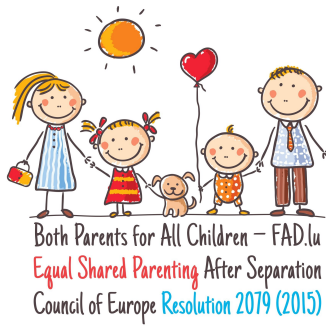
2. Children's voices go unheard.

In Luxembourg, by standard practice many children, despite undergoing lengthy legal procedures, are not given the opportunity to be seen or heard by judges. When a child's attorney is appointed by a judge, the child lacks the freedom to choose or change their attorney as they see fit. Unlike other countries, if an attorney is designated to represent a child's interests, often only the statements and arguments of these child attorneys are considered. Until recently, the list of children's attorneys was denied public access with misleading information presented by the stakeholders and judges that only those listed were eligible to represent children.

Only after continuous interventions from FAD, the list was finally published in April 2023 with the Ministry of Justice clarifying that legal representation is not only limited to the attorneys included in the list. Some attorneys have reported being brushed off when applying to be accepted as children's attorneys. Legal training for attorneys wanting to be on the list remains vague with the Luxembourg Bar Association refusing to provide information regarding the content of the training modules.

There's no oversight on the number of assignments given to each child attorney by judges. These attorneys are initially paid through legal aid (pro bono), with solvent parents later asked to reimburse these costs. Furthermore, certain child attorneys lack independence, often siding with one parent without considering the child's well-being. Additionally, there's no oversight to ensure independence.

From our perspective as parents, the general practice and the system of appointing children's attorneys neglects our children's fundamental rights. The CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, in Article 11, emphasizes everyone's right to freedom of expression, including the freedom to hold opinions and impart information without interference. Article 41 further underscores the right of every person to be heard, especially before any measure affecting them adversely is taken. The Convention on the Rights of the Child, in Articles 12 and 13, stresses the child's right to express their views in all matters affecting them and to be heard in any legal proceedings. The current system in Luxembourg seems to be in direct violation of these crucial rights, leaving our children feeling marginalized and unheard.



Your quote says it all, Dr. Maalla:

"La perspective et la parole des enfants [...] n'est pas suffisamment prise en compte." Dr. Najat Maalla - Special Representative of the Secretary-General of the United Nations on Violence against Children

Source: <https://violenceagainstchildren.un.org/fr/news/la-representante-speciale-de-l-onu-dr-maalla-m'jid-conclut-sa-visite-au-luxembourg-en-rappelant>

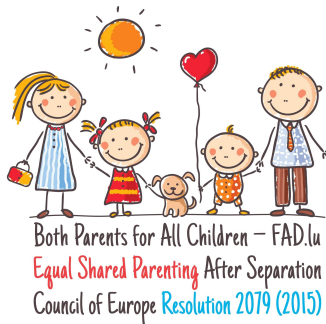
3. Failure to respect the independence of the judiciary, conflicts of interest.

Serious concerns have arisen regarding the impartiality of the judicial system. With only 16 Family Court Judges, all housed within the same building, everyone is acquainted. There are claims that children's attorneys often collude with one of the parents' attorneys, with whom they frequently collaborate. Such allegations, if true, would be deeply concerning. While we continue to believe in an independent, just, and fair justice system, the close-knit nature of Luxembourg's legal community raises questions about potential patterns of cooperation in recurring situations, such as divorces and abuse cases.

In July 2023, a new National Council of Justice was established, but its operations raise concerns about the independence and impartiality of its members, which include magistrates, politicians, and lawyers. A lawyer, while being a member of this council that appoints judges and oversees magistrates' impartiality, shouldn't be allowed to continue pleading cases or maintain a law firm. This situation presents a conflict of interest.

Similarly, when a lawyer assumes the role of "Bâtonnier" (head of the bar association), they shouldn't plead during their tenure. An illustrative example is Valerie DUPONG, who served as the "Bâtonnier" from September 2020 to September 2022 and concurrently acted as a children's attorney. One parent, dissatisfied with her services, found his ability to lodge a complaint with the Luxembourg Bar severely limited due to her position. From our perspective as parents, these conflicts of interest jeopardize the best interests of our children.

Such situations appear to violate the CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION's Article 47, which guarantees the right to a fair trial by an independent and impartial tribunal. Similarly, the European Convention Human Rights (ECHR) emphasizes the importance of a fair trial in Article 6. If there's a conflict of interest, the assurance of a fair trial is compromised.



4. Biased reports impacting children's well-being.

As parents, we are deeply concerned about the reports submitted to judges by child protection actors. These reports often appear to be biased and subjective, relying heavily on the personal feelings of the individual preparing the report rather than objective evidence. Such reports can significantly sway a judge's opinion about parents, leading to decisions that may not be in the best interest of the child. This includes reversed placements where a child is placed with a potentially harmful parent instead of a loving and caring one, or unnecessary placements of children.

The principle of "Rule of Law" emphasizes that laws should be clear, fair, and apply equally to everyone, including those in power. In contrast, "Rule by Law" suggests that laws can be used by those in power as tools for control, rather than ensuring justice and fairness. When judges base their decisions on subjective reports rather than objective facts, it seems they are leaning towards the "Rule by Law" approach, which goes against the essence of justice.

