

Is It Possible to Fight the Injustice in Family Courts?

Maybe there is hope...



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Some years ago, [I wrote about Carla and her battle against the family court](#) to protect her son. Carla's story is from a German perspective. But other countries may well experience similar issues.

A lot has happened in the meantime. And a lot that should have happened hasn't. Here is the next chapter in Carla's and Noah's story.

Let us recap. Carla is a domestic abuse survivor. She was forced to seek safety in three separate women's shelters because her ex-partner repeatedly tracked down and threatened her and her son. The legal system offered no protection. Instead, the family court decided that a violent partner with severe emotional regulation issues was a better parent than a mother traumatised by fears for her and her child's lives.

Carla's situation is not unique. Rulings like this have long been the norm in German family courts. Despite international treaties like the Istanbul Convention that aim to protect women like Carla and children like Noah. But German family courts have [not yet gotten the message](#). So Carla must keep fighting. Fortunately, the tide is finally beginning to turn in her favour.

Changes in the Legal Framework

One of the most notable changes is that the legal system seems to be moving in the right direction, albeit at a very slow pace. Germany's Federal Constitutional Court issued a landmark ruling in 2023 that ruled against relying on the infamous PAS construct, which has been used to attack and discredit victims of abuse in family courts for decades. This does not automatically mean lower courts comply, but it does create significant leverage to overturn rulings that rely on this unscientific and outdated concept. In Carla's case, this ruling comes too late. The damage had already been done long before that ruling.

But another court ruling by Germany's Federal Court of Justice can help Carla's fight. More on that later.

Carla has changed her strategy

Perhaps the most significant change came from Carla herself. She is no longer fighting alone. She now has allies at her side, most notably her partner and a new lawyer.

And together they have decided to change the strategy. There is no longer any hope that family court judges will see the error of their ways, that child protection services will take her pleas seriously, or that her ex will stop using Noah as a weapon to get back at Carla.

Instead, the fight has started to move on from the emotional level to a precise bureaucratic one. Here is what that entails:

- Written communication only. Every email and every letter is archived and documented.
- Carla no longer appears at any appointments or meetings in court or at the Child Welfare Agency by herself. There is always a bystander present, and after every appointment, she creates her own detailed record.
- No more pleading or endless follow-ups. If the caseworker does not approve the new budget for the supervised visits, Carla just notes this on the record as such. "No new budget approved. No new schedule for visitation has been provided"
- Every time Carla spends time with her son, she creates her own detailed protocol of that time. Was he hungry, unwashed, or wearing inappropriate clothing? Did he show signs of injury, or make concerning statements?

All this does not change the immediate facts in the here and now. Noah still shows signs of severe neglect. The father still feeds lies to Noah about his past and his mother. The father even forces Noah to read court documents and medical records to convince him that Carla is not to be trusted, insane or sick. And the Child Welfare Agency and the visitation supervisor still refuse to do their job to provide a consistent and foreseeable framework for when Noah can actually expect to see his mother. In two years, only 11 visits took

place. Sometimes the gaps were as long as five months. And there never was a guaranteed schedule for the next visit.

But here is what Carla's new strategy does change. It creates leverage. Undeniable evidence that the supervised visitation system fails to protect the child. It creates evidence that the system fails to guarantee Noah's constitutional right to spend time with his mother. And it creates evidence that there are serious issues concerning Noah's welfare in the father's household. These are not new facts. But now, Carla documents every single one of them. She writes it down and makes it verifiable.

The System Will Only Change When It Has No Other Choice.

There is a bitter truth that Carla has come to accept. Justice and legal realities are not the same thing. When it comes to protecting children and victims of domestic violence, Ideals and realities are far apart from each other.

The system will only change when forced to. The only way to force the system is to eliminate all other alternatives. But that needs leverage. Undisputed evidence that the system fails to do its job.

But it also requires a bold lawyer. A lawyer who does not hesitate to remind the judge that ignoring clear evidence will mean the ruling will be overturned on appeal.

A lawyer who can let the caseworkers at the Child Welfare Agency know that they are breaking the law, that Carla can prove it and that their conduct will become evidence at trial.

It has already started to have some effects. At the last court hearing, the judge gave a final ultimatum to the Child Welfare Agency and the father to get the visitation system to work. Now it is collapsing again. And here comes the legal precedent that boosts Carla's case, which I mentioned before. In 2023, Germany's Federal Court of Justice ruled that institutional or administrative failures in organising supervised visitation must never result in a complete loss of contact. The only alternative is unsupervised visitation with an enforceable court order. Carla's lawyer has already made that clear at the last court session. If the system fails again, the judge will be left with no other legal choice.

It Is a Tough Battle

So, there is finally hope for Carla. But the struggle remains uphill. That is the true scandal. This is what survivors of domestic abuse actually face when they leave.

Carla has been fighting for over a decade, with no end in sight. This is one of the reasons why survivors of domestic abuse do not leave. The real battle begins after they leave. The real threats happen after they leave. [Most femicides happen after the woman has left the relationship.](#)

Carla has been retraumatized multiple times by the authorities who fail and refuse to protect her and Noah. Everyone who has ever fought a legal battle knows the toll it takes. But what Carla and other women endure in family courts every day is a hundredfold of that.

- The constant fear of losing custody to an abusive partner
- The forced, ongoing contact with your abuser in court and institutional settings
- The knowledge that the safety and well-being of your child is compromised and that you can do nothing to prevent it from happening
- The complete loss of peace, knowing your ex can still stalk and threaten you a decade later.
- The daily struggle with panic attacks in public that you can never plan for.
- The immense difficulty of decoupling your panic attacks from the very real threats that are still present in your life.
- The relentless coercive control your abuser executes. From misquoting medical records in court to weaponising the child to get back at you.
- The exhausting burden of systematically documenting every single interaction and studying legal precedents just to prove the obvious.
- The immense financial strain of funding a lawyer who can fight this battle for years to come.

Still, Carla fights on. Giving up is not an option. And there is finally some hope that the fight pays dividends.