

PARENTAL ALIENATION

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Abstract: *Parental alienation is an increasingly common phenomenon. Imagine a parent who brainwashes a child. This produces negative effects in the child's life in the long term. Child alienation influences and should influence court decisions. A child can become alienated from the parent who initiated the divorce. The parent who ends up spending more time with the child ends up having hostile behavior towards the other parent. The paper aims to present the gravity and complexity of the phenomenon of parental alienation, to underline the consequences of this type of emotional abuse, as well as to highlight the applicable national and international legislative framework, while also offering solutions for preventing and combating this destructive behavior for the best interests of the child.*

Keywords: *parental alienation; negative effect; alienated; divorce.*

Introduction

Parental alienation is a complex and increasingly common phenomenon in contemporary society, affecting the psychological and emotional development of the child. It occurs when one of the parents or other people influence the child to reject the other parent/one of the parents, without a valid reason. This generally occurs in the case of divorce or separation, when conflicts between former partners clearly affect the children.

Parental alienation has been recognized in recent years, but it has always had effects. They will have attachment difficulties, anxiety, depression or behavioral disorders. Children often suffer from feelings of guilt and confusion in such a situation. The same consequences can also occur for the parent who is removed from his child.

From a legal point of view, parental alienation represents a challenge for legislative systems around the world. In Romania, this phenomenon is difficult to prove in court. Therefore, an update of the legislation is necessary from this point of view. Ignorance of this phenomenon, which can occur both directly and indirectly, supports the perpetuation of negative consequences. Even parents, knowing this phenomenon, can adapt their behavior, being aware that a child is not a method of revenge.

The following will present the main causes, consequences, solutions for this phenomenon, as well as the legal perspective, taking into account the regulations in force. Considering that in Romania there are more and more divorces than marriages, it is necessary to understand what a child custody process means, but also what it involves beyond the misunderstandings between parents, which are often traumatic.

1. The concept of alienation

Parental alienation is a form of psychological violence by which one of the parents or persons responsible for raising and caring for the child, intentionally, or unintentionally creates, accepts, or perpetuates a situation in which the child ends up showing unjustified or disproportionate restraint or hostility towards either parent.¹ The alienating parent/person is responsible for the existence of a situation of

¹Law no. 123 of April 30, 2024 amending and supplementing Law no. 272/2004 on the protection and promotion of the rights of the child, published in the Official Gazette of Romania no. 414 of May 7, 2024.

parental alienation, and the fostered parent is the parent towards whom the child shows unjustified or disproportionate restraint or hostility.

Therefore, alienation is produced by any person, manifested by the child towards one or both parents. This denigration carried out by a person (including one of the parents) in front of the child, against one or both parents, aims to distance him. The relationship between the two is distorted. The child will have strong feelings of confusion, and his reaction in the relationship with the parent will be an interpretation of the information provided by the alienator. The relationship between two parents has the child as the "main victim". An unhealthy relationship will create a child identical to it. We often wonder which of the parents the child resembles the most. In reality, the child does not resemble either parent individually, but rather reflects the quality of the relationship between them. A relationship in which beyond conflicts, adults know how to manage what a child perceives helps in his development. Deprivation of an affectionate relationship with one of the parents represents a form of emotional abuse. We can argue that that child is in danger. He needs help following such abuse.

The family is the starting point for any person, it is the one that leaves its mark on adult life. Obstructing the relationship with one of the parents, no matter how much affection the other shows, will affect the child's growth in a harmonious environment. When this happens intentionally, the child's mental health is seriously affected.

We should not classify parental alienation as a mental health illness. The avoidance that a child has in such a situation represents a retention of his own feelings of affection that he has towards the parent from whom he is estranged, but also the impossibility of being with him, of communicating with him. This is the result of the alienating parent exercising revenge, contempt, hatred towards the alienated parent.

We might think that when a child is separated from one parent, they actually have a loving relationship with the other, but this is impossible. In reality, the "good" parent exercises continuous control through obvious or subtle actions or inactions. He is the one who quenches his thirst for revenge through a child. Even if a parent's opinion

of the other is based on certain facts, nothing gives the other the right to separate the child from him. A “bad” spouse is not necessarily a “bad” parent. Therefore, the relationship with his own child can continue.

