



## **Two PA Petitions Submitted to German Parliament**

Petitions Encourage the Parliament to Make Individuals  
who Induce Parental Alienation Subject to  
Criminal Penalties.

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Downloaded from Resources section of Parental Alienation Study Group website ([www.pasg.info](http://www.pasg.info))

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In Germany, as probably to some extent everywhere else, actual jurisdiction in family affairs is often different from legal requirements. Despite unchanged laws, there has been a drift over time. For example, prohibiting access to one's own child was strictly limited in Germany some decades ago, although nowadays years of prohibition are often imposed without any justifying reason (nearly six years in the author's case).

Even worse, in disregard of a diametrically opposed decision of the European Court of Human Rights (ECHR, 25735/94, *Elsholz v. Germany*), the German supreme constitutional court ruled in 2016 that a will expressed by a child of divorced parents to not see the non-caring parent must be followed unconditionally.

Meanwhile, it is well documented that the persistent desire of a child to terminate contact with the non-caring parent is a compelling indication of Parental Alienation (PA). Such a will proves the existence of an induced parental alienation, assuming there is no history of incest, severe parental use of violence, or serious neglect.

Despite a media that is reluctant to cover PA in Germany, some people have heard of the term PA. But even if they have, they do not spend enough time on it to understand the problem and

its counterintuitive character. Relying on their own intellectual strength, they attempt to understand intuitively what parental alienation means.

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Hence, when people see a child of divorce, suffering from the fighting of two obviously "unreasonable" parents, they conclude that one parent should give in, most likely the parent no longer living with the child, especially since the child rejects this parent's contact requests. People presume the child to have legitimate reasons for that rejection. Hence, to end the quarrel, the rejected parent should simply vanish, they believe.

In trial courts, the prevailing widespread denial of the existence of PA leaves judges alone with the psychological implications of divorce and often make them regard the existing law as inhuman and unfair to the "caring" parent. In their view, alienating parents seem to be extremely concerned about their child.

Therefore, not a few judges seem to derive the authority to interpret the legal position a little more freely. Coercion, excessive distention of the duration of litigation in spite of an existing acceleration rule, and unfounded refusal of appeals up to a deliberate use of wrong facts and figures are means applied singly or in combination to conceal the resulting illegal partisan jurisdiction, especially as they can feel safe from punishment.

If a targeted parent challenges the court's decision, judges sometimes feel personally attacked, insulted or obligated to protect their colleagues. Misjudging the situation, they align themselves with the perpetrator by their rulings and inflict further grave harm on alienated children, parents

and grandparents. Simultaneously, media and politicians agree that court decisions must not be criticized.

Without a special comprehensive legal regulation dealing with PA, gentle reforms alone concerning the right to contact and see the child in regular intervals will not bring about a decisive change. In all likelihood, these limited achievements would be reversed after the next general election or will be ignored by judges altogether. It is necessary to recall again the fundamental rights of all those involved and defend them resolutely, including support in criminal law, which is quite analogous to the former German approach to sexual abuse.

## TWO PETITIONS

The German constitution (*Grundgesetz*) guarantees human dignity to be inviolable and protects every person's physical and mental health. In line with these guarantees, two petitions have been submitted to the German parliament (the *Bundestag*), one dealing with the adherence of the members of the judicial system to law and the other proposing to prosecute perpetrators of alienating behaviors and to protect the victims of PA. Here is the text of the petitions:

*I. The Bundestag may decide to establish a new investigating authority, e.g., located on the Federal Court, bypassing the main road. This institution should be entitled to receive criminal charges and to initiate criminal prosecution. In its focus should be violations of §§339 and 258a StGB (perversion of justice, criminal prevention in office) and infringements against the acceleration requirement according to Art. 6 para. 1 ECHR. Alternatively, the Bundestag may decide on other effective measures.*

*II. The Bundestag may decide to (1) punish induced parental alienation (PA) (ICD-11: QE52.0, caregiver-child relationship problem) as a form of severe child mental abuse. Likewise, it should be a criminal offense to tolerate or even support alienating behaviors as a "bystander." (2) provide the estranged parent with criminal law protection against mental domestic violence caused by induced parent-child alienation (PA).*

In Germany, citizens have the right to address the parliament via petitions. The basic right to petition is enshrined in Article 17 of the *Grundgesetz*. The *Bundestag* Committee is ruled by Article 45c GG which also awards special statutory powers to clarify matters relevant to its activity, such as the right to submit documents, provide information, and access to public authorities. These can only be denied if the operation must be kept secret due to a law or if there are other compelling secrecy reasons. Courts and administrative authorities are required to assist each other. The Committee on Petitions can summon and hear both the petitioner and witnesses and experts.

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Petitions may be held secret or be published on the internet. Public consultations take place about four times a year, although the majority of petitions remain non-public. In public sessions, as a rule three petitions are discussed in each session. The petitioner is invited to this consultation and may personally represent his concerns to the members of the Petitions Committee and discuss them with them. For further questions, the political level of the competent ministry of the Federal Government is also regularly present. In the selection—as to which petitions are to be considered—both the number of supporters and the political topicality can be decisive.

A petition goes through a multistage process. The committee asks the responsible ministry for an opinion on the matter. Thereafter, the petition and opinion will be presented to rapporteurs. These are at least two members of the committee who belong to different parties. They then formulate proposals and the entire Petitions Committee decides on them. The result is a non-mandatory recommendation to the general assembly of the German Bundestag.

For more information regarding these two petitions, contact the author at gerhard.kehrer@t-online.de.

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