

# Parenting Coordination as a Solution to High Conflictivity and the Protection of Minors

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After a separation or divorce, it is often difficult to manage family conflict and the most harmed are usually children. The high-intensity parental conflict, which arises after the breakdown of marriage, must be resolved in the interests of minors. Parents need to exercise positive parenting and learn to manage the new parental relationship, even in these situations. They can be helped by the parent coordinator, who will act as a true family mediator, to guide them in the management of the conflict and the development of a contradictory plan, always concerned for the well-being of minors. If the solution is the coordination of parenting, as the pilot experiences of the different Autonomous Communities of Spain have already shown us, we must not forget that specific regulation of this figure is necessary in the Spanish legal order. The Spanish Civil Code must not only recognize the Judge's ability to appoint a parent coordinator, but would also have to determine their roles and intervention in the process, as the parent coordinator has demonstrated great benefits for families with high family conflict.

*Keywords:* parental conflict, parenting coordinator, divorce, conflict management, positive parenting, marital breakdown, separation

## Introduction: The Exercise of Positive Parenting

All minors, also those negatively implicated after the family breakdown, must have their right to private and family life developed (Art. 8.1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>1</sup>) even if there is a high level of conflict between their parents, who should exercise positive parenting, even in these situations. Recommendation Rec (2006, p. 1) 19 of the Committee of Ministers to Member States on policies to support the positive exercise of parenting defines the exercise of parenting as “all the proper functions of parents related to the care and education of children” and understands that positive parenting refers to “the behavior of parents based on the best interests of children, who care for, develop their abilities...”<sup>2</sup>.

Parenting functions are essential for the proper physical and psychological development of children and “...

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<sup>1</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms, made in Rome on 4th November of 1950, as amended by Additional Protocols No. 375 of 6th May of 1963 and 20th January of 1966, respectively. Instrument for ratification of that Convention by Spain of 24th November of 1977 (BOE No. 243 of 10th October of 1979). Article 8.1 of the Convention provides “Everyone has the right to respect for his private and family life, his domicile and his correspondence”.

<sup>2</sup> Adopted by the Committee of Ministers on 13th December of 2006 at the 983rd meeting of delegates of ministers. The concept of parentality and positive parentality can be found in the definitions section, p. 1 of this Recommendation. Available at [www.caib.es](http://www.caib.es) (accessed on June 4, 2020).

from the perspective of positive parenting, the objective of the task of being parents is to promote positive relationships in the family, based on the exercise of parental responsibility”, following Arias and Bermejo (2019, p. 2). Parents’ coordination in the care of their children should be carried out, both when the parents are living together as a couple, and once they are separated even if there is lack of communication or ineffective communication between them.

How to reconcile positive parenting in situations of high conflict? It will be essential to resolve this question and in this sense, first of all, the characteristics of the parental conflict and the problems that exist when it reaches a high level of conflict should be defined, and then search for the different tools that come into our system with which to face this situation. This will lead us to study parenting coordination as a possible solution not only to existing family conflicts, but also to the protection of the minor involved. It seems that the parenting coordinator is the most suitable resource, as we will see in the different pilot experiences of the Autonomous Communities. However, we do not find a regulation in our ordering of this figure. Being opportune to demand the necessary reform of the Civil Code will have to solve questions that the judicial practice has revealed about the parenting coordination.

We will begin by facing a complex reality such as that of broken marriages who do not correctly manage their crises. Not only do we have to know the characteristics of the parental conflict to face it with the best possible tools, but we will also have to find a solution to guarantee the protection of the minors involved in these situations of high family conflict.

### **The Parental Conflict**

Marriage breakdowns must be analyzed not only from a legal and economic point of view, but also from an emotional and even sociological perspective. Our legal system and our courts seem to forget that marital crises also have great sentimental repercussions, which leads to talk of a true emotional divorce according to González del Pozo (2019), referring to the “... inevitable process of mourning where each of the members must learn to overcome the feelings that emerge, derived from their problems of married life: love, hate, frustration, resentment, anger, desires for revenge, despair, dejection, depression” and must even readjust to the sociological change that this marriage crisis entails, derived from their new marital status. This situation can be described as a personal and family cataclysm (González del Pozo, 2019).

