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**CHALLENGES AND OPPORTUNITIES FACED BY EUROPEAN  
WELFARE STATES: THE CHANGING CONTEXT FOR CHILD WELFARE**

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## **Supporting Contact in Germany**

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### *Abstract*

#### *Setting the scene*

With the reform of divorce law in 1998, the default option for residence after divorce in Germany is now shared custody. Most families come to a custody agreement out of court. Of those families, that go to court, mother's are awarded custody most frequently, followed by shared custody awarded by the courts and sole custody of the father (Proksch, 2001). Most families also manage to agree on a contact arrangement outside the courtroom. In 2001, 70% of divorces with children agreed contact outside court (an increase from 39% in 1999), 15 % per court order, in 3.5% by settlement in court, 8% through informal meetings/counseling with the Youth Services, and 1.5 % of families via mediation. Mediation is a relatively new development in Germany (Proksch, 2001)..

#### *Conceptualisation of contact*

Contact is regarded as a right of the child and it is a duty of the parents to maintain and facilitate contact. Accordingly it is possible to enforce contact between contact parent and the child by threatening the imposition of fines for noncompliance. Furthermore both parents have the duty to not engage in any behaviour that could be detrimental to the contact. The child's right to contact does include contact to grandparents, siblings, stepparents and former forster parents. Since the April 2004, the right to contact also extends to the contact parent's spouse or partner if the child had at some point lived together with this person.

#### *Contact Support*

There are multiple ways in which the system tries to support contact. The Youth Services offer free advice and counseling for contact problems, and assist in the process of setting up a contact agreement through informal meetings or by providing formal mediation. In cases, in which contact would not be safe if unsupervised, the courts can impose the condition on the contact that it is only to take place under the supervision of a third party. Reasons for such supervisions include prior long interval of no contact, history of domestic violence, mental illness or drug problems of contact parent, fear of abduction, suspicion of physical or sexual abuse, or criminality of the parent. Only when such supervised contact is found to be against the interest of the child, can a no-contact order be made.

### *Supervised contact*

Contact supervision is typically provided by the Youth Services or a independent non-profit agency that is contracting with the Youth Services. Such supervision by a third party is a costly service, but free for parents - the state mandates that the Youth Services pay for such supervision by a third person, without being able to recoup the cost from the families. Funds for contact supervision are usually released on a case by case basis. Once an application for contact supervision is made (which is also possible by self-referral), the Youth Services assess the need and the appropriateness of supervision and send a plan for the supervision out for financial approval. Once the funds are released, at first usually for a 6 months time period with the possibility of extension, the family can start reinitiating the contact. This need for paperwork means that families usually go through a waiting period before they can start contact.

### *Contact supervision staff*

Contact supervisors are mainly social workers or psychologists, increasingly with a special further qualification in "contact support". Several agencies offer training modules for specialization in contact support. A second, different, stream of contact providers, is a subset of non-profit agencies who employ a concept of a combination of a full-time specialized professional working together with volunteers to help facilitate contact. These volunteers are supposed to work very closely together with the specialized professional.

Preliminary standards for contact supervision were developed as part of an evaluation project for the Ministry for Family, Seniors, Women and Youth and were published in 2001 (Fthenakis, Goedde, Reichert,-Garschhammer, Walbiner, 2001). So far they have not yet been adopted nationwide.

### *Practical implementation*

In total, a court order of supervised contact is still not a very frequent solution for contact difficulties. In 2001, courts ordered supervision in only about 4% of cases in which a court order for contact was made (Proktsch, 2001). However, court referrals are only one third of referrals to contact supervision (30%), the majority are referred directly by the Youth Services (37%), or are self-referrals (27%) (Stephan & Wolf, 2002). The evaluation by Stephan and Wolf also showed that most cases moved on within a year. Only about half of the cases moved on successfully to unsupervised contact, about in half of the cases stopped contact altogether. Especially cases in which there had been a history of domestic violence had a higher likelihood of contact stopping altogether.

