

## I. Reaktion der französischen Presse

Manifestation devant le palais des droits de l'Homme

### Le désarroi des pères divorcés allemands



L'Allemagne montrée du doigt : pères divorcés et grands-parents font cause commune dans le combat en faveur de l'application du droit de visite de leurs enfants et petits-enfants. (Photo DNA - Christian Lutz-Sorg)

Des pères et des grands-parents allemands, séparés de leurs enfants et petits-enfants, ont dénoncé hier le non-respect de leur droit de visite devant le palais des droits de l'Homme.

« Halte à l'enlèvement d'enfants », lisait-on sur l'un des panneaux que brandissaient hier après-midi une trentaine de manifestants sur le parvis du palais des droits de l'Homme. Tous venaient d'Allemagne : ces pères divorcés ou en instance de séparation et ces grands-parents se sont réunis devant l'institution européenne strasbourgeoise pour réclamer de leur gouvernement qu'il leur permette d'exercer légalement le droit de visite, trop souvent bafoué par les ex-épouses ou belles-filles, de leurs enfants et petits-enfants .

#### Alerter l'opinion publique

« En Allemagne, en cas de séparation, la garde des enfants est de manière naturelle accordée à la mère. Si celle-ci refuse que les enfants continuent de voir leur père, ce dernier aura le plus grand mal à faire respecter son droit de visite », résume l'un des papas privé de tout contact avec ses deux enfants depuis 18 mois. « La société a changé, pas le droit de garde. Nous souhaitons que l'Allemagne se hisse enfin au niveau des standards éthiques et juridiques internationaux. » Avec le soutien des associations Väteraufbruch für Kinder et Grosseltern-Initiative, les manifestants ont entrepris d'alerter l'opinion publique pour que leurs revendications soient enfin entendues par le gouvernement à Berlin. Le bien-être des enfants passe notamment, disent-ils, par « la reconnaissance d'un droit de visite illimité des parents et l'application des sanctions en cas de non-respect ».

X. T.

© Dernières Nouvelles d'Alsace, Mercredi 26 Juin 2002.

## II. Deutsche Übersetzung

Dernières Nouvelles d'Alsace, 26.06.2002

Demonstration vor dem Menschenrechtsgebäude

Die Verzweiflung der deutschen geschiedenen Väter

Deutsche Väter und Grosseltern, die von ihren Kindern und Enkelkindern

getrennt leben, haben gestern vor dem Menschenrechtsgebäude die Nichtbeachtung ihres Besuchsrechts angeprangert.

"Stopp der Kindesentführung", las man auf einem der Schilder, die gestern Nachmittag auf dem Vorplatz des Menschenrechtsgebäudes von etwa dreissig Demonstranten geschwenkt wurden. Alle kamen aus Deutschland: Diese geschiedenen oder getrennt lebenden Väter und diese Grosseltern haben sich vor der europäischen Institution in Strassburg versammelt, um von ihrer Regierung die Erlaubnis zu fordern, das Besuchsrecht ihrer Kinder und Enkelkinder legal auszuüben. Dieses Recht wird allzuoft durch die Ex-Ehefrauen oder Ex-Schwiegertöchter verhöhnt.

Die öffentliche Meinung alarmieren

In Deutschland ist es natürlich, das Sorgerecht im Falle einer Trennung der Mutter zu erteilen. Wenn diese sich weigert, die Kinder weiterhin ihren Vater sehen zu lassen, dann wird dieser die grösste Mühe haben, sein Besuchsrecht durchzusetzen", fasst einer der Pappas zusammen, der seit 18 Monaten an jeglichem Kontakt mit seinen beiden Kindern gehindert wird. "Die Gesellschaft hat sich geändert, das Sorgerecht hingegen nicht. Wir wünschen, dass Deutschland sich endlich auf das Niveau der internationalen ethischen und rechtlichen Normen hochzieht. Mit Unterstützung der Vereine Väteraufbruch für Kinder und Grosseltern-Initiative haben es die Demonstranten unternommen, die öffentliche Meinung zu alarmieren, damit ihre Forderungen endlich von der Regierung in Berlin gehört werden. Das Wohl der Kinder, sagen sie, geht insbesondere über die Anerkennung eines unbeschränkten Besuchsrechts der Eltern und die Anwendung von Sanktionen im Falle der Nichtbeachtung".

X.T.

[Bild]

Mit dem Finger auf Deutschland gezeigt: Geschiedene Väter und Grosseltern machen im Kampf für die Durchsetzung des Besuchsrechts ihrer Kinder und Enkelkinder gemeinsame Sache.

