

3<sup>rd</sup> Meeting of the "**BundesInitiative Großeltern**" (**BIGE** / *National Initiative of Grandparents*) with Mr Juergen Rudolph, Family Court Judge in Cochem/Moselle.

on Saturday 13<sup>th</sup> March 2004 in Frankfurt upon Main, in Gewerkschaftshaus (*Trade Union Centre*)

## 1. Presentation by Mr Rudolph

Mr Rudolph has been a family court judge in Cochem/Moselle since 1979. He was fully convinced from the outset that he needed to do all in his power so that children as well in the case of the failure of marital relationships are not deprived of either their mother or father. He expressed it so: "Look through the eyes of the children". In 1982 he called up the Federal Constitutional Court in a child custody proceedings because the law prevailing then did not allow the conveyance of the custody rights to both parents. The Federal Constitutional Court declared the provision in question as unconstitutional.

Mr Rudolph used the decision as the occasion to grant more and more often joint custody rights to both parents for their children. However, it became clear to him that a real breakthrough would only be attainable when in the proceedings the lawyers, the Youth Welfare Office, the advisory offices and the experts involved could be brought together to work in unison in a joint procedure. Finally he managed to bring everyone together 'around a table'. He was able to arouse the interest of all those involved because he made it plain to them that it lay in the best interest of the children when the proceedings were quickly conducted. The opposite had been the case up to then in the practice nationwide in which it had taken months before a hearing was finally granted. Result:

Fixing hearings within 14 days. The Youth Welfare Office shall refrain from writing the hitherto obligatory report. Instead of this, the welfare officer visits the family in the meantime and informs himself/herself on the situation in order to give a professional opinion subsequently in the hearing. If in the court hearing no agreement can be reached, the parties are passed on with the help of the Youth Welfare Office to the advisory office, which furthermore then gives the parents an appointment for counselling talks within 14 days. At the same time the court proceedings remain pending. It was agreed with the lawyers that no more application

was made to grant the custody rights to just one parent. The lawyer making the application has to only present briefly in writing the facts of the case and, indeed, waiving 'washing the dirty linen in public'. The opposing lawyer has not even to submit a written pleading. In this manner the procedure can be concluded with success often only after 3 months. The children kept both parents.

The success spurred on those involved from the beginning. It soon came to meetings at regular intervals. The common aim was to speed up the procedure in the interests of the children affected. Thus a procedure was developed through inter-disciplinary cooperation which has been known for a long time now as the "Cochemer Practice".

But there was also provision made for the case that one parent should refuse to take part in counselling talks. In this case the judge threatened to take away the custody rights from him or her. This helped the situation. It turned out that the possibility of using this provision was not needed.

Already by 1992 joint custody rights were granted in Cochem in 20% of the cases. But a rise to 60 % was soon able to be achieved in Cochem. From 1998 a 100% of the parents were jointly responsible for their children. There were not any longer proceedings that landed up on appeal in the Regional Appeal Court. In 1998 the reform on the law governing the relationship between child and parents was passed, but only 'by a hair's breath'.

Judge Rudolph made it clear that in his proceedings he had always the welfare of the child in view. He declared that, when the parents could not cope any longer with their relationship, the behavioural patterns would be as clear as they already had been implanted in us since the Neanderthal man and he added 'we are all then Neanderthal men'. But he also made it clear that it absolutely had to be achieved that the parents came to an agreement and that it made no sense therefore to wait for the 'situation to quieten down', as recommended by many Youth Welfare Offices, for 'quiet' meant in this context nothing else other than 'the peace and quiet of the cemetery'. Hence it was important that parents reached agreement at least concerning the essential affairs of their children. Thereof he paid particular attention to.

In 1997 the Cochem Cooperative also approached the schools in order to help to intensify the awareness of the parents for the significance of joint custody rights for

the children at parents' meetings, that the children interest both parents. This was done because the teacher could intensify the awareness that the children needed both parents for to have a trouble-free development, which alone would provide them with security for their later life. However, Mr Rudolph experienced that the school authorities were not interested in the issue. In this connection he coined the phrase: 'all hopes of the hierarchy assuming responsibility have gone up in smoke'. That is the reason why the cooperative invited the teachers to a meeting, which was very well attended.

In the meantime, the Rhineland-Palatinate Ministry for Family Affairs has long been taking notice and is now also propagating the introduction of the Cochem Practice in other courts.

Regarding the overburden of work on judges that is continuously complained about, Mr Rudolph said the following. 'We have 25,000 judges in Germany, the highest density of judges in the world. I am not of the opinion that we need more judges. Everything is rather only a question of proper organisation. But it has to be considered that the Law on the Constitution of Courts out of the year 1878 is still in force'.

He describes the work in the interest of a joint upbringing of children by parents as a service to the national economy. Children suffering from the effects of the separation of parents have problems in school and in their apprenticeship, fall behind in their development, and traumatised parents lose their efficiency in their professional work; all to the detriment of the whole of society.

## 2. Other aspects of the meeting

The event was attended by 55 grandparents, the largest part of whom have also been affected by the separation of families. The participants came from every part of Germany. There was even a former judge of the Federal Constitutional Court present.

The participants were in agreement that the Cochem Practice had to be a model for the whole of Germany. A person taking part from northern Germany informed the conference that in Halle, where Mr Rudolph had already twice given a talk, an initiative had been set up by the family court judges in cooperation with other

offices responsible, wanting to work in the future on the basis of Cochem Practice model.

There was unanimous revulsion evoked by the words 'access tourism' that were coined by the Federal Council. According to Duden, the meaning of tourism is large-scale travel as an outward manifestation of modern society and its desire to travel. In connection with the access rights of children with close relatives, this is a nonsensical expression with which people are scorned who are having to fight to maintain their relationships with children affected by family breakdowns. The expression coming from the mouths of politicians shows how thoughtlessly a lot of elected representatives view the fate of other people.

There was agreement that the access rights of grandparents had to be strengthened. It is precisely in the very difficult early stages of the separation that grandparents can help to fill the gap arising in the lives of the children. Therefore it should be incorporated into the law of the land that the access to the grandparents is beneficial for the well-being of the children.