Furthermore, as Lauroba Lacasa (2018, p. 7) highlights, “these conflicts are characterized by the constant interference of the parties’ emotions, which modulates their rationality. The parties have a level of reciprocal knowledge that does not exist in other types of conflicts”.

All this is complicated when family discrepancies reach high levels of conflict, reaching a holistic, interdisciplinary, and comprehensive parental conflict<sup>3</sup>. These conflicts require multidisciplinary responses since they have multiple ramifications, not only economic, but affective and even psychological.

The parental conflict that culminates in the separation or divorce of the parents does not end or find a solution in the judicial resolution. If the conflict increases its intensity, it leads to a constant judicialization, which is not good for any of the affected parties and can end up making the situation more serious and even more worrying for the younger children.

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<sup>3</sup> In Spain, at least 12% of the breakups of couples with children are extremely conflicting according to Centro de Salud Integral Alicante at <http://csialicante.es/coordinacio-parental/> (accessed on June 9, 2020).

The family court judge lacks effective legal instruments to achieve coercive compliance with a sentence, eventually qualifying as insufficient, making it evident that “new procedural rules are needed, endowed with flexibility and creating new spaces in which both justice and specialized psychology can cope with family/parental conflict without being curtailed by a rigid norm” (Avedillo, Carrasco, Guitar, & Sacasas, 2015, p. 54).

This leads us to seek solutions in alternative methods of conflict resolution such as mediation, collaborative law and parenting coordination, following the recommendations given in Art. 13 of the European Convention on the Exercise of Children’s Rights, made in Strasbourg on 25th January, 1996, effective in Spain since 2015, when it imposes on the parties the obligation to promote mediation and other means of dispute resolution that help prevent, avoid, and resolve legal proceedings in which the interests of minors are involved<sup>4</sup>.

The need to improve the resolution of this type of conflict should be considered. Mediation can be a solution proposal always starting from voluntariness, an essential basis for the parties’ agreement, but when it does not exist (which usually happens in conflict situations), it is necessary to rethink another possible solution<sup>5</sup>. Ortuño Muñoz (2013, p. 12) comes to consider the family mediation as a methodology that is useful as a preventive strategy because it helps to manage anger in difficult communication contexts and as a “true antidote of special relevance to prevent situations of domestic violence”.

The collaborative lawyer, following Soletto Muñoz (2017, p. 24), “will be the one who properly manages the negotiation, knows how to work with the mediation and even chooses collaborative or simply cooperative procedures in his case”. It can be a solution when the conflict has not yet reached a very high level.

We believe that the parenting coordinator will be the ideal solution, both to resolve high-intensity parental conflicts and to protect the minors involved. Which leads us to study it in depth, without forgetting that it will not be enough to copy and literally apply in our country what has worked in others, but, as indicated by the Association of Coordinators of Parenthood of Aragon (hereinafter, Acopar) and the Confederation for the Best Interest of Children (hereinafter, Cemin), what has to be done is to assess the pros and cons of said figure, and then study how to incorporate it into our legal and judicial scheme (Campo Izquierdo, 2018).

### **Parenting Coordination as a Solution**

Parenting coordination may be presented as a judicially adopted solution to the problem posed and always with the aim of guaranteeing the supreme well-being of minors (the primary objective of coordination) and of accompanying parents in the reunion in the exercise of parenting. The AFCC (Association of Families and Conciliation Court) as early as 2005 defined parenting coordination as “an alternative child-centered dispute

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<sup>4</sup> European Convention on the Exercise of the Rights of Children, made in Strasbourg on 25th January of 1996, effective in Spain since 2015 (BOE, No. 45, 21st February of 2015). Article 13 of the Convention entitled Mediation and Other Dispute Resolution Systems provides “In order to prevent or resolve disputes and to avoid procedures affecting children before a judicial authority, the Parties shall promote the practice of mediation or any other dispute resolution system and their use to reach agreement where appropriate cases as determined by the Parties”.

<sup>5</sup> Law 15/2005, of 8th July, amending the Civil Code and the Civil Procedure Act in matters of separation and divorce. BOE No. 163 of 9th July of 2005. In the explanatory statement expressly says “In this way, the parties may at any time ask the Judge to suspend legal proceedings to attend family mediation and try to reach a consensual solution in the matters at issue”. Recommendation available at <http://mediacionsolucion.com/index.php/que-es-la-mediacion/79-mediacion/familiar/274-recomendacion-n-r-98-1-de-21-de-ener-o-1998> (accessed on June 12, 2020).

resolution process, in which a mental health or judicial professional with training and experience in Mediation assists parents with a high degree of conflict in order to implement the parenting plan” (APA, 2020)<sup>6</sup>.

