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## **With the family courts closed, mediation may be the only option**



Delphine Eskenazi: 'The current uncertainty should encourage parents... to reach mutually agreed solutions'

Delphine Eskenazi explains how the Paris Bar is deploying mediators to resolve parental access disputes during Covid-19

The COVID-19 epidemic has created many issues with regard to family law.

One recurrent issue has been visitation and access rights to children between separated parents. Many parents have used the Covid-19 epidemic as an excuse to prevent the other parent from seeing his or her child(ren) in accordance with the applicable parents' agreement or court orders.

Sometimes, the ground can be considered as legitimate, when for instance the parent's occupation is to work in a hospital.

Should that prevent though this parent from seeing his or her children during the entire duration of the epidemic? What limits do you set? Is it really in the child's best interest to prevent him or her from contact with the other parent for many weeks or even months?

Other practical considerations have also undermined the possibility for parents to see their children in a normal fashion, especially when the other parent lives in a different region.

While France has accepted the exercise of visitation and access rights as grounds for travel (which must be listed explicitly in the affidavit that one needs to carry currently for each journey), it is certain that travelling through France for this reason may prove to be extremely challenging. When the distances are large, it may trigger the risk of arrest and potential payment of a fine.

Finally, at the end of the spectrum, other situations have arisen where the grounds are much less legitimate, and the epidemic is only being used as an excuse to prevent the other parent from exercising his or her regular and normal access rights.

The difficulty is that French courts are currently completely closed and will deal only with urgent cases. Depending on the circumstances, it is not certain that the limitation of a parent's normal access rights will be considered as a ground of emergency.

Even if the courts eventually allow such applications, the situation is so unique and complex, that for the moment, family practitioners do not have any predictability as to whether the courts will accept the epidemic as a legitimate ground to limit the other parent's access and visitation rights.

As family practitioners, we must inform our clients that not following the normal rules will create certain risks and to avoid these risks, as always, amicable solutions should always be favoured.

With this objective in mind, the Paris Bar has actually set up during this period a very efficient network of family mediators, available immediately and willing to work through visio-conference, to try to untangle such family law issues during this unique period.

In a nutshell, in order to avoid answering the question of whether the rules should be strengthened or loosened up, the current uncertainty should encourage parents, even more than before, to reach mutually agreed solutions.

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