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**Psychological Violence in the Family, by OSPOD, by Judges – Findings From Practice and  
Proposal of Preventive Measures**

Dear Ministers,

I address this report, which contains comprehensive negative findings from practice, to both of you, because you are responsible for the behavior of OSPOD employees, for the behavior of judges, and for legal norms that are supposed to provide protection for the relevant social relations. It is necessary for you to intervene immediately on the part of the supervisory authority, among others in the case of Marie and Barbara (pp. 27-30), and to take immediate preventive measures. Every day can be decisive for whether a child will one day be able to create a functional family on his or her own, and childhood has a significant impact on this. The younger the child, the faster he forgets about the loving parent, who is endangered in society, especially if he or she is negatively influenced by the other parent and the court has prevented contact with the loving endangered parent.

In the text below you will find a description of current problems, evidence (and if necessary, I can provide you with written statements from the courts, OSPOD, which I refer to in the text, as well as all recordings from court proceedings), and proposals for solutions. I ask you to read the document in its entirety, as the problems described have a cross-section of both the activities of OSPOD workers and the activities of judges. I believe that if you implement the following proposals for solutions, **the causes** of these negative consequences will be eliminated, resulting in a stronger family, a happy childhood and a healthy foundation for the child to build their own family, a decrease in divorces and in fact less work for judges and OSPOD, although it does not seem so at first glance. At the same time, there will be fewer family depressions, which often affect the caring parent and the child, and there will be less stress for caring parents from the lack of job opportunities available to them.

With regard to the seriousness of the situation, I ask you to intervene immediately in the serious cases listed below and to inform the public as soon as possible about the preventive measures you will put

into practice, because violence in the Czech Republic, according to sociological surveys, takes place in every fourth family<sup>1</sup> that is waiting for hope for improvement.

The fact that the situation is alarming is also indicated by the fact that Czech citizens are beginning to talk about the topic publicly:

- in the Czech Republic, is planning demonstrations on 1 June for the protection of children's rights and mental health,
- On 14 March 2025, Czech Television broadcast a streamed debate<sup>2</sup> on the topic of domestic violence,
- Czech Television is screening the series "Děčko", which emphasizes, among other things, the dysfunction of the system in the Czech Republic and domestic violence,
- according to public sources, Czech Television is also preparing a documentary about domestic violence and the dysfunction of the system in the Czech Republic.

If you, as the top control bodies, have the opportunity to look into court proceedings, e.g. as "participation from the public", I invite both of your ministries to come and see how the court and OSPOD view marital violence in relation to alimony for a wife - 3.4.2025 at 9:30 at the District Court Prague-West in room 8 – 3rd floor, and 10.4.2025 at 10:30 at the District Court Prague-West in room 4 – 2nd floor then in the position of a mother caring for a child in exclusive care, where the subject of discussion will be the necessity of part-time work and the difficulty of caring for a child in illness. In my statements, I gave both judges (while in the second case I was now handed over to a different judge than she decided on custody 7 months ago) a detailed look at the issues and current functioning in society. I therefore believe that the downplaying of violence by OSPOD and the court and the incorrect opinion of OSPOD and the court that the mother of a small child who is in her sole custody can work full-time will be refuted in this second "round" of proceedings, and I hope that it will not be refuted before the Constitutional Court. However, my goal is not only to correct specific judges and specific OSPOD workers dealing with my case.

During the first proceedings, I identified what was not working properly on the part of OSPOD, district courts, and regional courts. However, the quality of the work of judges and OSPOD workers is only a consequence; the cause of the problem is the current setup of the entire system - the work of OSPOD, the rights and obligations of judges, practical knowledge of the functioning of the family and violence in the family, legal norms. If you eliminate the causes, there will be no more negative consequences, both of which I describe in this report.

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<sup>1</sup> [https://szu.gov.cz/wp-content/uploads/2023/02/domaci\\_nasili\\_11\\_B\\_C.pdf](https://szu.gov.cz/wp-content/uploads/2023/02/domaci_nasili_11_B_C.pdf)

<sup>2</sup> <https://www.facebook.com/ceskatelevize/videos/2391142237903215>

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## 1. Social Inequality of Parents

The family is a basic social group. Ideally, the child receives unconditional love from both parents, satisfaction of life needs, learns relationships between people, experiences sharing, trust, closeness and thus receives the foundation for building their own life, their own future family. If a child suffers from a lack of unconditional love in childhood (e.g. lack of unconditional love), then he brings these patterns from childhood into his own family, i.e. he is unable to empathize with the child and perceive his needs.

With the birth of a child, a happy partnership changes into a family relationship, which is completely different. With the birth of a child, social inequality of parents arises, quite naturally. "The current setting of gender roles assumes inequality and the (dis)advantage of one parent at a time, assigns them different work and different values, different duties and responsibilities."<sup>3</sup> The work of a housekeeper and parent in a household caring for a child is not, in today's society, a recognized value. This parent suffers, quite logically, from low self-esteem.

At the same time, it is the caring parent for whom childcare and household work often represent a second shift if they are also active in the labour market. According to the current stereotypes, work and family tend to be in conflict in the life of a predominantly caring parent, and a predominantly caring parent is constantly faced with the need to resolve the work-family relationship. The source from which it is drawn<sup>1</sup> also correctly defines the fact that the disadvantage of the predominantly caring parent (in most cases the woman) consists of worse access to the labour market (risk of future maternity/parental leave), lower salary (due to interrupted/delayed career) and the resulting lower pensions, a demanding combination of work and family responsibilities (childcare, household), lack of free time, in financial dependence on the partner, which begins at the moment of starting maternity leave.

## 2. Domestic Violence

Deficiencies from one's own childhood, in direct connection with the social inequality of parents, manifest themselves negatively in the family relationship, through domestic violence of various kinds. "The majority of victims of domestic violence are women, and the perpetrators are usually their current or former partners."<sup>4</sup>

"According to sociological surveys, violence in the Czech Republic takes place in every **fourth family**. Domestic violence takes place mainly at home and there is a clear division of the roles of the endangered and violent person."<sup>5</sup>

<sup>3</sup> **How to help women in a difficult situation.** Specific instructions and tools for implementing specific measures in practice, **Slavka Dokulilová, Olga Marešová**, project: "Equality in the Vysočina Region in the context of the creation of the concept of regional family policy", CZ.1.04/3.4.04/76.00239, which is financed from ESF funds through the Operational Programme Human Resources and Employment and the state budget of the Czech Republic.

<sup>4</sup> <https://www.nzip.cz/clanek/101-domaci-nasili-zakladni-informace> National Health Information Portal (NZIP); provides the general public with information in the field of health care guaranteed by selected experts in the field of health care in the Czech Republic.

<sup>5</sup> [https://szu.gov.cz/wp-content/uploads/2023/02/domaci\\_nasili\\_11\\_B\\_C.pdf](https://szu.gov.cz/wp-content/uploads/2023/02/domaci_nasili_11_B_C.pdf)

Very dangerous is also the so-called invisible psychological domestic violence, a common manifestation of which in marriage is the frequently occurring ordering of sole custody of the child to the endangered parent (i.e. not sharing parental responsibility) even after the end of maternity and parental leave, and the related manipulation by the violent parent into work with lower qualifications, which is less well paid, as well as concealment of family financial savings, which are managed exclusively by the abusive parent, while the endangered parent does not have access to savings, etc.

Due to the low self-esteem of the caring parent, who is also financially dependent on the other parent, domestic violence is usually humiliated in terms of qualifications (the caring parent has interrupted their career, or has not yet started it due to caring for the child), in financial terms (the caring parent does not contribute financially as much as the other parent during the marriage, so they do not deserve anything), threatening to entrust the children to the care of a violent person for the sake of revenge, prohibiting contact with close persons who could be a support for the endangered person, etc. An endangered person experiences fear, anxiety, helplessness, insecurity, low self-esteem, as the above source concludes. On the other hand, a violent person is not externally (to a stranger) recognizable at first glance. *The violent person begins to "crush" the endangered person in such a way that the partner begins to lose self-feeling, self-love and self-esteem. All this sinks so low that he cannot function healthily. He starts looking for fault in himself, and that's wrong. Such manipulation can definitively deform a person. The manipulators themselves often pretend to be the poorest in order to be pitied, they hate criticism and they obviously deny clear things. These are individuals who have not been given something at some point, probably in childhood, so they need to get it from others additionally, or punish them for it, which is most true in the family between partners,*<sup>6</sup>

### **3. Agreement Concluded by an Endangered Person**

The explanatory memorandum to Parliamentary Document No. 728 states the following: *"The existing divorce legislation contains some elements that are evaluated as obsolete in terms of application practice and legal theory. At the same time, it cannot be assumed that there is a public interest in the preservation of the elements or an interest in the protection of either of the spouses/parents." Since agreements represent an advantageous tool for arranging post-divorce relationships with children, both in terms of the speed of proceedings and in terms of their subsequent voluntary compliance by both parents, it is desirable to further support the functioning of this instrument. In view of the frequent occurrence of agreements in practice, the support should affect a significant circle of divorcing parents."*

There is an interest in the protection of one of the spouses/parents, specifically the endangered parent described above, as this is not an agreement that is concluded between the parents of equal rights in practical life.<sup>7</sup>

<sup>6</sup> The worst manipulators are those in our family, clinical psychologist Iva Vogelová <https://praha.rozhlas.cz/nejhorsi-manipulatori-jsou-ti-ktere-mame-v-rodine-7315043>

<sup>7</sup> **How to help women in a difficult situation.** Specific instructions and tools for implementing specific measures in practice, **Slavka Dokulilová, Olga Marešová**, project: "Equality in the Vysočina Region in the context of the creation of the concept of family policy of the region", CZ.1.04/3.4.04/76.00239, which is financed from ESF funds through the

In practice, the endangered person agrees to an agreement (agreement on care, alimony, settlement of joint marital property), which at the given moment, especially with regard to low self-esteem, anxiety and helplessness, the person at **risk considers to be a necessity** (the need to detach from the violent person and to save the child) and **such an agreement is considered by the endangered person even in extreme cases to be fair, because it is not only the violent person who confirms it, but also the legal representative of the violent person**, whom the endangered person due to the general belief in legal expertise trusts.

Concluding alimony agreements, joint marital property settlement agreements and custody agreements between parents/spouses, without the emergency brake of the court/OSPOD, is dangerous for the endangered person, especially because these agreements cannot be subsequently changed.

### **3.1. Alimony**

Alimony can only be changed if the minor's legitimate interests are changed. However, the reason for the change cannot be the fact that the original alimony was set at an unfair amount.

A predominantly caring endangered parent who agrees to in fact low alimony by agreement puts himself and the child the parent is caring for in a difficult financial situation, where this situation is discovered only after a time delay. The result is depression, stress and anxiety of the endangered parent, which is logically transferred to the child by the endangered parent.

### **3.2. Joint Marital Property Settlement Agreement**

As the evidence below states, the agreement on the settlement of joint marital property cannot be changed in fact either. The fair distribution of joint marital property, like alimony, has an impact on the stability of the financial situation of the endangered parent, and in the event of failure to provide an emergency brake by the court and OSPOD, the consequences are the same as in the above point.

Introduction of letter g) in Parliamentary Document 721 (Amendment to the Civil Code) – explanatory memorandum: "*In addition to the definition itself, the legal regulation of the Civil Code proposes the obligation to reflect past or ongoing domestic violence in the settlement of joint property of spouses. Not only domestic violence, but violence in general brings with it significant consequences for the further life of the victim, e.g. post-traumatic stress syndrome, permanent consequences on physical health, mutilation, depression, etc. For the victim, it is usually more important to have a new life beyond the reach of the perpetrator of the violence in order to find the strength to claim compensation through separate court proceedings and an action for damages. In practice, victims waive these compensations in order not to have to deal again with the perpetrator of domestic violence, from whose reach they have recently escaped, and who, moreover, can exert additional pressure on the victim by prolonging*

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Operational Programme Human Resources and Employment and the state budget of the Czech Republic.; quote: "From the point of view of the above-mentioned legislation, men and women are equal. However, no legal regulation alone will ensure the enforcement of equality in practical life."

*the court proceedings. However, the seriousness of what has been experienced deserves attention, and the state should express this attitude by saying that the fact that one of the spouses has committed violence against the other becomes a reason for violating the equality of shares in the settlement of joint property. This principle would then become one of the exhaustively set rules for the settlement of joint property under Section 742 of the Civil Code.)", is an insufficient instrument, because its application occurs only when the spouses do not agree or the former spouses do not agree otherwise or if the provisions of Section 741 do not apply. This provision therefore protects only if the endangered person does not agree to the agreement, which is not common practice in the case of an endangered parent/spouse.*

### **3.3. Child Custody Agreement**

A custody agreement often contains only basic parameters. At this stage of life, without the emergency brake of the court/OSPOD, the endangered parent will not realize what the agreement should contain, and the consequences of this lack of awareness are again the same as in the points above.

A very common phenomenon in practice that causes the consequences of the above is the child's illness (cold, cough, fever, flu, etc.), which often occurs in small children under 12 years of age. In case of illness, it is necessary to take proper care of the child all day long. From the point of view of current case law, "a parent who has custody of a child is entitled and at the same time obliged to take care of the child even during the child's illness at home" (11 C 59/2017). Therefore, if the custody agreement does not stipulate special provisions for care in the event of illness (and it cannot be changed by means of a proposal, as there has been no significant deviation from illnesses in the past), this is the sole obligation of the endangered parent in the future, which, without an emergency brake, causes serious financial, health and social problems on the part of the endangered parent, which logically have an impact on the child, that the endangered parent is caring for.

The fact is that:

- the income of the intended parent is significantly lower (carer's allowance)
- in the case of frequent illness, the intended parent currently faces health complications (lack of sleep, fatigue, stress), as they face stress from the risk of losing their job (at least in the case of fixed-term contracts) or uncollegial behaviour due to excessive substitution during carer's work;
- many jobs have remuneration linked to set criteria/goals that must be met in order to keep the work of the intended parent and receive the bonus, which causes the need to devote oneself to work without the knowledge of the employer at nights/weekends, after the end of the full-time proper care of the child; or the bonus is linked to the time worked (common practice for non-managerial positions), which, due to illness, is not fulfilled and the bonus is therefore not received,
- A custodial parent faces societal deficiencies (no free time)
- All-day proper care, if the child does not have a temperature, consists of morning lessons, missed school material, childcare, cooking all-day meals. Home office, instead of carer's allowance, is in the case of such small children inappropriate in practice, against the child's interest.

- On the other hand, a parent who does not care for a child during the working day only fulfills work duties during the day, has no family obligations and thus does not face financial, health (stress from the need to work) or social (leisure activities) shortcomings.

MP Eva Decroix said the following on the topic of divorce: "*Divorce will no longer mean unnecessary prolongation of conflicts. The amendment will allow for quick amicable divorces, where everything can be resolved in a single meeting. We want to make it easier not only for parents, but above all to protect children, who must not be victims of parental disputes,*"

It is impossible to agree with the opinion of MP Ms. Decroix. Divorce proceedings (child custody, alimony, joint marital property settlement) without an expert impartial examination by the court and OSPOD can result in a very negative impact on the financial stability of the environment in which the child grows up, which can cause depression, stress and anxiety of the endangered parent, which are logically transferred to the child by the endangered parent and subsequently affect the formation of the child's future own family. Although divorce itself is an unpleasant matter, the consequences of not paying attention to this final phase of marriage bring many years of much more difficult situations for the endangered parent and the child sharing the household with him, which is definitely not in the interest of the child.

In addition, the "quick amicable divorce" presented in the proposal, where the advantage is not only in terms of time (shortening the divorce time), but also in financial terms (court fee), is, on the contrary, a very serious aggressive tool for the violent person to exert even greater pressure on the endangered person, especially if the court proceedings are presented as unpleasant, unnecessarily prolonging conflicts, and should therefore be avoided.

### **3.4. Proofs**

#### **Proof 1 – Settlement of Joint Marital Property:**

Judgment 8 C 23/2020-68<sup>8</sup> of 2 November 2021 – on the settlement of joint marital property, which describes the clearly weakened position of a mother who agreed to an agreement due to manipulation by her husband and the legal representative of the husband, who defended the interests of her client - husband. The spouses agreed on the adjustment of their property relations (Section 757 of the Civil Code) and the court did not examine and approve the agreement, i.e. it did not review the fairness of the division of property. The judges and OSPOD erroneously assume that the agreement of the spouses/parents is always preferred, because if it is accepted by both parties, it is fine and they do not examine it further.

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<sup>8</sup> [https://msp.gov.cz/documents/d/okresni-soud-v-novem-iicine/8-c-23\\_2020\\_68](https://msp.gov.cz/documents/d/okresni-soud-v-novem-iicine/8-c-23_2020_68)

A fair agreement may appear in practice, but it requires exactly the same position of spouses/parents in terms of economic, social, education and their opportunities – which, however, is almost non-existent in practice. **A fair agreement is therefore an illusion.**

It is necessary to highlight the mother's sentence from the judgment: *"The agreement is also invalid for being contrary to good morals, as it was concluded at a time when the plaintiff was in distress, was a victim of domestic violence and accepted an agreement that was objectively disadvantageous for her and, on the contrary, favors the defendant."* And the mother's statement *"However, after the plaintiff brought the agreement, she and her husband read it and found it disadvantageous."* The endangered (socially disadvantaged) woman was unable to detect the disadvantages of the contract in her mental state and signed the documents, believing that the agreement was fair due to the manipulation of her husband and joint legal representative. At the same time, it is necessary to emphasize the very alarming opinions of the District Court described below, which do not take into account the endangered position of the wife (psychological abuse, deformation of personality through long-term manipulation):

*"The fact that one of the parties to a legal act is mistaken cannot in itself be a reason to question the validity of the act, as it would disrupt legal certainty. It must also be said in general that if a mistake is caused by the actor's own actions or carelessness, it is appropriate that he bear its consequences." "If she caused her mistake by her carelessness when she claims to have read the agreement after it was signed, it is appropriate for her to bear the consequences." "The plaintiff had enough opportunities to sufficiently defend her other interests, which she did not do" "The plaintiff must be assumed to have the intelligence of an average person and the ability to use it with ordinary care and caution, and was thus able to understand her legal conduct."*

The courts are therefore completely unaware of the inequality and disadvantage of an endangered person in marriage. They assume that everyone should have the common sense of an average person and the ability to use it with ordinary care and caution. The court therefore assumes that every person should have sufficient education to discover for himself that what his husband and lawyer say to him is incorrect and to defend himself. At the same time, the endangered person often does not have sufficient resources for a legal representative, and even if he did, the professional quality of the legal services provided is not guaranteed.

#### **Proof 2 – Aggressive Legal Advice:**

The courts regularly organize a lecture for parents in separation and post-separation situations, and everyone who deals with child custody receives an invitation. At this lecture, the audience is recommended, among other things, to hire a divorce lawyer and not to try to enforce disadvantageous conditions in court during contested divorces, as judges are allergic to the behavior and it slows down the efficiency of court proceedings.

The court itself is therefore definitely aware that the quality of legal services is diverse and often intentionally of poor professional quality and aggressive towards the counterparty in order to achieve the client's interest as much as possible. Given the already announced indignation of the judges, it is evident that control over legal advice on child custody, alimony and the division of joint marital property

is unconditionally necessary, because otherwise the disadvantaged parent faces professionally poor quality and aggressive behaviour completely alone.

### **Proof 3 – Quality of Legal Services:**

In practice, I have encountered different quality of legal services during the divorce:

- a lawyer who, despite his obvious lack of expertise, was willing to provide his services (posing a risk of insufficient protection of the disadvantaged parent),
- a lawyer who was an expert, acting in the interest of justice on both sides (i.e. not acting aggressively and unfairly towards the opposing party),
- A lawyer who acts aggressively – aiming for low alimony, an unequal proposal for the division of joint marital property (a very dangerous risk for the disadvantaged parent).

Revealing the quality of legal services cannot be considered common knowledge that the average person's mind should reveal; It is not even common for the average person's mind to reveal the incompetence of the legal representative with whom he is represented. It is therefore immoral to demand this from a disadvantaged parent. In order to detect low-quality (unprofessional/aggressive) legal services, it is necessary for a non-expert to study the law, judgments, interpretations, case law, which cannot be required of the endangered parent. Normally, quite naturally, one trusts people who have a professional education and provide advice in the field.

I therefore consider the bill and the wording in the explanatory memorandum ("*agreements on the adjustment of property relations, housing, or alimony should be in writing with officially certified signatures*") to be unequivocally unfortunate.

### **3.5. Proposal to Eliminate the Causes of Violence**

#### **3.5.1. Custody Agreements, Joint Marital Property Settlement Agreements**

From the point of view of protecting the endangered parent and protecting the child's future long-term interests, it is clearly appropriate for the court and OSPOD to review (not just approve) all custody agreements, without exception.

For the same reason, it is appropriate for the court to revise the settlement of joint marital property, as in this area, the endangered parent (or spouse in the case of domestic violence) has no emergency brake so far, and in view of the judgment above, only one single moment is decisive.

Reading the agreement and evaluating whether it is legally fair and in the interest of the child causes extra work for the judge in the current social conditions, but this is precisely how to prevent the above-described irreversible injustice committed against the endangered parent, and it also ensures that the caring parent provides a financially stable home environment for his or her child without stress and depression, which, quite logically, is transmitted to the child.

The result will be not only the protection of the caring parent and the provision of the child's current and future interests, but, importantly, also prevention, specifically in the case of violent persons, awareness of family values, responsibilities in the family, usefulness of the caring parent already in force legislation, which will generally lead to an awareness of one's own shortcomings from one's childhood and in fact to a reduction in the number of divorces.