The birth of this figure is located in the United States in the 1990s, being also a tool of great use to protect the child from undesirable situations in Canada and Argentina (Vázquez Orellana, Tejedor Huerta, Beltrán Llago, Antón Moreno, & Delgado Fernández, 2018, pp. 10-11)<sup>7</sup>. In Europe, the parenting coordinator has been established in countries such as Germany, England, Italy, or France.

In Spain, May 2013 is when the first collaboration agreement was signed between the Court No. 8 of Sabadell, with the help of Judge Arias Burgo, and the Team of Logos Media for the implementation in this judicial match of the first pilot project of parenting coordination. The results of this experience, published in November 2014, demonstrate that in most cases there has been an improvement in parental communication, the number of complaints and/or new legal proceedings has been discontinued, improving the tone of writings and face-to-face conversations, for the first time marital agreements have been reached, reorganizing the relations of members of the family system and promoting the initial interest of maintaining the relationship between the child and the non-custodial parent<sup>8</sup>.

At the national level, one of the architects of its consolidation has been Ortuño Muñoz, magistrate of the Barcelona Provincial Court<sup>9</sup>. In the Judgment of the Provincial Court 602/2013, of 26th July, Section 12th, the intervention of a psychologist as parenting coordinator is agreed for the first time as a measure of reinforcement and follow-up for the normalcy of the custody system<sup>10</sup>. The coordinator is qualified for specialized support to follow up on the execution of judgments, since through the classical means of execution the courts are unable to solve this particular post-rupture problem, and also highlights the obsolescence of the procedural means offered by the Civil Procedure Act to solve conflict in family law<sup>11</sup>.

The second pilot experience took place in several courts in Barcelona and Lleida from January 2015 through *Fundación Filia de Amparo al Menor* [Filia Foundation for Child Protection] and *Centro de Mediación de Derecho Privado* [Mediation Center of Private Law], attached to the Ministry of Justice of the Generalitat of Catalonia<sup>12</sup>.

The Judgment of the High Court of Justice of Catalonia 11/2015, of 26th February endorses the imposition of this figure defining the coordinator of parentality as

<sup>6</sup> This association developed the *Guidelines for Parenting Coordination* by the Parenting Coordination Working Group of the Alternatives and Conflict Resolution Section of the Official College of Psychologists of Catalonia (hereinafter COPC) in collaboration with the Parenting Coordination Group of Systematic Space of Buenos Aires. Available at <http://www.afccnet.org/portals/0/afccguidelinesforparentalingcoordinationnew.pdf> (accessed on June 5, 2020). The American Psychological Association (hereinafter APA) in 2012 also sets out guidelines for the practice of this profession, defining parenting coordination as a process of resolving non-adversarial disputes. See APA *Guidelines for the Practice of Parenting Coordination* available at <https://doi.apa.org/doiLanding?doi=10.1037%2Fa0024646> (accessed on June 9, 2020).

<sup>7</sup> With regard to the origin of this figure and answering the question: Where does it come from?

<sup>8</sup> The report of the Parenting Coordination Service in the Judicial Party of Sabadell is available at <https://www.logosmedia.es/coordinacion-parental> (accessed on June 9, 2020).

<sup>9</sup> See the official website of Judge Ortuño Pascual, P., <http://www.pascualortuno.com/> (accessed on June 9, 2020). It contains articles and magazines of interest on parenting coordination.

<sup>10</sup> Judgment of the Barcelona Provincial Court 602/2013, of 26th July, Section 12th (ROJ: SAP B 7552/2013). In the same vein, in the Judgment of the Barcelona Provincial Court, 141/2014 of 25th February, Section 12th (ROJ: SAP B 1176/2014), a pioneer in this area, it is considered necessary to intervene in support of a parental coordinator to normalize and reintegrate parent-child relationships.

<sup>11</sup> Judgment of the Barcelona Provincial Court, 301/2014, of 7th May (ROJ: SAP B 4979/2014).