Parental alienation is abuse, as the parent manipulates the child, giving him appropriate treatment based on his behavior with the other parent. It is not normal for a child to be an ally in the denigration of his parent. He only becomes confused, guilty, agitated. Much too heavy and psychologically painful tasks are placed on the child's shoulders. Living in a family environment, he now has to learn whole stories about how one of his parents does not love him. The child perceives his parent as a dangerous person. Any interaction with him causes him even more suffering. It creates dependence on the alienating parent, wanting to do anything to please the latter.

2. How does it manifest?

The alienating parent will plant certain thoughts and actions in the child's mind, directly or indirectly, verbally or nonverbally, that will lead him to a negative image of the other parent. He will perceive him as an enemy ¹.

He sabotages the child's relationship with the other parent through various means, such as: taking legal action to restrict contact, filing criminal complaints, failing to comply with court orders, prohibiting gifts, phone conversations, involvement in activities. Even when the minor spends time with the other parent, the first will look for any method to control their activities or to destroy them. He does his best to induce a feeling of guilt, making the child choose who he wants to love.

¹The alienating parent has specific language, such as: "We would be better off if your mother/father would leave us alone.", "He doesn't care about you, he doesn't want you.", "We need money, and your mother/father doesn't want to give it to us.", "Your mother/father is enjoying the new family, he doesn't love you anymore."

The alienating parent is dominated by the obsession of removing the child from his or her parent and does not realize the mistake he or she is making.

3. Categories of alienating parents

As we mentioned, alienation can occur intentionally or unintentionally, resulting in three categories of behaviors of the alienating parent.

1. Mild parental alienation – the alienating parent adopts a firm position, from his behavior emerging a subtle programming of the child. He is aware that the child's separation from his parent does not benefit the child, so he does not make it a goal. We are in the presence of a naive parent. His statements are mild, stemming from the conflict he had with his partner, but they do not reflect on the child. He recognizes that the child's relationship must be mentioned by both and does not put obstacles. The children see the state of irritability between the two, they are affected, but nothing leaves its mark on their relationship with them. They have the guarantee of affection from both sides.

2. Moderate alienation – the parent in this category is consumed with anger. He has clear activities to alienate the child from his parent. He will practically do everything in his power to not allow the other person to spend time with the child, but accepts if this is necessary following a certain schedule established by an authority. He is active in the child's relationship with the alienated parent, but also aware that this must happen even if he does not agree. It is a carousel of reactions. The intention is good, but feelings of anger take control. Impulsiveness makes him criticize the other in front of the child. He knows he was wrong and often explains the situation to the child. They show rigidity, negative feelings, but they can overcome them.

3. Severe alienation – the hatred towards the other parent is clear. He projects his feelings visibly, making it very clear that there can be no relationship between the child and the parent. He proclaims himself in the role of victim, is innocent and takes advantage of the child's mind to

create serious images. He often claims in front of the child that he was abused by his partner and does everything he can to use the child. Reason does not exist, they have the impression that they are doing the right thing. Parents in this category of alienation are obsessed with attracting the child to their side, with making the child agree with them. They do not consider the needs of the children. The younger the children are, the faster they will achieve their goal. We might think that with the separation, alienation begins. However, this process, at the time of divorce, has already begun. The reasons of the alienating parent can be justified. They may experience such feelings even because of abuse, but the problem arises when they do not heal, and the parents have the impression that through the child they will remain obliged to maintain the relationship with the other parent.

4. Stages of alienation

In the first stage, the alienating parent's encouragement is only superficial. He supports the child's relationship with the ex-partner, but there are also moments when he denigrates him. This entire stage is dominated by subtlety. Even if the parent is sincere, he only projects a negative image of his parent in the child's mind. He considers the relationship between the two to be useless or not that important.

The second stage is characterized by clearer actions. The parent who stays with the child refuses to communicate with the other, refuses to involve him in activities, but above all refuses his decisions. Even if the former partners do not understand each other, raising and educating the child is a common task. The relationship between them is governed by a language in which respect does not exist. The child will have an image of a "good" parent and a "bad" parent.

The third stage represents a complete erasure of the emotional bond between the child and the alienated parent. Children end up having a vehement, clear, precise behavior regarding the refusal to interact with the other parent. Children have a pure, clean soul. Therefore, feelings of hatred towards their parent do not appear out of nowhere, but are learned.