### **III. Weitere Presseberichte aus Deutschland zum Thema**

SPIEGEL Titel: „Beute Kind“, 25. Februar 2002

FOCUS Titel: „Verdammt allein“, 3. Dezember 2001

### **IV. Artikel in der Washington Post, 13. Juni 2001, zum Thema Kindesentzug in Deutschland**

By Jacqueline L. Salmon

Washington Post Wednesday, June 13, 2001; Page A01

A year after President Bill Clinton and German Chancellor Gerhard Schroeder announced new measures to help resolve child-custody disputes between their countries, the kinds of cases that galvanized the two leaders' attention last year are still tearing families apart.

Germany has halved the amount of time it takes for such cases to move through its court system and trained dozens of judges in the international law that governs them. Still, as President Bush meets his European counterparts for the first time this week, German judges seem unable or unwilling to enforce their own orders, State Department officials and family members say.

Last fall, for example, Phil Snyder, of Candia, N.H., won his case on appeal and was told he could pick up his three sons from his estranged German-born wife, who had taken them to Germany in April 2000.

Snyder, a 35-year-old manager for an auto parts store, spent \$3,000 on plane tickets and arrived, as ordered, on Dec. 18, in a southwest German town to retrieve his children. But when he got there, he was confronted by his wife, her hostile relatives and a wrenching mission: asking his children to choose between their mother and father. The court, which had ordered that the children be returned to the United States for a custody hearing, had also ruled that they couldn't be forced to go.

During 2 1/2 tense hours, Snyder urged, then begged, his stricken children to come with him. A bailiff who was present told Snyder that he could not assist him in taking the children. All he could do, the bailiff informed Snyder, was "open the door." And social services officials warned him that he could not touch the children.

"I couldn't even hug them," Snyder recalled.

The youngest child, 5-year-old Sean, jumped into his father's arms. But the two other boys -- 12-year-old Daniel and 10-year-old Michael -- refused to go. Snyder returned to the United States with only Sean.

Under the Hague Convention on International Child Abduction, children who are taken abroad by one parent are supposed to be returned quickly to their country of "habitual residence" for custody hearings. Snyder appealed the decision that his children couldn't be forced to return, but he was turned down by the German court.

Since then, Snyder said, he's been told by his lawyer that his Hague case is closed. "There's basically no mechanism in the German government, even under the Hague, to enforce the decision," said Snyder, who has sent cards and letters to his older boys but doesn't know if they received them. "You can win all you want and it doesn't matter . . . I can't do anything. So, basically, I lost my two older children."

He has filed for divorce -- he was separated from his wife for about a year before she fled to Germany with the children -- and he expects to be awarded full custody of all three children in a final divorce hearing in two weeks. But none of that matters, he said. His older boys aren't here.

#### Government Pressure

State Department officials say they are troubled by the continuing problems with German courts' reluctance to enforce court orders, but there is little they can do.

"We are seeing more orders for return and we're actually seeing more returns," said Mary Marshall, director of the Office of Children's Issues, which handles U.S. Hague applications for American parents. "But there are still a number of ordered returns where the children are still in Germany. We've been asking the Germans to do whatever is necessary, as the law will allow, to effect return."

Clinton raised the custody issue with Schroeder last year after an article in The Washington Post detailed several cases in which children were

illegally taken to Germany from their homes in the United States by one parent and then not allowed contact with the American parent. Despite the Hague Convention, German courts had refused to return the children or enforce visitation orders.

In the meeting, Schroeder called the cases "tragic." Clinton called them "heart-rending." And in most of these old cases, little has changed.

At a hearing of the House International Relations Committee in March, Secretary of State Colin L. Powell told legislators that he planned to be involved in the issue. "These are terrible tragedies, each and every one of them, and these nations are acting irresponsibly," Powell said in answer to a question from Rep. Steve Chabot (R-Ohio).

Sen. Jesse Helms (R-N.C.) has complained to German officials on several occasions about the plight of American parents and raised the issue with German Foreign Minister Joschka Fischer during Fischer's visit to Washington in February. "We had a 40-minute meeting, of which Senator Helms devoted maybe 35 minutes to this issue," said a source who was at the meeting. "I think the Germans were shocked."

Legislators have vowed to keep up the pressure and say they are looking to the administration for help.

"The more that the administration can focus on this, the better," Chabot said. "We just have to irritate these other governments. We have to bring it up at every opportunity."

A senior administration official said he does not know of a forum where the issue of abducted children might come up during Bush's European trip, but he did not rule it out.

Germany has been criticized for dragging out court cases for years, then ruling that the children have become too accustomed to German life and language to leave. Some American-born children who never spoke German were kept in Germany when a court ruled that their lack of German fluency constituted "suffering" under the terms of the Hague Convention.