<sup>12</sup> Information of the Fundación Filia de Amparo al Menor in relation to the parental coordinator is available at <https://www.fundacionfilia.org/intervencion-del-coordinador-parental/> (accessed on June 12, 2020).

... an auxiliary or collaborator of the Judge in the effective implementation of the new measures with powers of conflict management, mediation, of the family's re-lead towards the normalization of the new situation in a peaceful climate that allows in a reasonable time for the family to accept the new guidelines and be able to self-manage. Sometimes the coordinator can make binding decisions for the family. It is organized under the principles of specialty, neutrality, efficiency and confidentiality, except for the information that must be given to the court.<sup>13</sup>

Another pilot project was initiated after the Catalan experience in the Balearic Islands, where the conflict index is estimated to be 15% of the dissolved couples, which also proved to be very beneficial. Then it was implemented during the year 2017 and part of 2018 in Aragón, being Dolado, while occupying the ownership of the Family Court No. 6 of Zaragoza, who appointed to different professionals as parentality coordinators in several cases of the so-called high conflict, by judicial decree or judgment, and with similar results to those of Catalonia. The Association of Parentality Coordinators of Aragón (hereinafter, ACOPAR) is the one that is promoting the figure in this Autonomous Community since February 2018, highlighting its usefulness and benefits but considers that as long as it does not appear specifically defined and contained in the Law, it is not likely that there will be derivations of parenting coordination in the Courts of Justice (Argudo Pérez & González Campos, 2019, p. 142)<sup>14</sup>.

Different pilot programs have been designed in Castellón, Valencia, and Madrid since this moment. In the province of Castellón, the Association ANEFAM implemented the parenting coordination program in 2016, which has consolidated throughout 2017 to the present day with a total of 110 families involved, which according to the Association are increasing, although in the face of the health alert situation everything has been paralyzed. This Association claims its regulation, since it is only being able to resolve the incidents that arise in relation to this figure through the analogy<sup>15</sup>.

The pilot program of the Ministry of Justice of the Valencian Community was launched in May 2017 thanks to the initiative of the director of the Institute of Legal Medicine, who proposed it to the Deanship of Judges of Valencia. During this time, 15 families with a high level of conflict and who faced litigation numbers have been treated. In addition, this programme has been successful in terms of the resolution time of the dossiers which on average has been 10.5 months compared to the optimal duration estimated, following international indicators, between 18 and 24 months. In June 2019 the Ministry of Justice, Interior and Public Administration of the Valencia Community has reported that in the successful results of the pilot experience of the Psychosocial Cabinet of the City of Justice of Valencia, the parenting coordination service will be extended to all the Family Courts of the Valencian Community<sup>16</sup>.

In the Community of Madrid in October 2018, the Spanish Mediation Association presented the pilot project for the creation of a parental coordination point and management of the family conflict in the prison of Madrid II of Alcalá de Henares in the face of the high level of anxiety and stress of inmates, as a result of not knowing or

<sup>13</sup> Judgment of the High Court of Justice of Catalonia 11/2015 of 26th February (ROJ: STSJ CAT 551/2015).

<sup>14</sup> See information of the First National Congress for the Parenting Coordination on 27th-28th September of 2018, in the Bulletin *Mediando*, No. 33, Mediation Section of ICAV, September-October 2018. Available at [www.mediacion.icav.es](http://www.mediacion.icav.es) (accessed on June 12, 2020).

<sup>15</sup> The Castellón Parenting Coordination Program is available at [www.anefam.com](http://www.anefam.com) (accessed on June 9, 2020). ANEFAM stands for Association for the Care of the Needs of Families and Minors of the Valencian Community.

<sup>16</sup> Information available at <http://www.castelloninformacion.com/servicio-de-coordinacion-de-parentalidad-todos-juzgados-comunitat/> (accessed on June 8, 2020).

being able to influence the daily life of their children, their education, and personal development when they are separated or divorced or there is a break with their partner, in many cases traumatic and with poor communication relationship. It is planned to extend this programme to other prisons included in the agreement between SGIP and ASEMED<sup>17</sup>. Furthermore, official data from the region show that 25% of the ruptures end up in conflict and confrontation and about 9,250 children are suffering the consequences of dissolution. Several families have already been derived during 2019 to the Parental Coordination System in Madrid from various Courts of the capital or from the rest of the Autonomous Community<sup>18</sup>.