### *Challenges for the German model of contact supervision*

- The need for contact supervision will increase as more families become aware of the possibility of contact supervision. It will be a challenge to provide enough qualified professionals to satisfy the demand, especially in rural areas.
- Contact supervision as a one-to-one service provided by a specialized professional is a very costly service. It remains to be seen if such a highly professionalized approach can be financially sustained in the long-term.
- While in some families the problems that led to the supervisions may abate within 6 - 12 months, e.g. where the child needed to rebuild a relationship with the contact parent after a long time of no contact, there are other situations, such as history of domestic violence or fear of abduction, in which these problems will persist for several years. It

is an open question how/ if the current concept will be able to provide sufficient support for those families in need of long-term contact supervision.

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## Supporting Contact in Germany

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### Contact Agreements

	% of agreements made in 2001	Sole custody families
Made independently	70%	43%
Informal meetings or counseling with Youth Services	8%	
Mediation	1.5%	
Settlement in court	3.5%	
Court order	15%	35%

Proksch, 2001, p.158


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### Frequency of no contact between a parent and the child

	No contact	Rare contact
Sole custody	34%	17%
Shared custody	5%	9%
Shared custody bc application for sole custody declined	9%	13%

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- ### Enabling Provisions
- Parental education sessions
  - Informal contact counseling sessions
  - Mediation
  - Group and individual therapy sessions
  - Supervised contact
    - including mandatory counseling sessions with the parents
- These services are provided by the Youth Services or 3<sup>d</sup> party providers and are free of charge



## Enforcement Provisions


- Subpoena for parents to re-appear in court to discuss reasons for contact break down
- Transfer of right to make contact arrangements from residential parent to 'contact custodian'
- Reduction of spouse support (*not* child support)
- Coercive means (fines/ coercive detention) to force residential parent to hand-over child for contact
- Conferral of custody to the contact parent

Judges caution against imposition of threat of coercive means because they regard the coercive means as potentially more deleterious than no contact. Apparently the option of making parents reappear, often multiple times, is used most frequently and successful to find an arrangement

Contact custodian can ask for handover of child, and bring police to enforce it (Par 33 II FGG)

Reappearance in court is also enforceable with Par 33 FGG

Because of this awareness



## However,

- when imposing these measures, effects of these methods on the child have to be taken into account when balancing the benefits of contact and no contact
  - Enforcement may conflict with child's best interests
  - Coercive means do not provide long-term solution
  - Coercive means are therefore rarely threatened, and coercive detention has never been enforced

## Contact support: counseling

- Counseling and educational programmes can take place at the Youth Services or a 3<sup>rd</sup> party providers

### Counseling sessions at third party provider DURING divorce/ separation

	Fathers with kids	Mothers with kids	Fathers no kids	Mothers no kids
Total % of parents with counseling	36.7 <sup>1</sup> / 27.6 <sup>2</sup>	39.4 / 39.3	34.9 / 28.7	37.9 / 32.8
1-3 sessions	18.2 / 14.2	18.4 / 17.6	17.7 / 14.3	16.9 / 3.4
4-10 sessions	12.5 / 7.1	11.0 / 10.5	12.3 / 8.6	7.2 / 11.9
More than 10 s.	5.3 / 5.5	8.8 / 9.9	7.4 / 5.3	10.3 / 6.0
Parenting c.	10.6 / 11.0	15.2 / 18.9	6.8 / 6.4	12.3 / 10.4
Relationship c	16.3 / 18.7	14.9 / 11.2	17.9 / 11.1	18.5 / 17.9
Divorce c.	11.7 / 7.1	11.1 / 13.0	11.4 / 11.1	14.9 / 17.9
Mediation	2.7 / 4.7	3.7 / 2.7	4.5 / 2.2	7.2 / 7.5

<sup>1</sup> First number denotes parents with shared custody, <sup>2</sup> second number denotes parents without shared custody

Proksch, 2001, p.158

### Counseling by *Beratungsstellen*

Parents with shared custody: between 17-25% took part in education/counseling sessions

Part without shared custody: between 18 and 30% took part education/counseling sessions

Most of these parents did so as a self-referral (80-92%), and up to 40% following information from the Youth Services, or the court.