### **3.5.2. Social Norms for Legal Service Providers**

It is necessary to set a social norm of behaviour during divorce proceedings, specifically to incorporate into the legal norm a ban on the provision of legal advice that clearly disadvantages the endangered parent and a breach of this obligation to sanction by the court, if such conduct is identified in the petition for alimony or in the petition for the division of joint marital property, whereas any petition presented to the endangered parent is considered to be such conduct. That is, not just the final proposal presented in court. Only in this way will the endangered parent be protected from any dishonest pressure exerted by the legal representative of the violent person.

Examples of obvious disadvantage of the endangered parent may be as follows:

- Significantly low alimony (the topic of alimony is discussed in more detail in the text below)
- Failure to take into account all the basic components of the joint marital property in the proposal for the settlement of the joint marital property (or in any written correspondence dealing with the actual settlement of the joint marital property), where the basic component of the joint marital property means: bank accounts, savings accounts, investment accounts, movable property of a higher value (car, etc.), real estate.

## **4. Financial Weakness and Economic Dependence of the Caring Parent**

The explanatory report to Parliamentary Document 721 states: "*Representative quantitative research has long shown that 17-40% of the population in the Czech Republic have experienced domestic violence (depending on the extent of individual forms of domestic violence).*<sup>9</sup> *Data from 2022 shows that almost 30% of women and 12% of men have experienced domestic violence.*<sup>10</sup> *In most cases, it was violence on the part of the partner.*"

*"One of the reasons for the low rate of reporting cases of domestic violence and seeking professional help is the high level of trivialization, blaming the victims, and also the failure to address domestic violence in its early stages. Current research shows that 26% of people in the population believe that the victim of domestic violence is to blame*

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<sup>9</sup> DOHNAL, D., HOKR MIHOLOVÁ, P., ŠPRINCOVÁ, V., DOMESOVÁ, S. Analysis of the incidence and latency of domestic violence in partner relationships. Office of the Government, 2017. P. 44. Available from: [https://www.vlada.cz/assets/ppov/rovneprilezitosti-zen-a-muzu/dokumenty/Analyza-vyskytu-a-latence-DN\\_final.pdf](https://www.vlada.cz/assets/ppov/rovneprilezitosti-zen-a-muzu/dokumenty/Analyza-vyskytu-a-latence-DN_final.pdf).

<sup>10</sup> Under the Candlestick, IPSOS. Research: One in five people has been a victim of domestic violence, 2022. Available from: <https://www.pravniprostor.cz/aktuality/vyzkum-kazdy-paty-clovek-se-stal-obeti-domaciho-nasili>.

*for their situation.<sup>11</sup> While men agree with this statement by 37%, women only by 15%.<sup>12</sup> The reasons that are perceived as legitimate in society for the occurrence of domestic violence are the nervousness of the partner due to financial responsibility for the family (31% of people), insufficient household care (29%) and the woman's failure to meet the sexual needs of the man (54% of men and 41% of women).<sup>13</sup> At the same time, victims fear accusations that they are falsely blaming the perpetrators of violence."*

The amendment proposed by MP Eva Decroix, Vít Vomacka, to Parliamentary Document 721 states: "A victim of domestic violence often finds himself in a situation that he or she did not cause, and often in a situation in which he or she is vulnerable, financially weakened and economically dependent on the other party to the proceedings. The costs of proceedings that the victim of domestic violence has to incur in order to defend his/her rights should be borne in full or in part by the offender who in fact caused the necessity to incur them by his/her actions."

It is therefore alarming that legislators have not yet made the connection between the vulnerability, financial weakness and economic dependence of victims in relation to the proposed accelerated divorces. On the contrary, accelerated divorce is a harmful tool (i.e. one of the causes), causing negative consequences for victims of domestic violence.

#### **4.1. Proposal to Eliminate the Causes of Violence**

In order to prevent the widespread domestic violence in the form of vulnerability of the weakened, primarily caring parent, his financial weakness and economic dependence, it is necessary to set a social climate that will make it impossible for the violent person to perform this form of domestic violence and it will be clearly communicated to the violent person that such behavior is not accepted in contemporary society.

This will eliminate the cause and it will no longer be necessary to deal with the consequences, which, by this step, will be eliminated.

It is likely that by setting the norm of behavior in the family, the number of marriages and a lower birth rate will actually decrease in the first phase, as a result of the partner's resistance to accept the "marital chains" and share his income with the other partner, which in fact means that he does not want to accept the family scheme of functioning (one earns more, the other takes more care of the child). On the other hand, this step will cause significant doubts in the second partner about the first partner in terms of his future family functioning and he will withdraw from the future family relationship, find another partner with "family values". The introduction of tools to eliminate financial weakness and economic dependence in the family can thus cause three positive consequences:

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<sup>11</sup> IKEA, Kantar. Czech Society and Domestic Violence. 2022, p. 2. Available from: [https://www.ikea.com/cz/cs/files/pdf/e8/09/e809c5cf/211104\\_ikea\\_da\\_vyzkum\\_prezentace\\_final.pdf](https://www.ikea.com/cz/cs/files/pdf/e8/09/e809c5cf/211104_ikea_da_vyzkum_prezentace_final.pdf).

<sup>12</sup> IKEA, Kantar. Czech Society and Domestic Violence. 2022, p. 3. Available from: [https://www.ikea.com/cz/cs/files/pdf/e8/09/e809c5cf/211104\\_ikea\\_da\\_vyzkum\\_prezentace\\_final.pdf](https://www.ikea.com/cz/cs/files/pdf/e8/09/e809c5cf/211104_ikea_da_vyzkum_prezentace_final.pdf).

<sup>13</sup> IKEA, Kantar. Czech Society and Domestic Violence. 2022, p. 4. Available from: [https://www.ikea.com/cz/cs/files/pdf/e8/09/e809c5cf/211104\\_ikea\\_da\\_vyzkum\\_prezentace\\_final.pdf](https://www.ikea.com/cz/cs/files/pdf/e8/09/e809c5cf/211104_ikea_da_vyzkum_prezentace_final.pdf).

- The elimination of financial weakness and economic dependence, i.e. economic violence, will be eliminated.
- The partner withdraws from the intention to start a family with a person who does not intend to accept the family values guaranteed by the status of marriage,
- A person who does not want to accept the family values guaranteed by the status of marriage will be forced by the opinion of the general public to make a personal change – that is, that it is okay for one partner to earn more, for the family, and the other parent to take care of the family more.

Tools for eliminating financial weakness and economic dependence of a spouse/parent:

#### **4.1.1. Current Accounts, Savings Accounts, Investment Accounts, Pension Accounts**

In the current society, a bank/savings/investment account can be opened by the spouse alone, without the spouse's knowledge. In this case, the other spouse does not have the right to know whether the spouse has opened an account with the financial institution, and therefore does not have the right to other related information (account balance, movements, etc.) or the right of disposition. An endangered person in marriage thus does not have an overview of the funds and savings generated during the marriage and belonging to the joint marital property.

It is necessary to set the standard that banking institutions/financial institutions have the following obligations:

- when opening a bank account, the obligation to ask the client, provably (i.e. a declaration made in the account opening agreement), whether he or she is in a marital relationship and, if so, to conclude the contract exclusively with both spouses, while the right of disposal will automatically belong to both spouses,
- to re-identify the client on an annual basis, again with the obligation to ask the client about the marital status, and if there are movements in the bank account other than income interest on savings created before the marriage, then to require the spouse to join the account due to mixing with the income of the joint marital property. Significant amounts saved before the marriage would be settled through a contribution in the event of divorce.

**This step will prevent the cause of domestic violence in the form of economic abuse, i.e. preventing access to finances (including one's own)** and subsequently violence in the settlement of joint property of spouses, specifically concealment of family savings in order to conclude an agreement disadvantageous for the endangered person.

#### **4.1.2. Mortgage Loans**

In the current society, spouses are provided with a mortgage loan for the construction of real estate on their own land or the purchase of real estate, where in practice the ratio of the guarantee (jointly and severally by both spouses) for the loan and the ratio of ownership to the property differs.

A practical example: the land on which the spouses built a house through a joint mortgage was purchased by only one of the spouses before the beginning of the marriage, or acquired as a gift into exclusive ownership. In the case of spouses, the guarantee for the mortgage loan is ordered jointly and severally to both spouses, which does not correspond to the ratio of ownership of the property. This is due to the fact that the new Civil Code introduced a new and fundamental principle as of 1 January 2014, according to which a building is part of the land; i.e. only one spouse remains the owner without an emergency brake. Specifically, for example, Česká spořitelna has set up an internal methodology in such a way that the disparity between liability and ownership is possible and is applied in practice.

This causes financial inequality between spouses, as the endangered spouse is jointly and severally liable for a mortgage granted, for example, for the construction of a house, but owns the property not in an equal proportion (i.e. joint marital property or 50% shared co-ownership).

It is necessary to set the norm that banking institutions/financial institutions are obliged to provide spouses with a mortgage loan only where both spouses are jointly and severally liable and at the same time each spouse must own an ideal half within the joint marital property, or 50% of the property in shared co-ownership.

This norm must also apply retroactively to divorced parents who have not yet settled their joint marital property, in order to remedy violence committed in the past, which has an impact on the present, which was allowed, among other things, by the bank (the cause of economic abuse in the family was an internal instruction of the bank). In the case of the settlement of joint marital property, the court must therefore take into account the fact that the real estate is de facto in the joint marital property, the spouses/divorced spouses are jointly and severally liable for the obligations, and the other spouse, who acquired the land by purchase before the marriage or as a gift during the marriage, will settle the joint marital property as a contribution as part of the settlement.

This step will prevent psychological domestic violence in the form of **economic abuse**, i.e. domestic violence in the settlement of joint property of spouses.

Avoiding the disparity between liability and ownership will not only compensate for the unfair position of the endangered parent in the settlement of joint marital property, but will also equalize the position of both spouses in the event of the application of Section 768 par. 1 of Act No. 89/2012 Coll., i.e. "*If the marriage was dissolved by divorce and the spouses had the same or joint right to the house or apartment in which their family household was located, and if they do not agree on who will continue to live in the house or apartment, the court, at the request of one of them, revokes the existing right of the divorced spouse who can be reasonably required to leave the house or apartment, depending on the circumstances of the case, and, if necessary, decides on the method of compensation for the loss of rights; in doing so, it shall take into account, in particular, which of the divorced spouses has been entrusted with the custody of a minor child who has not acquired full legal capacity and who has been cared for by the spouses.*"

#### **4.1.3. Purposeful Diversion of Funds From Joint Marital Property**

The diversion of funds from the joint marital property by a violent person for the purpose of preventing a fair settlement of the joint marital property is primarily treated by the emergency brake proposed in point 4.1.1., as the endangered parent will be involved in the opening of the account, has the right of inspection and the right of disposal.

However, the fact of domestic violence does not guarantee that the endangered parent will be able to protect his or her rights, because the consequence of long-term domestic violence committed against him or her is that he or she *"begins to lose self-feeling, self-love and self-respect. All this sinks so low that he cannot function healthily. He starts looking for fault in himself, and that's wrong. Such manipulation can definitively deform a person."*<sup>14</sup> The diversion of funds from accounts is therefore possible, even if the endangered parent is aware of the existence of the account.

It is therefore necessary to set an emergency brake for the endangered parent and to identify the state of family savings 2 years before the separation (not divorce) of the spouses, as well as at the moment of the separation of the spouses and at the time of the divorce, and if there has been a significant decrease in joint savings, to check them from the point of view of whether there has been a purposeful diversion of funds from the joint marital property.

#### **4.1.4. Purposeful Narrowing of Joint Marital Property for the Purposes of Determining Alimony**

When determining alimony for an illegitimate child, the standard of living of the child's parents is assessed, i.e. not only the parent's wage for work, but also property (movable, immovable), standard of living – i.e. the income of the spouse, etc.

It is necessary to enshrine in the legal norm an emergency brake for the purposeful narrowing of the joint marital property to the other spouse in order to in fact reduce the alimony obligation for children not born in wedlock. Specifically, all dispositions of assets reducing the joint marital property of spouses at least 8 months before the birth of an illegitimate child must be considered purposeful by the court, unless the contrary is sufficiently proved. The same must be set in the case of married children, taking into account the risk of domestic violence committed by a violent parent against the endangered parent.

The emergency brake should also be set for the period preceding the conception of an illegitimate child. In this case, it is appropriate to enshrine in law the court's obligation to review the disposal of the property decreasing the joint marital property of the parent from the moment when the spouse of the parent of the illegitimate child demonstrably learned of the extramarital relationship.

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<sup>14</sup> The worst manipulators are those in our family; clinical psychologist Iva Vogelová, <https://praha.rozhlas.cz/nejhorsi-manipulatori-jsou-ti-ktere-mame-v-rodine-7315043>

This instrument will ensure the protection of children and their rights to alimony corresponding to the actual standard of living of their parents.

## **5. The Position of the Endangered Parent and Child in Society – Violence in the Family**

In today's society, a parent caring for a child often faces psychological domestic violence from a violent person from the family, specifically the other parent, especially in the forms defined in point 2 above (Domestic violence), as well as in the forms listed below:

- Criticism and humiliation – insults, ridicule, diminishing abilities,
- Questioning mental health, ignoring wishes and needs, inducing negative feelings in the abused person,
- Blackmail – including blackmail through children,
- Threatening to receive sole custody by turning the victim into a mentally ill person in front of the authorities.
- Threatening that the victim will not receive any property from the joint marital property,
- Causing feelings of guilt,
- Blaming the victim for their behavior;
- Use of male advantages – treating the victim as a servant, determining male and female duties, determining all important decisions,
- In the post-separation phase (divorce phase) – in order to force the abusive person to accept the conditions of the violent person: financial liquidation (failure to provide money, forcing the endangered person to pay costs in order to fall to the bottom of the financial ladder), pressure to leave the joint property/common properties, restriction of the child's rights, restriction of the child's standard of living.

### **5.1. Proposal to Eliminate the Causes of Violence**

#### **5.1.1. Setting the Family Behavior Norm**

It is necessary to set up a social climate that will make it more difficult for a violent person to commit this form of domestic violence, and it will be clearly communicated to the violent person that such behavior is not accepted in contemporary society.

It is therefore necessary to incorporate the following into the legal standards:

- a non-exhaustive list of the most common violence in families and a link to the commission of a crime, as society is currently not sufficiently aware that the above-mentioned forms of behaviour constitute abuse,
- a non-exhaustive list of the most common violence in the divorce phase and the link to the commission of a crime, for the same reasons as above;
- to follow the penalty to
  - o Imprisonment for serious acts;

- The form of disparity of the joint marital property in favour of the abused person,
- Taking into account the necessary defence against violence in the calculation of alimony for the spouse.
- Prohibition of trivialization of violence by society – it is necessary to set up effective protection for the endangered parent, through OSPOD and the court (described in the text below), i.e. not to bind the concept of violence only to violence reported to the police.

### **5.1.2. Setting Standards of Conduct During Divorce Proceedings**

The social norm of behaviour from the dissolution of the marriage to the end of the joint marital property settlement (i.e. the divorce phase) should be set in such a way that any dishonest actions and pressures exerted in order to clearly disadvantage the other parent will be sanctioned under a significant fine.

A non-exhaustive list of obvious financial disadvantages of a parent is as follows:

- Concealment of joint family savings,
- Diversion of joint family savings,
- Threats of any kind, in particular aimed at restricting/preventing child custody,
- Concealment of income from the court, in particular extraordinary remuneration, bonuses, etc.,
- Concealment of an early change of job (e.g. divorce proceedings initiated intentionally before starting a new job for a higher wage).

I believe that these changes will lead to a significant reduction in the pressure exerted in today's society on endangered parents and children, as well as to a reduction in the level of anxiety and depression in the family environment where the endangered parent lives with the child. Last but not least, the work of the court and OSPOD will be made more efficient, as the measures taken will certainly have a preventive impact on society, i.e. they will de facto lead to a reduction in the level of violence in families that have not yet broken up, as such behavior will no longer be accepted by society.

## **6. The Position of a Parent and an Endangered Child in Society – Violence by OSPOD**

The child welfare authority (OSPOD) is supposed to be a helper for the child and his or her protector.

The basic description of the activities of this body is summarized, for example, by organization helping children Šance dětem: "*Its specificity is that it works with the most elemental, changeable and sensitive. With a family and a child. All of his work is subject to one and only one fundamental principle: the interest and well-being of the child, the protection of parenthood and family, and the mutual right of parents and children to parental upbringing and care. The focus of his work and the main character in the work of OSPOD is the child and his rights. This means that he can change many things with his work and methods of work, fix it, but definitely also spoil it. One of the basic functions of OSPOD is to enable the objectivity of the situation to be maintained and to protect the best interests of the child. A guardian is always appointed for a child by the court in cases where there is a hearing and subsequent decision in a matter that directly affects the child. The law is based on the basic idea that in these cases there could*

*be a conflict between the child's interest and the parent's wishes. Logically, a parent might want to pursue their own interest. The law stipulates (Section 17) that in such cases it is necessary to appoint a guardian for the child who will try to protect the child's best interests and will try to perceive the whole situation objectively.<sup>15</sup>*

As mentioned above, OSPOD works with the most elemental, changeable and sensitive area. In practice, it is therefore necessary to devote maximum effort to training employees and their management regarding the term "interest of the child", as these employees have a high responsibility and their possible unprofessional assessment of the family situation can cause serious negative consequences that are against the interest and well-being of the child and the protection of parenthood.

In my practice, I have met an OSPOD worker who stated to a specific couple that if they divorced, they would never harm each other through a child, because they both love their children. The opposite is true, I know the wife of this couple very personally and I know that the man has been mentally abusing her in various ways for several years and actively threatens that if she leaves him, she will not see her children again, because she will require sole custody and will turn her wife into a mentally ill person in court. Psychological violence is very dangerous and unfortunately is not visible, it is trivialized and mirrored to the endangered parent by manipulation techniques. Therefore, a high level of training of workers is needed so that they are able to focus only and exclusively on the interest of the child in their work, i.e. to correctly identify what care is really in the interest of the child and not to be influenced by the manipulation techniques I describe below.

## **6.1. Preventive Measures to Prevent Negative Consequences Caused by OSPOD Employees**

### **6.1.1. Anonymous Questionnaire for OSPOD Employees**

During my practice, I have encountered an anonymous statement from an OSPOD employee that it is very stressful to perform this responsible position, because there is no mentor available for a younger and less experienced employee, i.e. a more experienced or older person who would be present at the meeting.

First of all, it is appropriate to monitor the current situation, ideally through anonymous questionnaires sent to each OSPOD employee with the following questions:

- a) Do you feel fully professionally trained for the position you are performing?
- b) Do you have a mentor at your disposal – i.e. a more experienced employee who is present with you at meetings with your family?
- c) Do you feel sufficiently trained in terms of the concept of the child's interest?
- d) Do you feel sufficiently trained in the concept of parental responsibility?

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<sup>15</sup> Mgr. Josef Smrž, Authority for Social and Legal Protection of Children, <https://sancedetem.cz/co-se-skryva-pod-organem-socialne-pravni-ochrany-detí>

- e) Do you feel sufficiently trained in terms of various forms of hidden violence in the family? Can you name at least 8 of them?
- f) Do you feel sufficiently trained in how to communicate sensitively with children?
- g) Is the communication between you and the court one-sided (i.e. you only inform the court unilaterally) or two-way (i.e. the court communicates with you)?
- h) Do you perceive any pressure from the court not to express itself in the area of points c), d), e) before and during the court hearing?
- i) Please allow any comments and suggestions from your side.

The results must be evaluated and such training measures must be taken so that OSPOD employees are fully capable of independently and uncontrollably performing their work, i.e. defending the interests and well-being of the child, protecting parenthood and families, and the mutual rights of parents and children to parental upbringing and care.

#### **6.1.2. Avoiding Pressure From OSPOD to Conclude An Agreement**

The explanatory report to the bill, Parliamentary Document 721, states the following: "*One of the reasons for the low rate of reporting of cases of domestic violence and the seeking of professional help is the high level of trivialization, blaming the victims, and also the failure to address domestic violence in its initial stages. At the same time, victims fear accusations that they are falsely blaming the perpetrators of violence. Almost two-thirds of men (62%) and over a third of women (37%) believe that women often take revenge on their partners by accusing them of domestic violence, even if nothing of the sort has happened.*"

The trivialization by OSPOD is based on the basic erroneous assumption that there is anger between parents who are in dispute because of the breakdown of their relationship. That is why they are very intensively pushing parents to reach an agreement that, according to OSPOD staff, is supposed to save the child from unnecessary wrangling, an unpleasant family environment and time spent at OSPOD. OSPOD is of the opinion that quarrels and fights can irreparably damage the further development of a child and mean irreparable damage in the future. At the same time, they point out that if the parents do not agree, the court is obliged to examine all the facts, including the child's opinion. It is necessary for OSPOD to realize that for the endangered parent, the end of the relationship is a liberation and seeks support and help from OSPOD, not the conclusions of "come to an agreement, otherwise you will have problems". OSPOD is therefore in fact creating a social environment in such a way that the endangered parent will remain silent, agree to the conditions and OSPOD will have nothing to deal with.

The idea that OSPOD is a party to court proceedings that tries to lead the parents to a possible agreement and a non-conflicting course is respectable, but without the necessary expertise regarding hidden violence in the family, it is completely counterproductive, because it is precisely through this behavior that OSPOD creates a suitable breeding ground for a violent person to primarily enforce their interests. It is primarily the endangered parent who, in the event of OSPOD's request to conclude an agreement, agrees to the agreement of the violent parent, or fights, but his claims regarding violence

and the child's interest are downplayed by OSPOD. OSPOD must first classify the family situation from the point of view of the child's interest, i.e. not pressure the parents to reach an agreement so that they do not have to deal with the family situation in practice.