Everything reflected by the different pilot experiences of recent years, which have worked very well, achieving good results by putting all the personal, material, and economic means necessary for this, shows that the figure of the parenting coordinator arises in this context in the face of the need to provide families with alternative professional interventions, specialized and supported by the judicial system, which contribute to reducing conflict between parents, prioritizing the interest of children, and restoring effective parental collaboration. The Judicial Decree of the Supreme Court of 27th November 2019 endorses the decision of the Provincial Court to designate “the intervention of a parenting coordinator who deals with the monitoring and compliance of therapy in the CDIAP and coordination with the FSP in order to restore the paternofilial relationship with both minors”<sup>19</sup> and also, the Judgment of the Málaga Provincial Court 389/2017, of 26th April warns the parties that if they continue their interparental conflict, which may seriously harm the child, they will be required to attend compulsory therapy and parental responsibility sessions or designated at their expense a parentality coordinator”<sup>20</sup>.

The parenting coordinator may approach the last opportunity to be placed in the adult places to gather in their parental capacities and maintain the impartiality that will be broken in favor of the minors in that family system, ensuring their well-being in the face of the existing emotional and family disorder. All this leads us to consider that decision-making is a fundamental task in the exercise of parenting, with the coordinator being able to “... help to make it easier for parents to reach their own consensual solutions for the benefit of children” (Arias Bermejo, 2019, p. 4).

The Ministry of Justice itself proposes to the Autonomous Communities in October 2018 the creation of the figure of the parentality coordinator to protect the minor in cases of conflict between his parents, proposing the extension of this programme to the whole national territory<sup>21</sup>. This would prevent the collapse in the Family Courts by relevant usual disputes of separated or divorced parents who do not hesitate to go to trial for day-to-day issues related to their children, coming to raise, a single conflicting family, between 8 or 10 cases a year<sup>22</sup>.

Faced with this social reality derived from post-rupture conflict and the judicial reality reflected in the various pilot plans and jurisprudence, we must now know how our legal system acts in the face of the coordination of parentality.

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<sup>17</sup> Program information available at [www.asedmed.org](http://www.asedmed.org) (accessed on June 8, 2020).

<sup>18</sup> Data obtained from the newspaper ABC available at [https://www.abc.es/espana/madrid/abci-coordinador-parental-escudo-ninos-ante-divorcios-conflictos-201907070128\\_noticia.html](https://www.abc.es/espana/madrid/abci-coordinador-parental-escudo-ninos-ante-divorcios-conflictos-201907070128_noticia.html) (accessed on June 9, 2020).

<sup>19</sup> The Supreme Court Judicial Decree of 27th November of 2019, Appeal No. 1954/2019 (ROJ ATS 12633/2019). CDIAP is the Development and Primary Care Center and PEF is the Family Meeting Point.

<sup>20</sup> Judgment of the Málaga Provincial Court 389/2017, of 26th April (ROJ SAP MA 1745/2017).

<sup>21</sup> Press Release of the Sectoral Justice Conference, 3rd October, 2018, [prensa@mjusticia.es](mailto:prensa@mjusticia.es) (accessed on June 11, 2020).

<sup>22</sup> Europa Press, 3rd October of 2018.

### Necessary Regulation of the Parenting Coordinator

Although there is no express regulation of parenting coordination at the international level, it is true that the United Nations Convention on the Rights of the Child of 20th November 1989 in Article 3.1 recognizes that an appropriate legal measure can be taken to preserve the best interests of the child who is at risk of psychological harm<sup>23</sup>.

These measures may fit the figure of the parenting coordinator since General Comment 14 (2013) of the Committee on the Rights of the Child on the right of the child to be a primary consideration in Paragraph 17 clarifies that by legal measure “not only decisions, but also all acts, conducts, proposals, services, procedures and other initiatives are included”, aimed at protecting the best interests of the child<sup>24</sup>. In addition, according to Article 9.3 of the Convention, any child who is separated from one or both parents should be guaranteed the right “to maintain personal relationships and direct contact with both parents on a regular basis, unless this is contrary to the best interests of the child”. For this reason, Verdera Izquierdo (2019, p. 47) considers that in every willingness to adopt “... the impact it may have on minors should always be taken into account. Therefore, a finalist hermeneutic should be used, protecting the child at all times and being the ultimate purpose of such interpretation”.