Mothers were more likely to seek counseling than fathers, regardless if in shared custody or not

Most counselings were relatively brief – 1-4 sessions, but there it was not uncommon to have ones that lasted more than 10 sessions

Content: Mainly relationships and divorce counseling, but also parenting concerns. As you can see, Medidaction is still quite rare.

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### Content of counseling sessions at third party provider AFTER divorce

	Fathers with kids	Mothers with kids	Fathers no kids	Mothers no kids
Total % of parents with counseling	21.8 <sup>1</sup> / 24.5 <sup>2</sup>	24.8 / 30.5	17.4 / 18.0	17.4 / 29.4
Parenting-related	62.5 / 61.5	53.8 / 53.6	36.7 / 22.2	75.0 / 40.0
Conflict-related	20.8 / 61.5	28.3 / 30.4	30.0 / 62.2	25.0 / 40.0
Mediation	8.3 / 7.7	23.9 / 29.5	22.2 / 20.0	33.3 / 20.0

Proksch, 2001, p.160

<sup>1</sup> First number denotes parents with shared custody,  
<sup>2</sup> second number denotes parents without shared custody

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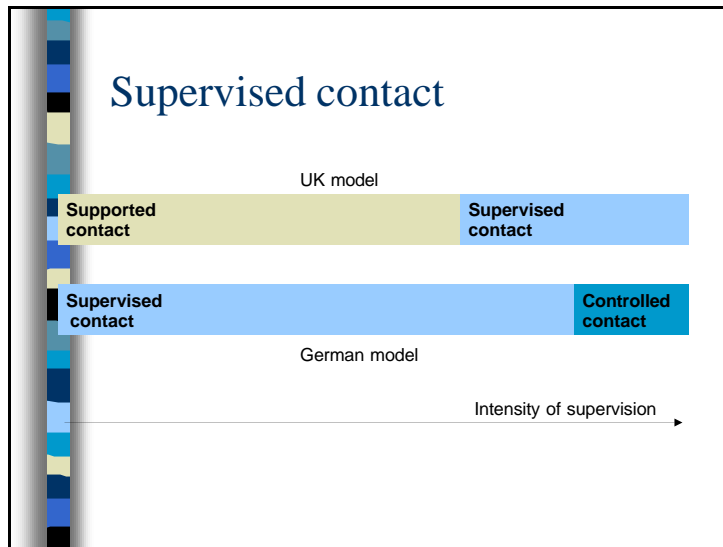
### Contact support: supervised contact

- Quite rare: in 2001, 4% of contact orders contained provisions for supervision of contact (Proksch, 2001)
- But: court orders are not the only referral source

Source of referral for a provider in Rheinland-Pfalz	
Court orders	30%
Youth Services	37%
Self referral	27%

Stephan & Wolf, 2002


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### Differences to the UK

Germany	UK
<ul style="list-style-type: none"><li>• One-on-one setting only</li><li>• Professional staff</li><li>• Own premises: can adapt to children's play and safety needs</li><li>• More flexible can adapt easier to progress in relationship</li><li>• Family focused: mandatory counseling</li><li>• More intervention oriented</li></ul>	<ul style="list-style-type: none"><li>• Mainly group settings</li><li>• Mainly Volunteers</li><li>• Contact centres mostly don't own premises</li><li>• Child-focused, no mandatory counseling for parents</li></ul>




### Similarities to the UK

- Mainly short-term solution only
- Regarded as panacea-
  - Courts send many highly conflicted families, or families with domestic violence, which poses challenges to contact providers
- Difficulties in deciding when to give in into child's wishes not to have contact



### Challenges

- Shortage of qualified professionals
- Very costly – is it sustainable?
- Need for long-term solutions for certain families, e.g. where there is domestic violence



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