The claim that quarrels and fights can irreparably damage the further development of the child and mean irreparable damage in the future has already been refuted in the text above, on the contrary, if the interest of the child is not defended by OSPOD, then it is the accession of the person threatened to the agreement offered by the violent person that can cause irreparable, irreversible negative financial consequences for the caring parent and the child sharing the household with him until the child's adulthood, incl. mental health problems caused by anxiety and depression. It is therefore definitely not in the interest of the child for the endangered parent to accede to or substantially adapt to the requirements of the violent parent. The current social setting of OSPOD must therefore be unconditionally changed.

**OSPOD is not intended to purposefully push the parties to an agreement, but is supposed to perform its work for which it was established, i.e. to examine the situation in the family and defend the interests and well-being of the child, to protect parenthood and families, and the mutual rights of parents and children to parental upbringing and care. At the same time, they must always approach their work with the awareness that there is an unequal position of parents in the family (as described above) and with the assumption of the existence of hidden violence.**

#### **6.1.3. Detailed Training of Employees in the Issues of Child's Interests, Parental Responsibility and Narcissism**

Employees first need to be trained in how the basic family scheme works, i.e. that it arises, quite naturally, an unequal position of parents in a relationship, as described above. It is also necessary **to train employees in terms of the concept of narcissism, which is still not a publicly discussed topic in the Czech Republic, compared to other more developed countries.**

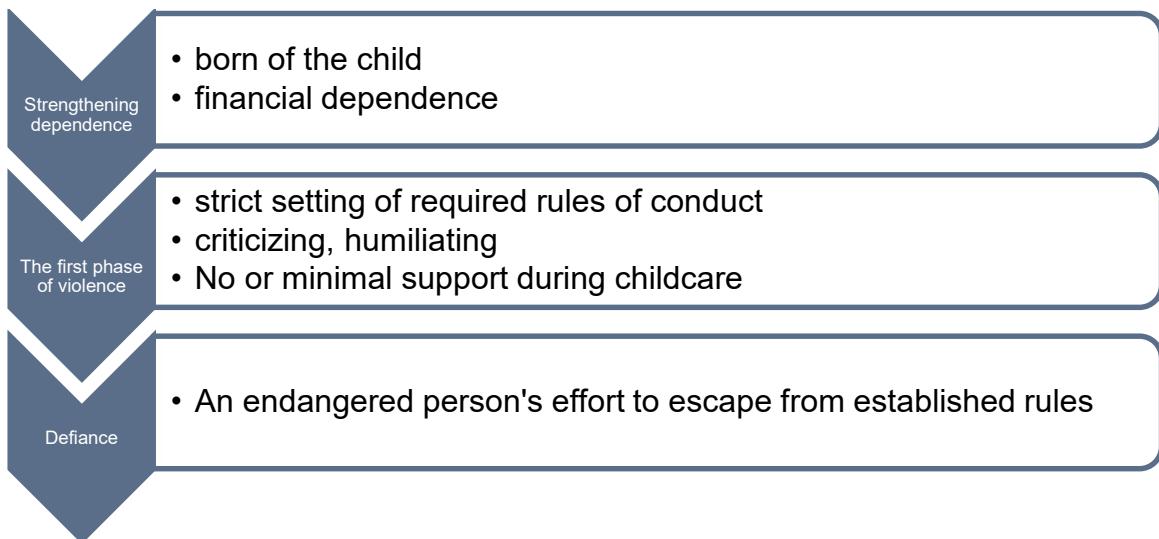
*"Divorce, especially between spouses who have children, is extremely emotionally demanding. However, the whole situation is even more complicated when one of the former partners shows signs of a narcissistic personality. Narcissism is a matter of a certain spectrum of characteristics of a person, where it can manifest itself from individual character traits (lying, manipulation, projection, etc.) to a complex personality disorder, which is defined as DSM-5 on the basis of the diagnostic and statistical manual of mental disorders alongside borderline disorder, histrionic disorder and dissocial personality disorder. All of these personality disorders carry narcissistic traits to varying degrees. In addition, divorce as such exposes the narcissist to external pressure, which multiplies their inner anxiety and manifests itself in an enormous effort to harm the former partner, most often through finances, mutual acquaintances, and especially through children. At the beginning of a relationship, a narcissist is charming, self-sacrificing and can give the impression of an almost fatal harmony. Gradually, however, the true nature of such a person begins to manifest itself in the relationship, when through a gradual process called intermittent reinforcement, he gets his partner into a position of dependence on his*

*opinions, moods and emotionally positive acceptance. If, for example, a woman is financially dependent on a narcissist during maternity and parental leave, the work of destruction is usually completed by actual material dependence. Sometimes, on the contrary, especially in the case of hidden narcissists, they are able to use the victim's position very skillfully. Behavior in relationships can take various forms, from almost imperceptible spitefulness and psychological detriment (punishment with silence, putting down a partner, etc.), to open physical violence. People who are exposed to this behavior for a long time often experience feelings of inner confusion and begin to doubt their own mental health. In the presence of narcissistic people, even an uninvolved person can feel uncomfortable for no apparent reason, despite the narcissist's ability to make an incredibly appealing external impression.<sup>16</sup>*

It is therefore necessary to organize training for all OSPOD employees on the topic of narcissism, from an expert on narcissism, while Mr. Kinkor, to whom I refer, also specializes, among other things, in the behavior of narcissists in marriage, during the breakdown of marriage, in court and during the custody phase.

Subsequently, OSPOD Employees must be cautious during the performance **of their work and not be deceived by an appealing external impression, hidden manipulation and projection** (mirroring themselves to the other parent, e.g. claiming that the mother manipulates the children and is mentally unstable in order to harm her in front of OSPOD and the court). OSPOD must only monitor facts and evidence to verify what is in the best interest of the child – I summarize how specifically this can be set up from point 6.1.4 below.

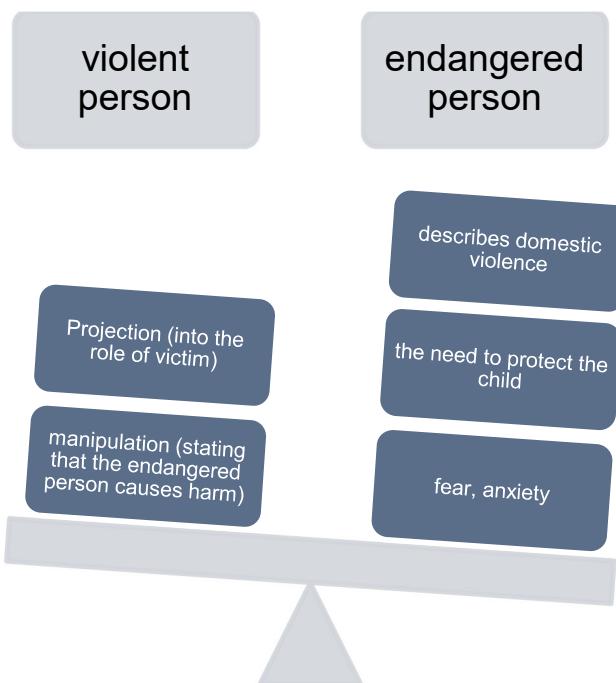
## Scheme of Violence In the Family



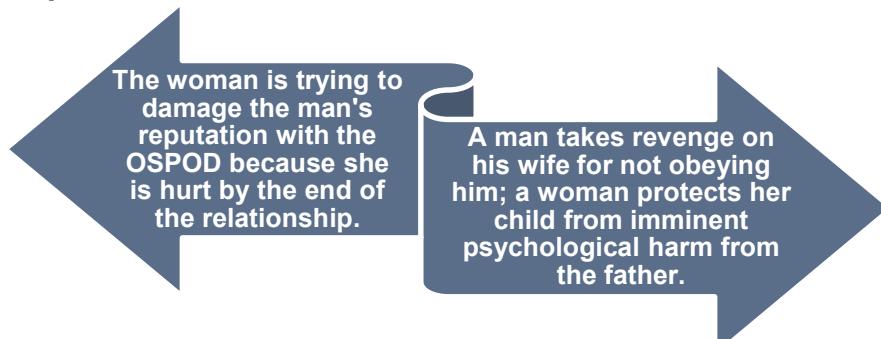
<sup>16</sup> Petr Kinkor, coach and narcissism expert, <https://www.ak-vych.cz/rozvod-s-narcistni-osobou-a-rizeni-o-uprave-pomeru-ke-spolecnym-detem-jaka-by-mela-byt-role-advokata/>

- threats of violence against the child (threats of psychological harm to the child, threats of withdraw a child from parent's care)
- financial threats
- staying in a relationship - negative impact on child development
- termination of the relationship - initiation of proceedings with the OSPOD and the court

## Communication Between Parents and OSPOD



## OSPOD's Opinions And The Actual Situation



The woman herself caused the father to get the sole custody as it is harmful to the child when she publicly "slanders" the father in front of OSPOD.

Violence is actually being committed against the mother and child by both the father and the OSPOD (disobedience) - "if you respected your husband, this wouldn't have happened to you."

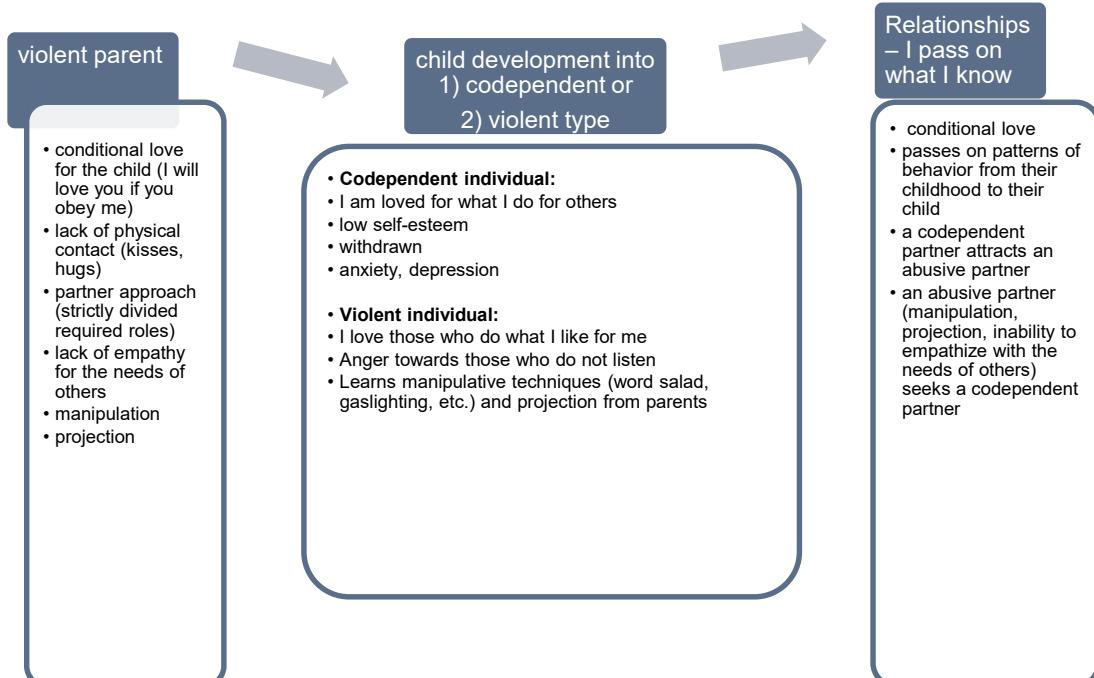
Parents are fighting over money through their child, not defending the child's interests. We are trying to guide the parents toward a possible agreement and a non-confrontational process.

Leading to an agreement on child support is, in fact, violence perpetrated by the OSPOD, because the low alimony offered by the violent parent causes consequences in the form of a lower standard of living for the child and anxiety and depression for the caring parent.

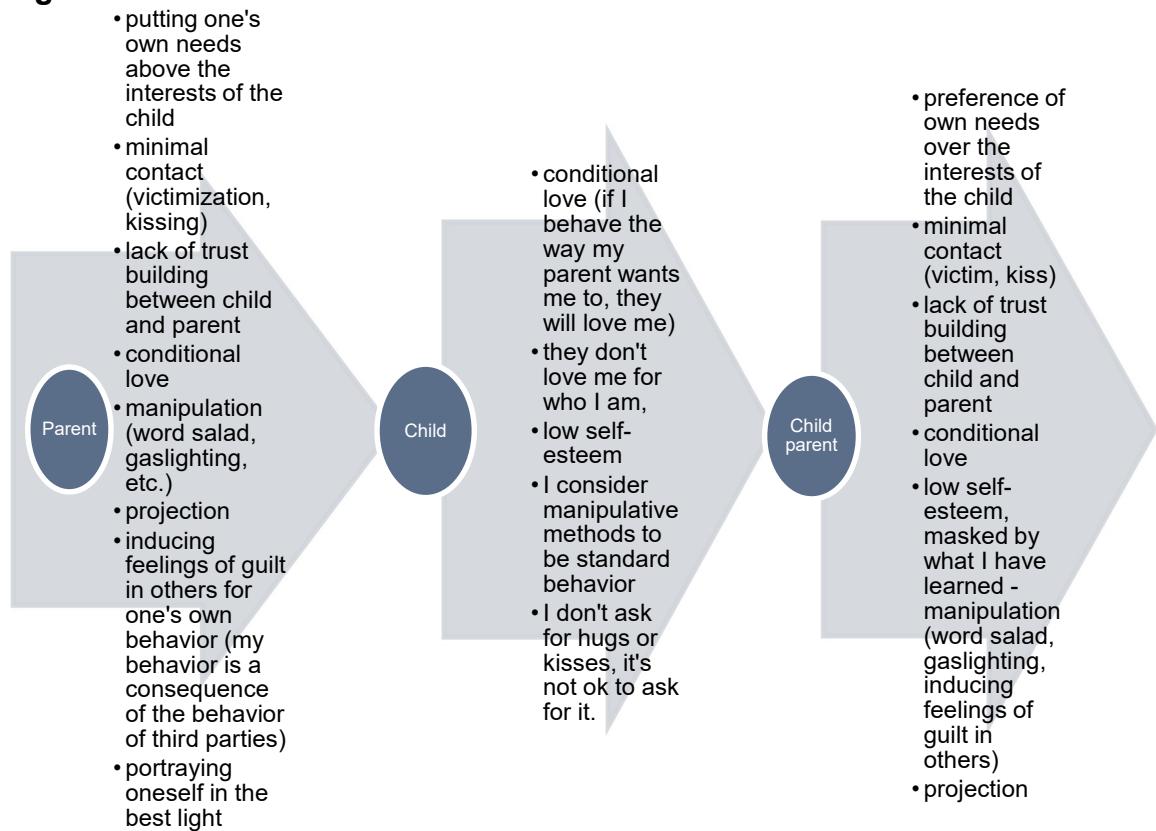
## Psychological Development of a Child in a Family Without the Existence of Violence in the Family



## Psychological Development of a Child in a Family With the Existence of Violence in the Family



## The Cycle of Violence in Generations of the Family, if the Violent Person Has a High Educational Influence on the Child



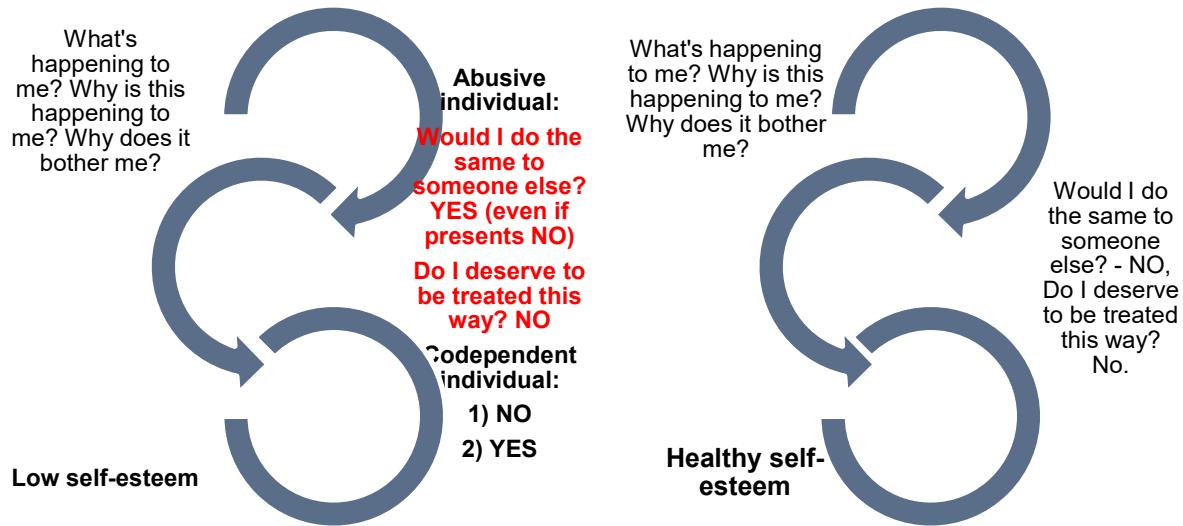
## Targeted Influencing of the Behavior of Another Person (Manipulation)

"Manipulation is the targeted influencing of the behavior of another person. It can be used to achieve various goals, such as gaining an advantage, power, or control."<sup>17</sup> Manipulation means disrespect for the other person. The primary cause of manipulation is **the low self-worth** of the manipulator (an effort to show oneself in a better light than one really is).

<sup>17</sup> Jaroslav Král; <https://medium.seznam.cz/clanek/jaroslav-kral-zijete-s-nasilnikem-kompetni-prehled-manipulacnich-technik-psychicke-nasili-je-take-nasili-24909>

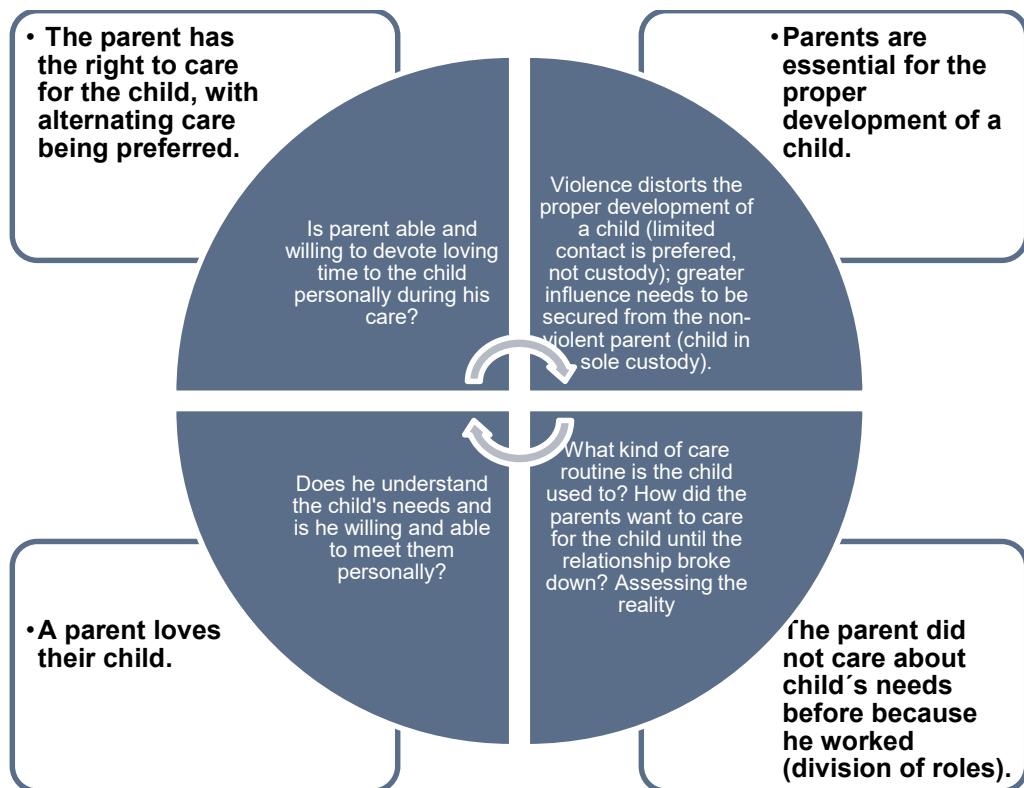
<b>Examples of manipulations</b>	<b>A symptom of manipulation</b>
Projection	Trying to transfer responsibility for one's personal mistakes to another
Word salad	To divert the topic from the original topic in order to stop the other, often resulting in accusing the other of making a mistake (diversion and escape techniques)
The role of the victim	Causing the other person to feel guilty, which then acknowledges the guilt and the negative thoughts and emotions towards the violent person disappear
Gaslighting	Making the other person feel doubtful about reality in order to gain control over the action
threats	Using various means and threats to arouse fear of the consequences of the other person's behavior
Humiliation	Devaluing the arguments, strengths and talents of the other party, attacking the self-esteem of the other who accepts the "facts about himself" as part of himself
Gossip	Harm to another person through the environment; gossip, blaming in front of loved ones in order to eliminate the support of the other party from third parties (family, friends)
The fiction of empathy and compassion	They describe themselves in public as empathetic and compassionate; The other person must prove that the reality is different.
Triangulation	Abuse of third parties by manipulation (family, couple psychologist, friends) in order to strengthen the position of the violent person over the endangered person.
Offensive jokes	Hitting a sensitive spot with a subsequent reclassification into a sense of humour
Check	Social control (friends, family), financial control (restriction of funds or denial of access to family finances) in order to ensure obedience and limit the support of third parties

## Self-Worth Test



An abusive individual can answer NO, NO, but this happens if he or she incorrectly evaluates "why is this happening to me?", when the violent individual primarily seeks fault in others, not in himself.