If we seek the legal coverage that this figure has in our ordering is clear that our Spanish Constitution in Article 39 imposes the obligation to guarantee the social, legal, and economic protection of the family and children regardless of their affiliation and to ensure the comprehensive protection of children, provided for in international agreements that ensure their rights.

It is true what the Judgment of the High Court of Justice of Catalonia 1/2017, of 12th January, recognizes saying that “the various laws, both civil substantive ... as procedural ... are giving judges ample scope for *ex officio* action when it comes to taking measures to avoid harm to minors, or to know the actual family situation, which allow them to make the most appropriate decisions, on the basis of the superior interest of the child who is always to prevail”<sup>25</sup>.

A clear example of this is Organic Law 1/1996, of 15th January for the Juridic Protection of the Minor (hereinafter LOPJM) which, in order to recall that the best interests of the child must be valued and considered to be paramount, in Paragraphs 2(a) and (c) thereof, in Paragraph 5(b), contemplates the possibility of taking any measure in the best interests of the child within the process, respecting the guarantees of the child and in particular “intervention in the process of qualified professionals or experts”<sup>26</sup>.

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<sup>23</sup> The Convention was ratified by Spain in 1990 (BOE No. 313 of 31st December of 1990). Article 3.1 of the Convention provides “In all measures concerning children taken by public or private social welfare institutions, courts, administrative authorities or legislative bodies, a primary consideration to be followed shall be the best interests of the child”. The European Convention on the Exercise of Children’s Rights of 25th January of 1996 also recognises in Article 6 (a) that same possibility in considering that the judicial authority, before making any decision, must “examine whether it has sufficient information in order to make a decision in the best interests of that decision and, where appropriate, to seek additional information, in particular from the holders of parental responsibilities”.

<sup>24</sup> CRC/CG/2013/14. Available at <https://www.unicef.org> (accessed on June 11, 2020).

<sup>25</sup> Judgment of the High Court of Justice of Catalonia 1/2017, of 12th January (ROJ: STSJ CAT 486/2017).

<sup>26</sup> Organic Law 1/1996, of 15th January, on the Legal Protection of the Child, partial amendment of the Civil Code and the Civil Procedure Act. BOE No. 15 of 17th January of 1996. Article 2 LOPJM is redrafted by Organic Law 8/2015 of 22nd July amending the system of protection for children and adolescents (BOE No. 175 of 23rd July of 2015).

Given the need for this figure and therefore the protection of minors affected by high parental conflict, it is time to call on our legal system to regulate a judicial reality, where the effectiveness of the figure of the parenting coordinator through pilot programmes developed in various Autonomous Communities is increasingly being recognised.

It would not be sufficient to make a generic recognition that the judicial authority may have the appointment of a professional involved in these situations within the measures taken, which would already have part in Article 91, Art. 92.5, and Art. 158 CC. In this sense, it is considered that this last article

... provides coverage from the substantive scope of the right to its implementation (in relation to the parenting coordinator), by establishing that either ex officio, either at the request of the child himself or any relative, or the Public Prosecutor's Office, those necessary measures may be fixed in favour of children in order to avoid harmful disturbances or dangers that are irreparable in development and well-being. Measures may be taken in the best interests of children and adolescents, in any civil or criminal proceeding or in a process of voluntary jurisdiction. (Vázquez Orellana, Tejedor Huerta, Beltrán Llago, Antón Moreno, & Delgado Fernández, 2018, p. 17)

The Catalan Civil Code (hereinafter CCat)<sup>27</sup> in Article 233.10.4 states in relation to the exercise of the authority that "The judicial authority may, exceptionally, entrust the guardianship to grandparents, other relatives, to persons close to them or, failing that, to an appropriate institution, to which guardianship functions may be conferred with suspension of parental power". It will be Article 233.13 which stresses that the judicial authority may, for substantiated reasons, take measures to ensure the supervision of the personal relationships of minors in risk situations. Similarly, Article 236-3 Ccat, referring to judicial intervention, considers that "1. The judicial authority may, in any proceeding, take such measures as it deems necessary to avoid any personal or property harm to children in power. To this end, it may limit the powers of parents, require them to provide guarantees and even appoint a judicial administrator". This judicial administrator could be the parenting coordinator when the minor children are immersed in parental conflicts arising from the breakdown of their parents.