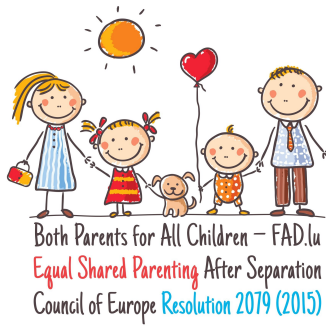
The Universal Declaration of Human Rights (UDHR) Article 7 states that all are equal before the law without discrimination, and Article 10 emphasizes the right to a fair and public hearing by an independent and impartial tribunal. Similarly, the International Covenant on Civil and Political Rights (ICCPR) Article 14(1) asserts equality before courts and the right to a fair hearing by an independent and impartial tribunal. The European Convention on Human Rights (ECHR) Article 6(1) also underscores the right to a fair and public hearing by an independent and impartial tribunal. If a judge's decisions are influenced by biased reports, it raises concerns about potential violations of these fundamental rights and principles.

5. Violation of children's right to family life.

Many parents, who pose absolutely no threat and have never been violent towards their children, have been unjustly separated from them for months or even years. It's essential to understand that every child has a fundamental right to maintain a relationship with both parents, even in the event of a separation. This right is enshrined in the International Convention on the Rights of the Child and the European Convention on Personal Relations with Children of 15 May 2013. The right to visitation is not a privilege but a natural right established by law, only to be denied under severe circumstances where the child's safety is at risk.

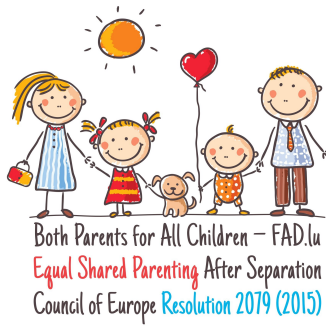
Consider these heart-wrenching examples:

- Father No.1, a British father, is restricted to a mere 1-hour video call with his daughters each month. False allegations against him were prioritized over his ex-spouse's violent behavior, and the court relied on the children's opinions without considering potential manipulation. Expert opinions, crucial evidence, and the



psychological assessment of his ex-spouse were overlooked, leading to an unjust decision that denies him access to his children.

- **Father No.2, from the Netherlands, has not seen his children, ages 11 and 12, for 7 months (February 2023 - September 2023). Now, he's limited to only an hour with them weekly. When inquiring about the reasons and concrete examples of what he did wrong, he gets no response. Despite the children expressing their desire to multiple parties to split their time evenly between both parents, their voices go unheard. Alarmingly, their statements are manipulated: the children's attorney inaccurately asserts in court that the father coerced them into requesting this equal arrangement. On reflection, this claim seems illogical: even if the father influenced their request, where's the harm in desiring equal time with both parents?**
- **Father No.3, a Portuguese father, is limited to sending his daughter only a postcard (!), with no other form of contact permitted.**
- **Father No.4, a Danish father, has endured a decade (!) without seeing his daughters. He was only informed about his daughters leaving the country a month after a court verdict in 2012. Tragically, his parents passed away in 2014 and 2018 without reconnecting with their granddaughters.**
- **Father No.5, a Swedish father, has been estranged from his daughters for over a year and has demonstrated, with evidence, that their attorney has shown bias in his case. Both his Swedish lawyer and Jens himself have lodged complaints with various Luxembourgish legal authorities (the Luxembourgish Bar Association, the Bâtonnier, and the Public Prosecutor), accusing the children's attorney of perjury and withholding crucial information. These alleged actions could have negatively impacted the court's decisions, potentially jeopardizing the well-being of children. Despite the seriousness of these allegations, Jens's concerns have been completely overlooked. Jens has exhausted all legal options.**
- **Father No.6, a Belgian father, has been apart from his children for more than two years. In 2016, the children's mother faced legal charges in Luxembourg for child abduction and repeated non-representation, as documented by the police. A court-ordered report by Dr. GOEPEL, a child psychiatrist, highlighted the mother's intentional alienation tactics. After a three-year legal battle, the father was granted exclusive parental authority for their son and shared custody for both children. However, in 2021, the mother coerced the 11-year-old son to write a letter to the Family Court judge against his will. Despite the mother's past infractions, the judge revoked all the father's authority based on this letter, and since then, he has had no contact with his children, even after appealing the first instance verdict. The father has exhausted all legal avenues.**
- **Father No.7, a Luxembourgish father, has been unable to see his daughter for almost two years. Despite the Family Court appointing a "Consultation Center for Children and Adolescents" to facilitate their meetings in December 2022. The social worker assigned to the case has not yet arranged the first meeting with the father and his daughter.**



- **Father No.8, a Polish father, has been denied his fundamental parental rights for nearly 3 years. He has been unable to exercise the standard right in Luxembourg divorce cases to spend half of the annual school holidays with his 5-year-old daughter. Instead, his visitation rights are limited to 2 nights and brief hours during the week, occurring once a month. It is disheartening to know the father has been making the trips from Poland to Luxembourg once a month (during the first year after separation it was twice a month) to see his daughter, but he cannot see her during school holidays. On top of it the judge in charge of his case has the decency to tell the father after three years that he needs to show that he cares.**

These cases highlight the distressing 'total cut-off' between parents and their children, causing immeasurable emotional trauma and severe psychological suffering to the young ones. The CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION emphasizes in Article 7 the right to respect for private and family life. The ongoing disregard for this right in Luxembourg is a grave concern, and we urge for immediate action to rectify these injustices and prioritize the well-being of the children.

We have exhausted all options in Luxembourg: we had in person meetings with nearly all the political parties (ADR, CSV, LSAP, Piraten, etc.), we had in person meetings with the CET, OKaJu, the Ombudsman, we have written to just about every stakeholder you can imagine. We don't know what else we can do.

Most respectfully,

Patryk P. RYBIŃSKI