## Confrontation of OSPOD Opinions With the Interest of the Child



- Alternating custody is suitable if the parent is not a violent person, otherwise lower contact is appropriate so that the child takes over the values of a non-violent parent for his or her life, or no contact at all (if the child suffers from his point of view),
- A parent is needed for the proper development of the child, unless he/she is significantly harmed by his/her childhood – in which case it is appropriate to order therapy,
- It is not automatic that a parent loves their child. He can primarily love only himself and not look at the interests of the child or the interests of his partner,
- Division of roles – each parent chooses a job according to their preferences – each of us has chosen a job, there are inflexible jobs on the market maximizing wages/power and flexible jobs allowing partial participation in the needs of the family (the parent perceives the needs of the child, that he needs him and he also needs to devote himself to the child, perceives the needs of the partner, has respect for him, looks up to him, he knows that he could not function without it and is aware that a caring parent alone will not be able to manage the work and care for the child and household in the long term).

#### **6.1.3.1. Alarming Actual Examples Requiring Immediate Action**

The cases below summarize several different methods of covert and reported violence that OSPOD was aware of during the child custody proceedings. In all these cases, the main caregiver for the small child, in marriage, and therefore the endangered person, was the mother who cared for the child properly and lovingly during the marriage. In all cases, violence in the family began to manifest itself at the moment of the beginning of the weakening phase (i.e. with the birth of the child or with the return to work).

##### **a) The case of Mrs. Marie Peterová (under OSPOD Černošice, Prague-West and the Regional Court in Prague)**

In the first case, the father committed violence in the form of criticism, humiliation, blackmail through the children, threats to woman (victim), mother of 4 children, that he would gain sole custody of all the children, that he would make the victim a mentally ill person in front of the authorities, that the victim would not receive any property from the joint marital property. The cause is the anger of the father, caused by the mother's disobedience to the rules of behavior set by him. However, the primary cause is the pattern of behavior that the parent acquired from his childhood, from his parents.

It is hardly believable that in the Czech Republic, where OSPOD is supposed to defend the interests of the child and the family, the result of the lawsuit was the conclusion that the mother has sole custody of 3 children, while the father has sole custody of 1 child, whom the mother can only see with assisted supervision. From this introductory summary, it is clear that the interest of the child and siblings has not been fulfilled here and one child grows up with an abusive parent and therefore accepts his or her behavior patterns for his or her future family life. From the beginning of the breakdown, the father applied a projection with which he failed in expert opinions, attacked the mother's mental health, demanded exclusive custody of all children, engaged in physical violence against the mother and financially led the mother to pressure her to accede to his conditions. OSPOD downplayed violence committed against the endangered parent, concluded that the endangered person harms (slanders the other parent) and therefore the stay of (but only one) child with him is not in the child's interest. It is therefore an absolute misunderstanding of the issue of violence on the part of OSPOD, on the contrary, OSPOD itself commits significant violence directly against the mother and also against the children by its approach, when it entrusts the mother with 3 children and not one, because this procedure is definitely not in the interest of the children and siblings. OSPOD has effectively punished the mother for doing her best to protect all of the children and for talking about violence. The fourth child intensely expresses the wish to be with his mother.

OSPOD should therefore take immediate action and prevent the deformation of a child whose psychological development is currently only affected by a violent narcissistic parent, which I hereby call on you to do, because a child can lose a bond with his mother at an early age much faster than an older child, and in this particular case even faster, because he shares a household with a father who has narcissistic and manipulative tendencies. At the same time, the very fact that the mother has sole

custody of 3 children and the father has 1 child is against the interest of the siblings, who are supposed to stay together and maintain a relationship with each other. It is also a very alarming fact, which OSPOD has neglected, that a child entrusted to the care of the father that he wants to live with the mother. The justification of OSPOD (listed below) is then evidence of how he allowed himself to be influenced by manipulation by the father during his activities (the father portrayed himself in a good light, which is a manipulation technique) and how OSPOD in fact looked at the interests of the father, not the interests of the children, because he did not check the interests of the children at all.

In this case, one cannot but agree with the mother's statement: "OSPOD defended this step by alleging alleged manipulation by the mother and the dissemination of disparaging information about the father. Disparaging information? Evidence of domestic violence. Would something like that be possible in Western Europe? Hardly. In the Czech Republic, however, the protection of children is often implemented in a way that is more like an absurd farce."<sup>18</sup>

**b) The Case of Barbora Plachá, OSPOD Benešov (Falling under the Regional Court in Prague)**

The child's mother did not want to obey the orders of the child's father and the child's father's mother, who wished to raise her grandson herself, instead of the mother. She was therefore punished in the worst possible way – through a child. Unfortunately, not only by his partner, but also by OSPOD and the court.

The mother received a decision to appeal the illegally filed preliminary injunction of the father, which establishes assisted contact with her son every Tuesday for 2 hours, when assisted contact is paradoxically ordered, and every other Saturday and Sunday from 10 a.m. to 6 p.m., when the son can go to the home where he grew up. In addition, the mother has to pick up and drop off her son, so he will drive over 400 km over the weekend. The father originally asked for assisted intercourse for 2 hours once a month.

With regard to the unlawful submission, it should be emphasized that the application for a preliminary injunction had been filed by the father once in the past and was rejected by the judge of the District Court, who represented the responsible judge of the case. The father broke the law and filed the same petition again after the judge known to him returned from vacation (i.e. outside the legal deadline). As expected, the company issued a preliminary injunction. The Regional Court subsequently did not deal with the evidence. It is, I stress, the same court whose error I point out in paragraph 7 of this report.

Is it okay to wean a loving and caring mother from the life of a three-year-old boy? Is it okay to continue to protect the father under investigation from the boy's sexual abuse?

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<sup>18</sup> <https://medium.seznam.cz/clanek/marie-soucek-peterova-na-ospod-cernosice-bylo-podano-rozsahle-trestni-oznameni-103027>

The court did not order the father to undergo a sexological assessment because he is sure that the father is not doing anything. The father has been resisting the sexological opinion for 2.5 years. The mother has 2 expert opinions, which came out perfectly fine. OSPOD, the court and the father are downplaying and distorting medical reports from the Motol University Hospital and other experts with whom the son spoke and who examined his health condition.

To the seriousness of the case, it is necessary to add that:

- The father is being investigated by the police,
- The child does not even have his own bed with the father (which is very alarming from the point of view of OSPOD's work, as it did not check the appropriate conditions for the child in the father's household).

OSPOD did not defend the interests of the child, because it did not examine them at all.

The mother's words from this week: "This weekend, the little boy was finally able to go home after 2.5 months. He was so happy. Overjoyed. He couldn't get enough of being with his mother, grandmother, with his toys. He wished to go to the places where we went together, where he liked it. He kept hugging me, kissing me and couldn't get enough of calling me "mommy, mommy", he kept hopping and happily repeating that he was with mom and was happy. But what a shock it was when I had to tell him in the afternoon that he couldn't sleep at home and that he had to go to his dad. He was so sad, he said that Dad had a bad heart. He went to say goodbye to his friend at the neighbors' house and said how he didn't like his dad's house, that he didn't want to be there. That he was sad that a friend could be at home with his mother and he couldn't. He says it all the time. Even on assisted intercourse. But the courts are not interested. The boy has a cough and a cold, he said how he wants to be at home when he is not well. But now some twenty-year-old girl is taking care of him, who will be his only mother when the boy's mother dies (dad said) and I don't even know how he feels. "I can't cuddle him, heal him. I don't even know where he goes to kindergarten. The father absolutely does not communicate with me. I don't know how to end this writing. It is pure desperation and helplessness. Abuse of an innocent child and a loving mother. However, there is one family that is happy about it and does not stop working hard to get me out of the boy's life for good and they have him all to themselves. But I won't give up. The boy knows that his mother loves him, she will never leave him and will never stop fighting for him. Despite what he experienced, he still believes me. I admire his strength and courage. Superhero Bertíček. I would never have thought that this could happen in a civilized country. That the evil, lies and manipulation will win."

Facts and evidence:

- The father's expert opinion speaks of psychopathy,
- In the past, the mother was allowed to see her son twice a week for 2 hours in a small room under the supervision of paid workers.
- The child talks for several months about how he "plays" with his father at home,

- In December 2024, 3 criminal complaints were filed against the father and the Regional Police Directorate of the Central Bohemian Region is investigating reasonable suspicions of sexual abuse, as there are audio and video recordings of the boy describing these horrific games with his father. He also describes the night scaring with a mask. Plague mask.
- All this is described in detail in the medical reports from the emergency room of the Motol University Hospital, where the boy was examined on the basis of his poor mental state before Christmas.

You certainly cannot imagine the desperation of a mother whose child was taken away for the second time two months ago by Judge Kerlová (District Court Benešov) after she illegally complied with the father's request and approved a preliminary injunction. The exact same preliminary injunction that another judge had rejected a few days earlier, saying that there was no reason for a mother to see her child in such an assisted way. The police even sent the mother to a lie detector test, but not the father. And the sexological and psychological examination of the father, recommended by the judge who rejected the request for a preliminary injunction, did not take place. The courts have been "solving" this case for 3 years. So far, all his steps have been in favor of his father. On 9 January 2025, Judge Kerlová issued a second judgment on the execution of the child. This absolutely horrible removal of the boy was carried out by the Benešov OSPOD with about 10 police officers. In addition, the execution was completely illegal, because the court did not take at least two legal steps that should have preceded it (a financial penalty for not handing over the child and ordering a hearing where the mother would be asked to hand it over). And even the execution itself was not carried out in a legal manner. The child was not in any danger at his mother and grandmother's, on the contrary, he played with trains at home in his room. The intervention took place very quickly, the mother was not even given time to read the Judgment and to call the lawyer. However, the very next day (10.1.2025), the judge of the Benešov court granted the father's motion for a preliminary injunction. And she decided that the mother is fully excluded from the care of the child and established contact twice 2 hours a week under the supervision of the assisted workplace Area Faust.

The father is being investigated for sexually abusing his own son, the suspicion is justified and supported by recordings and independent medical reports, but according to Judge Kerlová, only the mother is guilty. What was she guilty of? By loving her child and wanting to protect him from abuse?

Why are the courts, the police, and the state prosecutor's office not doing their job properly in this case? What does a state-appointed guardian of a little boy do? Where do the court, the police and the prosecutor's office get the certainty that the mother is lying and the father is not abusing the child? How does it protect the interests of this child? On what basis does it not protect the child from the possibility of abuse until the experts properly investigate the matter? After all, it is the duty of the authorities to protect a little boy who is probably being sexually abused. Time is running out. And unfortunately, the child will carry a huge trauma into his life.

**Not only these two families, but certainly many others require immediate intervention. Given that the younger the child, the faster he forgets about the loving endangered parent, especially if he**

**is negatively influenced by the other parent and the court has prevented contact with the loving endangered parent, it is necessary for the supervisory body to introduce a reporting line in order to check specific cases, because it is necessary not only to set the right future decision, but to correct it, and quickly, with regard to the child's interest, bad decisions from the past.**

#### **6.1.3.2. Other Cases From Practice**

##### **a) The case of the mother of a 6-year-old child falling under OSPOD Prague 4**

An abusive parent punished disobedience in marriage. During the marriage, the father took advantage of male advantages – treating the victim as a maid, determining female duties (taking care of the household, cooking, sole care of the child). The mother was tired – she worked, took care of the household and the child, and the husband did not contribute to the functioning of the household in any way. In the moment of defiance of the endangered person, he threatened that if he did not obey, he would not see the child again (he would take him abroad).

This case is similar in many ways to the examples above, but this violent parent is aware that he is not capable of full financial and time care, so he asked for alternating custody, but not for the sake of love for the child, but for the sake of punishing the disobedient mother. The child returned from his father crying, stressed, the father did not pay attention to him with love. Despite this, it took the court a year to decide on the exclusive custody of the mother with low contact with the father, based on the evidence submitted by the mother, and it was the mother who had to persuade OSPOD to talk to the child and find out his wishes.

All these cases are alarming in that it is a hidden aggression of a violent father and OSPOD actions not in the interest of the child. OSPOD should therefore be alert if one of the parents points out violence and not trivialize it, because the consequences for the child, in the event of an incorrect decision by OSPOD, can be very damaging in terms of their future development and their setting up for their future own family. Subsequently, it is necessary to reflect on the facts and deduce from them the child's interest in being with the mother, with the father or in shared equal custody – the facts can usually be revealed as early as the stage of the initial meeting between OSPOD and the parents, using a properly set methodology (questions asked to parents), which I comment on in point 6.1.4.

##### **b) My Own Practice – 24 Nc 25/2024 (under OSPOD Černošice, appeal under the Regional Court in Prague)**

At the outset, I would like to inform you that you have my consent to view the OSPOD files, including my letter to the director of OSPOD, Mrs. Mgr. Andrea Cinklová, entitled "Request for information on the procedure of OSPOD during the court hearing" and her response of 12.8.2024, as well as the entire court file, if you need to prove my claims.

## **Preparation Phase for the Custody and Alimony Court Proceedings**

OSPOD workers downplayed violence in the form of blackmail through children. Specifically, I spoke with the responsible worker on the phone, explained to her the family situation, specifically that the father does not care about the child's interest in seeing the father regularly (specifically not keeping the agreement, seeing him only after 3 weeks, etc.), which is very painful for the son. We summarized that a joint meeting is unnecessary in this case and I asked OSPOD during this conversation and subsequently in writing to interpret the terms below in court before the father:

- The interest of the child (because the father did not act in the interest of the child until the custody judgment was issued; in the period before the judgment was issued, he saw the child sporadically, when it suited him, with long, several weeks, delays, while the son missed it and commented on it with the words "I don't even know what dad looks like anymore", "he doesn't miss me"?),
- What is meant by the term family responsibility ("in summary, it instructs parents to take care of the child in such a way that the child does not suffer mentally and physically and can develop without major and insurmountable obstacles"<sup>19</sup>),
- What is meant by violence (in our particular case, it was threats by father that violence would be committed against children if I did not agree to the conditions set by the father, at the same time exerting pressure in order to achieve a financial disadvantage for me - an endangered person) and that it is a criminal offense.

## **Phase of the Custody and Alimony Court Proceedings**

Instead of the relevant OSPOD employee, another worker (representative) came to the court, who said at the beginning that unfortunately she had no information about the case and that she could not comment on the case. I therefore understood that OSPOD is not able, in the current state of its training, to talk about the interests of the child, or family responsibility, or violence, and tries to avoid these situations. Therefore, I raised this topic myself during the proceedings, while the OSPOD representative only repeated the words of the judge to seek out a mediator/psychologist in order to resolve our custody disputes, which is again a trivialization of violence, because the presence of a mediator is harmful and counterproductive in the case of violence. Parliamentary Press 721 (Amendment to the Civil Code) summarizes in the explanatory memorandum: "*It is also proposed to enshrine a procedural rule consisting in extending the ban on ordering a first meeting with a mediator to cases where the conduct of one of the parties to the proceedings is the subject of investigation and procedure by law enforcement authorities or is being dealt with by an accusation of an offense, if such conduct shows signs of domestic violence.*" In today's society, only so-called visible violence (dealt with officially by law enforcement authorities) is now protected, which is unacceptable, as most violence is not reported to the police. An OSPOD employee should not delegate his or her job description into the arms of psychologists, but should be able to talk about the child's interests, family responsibilities and violence, in a directive way, and summarize what is not accepted by the public in the current society and is protected by legal norms.

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<sup>19</sup> <https://sancedetem.cz/co-se-skryva-pod-organem-socialne-pravni-ochrany-deti>

After all, I was the only one who had to defend the interests of the child so that he would see his father regularly, so that the child would not miss him (not just for 1 week in July and 1 week in August, as the father requested), I was the only one who had to defend the child's interests in court several times, the OSPOD worker remained silent. Last but not least, it is the task of OSPOD to defend the interests of the child also in terms of the alimony that is provided to the child; In this area, too, OSPOD completely failed due to its lack of expertise, and it had to be me who defended the interests of the child.

I consider the presence of OSPOD in my particular case to be completely unnecessary, as he certainly did not act as a representative of the minor; In court, he was so-called "only in numbers", which poses a great threat to endangered parents, whose anxiety and depression do not allow them to effectively defend the interests of the child.

I confronted the director of OSPOD in writing, who then stated in writing that the representative had been acquainted with the case, which is in direct contradiction to what happened at our court hearing. At the same time, the director of OSPOD summarizes in writing that "if the parents are able to agree on custody and contact, OSPOD does not interfere with this agreement in any way, especially if such care is already implemented." However, the OSPOD worker was informed that the father was not actually implementing the agreement and was thus acting against the child's interest, and therefore in this case the statement of the OSPOD director is in direct contradiction to reality.

The aim of OSPOD is therefore generally not to address the situation and to leave its resolution exclusively to the endangered parent, which I consider absolutely unacceptable. In her response, Mgr. Cinklová wrote, among other things, that "It should be emphasized that the conflicting guardian is not a "lawyer" of one of the parents and does not form a coalition with him against the other." However, I am of the opinion that OSPOD employees should perform the work for which their body was established and it is necessary for them to remain impartial in their activities, to look exclusively at the interest of the child, and if violence against the child or action not in the interest of the child is signalled, they are obliged, at least, to interpret the basic concepts – i.e. the interest of the child, parental responsibility, what is considered violence, during a court hearing, as otherwise they downplay the risk of violence.

### **Post-Trial phase – Moving**

Subsequently, after a year, my father told me that he would come to pack the rest of his things on a specific day and move them out the next day in a moving truck. Since it is in the child's interest not to be present at the move, I asked the father to pack together when the child is at school and he planned the move for early in the morning, so that I could then adjust the household after moving (to avoid shock to the child) and go to see my son, who will be taken care of by my grandmother during this phase. The father refused to adapt any to the child's interests, because his goal was that I would not be present at the move. So he forced positions that effectively forced me not to be at home while packing and moving. Personally, however, I wanted to be there when I moved, because my father had already taken the things that his son needed to his new home in his car in the past, and when I asked for it to be returned,

I was told to buy it again, that he was not interested. Given that the moving van is now coming, I can expect that a significantly larger number of heavy things that we need as a mother and a child in the household will disappear from the shared apartment, but the father will find them suitable for the new household so that he does not have to buy them. This is violence committed against the mother through the child – as a mother, I do not want my son to participate in packing and moving, my son would suffer psychological trauma, and it is therefore in his interest not to be present in these situations. However, the father creates positions so that I cannot be present at the move either – either I leave the child with his grandmother for 2 days, even though my son was supposed to spend time with me, or I have the household moved out, which I will then have to buy again, which, given that in our family there was, among other things, financial violence and concealment of joint finances, It won't be easy for me from a financial point of view.

So I turned to OSPOD (Bc. Petra Procházková, Vřešt'álová DiS, while 7 months ago I was in charge of another worker who still works at OSPOD Černošice, and therefore there was a change of OSPOD worker in my case during such a short time, which is alarming) to explain to the father that it is in the interest of the child not to be present at the packing and moving of things and that as a father he must defend the interests of the child and organize the move so that to harm the child as little as possible in spending as much time as possible with the mother and at the same time to allow the mother to be present at the move, because the mother has the right to do so. OSPOD responded in writing: *"Given that moving is within your parental competence, I cannot interfere with you. It is therefore up to you as parents to agree. If you are unable to agree and you are still in conflict, it is up to you to consider whether you will be present at the move. It follows that I will not contact the father in this case, because it is within your competence."*

The OSPOD worker does not defend the interests of the child, in fact she is completely unaware of what the child's interest is and how she should view the situation. The correct view is: what is in the interest of the child? Not to be present at packing and moving. Both parents have the right to be present when things are packed and moved. How does the mother create the conditions so that the child is not present at the packing and moving? And what about the father? So which of them will I talk to?

OSPOD again uses the word "agreement", but in the case of violence, it does not occur, it perceives the situation only as a dispute between the parents, it trivializes the violence, and I should even consider whether I will be present at the move. So the best solution, according to OSPOD, is to leave the household for the time of packing and moving, spend time with your son elsewhere, as required by the father, and have everything moved out; in fact, OSPOD is committing violence against me by telling me to conform to my father's violent behavior. Again, there is a complete lack of interest in defending the interests of the child and an unwillingness to enter into conflict situations, which is, however, the job description of OSPOD – to defend the interests of the child and to enter and resolve situations that are against the child's interest.

### **6.1.3.3. Potential Risk – Suicide of a Mother and Murder of a Child in the Krkonoše Mountains**

In 2022, the death of a mother and a three-year-old child occurred in the Krkonoše Mountains; The case was closed as murder of a child by the mother and suicide of the mother.

The mother probably fell under the same OSPOD and the court, as most of the cases above, and the death occurred just before she was supposed to hand over the son to the father in sole custody, based on the court's judgment.

Given that you already have complete information about who the endangered parent is, what hidden violence exists in families and what consequences they have on the endangered parent, i.e. anxiety, deep depression, etc., you can reassess this case - including all the documentation of the OSPOD file and the court file, and form an independent opinion on what specifically caused the depression, anxiety, the loss of hope that the child could somehow exist with the father. There may also be a situation where you find a statement from the mother in the file that the father is committing some kind of violence. If so, OSPOD did not act. Will you come up with an answer from the files, what is the real cause? Because depression, anxiety and death are the consequence, not the cause.

If the removal of the child was really justified and there was no domestic violence in the family, then it is appropriate to set up a preventive procedure for such cases so that at the moment of issuing the judgment, the court will grant provisional enforceability, where the child will be handed over to the new custodial parent immediately, immediately after the judgment is pronounced, and to the parent who loses custody, Immediate psychiatric/psychological assistance will be mandatory after the verdict (before leaving the court, as well as follow-up care).

As far as violence is concerned, you can find it in my file, as described above, where neither the court nor the OSPOD acted at all in court, as I requested, and downplayed my statement. So I had to, although reluctantly, do the work in court on behalf of OSPOD. However, endangered parents who suffer from anxiety, depression, loss of self-esteem do not have this power. And you need to remember that. OSPOD must perform the function for which it was established. If he does not exercise it, in practice it turns out as mentioned above.