5. International legal aspects

International regulations regarding the prevention and combating of parental alienation play an important role. Thus, the UN Convention on the Rights of the Child¹ is a fundamental international document that guarantees the rights of children in the world. Article 9 provides for the prohibition of separating a child from his or her parents, except in cases where this is absolutely necessary (such situations may represent mistreatment, neglect, or parental separation) following the decisions of the competent authorities. At the same time, the Convention provides that a child must maintain a relationship with both parents even if the two parents have separated. Consequently, the Convention has the role of protecting children against parental alienation, establishing that any action that leads the child to reject one of the parents, without a legitimate reason (for example, violence), represents a violation of his or her rights. Thus, parental alienation is a form of abuse with lasting effects. Signatory states are obliged to take all necessary measures to prevent parental alienation.

This international document establishes that the best interests of the child must be prioritized in any decision. Courts, as well as competent authorities, must create measures to protect the child from such abuse. These may consist of psychological counseling, mediation of relationships, supervision of relationships between parent and child. If it reaches the point where parental alienation has produced its effects, it must also be removed. Here too, there must be measures such as: changing custody, imposing a visitation schedule, or extreme measures such as temporarily placing the child in an environment protected from all harmful influences.

¹Adopted by the United Nations General Assembly in 1989. Romania applied the provisions of this Convention through Law No. 18/1990 for the ratification of the Convention on the Rights of the Child.

The UN Convention not only evokes children's rights, but also encourages clear solutions. Moreover, the rights of parents are also regulated. If a parent is prevented from having a relationship with his own child, then his rights are violated. No parent can be deprived of his rights, and his relationship will not be considered inferior compared to the other.

The Hague Convention on the Civil Aspects of International Child Abduction¹ can also be used in cases of cross-border parental alienation. A parent can abduct a child in order to take him to another country. Thus, the authorities of that state must protect the rights of the parent from whom the child is removed and re-establish the relationship between the parent and the child. The Convention regulates procedures for the return of the abducted child, having as a criterion the protection of the best interests of the child.

Regulation (EC) No 2201/2003² provides for the recognition and enforcement of decisions on custody and guardianship of children. It recognises procedures for resolving conflicts between parents leading to parental alienation.

When a court in one country issues a decision regarding custody or financial rights, other countries must enforce these decisions in accordance with international treaties, as a way to prevent parental alienation.

6. National legal aspects

Law No. 272/2004 on the protection and promotion of the rights of the child³ regulates extremely important provisions regarding parental alienation.

¹Done in 1980 at The Hague, published in the Official Gazette of Romania no. 243 of 30 Sept. 1992.

²Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

³Published in the Official Gazette of Romania no. 159 of March 5, 2014

The principle of the best interests of the child (art.3 of Law no. 272/2004) is a primary consideration in all decisions concerning the protection of the child. Any attempt to influence the child to remove the other parent is contrary to this principle. At the same time, the child has the right (art. 4) to a healthy upbringing and family environment, which involves the participation of both parents. Parental alienation is contrary to this rule. This law also recognizes psychological and emotional abuse of the child, but also the fact that this is as harmful as physical abuse.

Indirectly, Romania protected children against parental alienation until 2024, when the reality also took on a legislative form. Thus, Law no. 123/2024 was adopted to amend and supplement Law no. 272/2004 on the protection and promotion of the rights of the child. This law established parental alienation as a form of child abuse for the first time in Romanian legislation. It provides an express definition of it, as well as the sanctions that can be imposed on the alienating parent. Parental alienation has gained momentum, with society becoming increasingly aware of it. A child who is alienated by his or her own parent may end up denying his or her filiation. Those who are abused today will be abusers tomorrow. Thus, society enters a circle from which it cannot escape without a clear framework of sanctions.

It should be noted that not only parents can contribute to this alienation, resulting in multiple implications. Thus, the scope of responsibility is expanded. Parental alienation was considered mainly a phenomenon that occurred within the framework of disputes between parents (ex after divorce). However, by including more people, it is recognized that grandparents, relatives, new partners of the parents, educators, family friends or even institutions can also have a role in the upbringing of the child by a parent. This change could help combat cases in which, for example: a grandparent or other relative actively intervenes against one of the parents, speaking negatively about him in front of the child, a new partner of a parent influences the child not to see the other parent or teachers, child psychologists support alienation, favoring one parent and rejecting the other. The authorities will be able to analyze

more carefully not only the actions of the parents, but also external influences. This could allow for faster intervention in serious cases.

Of course, there are also potential risks and abuses. Sometimes what a parent perceives as alienation may just be normal peer influence. For example, a child who spends more time with grandparents may become more attached to them, and the parent may view this as a form of alienation. If the law is not clearly worded, parents may start filing complaints against the other parent's relatives just to gain an advantage in custody.