Left-behind parents point out that when a person abducts a child, that parent usually has plenty of time to turn the child against the other parent. In such a case, leaving the decision to the child works against the left-behind parent.

#### Enforcement Problems

Since the Schroeder-Clinton meeting, the German-American commission has met a half-dozen times to iron out problems in implementing the Hague treaty, German and American officials said. Germany has reduced the number of judges who hear Hague cases from 2,000 to two dozen and has given them special training. And a German team of high-level Justice officials is working to resolve long-standing cases.

German lawyer Harold Weisker, who has handled Hague treaty cases in the German courts for the last seven years, said he's noticed an improvement in the last 18 months.

"In the past, we had the problem that we very often had a Hague case in a small township, the family judge had been in charge of the family court for 20 years and never handled a Hague case," he said. "That's over now."

German Ministry of Justice official Frank Michlik said in a written response to questions that the process for handling Hague cases has been streamlined. In most cases, Michlik said, Hague petitions filed by foreign

parents are now sent to "the competent German court within seven working days."

However, carrying out court orders is still a problem, Michlik said.

"Enforcement of decisions in family cases is, in any case, much more difficult than the enforcement of other court decisions," Michlik said. "Children cannot be seized and moved to another place as though they were movable property."

To get around the problem of enforcement, some judges now order that transfer of the children take place in the courtroom immediately after they announce their decision, German lawyers said.

When Randy Gauntt, a California mason, won his Hague case on appeal in a court hearing in Germany in February, the judges ordered his estranged wife to turn their two children, their passports and their belongings over to Gauntt right there.

After the decision was announced, both parents collapsed in tears in the courtroom, and the eldest child, 12-year-old Jessica, began screaming and had to be pulled off her mother. She had not seen her father for eight months before the hearing.

The children, Jessica and 6-year-old Kevin, are now living with Gauntt and his parents in California as they await a custody hearing. Family members say the children have been deeply scarred by the experience.

"These children will suffer for the rest of their lives," said the children's grandmother, Sheila Byers.

'This Is Crazy'

Even the case that moved Clinton to raise the custody issue with Schroeder -- that of New York schoolteacher Joseph Cooke -- has not been resolved. Cooke's two children had been placed in a German foster home in 1992 when their German mother returned to that country from the family's home in the United States and checked herself into a mental health clinic. There they have remained.

German courts ruled in 1995 that the children would suffer "severe psychological loss" if separated from their foster family and would suffer "language shock" if returned to the United States.

Last July, top German officials pledged to reunite Cooke with his children, but the first meeting between Cooke and his children didn't occur until January.

The reunion took place at a zoo in a southern German town. The meeting was difficult. Cooke was nervous and emotional at the prospect of meeting the children he hadn't seen in more than five years, and the children were upset at meeting a father they believe abandoned them as youngsters.

Danny, now 11, was sullen and uncommunicative. Michelle, now 10, seemed frightened, darting away from Cooke to her foster parents whenever he tried to speak to her. The next day, Danny boycotted a planned meeting with his father, and Michelle locked herself in her foster parent's car and hid under a blanket.

Cooke has not seen his children since. Despite numerous attempts by his attorney to set up other meetings, no more are scheduled.

"Right now, I'm back to where I was before," Cooke said. "This is crazy."

Shortly after the January visit, the psychologist assigned by the local social services agency to mediate the reunion advised Cooke that, in conversations with Daniel and Michelle, he should refer to their foster parents as "your parents."

"The bottom line is the Germans talk and talk and talk, but this is a situation where talk isn't enough," said Jim Rinaman, a Florida lawyer who has seen his 6-year-old daughter only three times in the last five years, despite a German court decision ordering his ex-wife to permit him to see the child regularly. "It's not changing. Nothing has changed."

In February, truck driver Ed Troxel, of Penn Township, Pa., was permitted a visit with his two daughters for the first time in more than four years. His now ex-wife had taken the girls back to her home in Mannheim, Germany, in 1997, and Troxel lost his Hague case to have them returned. A German court ruled that Jessica, now 9, and Sarah, now 6, would suffer by returning to a country where German isn't spoken.

On a Web site for the Committee for Missing Children, the group that helped arrange his visit, Troxel described the February reunion in rapturous detail and posted photos of himself embracing his children.

"My oldest daughter came right up to me and hugged me so tight, I thought she was going to crack a rib," the posting read. "To all the other parents . . . Keep up the fight!! Never give up!! Your day will come."

But this week, Troxel said that his ex-wife has not agreed to another visit and hasn't allowed him to speak to his children since he returned.