### **6.1.4. Setting Up an Initial examination of the Situation in the Family – Questionnaire for Parents**

As part of its activities, OSPOD is supposed to examine the situation in the family and defend the interests and well-being of the child, protect parenthood and families, the mutual rights of parents and children to parental upbringing and care.

What needs to be assessed in order to be able to decide in the best interests of the child has been decided many times in our society; "*The criteria that the general courts must take into account in terms of the necessity to decide in the best interests of the child in these proceedings include, in particular:*

*"(1) the existence of a blood bond between the child and the person seeking custody of the child; (2) the degree to which the child's identity and family ties are preserved in the event of custody of the child; (3) the ability of the person seeking custody to provide for the child's development and physical, educational, emotional, material and other needs; and (4) the child's wishes".<sup>20</sup>*

Point (1) above is a simple matter that OSPOD will examine without the need for a deeper investigation. Point (2) above and point (3) above can be best verified by OSPOD if each of the parents receives a questionnaire in the initial phase of the divorce, which is **filled in independently, without the cooperation of the other parent**, and submitted to OSPOD. Given that the parents no longer normally share a household with each other at that time, a problem is not expected from this point of view. If they share a household, it is appropriate for the parent to fill in the questionnaire at the premises of OSPOD. At the same time, the parent would be obliged to send the proposed custody agreement to OSPOD if the agreement has already been negotiated between the parents in the meantime. Sending an agreement to an OSPOD worker must not automatically mean that the case is closed; I therefore do not agree with what the director of OSPOD, Mrs. Mgr. Cinklová, wrote in her official response to me, i.e. *"if the parents are able to agree on custody and contact, OSPOD does not interfere with this agreement in any way"*. It is always necessary for the OSPOD worker to collect and evaluate the questionnaire from the parents with regard to the threat of violence, and to hand over the questionnaires with the evaluation and their opinion on the matter to the judge, as their content is crucial for the decision on custody, as well as the amount of alimony. And this communication from OSPOD to the judges must be one-sided. A judge must not interfere in any way with the opinion of OSPOD, comment on it, or influence it in order to speed up the judicial process (I comment on this topic in more detail in the points concerning judges).

Psychologists should, of course, be involved in the creation of this questionnaire. I am of the opinion that the questionnaire should contain questions from which OSPOD obtains information about:

- What is the real relationship between a parent and a child,
- Which parent provided for physical, educational, emotional, material and other needs before the breakup; that is, how care took place until the moment of the breakdown of the marriage. This screening phase is crucial especially in order to prevent hidden manipulation and projection (mirroring oneself into the other parent; a parent who in the past did not provide for the child's needs on the basis of his/her decision is now interested in providing for the child's needs), as a sudden turn signals hidden violence,
- Whether the proposed care is in accordance with what the child has been used to for a long time and was satisfied with (the period before the separation and the period after the separation)
- Whether the child is dissatisfied and in what specific way since the parents separated.

An unconditionally loving parent will answer truthfully, because he wants his child to be happy. At the same time, an unconditionally loving parent also acts in the interest of the fact that the child needs both a mother and a father for its proper development. If in practice there are proposals by one parent to limit custody by a parent who is interested in care, OSPOD must pay particular attention to the second and

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<sup>20</sup> <https://www.zakonyprolidi.cz/judikat/uscr/ii-us-1338-20-3>

third indents above, which in fact signal hidden violence in the family, and thus imminent psychological violence in the future committed against the child and the other parent.

In most cases, the first step, i.e. the questionnaire, will be fully sufficient for OSPOD workers to be able to evaluate the conclusion of what care is in the interest and well-being of the child, and a more detailed examination will not be necessary. However, if it finds a risk from the second and third bullet points, it will be necessary to inform the court so that the court also prepares for the court proceedings, where it is very likely to face manipulation and projection, which is also described by the narcissist expert in his article "Divorce from a narcissistic person and proceedings on the modification of custody of common children".<sup>21</sup>

From my point of view, the questionnaire for divorcing parents must contain the following questions, which are crucial both for the care of the child and for the determination of alimony, many of which I also take from the so-called "parenting plan – Family Service", which is sent by the court to parents for consideration when the custody proceedings are initiated (the questions were, apparently, created by experts in the field, as some of them are asked very appropriately):

- a) Questions focusing on the relationship between a parent and a child
  - What is our child like? Describe the child's character, what activities he likes, what he doesn't, what makes him happy, what stresses him, what he would like differently.
  - What do I wish for our child in life and how do I want to influence it on my part?
  - Describe your work and workload with regard to the day-to-day care of the child (in particular, comment on your workload, your actual possibilities to take care of the child during the working day so that the child's physical needs are met personally by you – way to school, from school to clubs, afternoon preparation for school, visits to doctors, etc.). If you have changed jobs due to the breakdown of the relationship, please comment on the situation before and after the change of work. Also comment on your options for staying at home with your child during your child's illness.

Answers to these questions provide the OSPOD worker with information about the factual relationship of the parent to the child, how he or she knows the child, how he or she perceives the child's needs, and how he or she adapts his or her work regime to the child's interests. Knowledge of the child's needs and the parent's current activity (i.e. activity in the past, not only in the future) is to be fulfilled personally on the part of this parent signals that the parent has a real need to care for the child and perceives the child's needs, which, as described above, is not an automatic standard. There is often a parent in society who does not show the will to meet the child's needs personally and justifies this behavior by external influences (the need to work fully, etc.). However, it is only the parent's decision what job to choose with regard to the fact that they have a child (i.e. prioritizing work over the child's needs); The OSPOD worker must focus on examining whether the parent is able to give the child the care he or she needs. In

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<sup>21</sup> <https://www.ak-vych.cz/rozvod-s-narcistni-osobou-a-rizeni-o-uprave-pomeru-ke-spolecnym-detem-jaka-by-mela-byt-role-advokata/>

particular, it examines the willingness of the parent to provide for the parent's needs personally on his part. It is not the intention for the child to be cared for by an external nanny or a grandparent on a regular basis, instead of a parent, if the other parent has adapted their working conditions so that they can fully devote themselves to the child. Contact with a parent and, of course, occasional contact with grandparents is important for the child's development. However, it is not in the interest of the child for the grandparents or an external nanny to provide regular care for the child in place of the parents, and if one of the parents meets the conditions of regular care and the other would have to substitute for himself on a regular basis; Then it is in the child's interest that the child is in the care of a parent who has adapted conditions.

b) Questions focusing on the provision of physical, educational, emotional, material and other needs

- Answer according to the state before the breakup of the relationship:
  - o Who of the parents provided for the child's physical needs before the breakdown of the marriage, i.e. before the separation of the parents? – in particular, comment on the following physical needs: childcare during the working day, accompaniment to and from kindergarten/school facilities, accompaniment to clubs, cooking, doctors' visits, care during director's leave and school holidays, care during illness, etc.); if these physical needs were met and shared by both parents, describe which needs were met by you and which by the other parent; Describe the regular provision of needs on the basis of a one-week overview (i.e. what care in terms of physical needs is provided by you and what by the other parent during the weekly review).
  - o Who of the parents provided for the educational needs of the child before the breakdown of the marriage (separation)? – i.e. care consisting mainly of preparation for school, studying, teaching missed material during the child's illness, speech therapy exercises, etc. - if these educational needs were met by both parents, describe which needs were met by you and which by the other parent
  - o Who of the parent provided for the child's emotional needs before the breakdown of the marriage (separation)? in particular, comment on: playing with the child, reading fairy tales, physical contact (is the child hugged, kissed, held by you?); does your child confide in you about their feelings? Describe specifically what the child is dissatisfied with. Do you accompany your child to children's events, sports activities? Do you organize events for your child that they wish to do (e.g. birthday party, etc.)? If these emotional needs were met by both parents, describe which needs were met by you and which by the other parent, and whether during weekdays or just weekends.
  - o Who of the parents fulfills the child's material needs ? – in particular, comment on the procurement (finding) of clothes, school supplies, sports equipment (skis, cross-country skis, bicycles, scooters, etc.), household items, medicines. Next, comment on the family's financial settings – i.e. whether both the mother and the father work and how the family has set up a scheme of paying for the child's needs.

- Describe living with both you and the other parent – the size of the apartment, whether the child has their own space in the apartment, whether they are satisfied there and what they miss there.
- Answer the same questions according to the state after the breakup of the relationship (separation of parents).

c) Questions About Child Care

- Do you prefer joint/alternating custody or do you think that the child should live with you or with the other parent (i.e. sole custody with contact)? What do you think is best for your child and why?
- If you suggest that your child will be in your care, when should they spend time with the other parent? On the weekend, during the week, overnight, at other times? If you suggest that the child be in the care of the other parent, describe when he or she should spend time with you.
- Where do you plan to live, how far will it be?
- In the case of moving, how far can the other parent move? **Do you want to conclude an agreement that you will not move outside the municipality/city/region until your child reaches adulthood?**
- At the time of your celebrations (name days, birthdays) and other celebrations, do you want to have the child with you, even though he should be with the other parent at that time? Will you allow the other parent to do the same? Or will you adapt the dates of such celebrations to the days when you take care of the child in accordance with the agreement?
- Do you agree on parenting approaches with the other parent? What do you agree on and what do you disagree on?
- **How will you pass the child to each other?** (through a school facility, at the residence of the parent who has sole custody of the child, at the residence of the transferring parent, etc.)

From the above answers to this first part of the questionnaire, the OSPOD worker will get a clear overview of how each parent provided for the child's needs during and after the separation, what he or she is proposing now and whether the proposed care is in accordance with what the child is used to in the long term and whether the child is satisfied in the current care regime. **It should be emphasized that the 180% turnover in the proposed care compared to the situation in the past signals violence in the form of "I will require the children in my care to punish you", because until now the parent has not felt the need to take care of the child. If any risk of violence is identified, the OSPOD worker must not communicate the result of the questionnaire, as the violent person can then exert pressure on the endangered person, who may then suddenly "change his mind" in court.**

**If the parents contradict each other in the first part of the questionnaire (e.g. each of them claims that they were the only carers), violence is clearly identified and the OSPOD worker must find out information from independent sources (kindergarten, school, pediatrician, club organizer) -**

**who takes the child to kindergarten, school, who picks up the child, who goes with the child to the doctor, who goes to the clubs.**

Other questions below must be included in the questionnaire due to their supportive nature for the enshrinement of the rules in the child custody agreement, of which those that should always be mandatory in the agreement are highlighted in the questions above and the questions below, **as the consequence of not defining them in the agreement may be future financial distress, anxiety and depression as a custodian parent, and the child in the care of the intended parent. Furthermore, this information is crucial for determining alimony. The questionnaire** brings an overall time efficiency of both OSPOD and court proceedings and prevention of potential future violence.

d) Contact and Communication Between the Child and Parents

- What will contact with the other parent look like when the child is with you? (phones, sms, emails) What will be the frequency? When can the other parent contact the child? Do you wish communication had some rules or could it be spontaneous?
- If you need to babysit a child while they are with you, will you ask the other parent in the first place? If so, what will be the rules (time, communication, etc.)?
- If the child is with the other parent and the other parent needs babysitting, should they contact you in the first place? If so, what will be the rules? (time, communication, etc.)?
- Or do you not want to take care of the child at all outside the custody agreement? ***In this case, the OSPOD worker must act - he must explain to the parent parental responsibility (the obligation to take care of the child so that the child does not suffer mentally and physically and can develop without major and insurmountable obstacles) and his obligation to provide care for the child in extraordinary life situations of the other parent - more serious illness (including fever), illness of other family members of the parent, etc.; i.e. to the position of refusing to take care of the child outside the agreement of the parent at all and sign this in the minutes of the hearing.***

e) Contact with Grandparents and Extended Family

- How do you imagine contact with the child's grandparents? Do you agree that the child should be with grandparents or extended family for a certain period of time when he or she is supposed to be with the other parent? These are situations, for example, during holidays, etc., i.e. irregular seeing,
- Do you intend to provide your parental care regularly on certain days through your grandparents or extended family, i.e. not by you personally? ***In this case, the OSPOD worker must act – he or she must explain to the parent that it is in the child's interest to have contact primarily with the parent, because the child needs primarily the mother and father for its development, and contact is limited to it for these purposes; In the case of low seeing on the part of a parent, determined by an agreement between the parents or by a court, this intention must be rejected and unconditionally stated in the custody agreement.***

- Do you have any rules for contact with grandparents and extended family?
- **There are some people you don't want the child to spend time with. Please state the reasons why the child cannot be entrusted to this person.**
- f) Contact and Communication Between the Child and Parents
  - What is the distance of the parents' residence? Are there any significant costs incurred when transporting children? How will the costs be covered? Or does the child go to the other parent alone? *If the distance is too long and the parent insists on alternating or financial compensation, it is necessary to find out to the court why the move was made, because it is in the interest of the child that the parents live close to each other so that they can cover random life situations related to their care and the child's needs. A justified need is support from the extended family (moving to grandparents) in the case of a parent who has sole custody of the child; Furthermore, the need to move for work with both parents is justified. At the same time, it is necessary to examine whether and how the parent actually has the opportunity to bring the child to the other parent and how long the journey takes – i.e. whether a possible alternation in transport is in fact possible. If the parent has moved far away for no reason or for work – higher wages (i.e. prioritization of work over care), the court will also consider the possible immorality of requiring transport or financial compensation from the other parent.*
  - Can someone else possibly bring the child, who?
  - How do you want the other parent to tell you important information about the child? (in person, by email, by phone)? When should he pass on this information (when handing over the child, whenever necessary, on a certain day)? *In the event of any answer other than "whenever necessary", it is the duty of the OSPOD worker to inform the parents that from the point of view of parental responsibility (to take care of the child so that it does not suffer mentally and physically and can develop without major and insurmountable obstacles), it is necessary to pass on important information whenever necessary. Write a protocol about the discussion and have it signed by the parent.*
- g) Contact and Communication Between Parents and Child
  - Do you agree not to use the child as an intermediary for communication with the other parent? *This does not mean a situation where there is communication with the child, in which the other parent is also involved in the speakerphone and the information communicated by the parent to the other parent does not harm the child and does not discredit the other parent.*
  - Which people do you consider important to your child and would you like him to maintain a relationship with?
- h) School Facilities
  - What school facilities should your child attend (kindergarten, primary school, art school)? And is it a state or private facility?

- If you have more children, do your other children attend private or state schools? If some of your children are in state schools and others in private schools, write the reason in the different approach to children. In the case of private ones, write the name and annual tuition.
- Would you like your child to stay in existing facilities? (benefits, activities, possible problems)?
- What information is important to you and how will you pass it on?
- If a school or kindergarten uses online communication, will both parents have access to it?
- Will you be attending class meetings? Specify who will attend the class meetings.
- Who and how will excuse a child from school/kindergarten?
- What is your opinion on your child's further education?

i) Leisure Activities

- Does your child have any leisure activities? What?
- Do you currently accompany your child personally to leisure activities? What times (picking up the child, starting the ring, end of the ring)
- Are there any activities that you do not want your child to engage in or from a certain age? Please state why?
- How do you imagine the participation/involvement of the other parent in leisure activities? What will your involvement and the involvement of the other parent look like?
- How will communication with the other parent take place regarding these activities? Do you require you to condemn the clubs, activities, or is it enough that the child shows interest in the club/activity?
- If the leisure activities interfere with the time when the child is with the other parent (competitions), do you want to participate in the leisure activities as well? *If the answer is no, it is the duty of the OSPOD worker to inform the parents that from the point of view of the child's interests, it is appropriate for both parents to share important moments in life (races, the first day of school, competitions) with them, unless a risk of violence has been identified. Write a protocol about the discussion and have it signed by the parent.*

j) Child's Illness

- If the child is sick, are you willing to take care of the child? YES, NO. *If the answer is "NO", it is the duty of the OSPOD worker to inform the parents that if the child has a high temperature, transport to the caring parent is not suitable and desirable from the point of view of the child's interests and it is advisable to wait until the temperature drops. Write a protocol about the discussion and have it signed by the parent.*
- If the child is sick, how do you want to set up care in the event of illness? Possible variants:
  - o a) is cared for by a parent with whom the child has become ill until the end of the illness,
  - o b) is cared for by a parent who is supposed to have the child under the custody agreement at the given time,
  - o c) both parents participate equally in the illness, when the first parent starts caring and after 50% of the time, the other parent starts caring in his/her household (if the health

condition allows transport, i.e. not high temperature). Do you want to set up the regime so that where the child gets sick, the parent currently caring for the child starts caring for the child? (possible alternative: the other parent starts the carer's allowance due to their greater flexibility at work – illness is a sudden and unexpected thing)

- d) is cared for only by the parent who has sole custody of the child.

- Ad a), b), d): if the other parent is forced to stay at home with the child, take nursing allowance and this reduces the child's income, will you compensate them for this loss in any way? How?  
*– Variants: non-caring parent high wage, carer lower wage: top-up by the non-caring parent to the full salary (a better option for the non-carer than being on the carer's allowance alone), same-income parents, or low-income non-caring parent: compensating for the 50% loss of wages to the caring parent.*

Ad c) – there is no need to deal with a financial settlement – in this case, the parents prefer to take care of the child both and each of them incurs a financial loss directly proportional to their salary; Both have equally divided time for rest and work.

- Do you require only the parent to take care of the child in person? Do you agree that the extended family of the other parent should also take care of the child? Who in the family is not allowed to take care of the child and why?

- Do you plan to use an external nanny or a person outside your close family for care in the event of illness? *If the answer is yes, it is the duty of the OSPOD worker to inform the parents that from the point of view of the child's interests, it is not appropriate for the child to be cared for by strangers in an illness when the child does not feel well and needs to feel safe for the mother, father or close family. Such an approach has a negative effect on the child's mental development. That is, the intention to eliminate. Write a protocol about the discussion and have it signed by the parent.*

**The arrangement on illnesses (full point j) must be included in the custody agreement, because the consequence of not including it in the agreement is in practice stress, depression and anxiety of the caring parent due to the need to work, but the inability to work (fulfillment of work obligations and goals), financial impacts (the carer's allowance is lower than the salary), fatigue of the caring parent and no free time.**

k) Medical Care

- Who decides on the choice of a child's doctor (general practitioner, dentist, specialist – e.g. allergology, neurology, audiology, phoniatics, physiotherapist, podiatrist, etc.)? a) I want to decide, b) I leave the decision to the other parent, c) by mutual agreement of both parents. *The OSPOD worker will assess the answers. Here, too, violence on the part of the violent parent may occur if they block the selection of a specialist without a justified reason, to which the child must go with the endangered parent (having custody of the child). It is necessary for the parent who will personally visit the specialist with the child to decide on the specialist,*

***so that it suits the parent who must personally provide this care – incorporate it into the custody agreement.***

- Do you want to see a doctor with a child a) you or b) do you want only the other parent to go to the doctors with the child, or c) you go to some doctors and the other parent to some doctors? In case c), describe which doctors you want to go to with your child and which ones you want the other parent to go to with the child.
- What medical procedures and needs beyond the contribution of the health insurance company does the child use? (special diets, medications, glasses, braces, optional vaccinations)? Describe what such medical procedures and regular needs the child currently has. ***If there are already regular needs, it is necessary to incorporate it into the calculation of alimony in order to make it easier to enforce it from the parent.***
- How will you inform the other parent about the child's health condition if the child is in your care? How will you inform the other parent in the event of an acute health condition?
- Do you wish to have access to your child's medical reports?
- Is the child awarded the child care allowance? Describe the reason for the contribution, the amount of the contribution
- What social services the child needs (especially for disabled children)

The OSPOD worker sends the following to the court:

- Completed questionnaires of both parents with evaluation – specifically:
  - o whether violence is signaled and from what responses
  - o on which answers the parties disagreed (e.g. handing over the child, illness of the child, etc.) so that these disputed matters are resolved by the court,
  - o what care OSPOD proposes with regard to the child's interest and whether it is in accordance with the wishes of both parents, if they have proposed an agreement. If the OSPOD proposal is in conflict with the wishes of one parent, then the OSPOD worker describes in detail the evaluation of the first part of the questionnaire with regard to the child's interest and findings regarding the risk of violence.

#### **6.1.5. Methodology for Communication With Children**

The task of OSPOD is, among other things, to find out the child's opinion and to try to objectively evaluate the whole situation and monitor the best possible interests of the child. He submits this opinion and assessment to the court.

*"One of the basic rights of OSPOD is the right to negotiate with a child alone without the presence of parents. This right is given to OSPOD for the understandable reason that the child's opinion or other things that OSPOD needs to find out are not influenced by the fact that a parent is sitting next to him and watching whether the child says what he or she wants. This is also related to the right of OSPOD to visit the child at school or kindergarten, where they can also talk to the child without the presence of other people. At the same time, it should be added that OSPOD should use such a right only in cases where it is necessary (it should be able to defend it). At the same time, such an interview with the child*

*must take place in a non-violent way. OSPOD does not interrogate the child, but interviews the child. Based on this, a psychologist does not have to be present at such an interview and a social worker does not even have to have a psychological education, which the law allows a social worker to do. OSPOD has many options for obtaining information and should always choose a specific procedure as appropriately as possible.*"<sup>22</sup>

#### **6.1.5.1. My Experience – OSPOD Černošice**

An OSPOD worker called to find out whether my husband and I had a custody agreed. She informed me that if we were not in line, I would have to come with the child (a 6-year-old child) to interview him. When asked what questions OSPOD asks the child, I was answered, "I just ask if he wants to be with mom or dad." I strongly opposed this and asked why OSPOD does not have questions prepared by child psychologists that will not be direct, but will find out what they need to know, because if they ask a 6-year-old child if he wants to be with his mom or dad, then:

- First, the child is in the position of so-called Sophie's choice – "choose – mum or dad"
- And secondly, this conversation causes psychological trauma to the child.