At the same time, the principle of keeping siblings together is introduced. In the context of parental alienation, the preservation of essential emotional ties is favored. Siblings have a unique bond, and keeping them together can contribute to a sense of stability and continuity, even when the relationship with one of the parents is strained or damaged due to the alienation.

Article 18 of the amending law provides that : in order to restore and maintain the child's personal relationships, the public social assistance service and, where appropriate, the general directorates of social assistance and child protection at the level of each sector of the municipality of Bucharest have the obligation to arrange for counseling, provided by specialists from the public social assistance services or authorized bodies, both to the child and to his or her parents, at their request or ex officio, and when there is suspicion of parental alienation or any other form of violence against the child and the court has been notified, they have the obligation to request that it conduct an expertise. In the event that one of the parents prevents or negatively affects the child's personal relationships with the other parent, by failing to comply with the program established by the court or agreed with the other parent, or refuses or opposes compliance with the measures provided for in paragraph (4), the public social assistance service and, where appropriate, the general directorates of social assistance and child protection at the level of each sector of the municipality of Bucharest, at the request of any of the parents, will order the monitoring of the child's personal relations for a period of up to 6 months, simultaneously with the request addressed to the guardianship court in order to supplement the agreement

of the opposing parent or, where appropriate, modify the measures regarding the child.

The judge may establish parental alienation at the request of one of the parents, at the request of the prosecutor or at the request of the General Directorate of Social Assistance and Child Protection, as the main action. In an ongoing trial, the judge hears the minor with the participation of a psychologist from the General Directorate of Social Assistance and Child Protection, following which a report of findings will be drawn up.

Article 89 of the current regulation is amended by allowing any natural or legal person, as well as the child, to notify the General Directorate of Social Assistance and Child Protection for situations of parental alienation. Therefore, easy access to protection is noted. Allowing anyone to notify the DGASPC ensures that problems related to parental alienation can be reported quickly. This is essential to intervene promptly in situations where the child's relationship with one of the parents is negatively affected. The fact that organizations or institutions can also bring cases of alienation to the attention of the authorities means that the entire community becomes a control and prevention mechanism. This contributes to broader accountability in society, where family problems are recognized and treated seriously. By giving the child the opportunity to express themselves and notify, the law validates and protects their right to express their grievances or to report situations that affect their well-being, putting the best interest of the child at the forefront.

Law No. 123/2024 was a necessity for today's society, bringing closer to reality the bonds between parents and children. Guilt in loving a parent is inconceivable. A child must have two parents even if they do not agree with each other.

By taking steps to bring the child back into contact with the alienated parent, the child will be able to trust the parent again. However, the fact that the child was alienated from his parent and then the relationship was restored can have consequences for the alienating parent, as the child has the ability to understand that the parent actually

lied about his parent. Therefore, measures must be applied firmly, so as not to fix one problem and create another instead.

We might think that the judge who is faced with such a situation is the one who decides all the aspects. However, such a variant cannot be accepted. The intervention of several institutions, authorities is necessary. The role of the judge is to sanction the alienating parent, but this decision does not change or improve in any way the emotional abuse suffered by a minor. Thus, the intervention of psychologists is required.

As mentioned above, the amending law is extremely important, but not complete. While it is clear that a child must be protected, art. 99 and art. 100 on placement are legal instruments designed to ensure the protection of the child when the family situation becomes harmful, including in cases of parental alienation. However, it can be argued that the regulations are indeed sometimes excessive or too rigid. Critics argue that overly detailed and strict regulation on placement can lead to excessive interventions, in which the child is removed from the family environment even in cases where the situation could be remedied through other methods of mediation or conciliation. Thus, the question arises whether too radical a measure is required to “protect” the child. Placement, although sometimes necessary, can have long-term adverse effects on the child’s development and attachment relationships. Separation from parents and the family environment can lead to additional trauma, especially since there is no plan for reintegration and post-placement support. The fact that anyone can report issues related to parental alienation means that, in combination with the regulations on placement, there is a risk of subjective or abusive application of the law. This puts pressure on the responsible institutions, which must have solid expertise and rigorous procedures in place to avoid hasty decisions.

7. Case Law

Civil judgment no. 3571 of November 14, 2018, pronounced by the Câmpina Court¹ represents an example in this matter. Thus, the court had to establish the following aspects: the exercise of parental authority, the establishment of the minor's domicile and the maintenance pension. The plaintiff wanted to spend time with the minor, even at his own domicile, but the defendant opposed it. Through a psychosocial investigation that assessed the living conditions of both parents, it was established that the plaintiff was employed by a company in Israel, had a rented apartment in Câmpina, and when he was taking care of the minor he was assisted by his mother.

