

## **The Declaration on so called “Parental Alienation Syndrome”**

The following professional organizations, the Public Defender of Rights, the Commissioner for Children and the Coalition for Children Slovakia are expressing their concern about the finding that the concept of "Parental Alienation Syndrome" (Parental Alienation Syndrome, later Parental Alienation Disorder, abbreviated PAS / PAD) came to Slovak clinical, social and judicial practice and negatively affects the decisions of public authorities and courts in matters concerning minors.

The theory of PAS was created more than thirty years ago by the American psychiatrist and psychoanalyst Richard Gardner. He defined PAS as a disorder of children that arises almost exclusively in the course of litigation on child if one parent (usually the mother) is programming a child to hate the other parent (usually the father). The child then becomes an active participant attached to a programming parent and comes up with her/his own scenarios of defamation of other parent.

However, PAS was not scientifically proven in the country of its origin (USA) and it did not meet the evidentiary admissibility criteria before the court, as taking it into consideration may result in wrong decisions in matters relating to minors.

In this regard, we support the Declaration of Section of Child and Adolescent Psychiatry of the Slovak Psychiatric Association on the issue of so-called "Parental Alienation Syndrome", which points out that PAS is currently not an official psychopathological syndrome and it does not occur in the medical – psychiatric syndromology and it is neither a disease entity, nor a diagnosis in the official international classification systems of diseases. In the Slovak Republic is binding ICD 10 diseases classification system and in this classification, mentioned PAS syndrome is not listed and therefore can be officially established neither as a diagnosis, nor described as a syndrome. "Parental Alienation Syndrome" is neither present as a diagnostic unit in the classification system used in American DSM 5.

Negative opinions on the concept of PAS / PAD have been expressed by significant foreign professional organizations and institutions.<sup>1</sup> In this regard, as *National Council of Juvenile and Family Court Judges* (NCJFCJ) said that any evidence that the party entrusting the child suffers PAS should be declared inadmissible: *“The discredited “diagnosis” of PAS (or an allegation of “parental alienation”), quite apart from its scientific invalidity, inappropriately asks the court to assume that the child’s behaviours and attitudes toward the parent who claims to be “alienated” have no grounding in reality. It also diverts attention away from the behaviours of the abusive parent, who may have directly influenced the child’s responses by*

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<sup>1</sup> In the USA e.g.: American Psychiatric Association, National Council of Juvenile and Family Court Judges, National Center for Prosecution of Child Abuse, American Professional Society on the Abuse of Children, Leadership Council on Child Abuse & Interpersonal Violence, in Europe e.g.: The General Council of the Judiciary (Spain), Asociación Española de Neuropsiquiatría, in Australia e.g.: Australian Institute of Family Studies, United Nations, General Assembly, Human Rights Council.

*acting in violent, disrespectful, intimidating, humiliating, or discrediting ways toward the child or the other parent. The task for the court is to distinguish between situations in which the child is critical of one parent because they have been inappropriately manipulated by the other (taking care not to rely solely on subtle indications), and situations in which the child has his or her own legitimate grounds for criticism or fear of a parent, which will likely be the case when that parent has perpetrated domestic violence. Those grounds do not become less legitimate because the abused parent shares them, and seeks to advocate for the child by voicing his or her concerns.”*

The aforementioned declaration is in compliance with the case law of the European Court of Human Rights (ECtHR). In this respect we recall the positive obligations of the state formulated by the ECtHR with regard to the protection of victims of domestic violence or sexual abuse.<sup>2</sup> We also state that according to the jurisprudence of the ECtHR best interest of a child may, depending on its nature and seriousness, outweigh the interests of parents. In this regard, the ECtHR repeatedly held that Article 8 of the Convention does not under any circumstances entitle parents to seek adoption of such measures which could affect the health and development of a child.<sup>3</sup> Use of coercive measures is justified only in cases of clearly unlawful conduct of the parent with whom the child is living.<sup>4</sup> These are cases where the parent with whom the child is living, actively prevents contact with the other parent of a child. However, another situation is when the parent with whom the child is living does not actively prevent the contact with other parent, but the child explicitly refuses the contact. Particularly important is this aspect in cases where the denial of the child's parent is caused by the behaviour of the parent, that is, if this parent did not treat a child always well and empathetically.<sup>5 6</sup>

In this regard, we draw attention to the constant case law of the Constitutional Court of the Slovak Republic on the Article 154c of the Constitution of the Slovak Republic. According to it the Convention and the case law of the ECtHR are binding interpretative guidelines on the interpretation and implementation of legal provisions for fundamental rights and freedoms enshrined in the Chapter II of the Constitution and thus framework for the national authorities and it cannot be exceeded in a particular case.

It is clear that the problems in the realization of a contact between children and parents constitute a complex phenomenon. Each case requires a thorough psychosocial assessment of the various factors that may contribute to the impairment of the parent - child and subsequently applying multiple methods of therapy, including psychoeducation, individual

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<sup>2</sup> e.g. *Kontrová against Slovakia*, judgment of 31 May 2007, *E. M. against Romania*, judgment of 30 October 2012, *Eremia and others against Moldova*, judgment of 28 May 2013

<sup>3</sup> e.g. *Fiala against Czech Republic*, judgment of 18 July 2006, § 96

<sup>4</sup> e.g. *Zavřel against Czech Republic*, judgment of 18 January 2007, § 52

<sup>5</sup> e.g. *Pedovič against Czech Republic*

<sup>6</sup> see more <http://www.justice.gov.sk/Stranky/aktualitadetail.aspx?announcementID=2081>

therapy and, where appropriate, the therapy parent - parent, a parent - child or a joint family therapy. It should be also emphasized that in the intervention should be prevailing the needs of the child and not the rights of parents.

Slovak Psychologists Association

Slovak Psychotherapeutic Society

Association of Family Judges

Research Institute of Child Psychology and Psychology

Commissioner for Children

Public Defender of Rights

Institute for Labour and Family Research

Coalition for Children Slovakia