OSPOD answered over the phone that they had nothing like that set up. Fortunately, our disputes were only, as OSPOD said, "in the details", specifically the dispute over care in the summer, so OSPOD did not force the child to visit. However, if my son had to go there, then he would certainly have a breakdown, because since he was a child I have built up in him the illusion of feeling that his dad loves him, he just can't pay attention to him often. It is important for the development of the child that he feels loved by both parents. He will probably find out for himself one day how it really is, but it is important for his own future family development that it is ideally as late as possible, so that he grows up in family love for as long as possible. I believe that the interview with the child would have resulted in the opinion of OSPOD that alternating custody is the best in our case (because of this illusion I am creating), but fortunately the interview did not take place, because my husband and I were in agreement – he wanted to take care of the child at a minimum, and I know that higher custody on his part would be against the child's interest, because during the family relationship he preferred maximizing work activity and his own interests over the interests of the child, and the child would suffer in his care, because it would not be the father who would actually take care of the child personally, and in that case it is in the interest of the child that the parent who has adapted his life to the care will take care of him.

#### **6.1.5.2. Proposal of Methodology for Communication With Children**

The text above stated: *"At the same time, such an interview with the child must take place in a non-violent way. OSPOD does not interrogate the child, but interviews the child. Based on this, a psychologist does not have to be present at such an interview and a social worker does not even have to have a psychological education, which the law allows a social worker to do. OSPOD has many*

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<sup>22</sup> Mgr. Josef Smrž; the authority for social and legal protection of children; <https://sancedetem.cz/co-se-skryva-pod-organem-socialne-pravni-ochrany-detí>

*options for obtaining information and should always choose a specific procedure as appropriately as possible."*

An OSPOD worker has a high responsibility. Their incorrect behaviour or incorrect conclusion can destroy not only the caring, unconditionally loving parent, but especially the child, who will carry the experiences and behaviour of family members from childhood into his family life. The responsibility is so high that it is not possible for the area of communication with children to be without methodology and to remain at the level of the assignment "interview in a non-violent way", because the interpretation of this term can be completely different for two people, while I know the alarming interpretation from practice as follows: "I'll just ask if he wants to be with mom or dad", so parents better agree. In the case of communication with a child, it is necessary to learn at least the basics of psychology of communication with children, so it is necessary to create a methodology for OSPOD employees.

In terms of methodology, it is necessary to:

- a) To create a working group that will bring together child psychologists and the aim of this group will be to create games for younger children up to 6 years of age (kindergarten) and up to 10 years of age (school), through which the OSPOD worker will find out what he needs to know without asking the small child direct questions in the form of whether he wants to be with mom or dad and who he likes more. (An example game can be, for example, "what does the rabbit do during the week – to show his program" Monday – mom takes me to kindergarten/school, mom comes in the afternoon and I go swimming, then we study at home, Tuesday... Wednesday... Thu... Fri... So... and the rabbit asks, and how are you doing, Joey, what are you doing on Monday? My mother takes me to school, in the afternoon I go swimming with my mother, Tue, Wed, Thu, Fri, Sat, Sun... *If he keeps talking about his mother, it is obvious that the father is not very present in the care, so he is used to his mother .... Joey, if you were a magician, how would you draw your dream week and which activities would you like to do with your mom and which with your dad (accompaniment to/from school/to clubs - swimming, sports, learning/reading fairy tales...) - the child can answer, for example, - I wouldn't change anything, or positively. Or nothing with dad, I just want to be with mom - from the output you can see not only what the child is used to, but whether he likes it that way or would like it to be different, and what prevents it - which of the parents doesn't have time.*
- b) Adapt the environment of the playroom for the "conversation" so that these games can be actively played, e.g. to attract the child's interest in the rabbit.
- c) Provide regular training for child psychologists – how to communicate properly with children of different ages, what the children's mental health problems are, how they manifest themselves, what are the methods of communication, and pass on experience from psychological practice to all OSPOD workers who communicate with children.
- d) To train OSPOD workers so that they will not only check the readiness to meet the child's interests through the above-mentioned questionnaire in the case of the parent who has not yet cared for or rarely cared for the parent who will have contact with the child (without the mother, without AK), but also to request mandatory training of this parent in the care of the child in court; Such seminar services are provided to future mothers by e.g. Thomayer Hospital, where they

learn how to properly care for a child (from diaper change to care for children under 5-6 years of age).

#### **6.1.6. Representation of OSPOD Workers and Files Management**

In practice, OSPOD workers take turns during custody proceedings, e.g. an interview with a parent is done by one worker, another worker comes to the court and an interview with the child is done by a third worker. In my case, 3 OSPOD workers have already been present, and the proceedings have been going on for less than a year.

Given that the approach of the OSPOD worker can have serious negative consequences for the child and the endangered parent, and it is therefore work with a high degree of responsibility, it is necessary for the OSPOD workers to change the case as little as possible. A sudden illness is an acceptable reason, and this should also be a reason for postponing the meeting or moving the court hearing to another date, as the child's representative is an important party to the proceedings who must be present at the hearing in person.

If the OSPOD worker is represented, in practice it looks like I described in my case, i.e. he does not express himself at all, he just repeats the words of the judge.

At the same time, it is necessary for the OSPOD employee to enter everything they learn during the proceedings in the file. It is then not possible to answer in court in the style of "I don't know what was the reason that the meeting did not take place", as was stated by our OSPOD worker at the court. Proper file management is also necessary for the possible transfer of the file to another OSPOD worker for serious reasons (long-term illness, termination of employment leave).

#### **6.1.7. Supervision of OSPOD Employee's Activities**

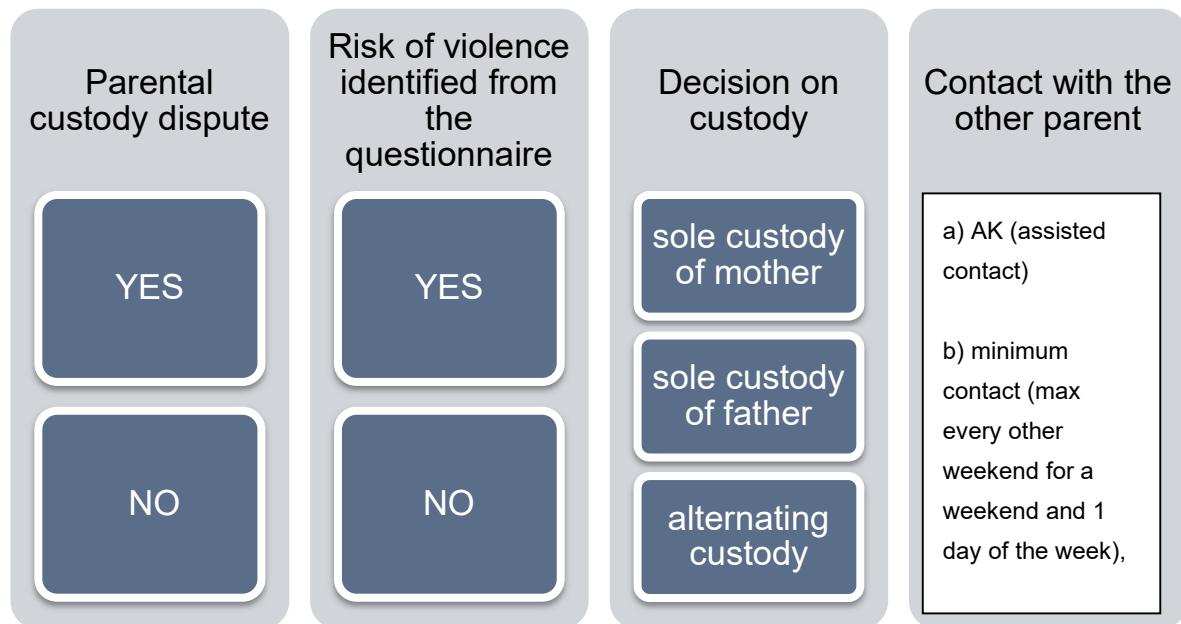
Towards

- 1) reducing the risk of incorrect assessment of the family situation by OSPOD employees, and
- 2) prevention of corruption, i.e. *"directly or indirectly soliciting, offering, transmitting or receiving a bribe or any other impermissible advantage or prospect thereof, which interferes with the proper performance of any obligation or conduct required of the recipient of the bribe, impermissible advantage or prospect thereof (Council of Europe 1999); furthermore, such conduct when an individual or a group of people uses their official position and power to assert their own interests to the detriment of the interests that this position and authority requires them to defend (Dvořáková 2019)"*<sup>23</sup>

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<sup>23</sup> CORRUPTION IN SELECTED SECTORS IN THE CZECH REPUBLIC AND THE POSSIBILITIES OF ITS REDUCTION; Summary research report for the project TL05000011; Kristýna Bašná, Radim Bureš, Dalibor Fadrný, Jaroslava Pospíšilová; 2023; chrome-extension://efaidnbmnnibpcajpcgclefindmkaj/https://korupce.cz/wp-content/uploads/2023/12/VSouhrn.pdf

it is advisable to set up supervision by the supervisory authority, specifically to implement an electronic system in which the OSPOD worker will have to record the following:



The following are to be inspected:

- answer YES, YES
- answer NO, YES
- AK
- No contact

## 7. The Position of the Endangered Parent and Child in Society – Violence by the Court

Introductory information on the case is provided in point 6.1.3.2. point b) above.

At the beginning of the hearing, the judge gave the floor to a representative from OSPOD, who tersely stated that she had no information about the case because she was only representing a colleague who was in charge of the case and had not had time to familiarize herself with the case. However, in my opinion, this must not arise in practice - the OSPOD worker must always come to court prepared, familiar with the case.

At the beginning of the hearing, the judge also firmly stated that the parents should resolve their disputes and disagreements regarding custody with psychologists and organizations designated for this purpose and not overwhelm the court file, as the main purpose of the court proceedings is only to decide on future custody and alimony, and the time of the hearing is set for that. The hearing will definitely not discuss how someone behaved in the past (the file said that the father does not regularly pick up his son and commits violence against me by restricting the interests of the son), because the task is to deal with future contact and alimony.

Subsequently, even during the hearing, when I stated that my husband was not acting in the interest of the child and did not see him regularly, the judge again emphasized "you should go to some therapy", "court proceedings are not here to resolve partner disputes and custody disputes", "if you say that your husband did not listen to you in the past, you had enough years to do so, my son is 6 years old". When appealing for regular contact, because the father was against regular contact even during this particular hearing, I reiterated that the son misses his father and that I insist on it, while the judge said: "There is no place for this here, deal with it with a psychologist."

In addition, the judge defined our disputes as disputes over property, where we do not take into account the interests of the child, while in my notes I primarily commented on the inappropriate behavior towards the child (the child of the victim in order to force the endangered person to behave in a certain way) and the lack of care from the father to date, as well as the fact that he refuses to contribute to the child's alimony due to financial violence committed against me. However, the judge reproached both parties for the issue of disagreement on alimony, i.e. she did not take into account the status of the endangered parent at all, and the unequivocal aim on the part of the judge was to downplay the case in order to quickly close the case, i.e., to establish contact and alimony, and not to deal with violence and, in fact, not even the interest of the child.

Specifically, I was the only one forced to assert the child's interest in seeing the father regularly during the summer holidays during the court hearing, because OSPOD did not express itself. Parental responsibility and the use of a child as a victim to achieve one's goals were not discussed at all during the hearing.

## **7.1. Preventive Measures to Avoid Negative Consequences Caused by Judges**

### **7.1.1. Identical Training for Judges and OSPOD**

It is necessary that judges dealing with family and marital matters (child custody, child maintenance, spouse maintenance, joint marital property settlement) regularly undergo the same training as OSPOD workers, described in point 6.1.3 ("Detailed training of employees in the issue of child interests, parental responsibility and narcissism") and training in family functioning (see point 8), and last but not least, training from child psychologists (insight into the child's soul), because it is the judges who make the decisions and must therefore be able to evaluate and interpret the questionnaires and recommendations of OSPOD. The judge, like OSPOD, must learn to look at the matter through the eyes of the child and evaluate whether the proposed care is really suitable for the healthy development of the child.

In the event that a risk of violence is identified, "the judge must prepare for a court hearing where lying, manipulation and projection are very likely to manifest themselves".<sup>24</sup> It is necessary to stay only in the mode of focusing on the child's interests and at the same time follow the facts and evidence.

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<sup>24</sup> Petr Kinkor, coach and narcissism expert, <https://www.ak-vych.cz/rozvod-s-narcistni-osobou-a-rizeni-o-uprave-pomeru-ke-spolecnym-detem-jaka-by-mela-byt-role-advokata/>

The toxic opinions of judges and OSPOD are:

- a) A child should have a mother and a father
- b) If the child does not have a good relationship with the parent, the other parent should motivate the child to have a good relationship with the other parent
- c) If a parent commits violence against a parent, it does not mean that he will commit it against the child

ad a) this applies provided that the child has unconditional love from the mother and father.

**Unconditional love** is recognized in practice by the fact that a parent adapts his or her life to the child's needs, wants to spend time with the child personally, devote himself to him/her, take care of him/her, love the child as he/she is, has a pleasant and safe family environment created for the child. Examples of **conditional love** that are toxic to the healthy development of the child and therefore undesirable for an active relationship with the parent are "I will like you if you listen to me", "I will love you if you are the way I want you to be", "you will do what I want", "I have the right to contact the child because I pay child support" – this is, among other things, a significant toxic type of manipulation in practice, developed in fact for the purpose of revenge on the caring parent, because he did not obey. Conditional love actually means that the parent loves himself and not the child, he is not able to give love, he did not receive it himself in childhood, he does not know what to give, he does not know it. Unconditional or conditional love is automatically taken over by the child into his own life, into his future family. If the child has extended contact with a parent applying conditional love, the child will take this pattern into his own life, into his own family, and thus continue the cycle of dysfunctional families containing violence. Conditional love is violence committed against a child, and in that case the relationship with such a parent is harmful to the child. Therefore, if OSPOD or the court identifies conditional love, it is necessary to order/recommend psychological counseling to the parent to heal himself, because it is of course in the interest of the child to have both parents in general, because the child needs both the female and male elements for proper development, but both parents must have unconditional love for the child. After psychological therapy, it is then appropriate to re-examine the conditions of how the parent has adapted their life to the needs of the child, whether they can spend time with the child personally, devote themselves to the child, take care of the child, have a pleasant and safe environment and whether contact can be set up. However, the slightest dissatisfaction of the child is a big exclamation mark for OSPOD, which should reopen the question of verifying unconditional love.

Ad b) A parent should not motivate the child to have a good relationship with the other parent – specifically, he should not portray a better parent than he is, he should not create an illusion, because the child himself knows how the parent behaves towards him and then he can turn with anger towards the loving parent, because he actually harms him by forcing him into contact. The relationship of a parent is related to his conditional/unconditional love.

A parent should behave impartially, express their opinions, but not slander the other parent, example – dad gives vitamins only when the child is sick, mom gives vitamins regularly ("why do I have to take vitamins from you, mom? Dad said that I don't have to take vitamins if I'm healthy"):

- 1) I think that if you take them regularly, you won't get so sick.
- 2) You have to take vitamins, if you don't take them, you'll get sick. Dad thinks wrong.

In the case of 1) we give the child our opinion, we do not evaluate which of the opinions is correct and which is not, we do not say that the father is bad. We create an independent second opinion and the child will evaluate for himself over time which opinion he will lean towards, whether to the father or the mother (support of critical thinking – encouraging the child to his own opinions). We do not put the child in a position of "choose" or "the other parent's opinion is wrong". In case 2), it is incitement against the parent and the loving parent should avoid this.

Ad c) The statement "if a parent commits violence against a parent, does not mean that he or she will commit violence against the child" is not true. A parent who commits psychological violence against the other parent in order to achieve their own interests uses manipulative techniques, which they then use against the child. The aim of a parent committing violence is to achieve their own interests, not to take into account the interests of the child. By manipulative technique, it evokes a feeling of guilt in the child that it does not behave as the parent would like, or, for example, it causes fear to express one's feelings. This reduces the child's self-esteem and at the same time the child acquires manipulative techniques for his own future family life. The cycle thus starts spinning again and the violence in the relationship with the child remains.

### **7.1.2. Preventing the Judge From Trivializing Violence**

During the court hearing, the judge must not create an environment that prevents OSPOD from expressing its opinion on the child's interests, parental responsibility and violence. I therefore consider the judge's sentence from my testimony "any disputes regarding inappropriate behavior towards a child (the child of the victim for the purpose of forcing the endangered person to behave in a certain way) and the current care of the parents with psychologists and organizations designated for this purpose" to be absolutely inappropriate, moreover, expressed only for the purpose of not prolonging the court proceedings and thus trivializing the whole problem.

The prohibition of ordering or recommending a meeting with a mediator must therefore not apply only *"to cases where the conduct of one of the parties to the proceedings is the subject of investigation and procedure by law enforcement authorities or is being dealt with by an accusation of an offense, if such conduct shows signs of domestic violence."*<sup>25</sup>, but also to violence not reported to the authorities in criminal proceedings or misdemeanors, but identified by OSPOD, as this is not an area that can be resolved through a mediator; it is not about finding a compromise or agreement.

If OSPOD identifies any violence or conduct of a parent against the child's interest, it must at least ensure that it carries out education (the child's interest, parental responsibility, violence) directly during the court hearing, stating that such behavior, which is not accepted by society, would be considered a

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<sup>25</sup> Explanatory Memorandum to Parliamentary Document 721 – Combating Domestic Violence

criminal offense (in the case of violence; where minimal contact, AK, or no contact until the end of psychological therapy is expected), or against the child's interest (i.e. the impact on a possible change in care), with the addition that OSPOD will continue to monitor the family due to the risk of violence. It is a preventive element, preventing a person committing violence or not defending the child's interest in continuing this behavior.

Furthermore, in order to ensure that the judge does not put pressure on OSPOD, it is necessary to:

- Set up one-sided communication – i.e. OSPOD submits questionnaires, its findings and recommendations to the court, and the court can at most request some information, but under no circumstances must OSPOD motivate OSPOD to downplay the problem, nor form an agreement with it in order to speed up the court process so that it does not discuss some disputes. In my particular case, after the end of the hearing, which did not result in a verdict, the judge stated to the OSPOD worker as the people were leaving the courtroom: "You stay here so we can come to an agreement". This is unacceptable from the point of view of OSPOD's independence.

### **7.1.3. Supervision of Judges' Activities – Automatic Recording of Court Proceedings**

With regard to the fact that the OSPOD worker did not have time to familiarize herself with the case, which I consider to be a significant misconduct, as it is supposed to be the OSPOD worker who is the child's representative and is supposed to defend his interests, she confronted the director of OSPOD Město Černošice in writing, who officially stated in writing that:

- i. *"according to the statement of the participating colleague (Bc. Aneta Martečíková) she was familiar with the case"* - which is in direct contradiction to what Mrs. Martečíková said at the beginning of our court hearing.
- ii. *"if the parents are able to agree on custody and contact, OSPOD does not interfere with this agreement in any way, especially if the care set up in this way has already been implemented"* – which was contrary to reality, because the set care was not implemented in practice by the father, and therefore I appealed to OSPOD to emphasize compliance with the set care with regard to the child's interest
- iii. *"the collision guardian is not the "defender" of one of the parents and does not form a coalition with the other parent."* - which, however, in practice means trivializing violence and not defending the child's interests (I don't believe you that this happens).

Due to the false information, I turned to the District Court Prague - West with a request for a recording of the oral hearing from the moment of "enter the courtroom". The recording was provided by the court, but it did not contain the introductory words of the judge or the introductory words of the OSPOD worker, specifically her statement that she was not familiar with the case and therefore could not provide any information. The recording was provided from the moment the judge began recording into the dictaphone.

So I contacted the court by phone, asking for an explanation and was told by the IT department that this was the only recording they had and that the judge turned on the recording himself.

So I turned to the President of the District Court Prague – West, Mgr. Markéta Šottová. and requested the following information:

- Does the judge turn on the recording of the hearing himself?
- Is there an internal instruction at the moment when the recording should be turned on? And if so, at what point should the judge, according to an internal instruction, turn on the recording?

In the official reply, I learned from the Vice-Chairwoman JUDr.

- *"no deficiencies were found in the judge's procedure",*
- *"The recordings of the hearing were made in accordance with Section 40 of the Civil Procedure Code. It is clear from the recordings that the judge turned on the recording device before the hearing on the merits of the case began. It must be stated that the commencement of the hearing on the merits of the case does not equal the moment when the parties enter the courtroom. The exact moment when the judge is to turn on the recording device is not given by the court's internal instruction, the operation of the recording equipment is provided by each of the judges independently."*

On the basis of the recording alone, in which it is said, "Good morning, once again", it cannot be concluded that the judge turned on the recording device before the start of the hearing on the merits of the case. **If a judge expresses his opinion on a matter, he or she does so as a judge who handles the case and conducts the hearing, he or she will continue to follow it even after the official opening of the hearing, and therefore his or her opinion on the matter should always be recorded on the recording. Just like any statement from OSPOD.**

The fact that the judge himself can turn the recording on and off practically creates space for the communication of information at the beginning of the hearing, which is undesirable to be heard on the recording, in my case:

- Manipulation – specifically the targeted influencing of the behaviour of another person, because the judge has in fact defined how the judge imagines the proceedings and what he intends and does not intend to resolve, so the parties should not address these issues during these proceedings, as there is no room for this. In general, with regard to the high authority of the position of judge, a parent does not normally dare to express himself during proceedings against the wishes of the judge.
- Information from OSPOD that it is not familiar with the case and therefore cannot provide information about the case. (it should be noted here that the recording records that the OSPOD worker *"is known to the court"*, i.e. they know each other, have already seen each other or communicated with each other in the past.)