The Civil Code and the Catalan Civil Code recognize that the judicial authority may take measures including the parenting coordinator; however, this is not sufficient. A more specific and comprehensive legal regulation of this institution is required that defines the professional profile of the parenting coordinator, determining and specifying its functions and the procedure related to its appointment and the entire process of accompanying the parents (Bujalance Gómez, 2019, p. 3)<sup>28</sup>.

It will be necessary for this future regulation to answer the following questions relating to the profile of the parenting coordinator. Does this work belong to the psychosocial teams attached to the courthouse? Do these duties exceed an expert's own? Is he an assistant to the judge? Is he a real mediator? Since these questions are not clear, arising from the non-determination of their legal nature, the length of this intervention is unknown, as well as whether or not their decisions may be appealed, whether or not the cases of cross-giving or recusal of experts can be applied or because they are an extension of the Judge, the grounds of recusal and abstention would apply to

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<sup>27</sup> Law 25/2010, of 29th July, of the second book of the Civil Code of Catalonia, concerning the person and family. Published in DOGC No. 5686 of 5th August 2010 and BOE No. 203 of 21st August of 2010.

<sup>28</sup> In this sense you can take into account Bujalance Gómez, I. (2019). El tiempo en la coordinación de parentalidad [Time in Parental Coordination]. *Revista de Mediación [Mediation Journal]*, 12(1), 3 when she differentiates what she calls three steps along the way that begin with the signing of a parenting coordination commitment or contract, followed by an orientation to the parties in the exposure of the most painful moments experienced and end with the elaboration of the diagnosis and design of the parental planning to find the lost cordiality.



it. It is also not concrete what happens in case of non-compliance with the agreed decisions or who assumes the costs.

It will be very important to determine the procedural moment at which the coordinator should be appointed. If we limit his role to the mere education of parents, his intervention could be of a preliminary referred nature only, supplementing it with educational projects. If his task is to bring back the parties to the conflict, the differences that exist with mediation will have to be established. And if he acts as the judge's helper, it will be necessary to specify whether the Judge can make decisions and what relationship they have or whether they can only be taken exclusively by the Judge because they are not delegated.

It will be very important that in order for a change in the exercise of positive parentality, thanks to the action of the parenting coordinator, taking decisions concerning the parentality plan and always for the benefit of minors, there is a clear cooperation of the child with the legal operators, judges and lawyers of the parents; the former must know how the process goes and its incidents and the latter exercising a cooperative and supportive role (Avedillo, Carrasco, Guitar, & Sacasas, 2015, pp. 164-166).

In addition, the future law and/or regulations governing this figure should take into account that the infrastructures necessary for the implementation of the parenting coordination at the national level will be greater, more complex and with higher economic costs than those required at the regional level (Campo Izquierdo, 2018).

### **Conclusions**

The exercise of positive parentality should be ensured even in situations of high family conflict as minors have the right at all times to keep in touch with their parents.

The parental conflict that culminates in the separation or divorce of the parents has a holistic, interdisciplinary, and integral character and must always be resolved intended for the protection of the children involved. If there is a deficit in the judicial system to address these high-intensity family conflicts, some solution should be sought, such as mediation, collaborative law, or parenting coordination. Family mediation does not seem appropriate in the face of the high level of conflict and therefore, in the face of the parties' failure to voluntarily. The collaborative lawyer may be the solution but when the conflict has not reached a high degree. It seems, therefore, that parenting coordination seems to be the solution.

The various pilot programmes for the implementation of the parenting coordinator in the Autonomous Communities have highlighted the good results of these experiences, helping families and children involved in parental conflict. However, there is no specific regulation of parenting coordination, which is demanded, given the inadequacy of instruments that procedural law determines to protect the children involved. It would be necessary for our Civil Code not only to recognize the Judge of the possibility of taking measures including the coordinator, but to directly recognize this figure, determine its functions, the phases of its intervention and thus resolve questions that are currently being solved with the application of the analogy.

We must conclude by stressing that although the parenting coordination has been praised for the benefits that the child will bring, that cannot make the parenting coordinator an ordinary remedy for family conflicts and a substitute for parental responsibility of parents. This figure should only be used in situations of high family conflict and where the interests of minors must be protected.

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