The court imposed an obligation on the defendant to encourage and facilitate the maintenance of personal ties between the child and the parent. It also established that the authorities must intervene to the extent that this prevents the establishment of a relationship between the two. According to the case law of the European Court of Human Rights, created in application of Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, "from the moment and by reason of the very circumstance of the child's birth, there exists between the parents and the child a constitutive bond of family life which subsequent events cannot destroy except in exceptional circumstances" (the case of *Berrehab v. Netherlands*) - the personal bond which represents a fundamental element of family life, and measures which prevent these relations represent an interference with the right to family life" (the case of *Johansen v. Norway*).

¹ <https://portal.just.ro/204/Lists/Jurisprudenta/DispForm.aspx?ID=201>

8. Artificial Intelligence in the legal analysis of parental maintenance

Given that the phenomenon of parental alienation is receiving increased attention from the authorities, being increasingly present in child custody disputes, identifying and correctly treating this phenomenon involves a multidisciplinary approach, which involves bringing together legal, psychological and social elements. At the same time, the evolution of technology raises the issue of integrating artificial intelligence into the legal system, including in delicate cases such as those concerning the relationships between parents and children. Artificial intelligence is a branch of computer science that develops systems capable of imitating human cognitive processes, such as learning, reasoning, pattern recognition or decision-making. In the legal field, AI applications include case law analysis, automatic document drafting, risk assessment in criminal cases and, more recently, the prediction of court decisions. But how can a child's life be helped by an artificial intelligence system?

It is true that by processing similar previous decisions regarding custody, AI can highlight decision-making patterns, recurring factors that may influence the granting of custody, but also the degree of legal recognition of alienated behaviors.

At the same time, natural language processing (NLP¹) can be used. Thus, algorithms can analyze messages and parental behavior,

¹ Natural Language Processing is a field that deals with the interaction between computers and human language. Thus, NLP helps a computer understand, interpret, generate and respond to human language, whether it is speech or text. It can detect emotions or intentions in a message (if an aggressive tone is used), it can analyze the feelings in a text (positive, negative, neutral), it can automatically recognize keywords or the dominant theme in a conversation. In short, it can be used to analyze the content of messages between parents, social reports or statements to identify manipulative, megaactive, instigating language.

managing to highlight derogatory language, manipulation tactics, and the level of cooperation between the child and the adults around him.

Furthermore, based on an implemented history, AI can provide the level of probability that a certain family configuration will lead to alienation, giving the judge another perspective on the circumstances.

Applications based on artificial intelligence can track compliance with the visitation schedule (automatic check-ins, alerts, scheduled messages), and can identify repeated attempts to obstruct contact with the other parent.

However, none of these AI system capabilities will be able to understand family ties.

We must be aware that AI cannot feel empathy. Although it is capable of learning a lot, it can guess, it can make predictions and synthesize many documents, but it cannot assimilate empathy with anything. It cannot understand child trauma or subtle emotional suffering. The lack of the human factor leads to distorted conclusions.

AI should not be understood as a substitute for the legal process, but as a support tool capable of streamlining the analysis and complementing human perspectives. In this sense, a balanced approach, in which judges, lawyers and psychological experts collaborate with technology, can lead to justice that is faster, more informed and more sensitive to the needs of the child . However, the use of AI must be governed by ethical principles, the protection of fundamental rights and human control over the final decision. Therefore, the existence of artificial intelligence is only a good thing if it is used where and how it is needed, but in determining the extent to which a parent or other person has alienated a child it is irrelevant.

Conclusions

Parental alienation is a serious problem, requiring an approach from multiple perspectives, as well as a connection between authorities, professionals, parents, and society.

Protecting the rights of the child, supporting parents are essential steps to prevent and combat this phenomenon, which can affect the long-term development and well-being of the children involved. The love that a child feels for his or her parent must not be destroyed, regardless of what happens between the adults. Furthermore, they must be supported to express their feelings about what is happening. The anger of one of the parents does not justify distancing themselves from the other. The child should not be put in a position to choose between the two, should not know the accusations of each and be a victim of them. Therefore, alienation is an extremely sensitive area, requiring additional regulations that provide increased protection for the rights and legitimate interests of children.

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