Since court proceedings concerning child custody, joint marital property, alimony for spouses, etc., are highly sensitive cases, as there may be an endangered parent or spouse, it is necessary to ensure a

high level of protection and supervision of judges so that neither the judge nor the OSPOD can make any statements that would not be captured on the recording, and thus **set up an internal binding instruction as follows:**

- 1) **The obligation to turn on recording of oral hearings at every hearing where child custody, joint marital property settlement, spouse alimony and other hearings where an endangered parent or spouse may be involved.**
- 2) **The obligation to turn on the recording of the hearing at the moment of "enter the courtroom" and to turn off the recording only at the moment when the court hearing is over, while none of the participants is entitled to make any statements after the end of the hearing.**

If this is not set up, there is no way to prove the misconduct of the judges or OSPOD, because if both the recording and the dictaphone are triggered only at the moment at the judge's discretion, then any disputes are just so-called word against word, as was shown in my case during the confrontation with the director of OSPOD.

#### **7.1.4. Supervision of the Activities of Judges – Protocol from Hearings**

A protocol was also drawn up from the above-mentioned meeting, which was delivered to me on 5.9.2024, based on a request addressed by my legal representative to the court, as it was not automatically sent by the court before.

The protocol contained inaccuracies regarding the statement of the OSPOD Guardian, specifically the protocol contained:

- a more extensive statement of the OSPOD worker than the worker actually presented during the meeting (while the written statement is of better quality from a professional point of view),
- on the other hand, the protocol lacks the statement of the OSPOD worker "regarding the meeting, I don't know why the meeting did not take place, I don't know, I can't comment on that" (it is on the recording), which I consider to be crucial, because the responsible OSPOD worker, who was not present at the meeting, knew very well why the meeting did not take place and also agreed on the call that it would be useless.

At the same time, it was clear from the inspection of the file (document dated 6.8.2024) that the protocol had been corrected, specifically the record contains the note "protocol corrected – please send it to your attention".

I therefore also asked the presiding judge for information as to whether any correction had been made to the protocol with regard to any statement made by OSPOD, and if so, what kind of correction.

The official written answer was as follows:

*"As far as the inaccuracies in the minutes that you allege, are concerned, neither the minutes of the hearing nor the contents of the file does not indicate that the judge omitted to deal with any objection in the record. If you point out inaccuracies, it should be noted that in accordance with Section 40 para. 6 of the Civil Procedure Code, only the content of individual recitations, not their verbatim transcription. The protocol was circulated in full compliance with the 40 para. 8 of the Civil Procedure Code, when the presiding judge corrects clerical errors and other obvious inaccuracies in the protocol.*

*This is mainly a check for typos, where a record of the check is subsequently made in the file."*

Given that the OSPOD worker did not say the sentences as they are written in the protocol during the hearing, and given that the protocol was not sent by the court until September 2024, after a reminder, with questions sent to the director of OSPOD in July 2024 and after a reminder she replied in August 2024 in such a way that the answers did not correspond to reality, there is a risk that that any modifications to the protocol could have arisen as a result of my questioning, as OSPOD is in contact with the judge. Again, it is not possible to prove this in practice, and therefore I recommend the following prevention in this area:

- 1) According to point 7.1.3, it is desirable that the recording of the oral hearing is an obligation, from the moment of "enter the courtroom".
- 2) If, despite point 1), a record of the hearing is prepared, it contains the content of the presentations, and the transcriber and the presiding judge are prohibited from disseminating the content of the presentations beyond what the party to the proceedings has actually said.

#### **7.1.5. Supervision of Judges' Activities – CCTV Footage**

The findings from practice relate to my case ref. no. 101 Co 304/2024 (appeal in the matter of alimony). After the court hearing, I asked the presiding judge to issue a request to download the stored recording from the CCTV system for the purpose of investigating and evaluating the complaint. My request was granted.

Subsequently, I filed a complaint with the presiding judge about the conduct of the judge for several reasons. This complaint, containing a total of 4 areas of misconduct by the judge, has not been settled to my satisfaction and I will therefore continue to deal with the case with the Department of Supervision and Disciplinary Agenda at the Ministry of Justice, which is the superior authority. Below, for the purposes of this report, I summarize the facts that can be effectively prevented by prevention, i.e. by setting internal binding guidelines that prevent inappropriate behavior.

The area of misconduct is the aggressive non-verbal communication of the presiding judge (facial expressions, head movements, eye glances), while the long fixed angry gaze of a person feeling dominance forces the normally receiving person to submissive behavior (described in more detail in the complaint).

I asked for the CCTV footage to be checked by a psychologist, an expert on narcissism (in the Czech Republic it is, for example, Petr Kinkor), because a judge should not have narcissistic tendencies, as after all, in 2018, psychologist Jiří Dan, who has been conducting a [www.ceska-justice.cz](http://www.ceska-justice.cz) Psychological-diagnostic examinations of future judges and prosecutors.

In a written answer signed by the Vice-President of the Court, I learned that:

*"As far as the alleged aggressive non-verbal communication of the presiding judge towards you is concerned, such speech was not found during the investigation of the complaint. A video recording the purpose of which is, inter alia, protection of judges, parties to proceedings and other persons during public hearings, the room is scanned from members of the panel to the parties to the proceedings and further to the room. The judges are not on the video recording recorded."*

We therefore find ourselves again in a difficult situation where in practice there is no way to prove that the judge used manipulative techniques to induce the participants to submissive behavior, which must be eliminated, especially with regard to the fact that a judge with narcissistic tendencies should not perform the function of a judge at all.

It is necessary to protect not only the judge, but also the participants against possible inappropriate behaviour on the part of the judge. In this area, I recommend the following preventive measures:

- 1) **To check how the camera systems in the courtrooms are actually set up, i.e. whether they really only record the view from the panel to the parties to the proceedings and further into the room.**
- 2) **The video recording must be in each room in such a way that it will sense the direction in two directions:**
  - a. **From the members of the panel to the parties to the proceedings and further to the room,**
  - b. **Towards the members of the judge Senate.**
- 3) **The parties will be informed in summons as part of the general information that in the event of inappropriate non-verbal communication by judges, they may request the downloading of the CCTV recording for the purpose of the complaint within 5 working days after the court hearing.**

I believe that this step will significantly reduce non-verbal manipulative techniques by judges.

#### **7.1.6. The Need to Train Judges in Appellate Proceedings**

In my opinion, the presiding judge of the Regional Court also erred (brief information below, for detailed information, including justification in relation to the Code of Ethics for Judges and other evidence) that:

- 1) The report presented contained errors and inaccuracies, which testify to negligence during the preparatory phase

- 2) The judge anticipated the outcome of the proceedings, literally threatening that if I did not withdraw my appeal, he would intervene, to my detriment
- 3) The judge has resigned from the expert reasoning of the (anticipated) decision,
- 4) The opinions presented by the presiding judge are not in line with the current development of social relations, specifically a) the position of the mother caring for the first-grader in relation to the court's assumption that it is possible to work full-time (dealt with in a separate area below), b) the failure to reflect the actual expenses for the child at the present time.
- 5) The judge discriminated against the financial situation of mother, when he was in fact very concerned about the high value of my salary for only 75% of the time.

Regarding points 1) to 3) – if I file an appeal, I expect the judge to familiarize himself with the case in detail, to review the decision of the judge of first instance, to form his own opinion on the matter and to duly justify this opinion, both during the personal hearing and in the judgment, because only in this way can the appellant comprehensibly understand and reconcile himself to why he is or is not in the right. At the same time, I expect the judge to behave decently during the hearing, i.e. without any personal scenes towards any of the parties. And it is exactly this quality of judicial services that I have encountered in the past, in my case ref. no. 22 Co 201/2023, where the presiding judge was JUDr. Tomáš Novosad, and judges Mgr. Martin Trepka and Mgr. Libor Zhříval, while I note that it was not a simple case at all, as here the case was also intertwined with violence in the family, this time committed against an old woman.

I definitely do not imagine the work of a judge to be such that he gets to know the case minimally, he is unable to respond to the evidence presented, he manifests himself by non-verbal communication, arrogant remarks, he is unable to respond professionally to substantive suggestions, and de facto officially informs that if a person does not withdraw the appeal, he will punish him. There was an evident lack of interest on the part of the judge in dealing with the appeal, which means that the instrument of appeal does not fulfil its essence in practice.

Many of the above-mentioned errors are caused by the fact that judges are young, inexperienced in the field in which they decide – i.e. they do not have their own family and therefore cannot practically imagine what family life entails. After all, 10 years ago I had the same incorrect opinion that a caring mother can work full-time because the child is in kindergarten or school, and therefore I can empathize with inexperienced judges.

Another serious problem is the fact that a person who does not have the factual psychological prerequisites for the performance of the function of a judge, i.e. is characterized by a narcissistic nature, considers his position to be "omnipotent" and therefore it is not necessary from his point of view to perform his work as it should be performed. After all, it is the Regional Court itself, which in its answer – ref. no. St 7/2025-10 states in response to the complaint that "the presiding judge is the master of the proceedings, which is manifested by his authoritative behaviour". Personally, I doubt that if, for example, Judge JUDr. Novosad had attended this hearing as a public, he would have been satisfied with the behavior of this judge and would have stated that it was in order.

In this area, I recommend the following preventive measures:

- 1) To train judges on the Code of Ethics by more experienced judges, e.g. the above-mentioned JUDr. Novosad
- 2) To train judges in terms of the current development of social relations in the family – i.e. e.g. how the life of a family works in practice when caring for a small child, a kindergarten child, or a small schoolchild, because the opinions of judges (both district and regional) that there is no reason for part-time work need to be removed from current judicial opinions,
- 3) Train judges in the sense that during their trials they will also encounter the fact that the salaries of the participants will be higher than their salaries, because they will look at the salaries, and instruct judges in the sense that any personification is not good and that every job has its importance.

#### 7.1.7. Supervision of the Activities of Judges – Handling Complaints

Again, an example of practice is the response of the Regional Court, ref. No. St 7/2025-10.

The person handling the complaint, Mgr. Kateřina Stará, Vice-President of the Court, states in her reply that she asked for a statement from the presiding judge against whom the complaint was filed. The answer includes phrases and manipulative ways of expression that were used directly by the judge during the personal hearing, e.g.:

- Mgr. Stará: "After all, you were represented in the proceedings by a legal representative who would certainly object to such behavior." – well, in fact, it is my fault, I should have protested despite the submissive feeling that the judge evoked in me. Presiding Judge: "The account was opened on the basis of the actions of both parents; you contributed to the establishment of the savings folder; So we don't understand why you are filing an appeal." – Again, it's my fault, because I opened the savings account (here I emphasize that I didn't want to, but I was obliged by the judgment of the first instance to open it); Both expressions have the characteristics of one specific manipulative technique, namely the "role of the victim" – i.e. inducing a sense of guilt in the other person, who then admits guilt.
- Mgr. Stará: "*The subsequent dialogue between you (your legal representative) and the court then represented a **polemic** with the opinion of the court of appeal*", further "*The other content of your submission represents a **polemic** with the legal opinion of the court of appeal and its procedural procedure in the course of the proceedings*"; President of the Senate: "*I think that this discussion and **polemic** is going nowhere.*" Thus, both use the same words in their expression.
- Mgr. Stará: "*It is clear from the content of the audio recording that the subject matter of the appeal proceedings and some of the principles of the appeal proceedings in matters of care for minors were not entirely clear to you.*" – but this was not the subject of the complaint at

all; Mgr. Stará: *"In no case can it be seen as "threatening or manipulating you with the aim of forcing you to act in a certain way"*. The judge refers to the law and does not actually deal with the complaint in the complaint, specifically with the text of the Code of Ethics, which states: *"When dealing with and communicating with the parties or their representatives, the judge should use sober, polite, comprehensible and factual oral and written expression, and should refrain from prejudging the outcome of the proceedings, expressions of sympathy or antipathy."* Presiding Judge: *"You have an above-average income, higher than the average salary in the Czech Republic, and that with 3/4 of the time, if you worked full-time, you would have even more."* – in both cases, it is a manipulative technique of "word salad" – i.e. Diverting the topic from the original topic (transferring the topic to the law, or to the amount of wages in the case of full-time) in order to stop the other, often resulting in accusing the other of making a mistake (diversion and escape technique).

- Mgr. Stará: *"He is therefore also entitled to direct the speeches of the parties and other persons so that the hearing leads to a quick and effective discussion of the case; that is, among other things, that these speeches do not deviate from what is significant in the given proceedings according to the court's legal assessment of the matter, or do not spin in circles."* The reality, however, was that the speeches concerned the case and were significant for the court's assessment of the case. Presiding Judge: *"However, it cannot be assumed that the entire amount of alimony will be spent on the child."* Both expressions have the hallmarks of the manipulative technique of gaslighting – inducing a sense of doubt about reality in the other in order to gain control over the action.

It is not possible to prove whether and how the presiding judge actually participated in the creation of the response to the complaint against him, but it can be stated that the similarity of the manner of expression of both persons is significant.

In this area, I recommend the following preventive measures:

- 1) **The complaints handler is obliged to investigate a complaint about the judge's conduct independently, drawing evidence from an audio recording, from a file, and from a camera recording. The complaints handler is obliged to form his/her own, independent opinion on the matter.**
- 2) **The participation of the person against whom a complaint is lodged in the replies is prohibited. The complaint handler has the right to ask the judge additional questions that affect the substance on condition that answers are not clear from the file or from the recording (e.g. why he did not turn on the recording earlier), but not for the purpose of justifying his behavior, which is evident from the recording. Because an independent opinion must not be influenced by the opinion of the person against whom the complaint is made.**

## 7.2. Child Support

The area of child support is not methodically understood, which is an alarming situation with regard to the position of the caring parent, as an incorrect court decision can result in a very negative impact on the financial stability of the environment in which the child grows up, i.e. causing depression, stress and anxiety in the endangered parent, which are logically transferred to the child by the endangered parent and subsequently have an impact on the formation of the child's future own family.

### 7.2.1. Findings from practice

- a) In its report "Analysis of Current Issues of alimonies", the Ministry of Justice summarizes that "the Czech legal system does not explicitly define the term alimony as such".<sup>26</sup>
- b) The analysis of the use of the so-called recommendation table for determining alimony, specifically the document entitled "Determining alimony for children – analysis and recommendations for the public"<sup>27</sup> dated 31.8.2022 states an identical sentence, i.e. document b) was based on the original document a).
- c) In 2022, the ministry published a manual<sup>28</sup> and a alimony calculator<sup>29</sup>. This calculator is based on the debtor's net income, the child's life stage, the number of maintenance obligations, the degree of care and contact with the child, and the control amount, which is calculated in two ways and the result that is more favourable for the debtor is selected (the % of income method is applied mainly to debtors with higher incomes, and the fixed lower amount method to low-income debtors).
- d) Judgment ref. no. 16 Co 261/2021-146 of 5 January 2022, paragraph 40 *"It is appropriate to add to the mother's argument that the so-called ministerial recommendation table should be taken into account when determining alimony, as it is inappropriate. The table is not part of our legal system, the law does not know the objectification of alimony, so this table is not binding and can be perceived as a disproportionate interference of the executive power into the independence of the judiciary."*
- e) Anonymized questionnaire to one OSPOD worker – How do you determine the alimony that you recommend to the court on behalf of OSPOD? "I base my decision on the website of outstanding alimony"<sup>30</sup>;
- f) The experience gained during my court proceedings - 24 Nc 25/2024 - the determination of alimony was like in a marketplace. The judge exerted great pressure on each of the parties to say what amount they imagined to be alimony. I resisted this approach, I wanted the amount to be determined by the court. However, the court wanted to avoid any decision-making and so it

<sup>26</sup> Adam Hexner; 19.7.2017; Analysis of current issues of alimony; chrome-extension://efaidnbmnnibpcapcjcplcglclefindmkaj/https://msp.gov.cz/documents/12681/724488/Anal%C3%BDza\_V%C3%BD%C5%BEivn%C3%A9ho.pdf/93c70207-570a-4e7c-886a-0f7d208cc6fb

<sup>27</sup> <https://vyzivne.justice.cz/statisticka-data/>

<sup>28</sup> <https://vyzivne.justice.cz/doporuujici-tabulka-vyzivneho-a-manual-k-ni/>

<sup>29</sup> <https://vyzivne.justice.cz/kalkulacka-vyzivneho/>

<sup>30</sup> <https://www.vasevyzivne.cz/dluzne-vyzivne-2025/>

pushed for amounts. Subsequently, when both parties said significantly different amounts, the situation began to be like in a marketplace: "father proposes this, you this, so what if you meet in the middle".

The above-mentioned practice, both on the part of the Ministry, of the different approaches of judges and OSPOD workers, shows that the methodology for determining alimony is so unclear that each of judges creates his own methodology for determining alimony (the Ministry recommends its own table, OSPOD prefers websites that do not belong to the Ministry, some judges reject the table, some judges apply the "marketplace" method).

I consider the "marketplace" method to be very risky, because if the obliged parent offers a very low amount and the entitled parent offers an amount adequate from their point of view, then the marketplace method will get us to a lower amount than the amount can be adequate (now let's abstract from the fact that the entitled parent would overstate the alimony, which of course can also arise in practice). The "marketplace" method is therefore not suitable.

As far as determining alimony as a percentage of income or the method of the so-called "unseizable" amount is concerned, I do not consider this method to be appropriate either, because we assess alimony only with regard to the income of the obliged person, not the beneficiary. In practice, therefore, we very often encounter the situation that child support in the case of majority care by one parent, i.e. contact once every 14 days for a weekend with the other parent, is set at a low amount, e.g. CZK 3500, due to the low salary of the obliged person. If the entitled parent also has a low salary, the burden of maintaining the child is de facto shifted to the caregiver, because the child's maintenance costs several times the amount of CZK 3500 per month in the current social conditions. It is therefore only the caring parent who faces stress, anxiety and depression related to a difficult financial situation, and the obliged parent is not affected by this. Paradoxically, it is therefore the caring parent who often has two jobs instead of one, which is against the child's interest. At the same time, it is only the caring parent who must provide for other than the child's financial needs, i.e. breakfast, accompaniment to the kindergarten/school facility, pick-up from the kindergarten/school facility (while part-time work is necessary, as stated in the texts below), accompaniment to clubs, studying, cooking, evening needs. At the same time, it is the caring parent who provides the child with accompaniment to doctors, spends time with the child during the director's leave, etc., so they have to take leave for these needs. At present, the intended parent also faces the stress caused by the child's illness, because if he has to take care of the sick child, he cannot work and receives a benefit that is lower than his wage. At the same time, they often lose bonuses, which are dependent on the hours worked for low- and middle-income groups. High-income groups have bonuses depending on meeting goals, so they take proper care of the child during the day and work at night.

It is therefore a very complex problem where the caring parent is disadvantaged in all respects, which affects the environment in which the child grows up.

It is necessary that the intended parent also has an unseizable amount left after paying all mandatory and legitimate payments for himself and the child. Social benefits are insufficient in this respect.

### **7.2.2. Proposal of a Methodology for Determining Alimony**

Both parents have alimony obligations. As mentioned above, I consider the methodology for determining alimony and how much of the alimony should be paid by the caring and non-caring parent to be unfortunate.

It is necessary to discuss more in public what the real costs of a child are - what the child needs (food, clothes, textbooks, but also social involvement in the group through clubs) and to set this as the minimum limit of alimony (i.e. to avoid setting extremely low alimony only when looking at the debtor's salary). It must also take into account what the caring parent provides in the form of alimony non-monetary – i.e. primarily personal care, their personal leisure time – and thus assign the degree of contact and actual care. Subsequently, any higher standard of living of the parents (wage, property, income of partners if they share a household) should be taken into account, because the child should have the same standard of living as the parents.

The calculation of alimony should always begin with quantifying the child's legitimate needs.

- a) From statistics or public surveys to find out (and update every year):
  - a. Cost of meals per month per child under 3 years old, up to 6 years old, up to 12 years old, over 12 years old
  - b. Cost of shoes per year per child under 3 years, under 6 years, under 12 years, over 12 years
  - c. Clothing costs per year per child under 3 years of age, up to 6 years of age, up to 12 years of age, over 12 years of age
  - d. Cost of medication per year per child under 3 years, up to 6 years, up to 12 years, over 12 years
  - e. Accommodation costs – the cost of 1 room for a child in the city where the child lives

These expenses are a quantification of the so-called minimum legitimate needs of the **child's life stage** and their amount is transferred on a monthly basis. Subsequently, the costs related to the specific child are included in the calculation:

- b) costs related to children's x kindergarten x school facilities (school fees, school supplies, fees for events, etc.)
- c) Costs of clubs that the child attends
- d) Costs related to the provision of care during the summer holidays (camps incl. suburban camps, etc.)
- e) other needs that the child legitimately needs due to his/her health condition.

We will also convert these costs on a monthly basis. This calculation will quantify the so-called basic alimony.

In the next phase, it is necessary to determine the proportion of the basic alimony that each of the parents should contribute to, i.e. **the degree of care and contact**, while up to the age of 12 (inclusive) the child should have two indicators, which will result in the overall level of care and contact, each with a different weight, because care on weekends is not identical to care on weekdays (the number of days in a month is filled in and the weight is assigned automatically):

- a) weight of 90% of all-day care on weekdays, i.e. breakfast, accompaniment to kindergarten/school facility, pick-up from kindergarten/school facility, accompaniment to clubs, studying, cooking, evening necessities, doctor's visits, etc., the caring parent is limited in his/her work performance and must have part-time work until a certain age,
- b) weight 10% all-day care on weekends

This determines what part of the alimony each parent has to pay from the basic alimony. Subsequently, the court should proceed to the stage of verifying the standard of living:

- the income of both parents, including their standard of living in the household, is examined; If it is similar, it is solved. If it is higher for the non-custodial parent, the alimony is calculated as a percentage of the non-custodial parent's income and his/her alimony is increased to % of the income. If such a high amount of alimony is higher than it is actually possible for the child to consume (here the actual expenses for the child are proven with regard to the parents' standard of living), savings are ordered. If the standard of living of a parent in custody who takes care of the child mainly on weekdays is higher, it will not be taken into account or only minimally (if it were taken into account, this parent would de facto pay both alimony and take care of the child, and the other would be "freed" from parental responsibility completely, as he or she cares minimally and pays minimum alimony).

