

# ***Separated Unjustly Guarded Under Dictates***

Advocacy for Family Justice & Human Rights

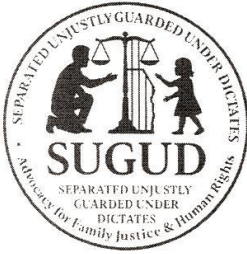
” You are not alone “

## ***Statement Regarding the Limits of Judicial Independence, Institutional Accountability, and the Continuing Risk of Denial of Justice***

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### ***Submitted to***

- United Nations High Commissioner for Human Rights
- UN Special Rapporteur on the Independence of Judges and Lawyers
- UN Special Rapporteur on the Situation of Human Rights Defenders
- UN Committee on the Rights of the Child

### ***Your Excellency High Commissioner, Distinguished Special Rapporteurs,***

The present clarification is respectfully submitted in order to address a recurring institutional argument frequently invoked in response to documented procedural irregularities within family court proceedings in Germany: namely, the invocation of “judicial independence” as a blanket shield against scrutiny, accountability, or international review.

It is essential to distinguish between:

- legitimate judicial independence protected under democratic constitutional systems, and
- conduct that falls outside the protected sphere of judicial discretion and enters the domain of denial of justice, procedural distortion, concealment of relevant information, ineffective remedies, institutional omission, and the practical absence of meaningful corrective safeguards.

Judicial independence protects:

- judicial reasoning,
- legal interpretation,
- and discretionary assessment undertaken in good faith.

It ***does not extend*** to:

- manipulation or incompleteness of official hearing records,
- concealment of information relevant to the safety or welfare of a child,
- deliberate procedural obstruction,
- artificial jurisdictional transfers,

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- inaccurate official documentation,
- procedural omissions affecting the integrity of proceedings,
- or institutional conduct resulting in the practical absence of effective corrective review.

The concerns raised in the present matter therefore do not relate merely to disagreement with judicial interpretation or legal assessment.

They concern whether the procedural system itself remained capable of functioning transparently, lawfully, and accountably once institutional actors became collectively connected to the preservation of prior procedural outcomes.

At a certain stage, the accumulation of procedural contradictions ceased to raise isolated concerns and instead began to challenge the internal coherence of the proceedings themselves.

The more the documented contradictions accumulated, the narrower the range of plausible good-faith explanations became.

The issue is therefore no longer whether an individual judge may have reached an incorrect legal conclusion.

The issue is whether the system retained sufficient institutional distance from its own prior procedural positions to remain capable of objectively reviewing itself.

These concerns directly engage:

- **Article 6** of the European Convention on Human Rights (right to a fair hearing),
- and **Article 13** of the Convention (right to an effective remedy).

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### ***Administrative and Executive Actors Cannot Hide Behind Judicial Independence***

Particular attention must also be given to the role of **non-judicial** institutional actors, especially:

- Jugendamt (Youth Welfare Office),
- the procedural representative (Verfahrensbeiständin),
- and other executive or affiliated actors participating in family proceedings involving minor children.

These actors are not constitutionally protected judges exercising independent adjudication.

They are executive and institutional actors operating under direct state responsibility.

This distinction is legally decisive.

When the procedural representative herself acknowledged in writing, in correspondence dated 1 April 2026, information and discussions allegedly known during the hearing of 4 March 2026 “ while such matters remained absent from the official hearing records and subsequent procedural decisions “ serious concerns arise not merely regarding judicial interpretation, but regarding institutional conduct, procedural transparency, and state accountability.

Furthermore, when participants involved in proceedings concerning a minor child allegedly possessed knowledge relating to severe medical circumstances and nevertheless failed to ensure transparent procedural disclosure or urgent corrective action, the matter moves beyond ordinary judicial discretion.

At that point, the issue concerns potential state responsibility for procedural omission, institutional failure, and the absence of effective safeguards relating to the protection of the child’s welfare and family unity.

The responsibility therefore cannot reasonably be reduced to the conduct of an “independent judge” alone.

Regardless of subjective intent, the cumulative conduct of the participating actors increasingly created the objective appearance of institutional partiality and ineffective corrective oversight.

The documented concerns increasingly indicate the possible existence of institutional structures whose cumulative conduct resulted in the practical absence of effective safeguards capable of ensuring transparent review, accountability, and meaningful correction.

Under international human rights law, the State remains responsible for the totality of institutional conduct carried out by its authorities and affiliated actors.

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### ***The System Did Not Correct Itself***

It is equally important to address the appearance that the later return of the child somehow demonstrates that the German system successfully corrected itself internally.

The documented procedural chronology indicates the opposite.

No meaningful internal accountability occurred.

No effective institutional correction mechanism appears to have been activated.

No disciplinary, supervisory, or corrective measures relating to the documented procedural irregularities have been disclosed.

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Instead:

- the Higher Regional Court rejected appeals on procedural grounds,
- the underlying concerns were not substantively addressed,
- and the institutional actors involved remained shielded from meaningful scrutiny.

This is legally significant because it directly concerns the practical effectiveness of domestic remedies.

The return of the child did not result from transparent internal corrective mechanisms functioning properly within the judicial system.

Rather, the child returned only after exceptional humanitarian circumstances arising from the severe deterioration of the mother's medical condition and her subsequent death - circumstances which lay entirely outside the corrective structures of the judicial system itself.

Following these events, additional procedural contradictions and previously concealed concerns progressively emerged and became documented.

The subsequent factual reunification of the child with her father therefore cannot reasonably be interpreted as evidence that the institutional system corrected itself effectively, lawfully, or transparently.

For this reason, the present matter raises serious concerns regarding whether domestic appellate and supervisory mechanisms in practice remain capable of functioning as effective remedies for citizens, or whether they increasingly operate as mechanisms structurally incapable of independently reviewing institutional conduct once prior procedural outcomes become institutionally embedded.

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### ***International Scrutiny Does Not Undermine Judicial Independence***

International human rights scrutiny of potential denial of justice does not undermine judicial independence.

On the contrary:

international oversight exists precisely for situations in which domestic systems become incapable of objectively reviewing themselves.

The principle of judicial independence cannot lawfully be transformed into institutional immunity from scrutiny where allegations involve:

- procedural manipulation,
- concealment of relevant information,
- endangerment of a child,
- inaccurate official documentation,

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- ineffective remedies,
- procedural omission,
- or the absence of meaningful corrective safeguards.

Where such concerns arise, international review becomes not an interference with sovereignty, but a necessary safeguard against impunity, institutional opacity, and the erosion of effective legal protection.

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**Respectfully submitted,**

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*Founder of SUGUD*

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**5769/25** German Constitutional Court: **1 BvR 1377/25** - Bundestag Petition: **Pet**  
**4-21-07-99999-003005***



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