Subsequently, when the maintenance for the intended parent (who pays the maintenance to the child in the form of direct payments for the child's needs) and the non-carer who is to pay the amount to the intended parent are calculated, the control amount is taken into account using the method of how much the obliged person must have left for his or her life.

If the control amount is lower than the assessed alimony, then the obliged parent does not have sufficient income to ensure the payment of the relevant part of the alimony to him/her, and it is therefore necessary for **the court to exert pressure to improve the financial situation of the obliged parent**, as it is not possible to transfer the burden of care and alimony only to the caregiver in the long term. e.g. in the form of an order:

- Making an effort to find better-paid work through the employment office,
- requalification for another work activity, etc.

**In the meantime, the judge has the option of ordering the non-custodial parent to perform public work during his or her free time** (e.g. weekends when he or she does not care for the child), while the

earnings from these works would be sent by the employer directly to the intended parent as a partial compensation for the alimony that the non-custodial parent is obliged to pay on the basis of a calculation.

This prevention will have a positive impact on the future behaviour of the non-custodial parent with regard to parental responsibility, i.e. it will reduce situations where a parent has 4 children with different women and as a result still has an unseizable amount, while child support decreases with the increase in the number of children, i.e. mothers fall into a financial trap. At the same time, it will no longer be the caring parent who not only takes care of the child, but often also has a second job to actually support the child. Parental responsibility must always be assigned to both parents.

Alimony does not include extraordinary expenses for the child (serious illness, medical needs, etc.) – this is a reason for changing the alimony, or it is possible to negotiate the ratio of the payment directly in the negotiations on alimony.

As far as the child tax credit deduction is concerned, it belongs to the parent who has custody of the child. If the child is in shared equal custody, each parent is entitled to half, it is only determined who has the first 6 months and who has the second 6 months of the year.

### **7.2.3. Draft Methodology For Determining the Wage top-up for Parent in the Event of a Child's Illness**

The basic analysis of the financial impact in the event of a child's illness was addressed in point 6.1.4(j) above.

According to the law, the non-custodial parent has "the right to see, not the obligation", which causes many practical difficulties in practice (the non-custodial father does not hand over the mother's children, but the father's failure to pick up the child from the caring mother is not sued, because the non-custodial father only has a right, not an obligation). A non-caring parent (non-caring during the working day) is not obliged to take care of a child in illness, even if this condition is non-standard/extraordinary, it is not ordinary care (when the caring parent is at work and the child is at school).

I see sick care as an extraordinary situation, because the child's illness negatively affects the parent's work activities and both parents should participate in this, and if not, the non-caring parent should partially compensate the caregiver for the financial and non-financial difficulties.

As far as illness is concerned, ordinary illness is not considered a 'significant circumstance' for a change in alimony. After all, the child was usually ill before. When determining alimony, clear rules should be given as to how to proceed in the event of a child's illness.

The importance of this topic is also emphasized by the large number of public discussions<sup>31</sup> on this topic, primarily as a result of serious financial problems, stress, anxiety, depression to which the caring parent is exposed.

The options for care in illness are as follows:

- a) is cared for by a parent with whom the child has become ill until the end of the illness,
- b) is cared for by a parent who is supposed to have the child under the custody agreement at the given time,
- c) both parents participate equally in the illness, when the first parent starts caring for the carer and after 50% of the time, the other parent starts caring for the carer in his/her household (if the health condition allows for transport, i.e. the temperature below 38 degrees). Possible alternative: Carer's allowance is initiated by the other parent due to their greater flexibility at work, as illness is a sudden and unexpected thing.
- d) is cared for only by the parent who has sole custody of the child.

- Ad a), b), d): if the other parent is forced to stay at home with the child, take nursing allowance and thus reduce his/her income, then:
  - o If the non-caring parent has a high salary and the carer has a lower wage, the non-caring parent should top up to the full salary of the carer (a better option for the non-carer than being on the carer's allowance himself),
  - o Same-income parents or low-income non-custodial parent: compensation of 50% of the loss of wages to the caring parent (top-up to a level where each of them would care for 50%).

I am also of the opinion that the total alimony may in fact be greater than the child's needs, because personal care (part of the alimony provided by the caring parent) can be of a significant nature – the non-caring parent should partially compensate the caring parent for the loss of income, not only due to the necessity of part-time work, but also due to care in the event of illness. I am of the opinion that alimony is for the needs of the child (the child needs not only food, clothing, but also care). However, I am not of the opinion that all expenses spent on alimony must be supported by expenses directly incurred for the child (clothing, food, etc.) in the event of an application, which is the current interpretation

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<sup>31</sup> <https://www.modrykonik.cz/forum/rodinne-problemy/pece-o-detи-v-dobe-nemoci-po-rozvodu-ma-smysl-to-resit-pres-ospod/>  
<https://www.modrykonik.cz/forum/staram-se-o-detatko/zapojeni-otce-ditete-do-pece-o-nemocne-dite-prisoucasne-nemoci-matky/?page=2>  
<https://www.modrykonik.cz/forum/zamestnani/casto-nemocne-detи-a-prace-jak-to-resite-vy/>  
<https://www.modrykonik.cz/forum/ma-1-az-3-roky/pece-o-detи-ze-strany-otce-po-rozvodu-je-tady-nekdo-kdo-pracuje-na-ospodu/>

of the court (specifically the Regional Court in Prague - ref. no. 101 Co 304/2024). A similar topic was already addressed by the Supreme Court in 1973.<sup>32</sup>

### **7.3. Parent Alimony in the Divorce Phase of Violence**

Due to the low self-esteem of the caring parent, who is often financially dependent on the other parent, the divorce phase is extremely difficult for the caring parent (sole custody).

During the divorce phase, the intended parent faces:

- lack of funds,
- violence in the form of ordering excessive reimbursement of common costs by the violent parent,
- the opinion that they do not deserve anything (specifically alimony, settlement of joint marital property), i.e. manipulation in order to accept a clearly disadvantageous agreement offered by the violent person,
- threatening to place children in the custody of a violent person for revenge;
- Gossiping about friends and family members by a violent person so that the person endangered does not have support from others

As soon as this phase is detected by the endangered person, legal representative or OSPOD and a lawsuit for alimony is filed against the wife, it is necessary for the court to act quickly in the matter of alimony for the spouse, not, for example, after 8 months, when the divorce phase ends (an example from my practice), as it is very important in practice to ensure that the endangered parent is not financially liquidated during the divorce phase.

At the same time, the court must take into account the finding of the Constitutional Court - "The decision, made available on the court's website, It is based on the principle of equality between men and women. Courts must comprehensively assess the material and cultural the level of both spouses, which also applies to couples with highly above-standard incomes."

## **8. The Position of an Endangered Parent in Society – a Parent Caring For a Small Child**

In 2021, **the court decided to entrust the child to the mother's custody in 72.6%**, to the father's custody in 8.6%, joint custody in 2%, alternating custody in 9.7%).<sup>33</sup> In the same year, on the basis of an **agreement between the parents on the custody of the child, 72.5% agreed** to be awarded

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<sup>32</sup> <https://www.aspi.cz/products/lawText/4/1639/1/2>

<sup>33</sup> [https://www.idnes.cz/zpravy/domaci/rozvod-detи-stridava-pece-vyzivne.A220725\\_133022\\_domaci\\_knn](https://www.idnes.cz/zpravy/domaci/rozvod-detи-stridava-pece-vyzivne.A220725_133022_domaci_knn)

custody of the mother, 5.7% to the custody of the father, joint custody to 7% and joint custody to 14.5%.<sup>34</sup>

The position of the parent exercising sole custody is weakened in the Czech Republic. When determining alimony, the courts do not take into account the necessity of part-time work for the intended parent (which, for example, the Labour Code has long since enshrined in its norm with the right to part-time work), nor its factual benefit in the form of childcare. It is not respected that the intended parent performs his/her alimony obligation primarily by personal care. It is also not taken into account that when the child is sick, the caring parent has to take care of the child, his income is then significantly lower (carer's allowance) and in the case of frequent sickness he faces stress from the risk of losing his job, or he has much less free time if his work/bonus is dependent on results, and therefore he voluntarily finishes work often without the employer's knowledge at nights/weekends, after completing the full-day proper care of the child. On the other hand, a non-caring parent only goes to work on weekdays, just like a caring parent, but has no other "family obligations". When calculating alimony, only the parents' income, standard of living and the child's legitimate needs are taken into account. At the same time, alimony from the non-custodial parent is often set below the tolerable limit, and the caring parent, in addition to his or her personal care, must also provide for most of the child's financial needs.

### **8.1. Current Opinions of Judges on Part-time Work**

It is alarming that the judge claims, and the Court of Appeal agrees with him, that a mother who has sole custody of the child (the father sees the child minimally – Wednesday evenings and weekends every other weekend, i.e. outside of his working hours) is capable of working full-time.

In paragraph 40 of judgment 24 Nc 25/2024 of 11.9.2024, the court refused to take into account the mother's 75% of the workload when determining alimony, specifically for the following reasons: "*The mother works part-time in the extent of 75% of her own decision, if there was an increase in workload, she would achieve an even higher income, there is no objective need to work 6 hours a day here, according to the court. When parents have only one child in common, it is not an infant or toddler of early age fully dependent on the personal care of their parents, but a healthy first-grader attending a regular state school, while many other families are struggling with the obstacles described by the mother (preparation for school, speech therapy, etc.), it is nothing exceptional.*"

The Regional Court in Prague (ref. no. 101 Co 304/2024) commented on the issue of part-time work as follows: "*You have an above-average income, higher than the average salary in the Czech Republic, and at 3/4 of the time, if you worked full-time, you would have even more.*"

The current opinions of the judges are alarming, as the judges are in fact of the opinion that a mother caring for a first-grader in sole custody can actually work full-time.

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<sup>34</sup> [https://www.idnes.cz/zpravy/domaci/rozvod-detи-stridava-pece-vyzivne.A220725\\_133022\\_domaci\\_knn](https://www.idnes.cz/zpravy/domaci/rozvod-detи-stridava-pece-vyzivne.A220725_133022_domaci_knn)

### **8.1.1. Preventive Measures to Avoid Negative Consequences Caused by Judges**

It is necessary for judges and OSPOD workers to be **trained in the current development of social relations** and to admit in their decision-making that the relationships between civil law subjects change over time and in social conditions.

Below I describe the development of social relations in families where there is a **minor schoolchild aged 6-10 years**:

- a) Survey of the opening hours of after-school clubs:
  - a. Elementary School Dolní Břežany, Na Vršku 290, Dolní Břežany - after-school club open from 6:45 to 17:00, according to the internal requirements of the school it is necessary to leave with the child at 16:45, because the school closes at 17:00.
  - b. Elementary School Kupeckého 576, Prague 4 – after-school club open from 7:00 a.m. to 5:00 p.m.
  - c. Primary School Prague 5 - Smíchov, Kořenského 10/760 – after-school club open from 6:40 a.m. to 5:00 p.m.
  - d. Elementary School Prague Petrovice, [Dopplerova 351/2](#), Prague 10 - after-school club open from 6:45 a.m. to 5:00 p.m.
  - e. Elementary school Grafická 13/1060, Prague 5 - after-school club from 7:00 to 17:00, Wednesday to 18:00, Friday to 16:00.

Thus, a parent who has custody of a minor during weekdays will bring the minor to school at 6:45 a.m. at the earliest, leave the school at 7:00 a.m., and arrive at the office at 8:00 a.m., unless he/she has a workplace at the school location, which is not the standard. Full working hours are 8 hours and the employee is entitled to a minimum 30-minute lunch break. Therefore, the caring parent finishes work at 4:30 p.m. at the earliest, while arriving at the after-school center at 5:30 p.m. at the earliest, which is 45 minutes after closing time, at least in the after-school club in Dolní Břežany.

- b) Schools generally appeal to young children to prepare for school regularly and not in the evening.
- c) We find ourselves at a time when children have various clubs/activities, and it is in the interest of the child to go to at least some clubs/activities and socialize. For most clubs, such young children need to be accompanied by an escort, unless they are isolated clubs organized directly on the premises of the primary school.
- d) Survey among mothers of children aged 6-10 years – when asked from what age mothers would let their child go to school/from school/clubs/or leave home alone during normal working hours, the answer was that on average they would not until they were 10-11 years old.
- e) It is common practice in functional families that one of the parents works part-time, precisely because of the child's interests.

f) In families where both parents have to work full-time for existential reasons, in practice one parent gets the child ready and takes the child to school in the morning, while the other parent goes to work earlier (e.g. from 6:00 a.m.), and in the afternoon the other parent picks up the child while the first parent is at work.

I understand that there is certainly a single caring parent in the Czech Republic (i.e. widower/widower, divorced, single) who works full-time and deals with picking up the child from school, for example, by asking for help from the parent of another child from the same class. However, this is a deplorable situation that should not be considered a standard by judges, but an exceptional alarming situation in which the child suffers and does not have the opportunity to prepare for school in a quiet environment with full energy.

Full-time work for the parent who has sole custody of the child is therefore not feasible in practice at present with the development of social relations. And this is without taking into account the other negative consequences that this scenario would mean waking the child up at 5:45 a.m., having a lunch break at work for only 30 minutes and getting ready for school with the child in the evening, while at the same time the child would not have any clubs.

I am therefore of the opinion that the parent who has custody of the child cannot perform more than 75% of the time (i.e. 6 hours a day + lunch for 30 minutes) because he or she is alone in caring for the child (i.e. he or she takes care of the child in the morning and picks him up in the afternoon), the child has afternoon clubs, the school does not allow opening hours for full-time work and it is also necessary for the child to properly prepare for school in the afternoon. Because in the evening, a small child has a harder time concentrating.

In addition, if both parents are high-income, it is definitely against the interest of the child to spend time in the after-school club from the first minute (6:45) to the last minute (16:45) of the open after-school club, so that he or she is the first to come and leave school last and does not attend any clubs. Because the result is only that parents earn more money at the expense of the child's interests.

At the same time, it is in the child's interest to spend time primarily with the mother and father, if possible, on their part, and not with external nannies accompanying and caring for the child, instead of the parents.

## **8.2. Alimony Obligations for Personal Care**

In today's society, when determining alimony, it is not respected that the caring parent performs his or her alimony obligation primarily through personal care.

The daily care of the caring parent is not taken into account by the public, it is overlooked. Therefore, it is necessary to talk about it more and take it into account when determining alimony.

Sole custody parent:

- prepares breakfast, take the child to school, the child is at school, the parent is at work and in the afternoon the parent takes care of the child, i.e. plays with the child to clubs, prepares for school, prepares dinner, etc.
- accompanies the child to doctors for preventive check-ups, accompanies the child to doctors – specialists,
- takes leave for director's leave,
- If the child is ill (cold, cough, fever), he/she must, under the current conditions without compensation from the other parent, take proper care of the child all day, when in the case of small children the illness occurs very often and causes serious financial, health and social problems on the part of the caring parent, because the parent who has the child in his/her care is entitled and at the same time obliged to take care of the child even during the child's illness at home" (11 C 59/2017).
- When determining child support for a child up to at least 12 years of age, the need for part-time work is currently not taken into account. It should therefore be necessary to answer the following questions when assessing custody:
  - o in what proportion does a parent with minority childcare care during working days,
  - o how parents are involved in emergency care in illness,
  - o how parents are involved in accompanying the child to doctors (which are common in young children)
  - o what impact does the emergency care situation have on parents caring during the working day (financial, health and social).

## **9. The Position of the Endangered Parent and Child in Society – Employer**

A parent caring for a child is not reflected in contemporary society as a person who is provided with increased protection on the labour market, and especially foreign companies are still not willing to accept the logically necessary part-time work, circumventing Section 241 of Act No. 262/2006 Coll., the Labour Code, in various ways.

It is necessary to realize that it is the caring parent who unconditionally needs part-time work in order to be able to properly care for the child, act in the interest of the child, and thus satisfy the child's needs and thus ensure the healthy development of the child for his or her future family life. If a parent does not have the conditions created by society to satisfy the child's needs, then the quality of the child's future family life is threatened.

It is necessary to promote in public the opinion that "work can wait, but the child will not wait", because the child has only one childhood and significantly influences it in his future own family.

## **9.1. Measures to Strengthen The Position of the Sole Custody Parent at Work**

It is appropriate to grant the parent caring for a child the status of a person who is provided with increased protection in the labour market by Act No. 435/2004 Coll. on Employment.

It is also appropriate to set mandatory contributions for not employing parents caring for a child on a part-time basis in the amount of 80% of the working time.

It is appropriate to grant tax reliefs to employers, similarly to the situation for physically and physically disabled persons. For parents caring for a child, a tax relief would be suitable in three variants – 50% full-time maximum discount, 75% full-time medium discount, 80% full-time minimum discount.

To strengthen the motivation of employing caring parents by both Czech and, in particular, foreign companies, it is advisable to:

- To publish the TOP 30 worst foreign employers and the TOP worst domestic employers every year in terms of 50% of the workload, 75% of the workload and 80% of the workload of caring parents, because social responsibility in the social area is a very important motivator for companies; this voluntary commitment to behave responsibly towards the environment and society in which they do business contributes to improving the reputation and increasing the credibility of the company. *"Responsible business brings direct and indirect benefits to the company and ensures a long-term competitive advantage over companies that do not behave in this way".*<sup>35</sup>
- Enshrine the obligation to state in the notes to the financial statements, or in the annual report if the company prepares, the obligation to express how it fulfils its social responsibility in the social area towards parents caring for a child with a focus on part-time work.

## **10. Other Proposals For Legal Norms**

### **10.1. Personal Contact Between a Parent and a Child**

*"The parent who has custody of the child is obliged to properly prepare the child for contact with the other parent, to properly facilitate the child's contact with the other parent, and to cooperate with the other parent in exercising the right of personal contact with the child to the extent necessary."*<sup>36</sup>

*"In addition, the provision of Section 888 imposes active obligations on the other parent: the obligation to properly prepare the child for contact, the obligation to facilitate contact, and above all the obligation to cooperate to the extent necessary with the parent who has the right of contact. It thus follows on from Section 876 par. 1, requiring parents to exercise parental responsibility in concert, regardless of the relationship between the parents, and also on Section 875 par. 1, requiring parents to exercise parental*

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<sup>35</sup> <https://www.businessinfo.cz/navody/spolecenska-odpovednost-firem-pruvodce/>

<sup>36</sup> Civil Code, Section 888

*responsibility in accordance with the interests of the child. It is usually in the interest of the child to be in contact with the parent and to maintain the contact with the parent that is customary between parents and children.*<sup>37</sup>

In practice, there are cases where a parent, at the end of contact, does not hand over the child properly prepared, specifically the child returns without the things he or she received with him or her to the other parent (clothes, personal items). In practice, the caring parent endangered thus finds himself in difficult situations where he has to buy duplicate supplies that he has already purchased once, because he needs them in the household and in fact equips the other parent's household.

## **Draft Measures**

It is appropriate to include in the law not only an active obligation on the other parent to properly prepare the child for contact, but also an active obligation on the first parent to hand over the child back into care with the equipment and supplies received from the first parent for the purpose of contact.

### **10.2. Separate Cohabitation For More Than 6 Months**

Explanatory memorandum: "*The condition of an agreed divorce consisting of separate cohabitation for a period longer than six months is also perceived as superfluous. It is pointed out that the fulfilment of this condition is not examined in substance and its fulfilment is only formally stated in the proceedings, taking into account the identical statements of the parties.*"

I cannot agree with the explanatory memorandum. If the spouses are separated, then it is only within a few months that the parent/husband can actually find out what is more difficult for him in life after separation, what turned out to be a duty, a need that he did not do in the past, and there may be a moment when he realizes that he did not value his husband enough.

If we speed up the divorce process, then divorces will occur, probably to a much greater extent than before, due to hasty decisions. If the relationship is subsequently restored, re-entering the marital relationship is no longer an easy step and it can be assumed that couples will not resort to it again. However, this conceals other potential risks for the future, such as weakening the position of the family in the event of sudden death, when the other parent would not be entitled to a widow's pension and the family could effectively get into financial difficulties.

To do this, it is useful to make statistics in the public – for example, in order to find out how many couples have returned to each other within 6 months.

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<sup>37</sup> Commentary on Act No. 89/2012 Coll., Civil Code, Section 888; <https://www.fulsoft.cz/33/komentar-zakona-89-2012-sb-obcansky-zakonik-888-uniqueidmRRWSbk196FNf8-jVUh4EtuvCojfP1DmXYVzHCA42ZSp64JI2xaSeQ/>

Psychologist Pavel Rataj also commented on the topic of quick divorces. "According to experts, up to seventy percent of divorces are unnecessary. People often divorce not only on the basis of feelings and frustrations, but above all on the unconscious processes that take place in them."<sup>38</sup>

To close this report, I would like to conclude that the aim of marriage is to protect the family. If the marriage breaks down, it is evident that there are problems between the spouses. It is always necessary to start from the assumption that violence is the problem, because if there is no violence in the family – there is unconditional love in a relationship, respect for the partner, looking up to the partner and awareness of the importance of the partner in the family relationship, then the marriage will rarely fall apart. The state should protect family values, it should protect caring parents, in order to ensure the healthy development of children and a happy childhood.

Kind regards,

Zuzana Andreatta

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<sup>38</sup> Pavel Rataj; [https://www.idnes.cz/onadnes/vztahy/rozvod-psycholog-pavel-rataj.A180903\\_123734\\_vztahy-sex\\_jup](https://www.idnes.cz/onadnes/vztahy/rozvod-psycholog-pavel-rataj.A180903_123734_vztahy-sex_jup)