

Ing. Zuzana Andreatta Ke Kapličky 387 252 41 Dolní Břežany

Data box: 4tkfsfx

Constitutional Court
Joštova 8,
660 83 Brno 2

Data box: z2tadw5

In Dolní Břežany, 4 July 2025

Request for Support Against Violence Against Children

Dear Judges of the Constitutional Court,

My name is Zuzana Andreatta and after my working hours, I work intensively on improving the system of protection of children's rights in the Czech Republic.

In the text below, I give you a deep insight into partner and family functioning from practice, into violence committed against children, which unfortunately occurs very often in practice and is not taken into account during court proceedings concerning child custody, which subsequently has fatal consequences for the healthy development of the child, which I prove to you with this document.

I would like to ask you to read this document and then think about how you can contribute to the elimination of violence against children with your opinions and future findings/decisions so that children can experience a happy childhood, feel love from at least one parent and base their future family life on the right family principles.

If you assess that my opinions, conclusions and evidence are justified, I would also like to ask you to consider whether the complaints and requests of the children you have received in the past that have already been decided by you can be reviewed in some way, because the children's pleas are the most painful reading for the children's rights defender, whom I consider myself to be, and I would like all children to get a chance for a happy and satisfied childhood in a safe environment.

1) Partnership Versus Family Relationship

A partnership begins with getting to know each other, finding out the needs of the other, meeting the needs of the partners, which continuously strengthens the partnership. With the birth of a child, the position in the relationship changes substantially. The family relationship is already strengthened

automatically, namely by the birth of the child. The position of partners/parents is different in the family relationship, one cares more (maternity leave, parental leave), the other works more. Quite logically, the working parent is in a stronger position (especially economic) in the family scheme and the other parent becomes the so-called endangered parent. **At this point, the relationship continues in a healthy way only if the parents respect the principles of marriage, i.e. mutual support, help, equality and sense of belonging.** Parents can honour these principles only if they have learned these principles from their childhood, from their mother, from their father, from their extended family. **If these principles are not observed by the parent in marriage, various types of domestic violence arise, which in many cases result in the divorce phase.**

2) Parents' Agreement

The claims of Members of Parliament that "*Children must not be victims of disputes between parents*", or judges who require parents to "*put some conflict on the back burner, avoid conflict situations and proceed in the best possible interest of the child, which should be crucial for both parents so that their affairs are resolved by agreement of the parents and not by court decisions*" are the consequence of a lack of insight into the overall issue of the family scheme, since deputies and judges put themselves and their feelings, namely love for their own child, into every parent who expresses an interest in caring for a child. However, it is necessary to realize that the expression of interest in care on the part of a parent does not automatically mean an interest in really caring for the child and at the same time caring for the child with love.

The Members of Parliament do not perceive that **the reason of these proceedings** (proceedings in the matter of child custody and determination of child alimony) **is not in fact a conflict between the parents, but the effort of one parent to achieve a situation that will be in the child's interest, i.e. specifically that the child will be assured a happy and satisfying childhood in a safe family household.** An agreement between the parents, as required by judges and deputies, is only possible in practice if both parents operate **on the above-mentioned principles of mutual support, assistance, equality and sense of belonging.** However, the findings from practice show that it is precisely the non-compliance with these principles of marriage that is the reason for divorce and, according to sociological surveys, domestic violence of various kinds, as a result of non-compliance with the principles of marriage, manifests itself in every 3rd family in the Czech Republic. An agreement between parents in the interest of the child, as required by Members of Parliament and judges, is therefore not possible in practice, as often one parent refuses mutual support, assistance, equality and sense of belonging. In fact, the bill (Parliamentary Document 728, Senate Document No. 145) and the current practice of judges exert pressure only on the other parent, who is, however, the so-called endangered parent whom the state is supposed to protect, just like the child. The proposed introduction of „an agreed divorce“, the abolition of the mandatory investigation of the causes of divorce, the pressure to reach an agreement (consensual solutions), the simplification of proceedings and the modernisation of child custody (i.e. abolition of custody of one parent) will therefore result in a substantial deterioration of the system of protection of children's rights.

In addition to putting oneself and one's feelings, specifically love for one's own child, into every parent who asks for care, the second phenomenon has also been demonstrably manifested in practice, which is the enforcement of one's own interest through laws. Unfortunately, this was witnessed by all participants in the 16th meeting of the Senate's Committee on Constitutional and Legal Affairs, which took place on 25 June 2025. During the session, when Senate Document No. 145 was discussed, the organization Maják pro Tebe (support for parents – men and women who are going through domestic violence, psychological abuse or struggling with injustice in the system) spoke. Senator Hana Kordová Marvanová also spoke at the meeting, describing the negatives of the bill, emphasizing the findings of experts from the Round Table of the Chamber of Deputies, which took place on 18 June 2025 at 14:10 on the topic "The guardianship system in the Czech Republic, current practice – shortcomings – necessary changes", which I very much ask you to listen to as I also gave a speech at this meeting from 16:38. The round table is publicly available in the video archive of the Chamber of Deputies. Hana Kordová Marvanová proposed the rejection of this Senate document. Subsequently, the Chairman of the Committee, Ing. Tomáš Goláň, took the floor and said very clearly that he expressly wishes for this amendment, as he himself has experienced life problems. He shared with us his life story that he had been caring for his son since he was eight months old due to an undescribed illness of his previous wife. In my opinion, if the illness is so serious that the mother cannot take care of the child, then I do not assume that the parent would have a problem with the court and OSPOD regarding the determination of custody in the child's interest. In the case of the Chairman of the Committee, the court decided to grant sole custody of the child to him, while the mother gained the right to see the child only once per two weeks for the weekend, starting at the age of 8 months, while it was clear from his emotional speech that it was not an easy course of the court proceedings, and this is the reason why he is pushing for this amendment.

However, the interest of the parent cannot be reconciled with the interest of the child. It is in the interest of the child to have a happy and satisfied childhood in a safe environment, i.e. primarily to live in an atmosphere of happiness, love and understanding, while we must always look at the child's interest only through the eyes of the child, not through the eyes or interests of the parent.

3) Child's Interest

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".¹*

Since 2013, the right of a parent to raise a child has been woefully placed above the child's right to a happy and satisfied childhood. The courts began to interpret the interest of the child in such a way that it is in the interest of the child to have both parents, both female and male, because neither can replace the other and the separation should affect the child as little as possible, and therefore the parent has the right to continue the relationship. Of course, it is true that a child generally needs a male and a female element for its development, but at the same time, and this is crucial, it is necessary to examine whether the parent actually passes this element on to the child as it should. The child needs a mother/father, but only on the condition that the mother/father **really behaves as a loving parent, looking out for the child's interests and needs**, and if this is not the case, then maintaining such a relationship to a wide extent (especially joint custody or even sole custody from this parent) triggers a lifelong frustration for the child, having an extremely negative impact on its future development and on the child's future family relationship, because we bring the basis for our own family life from our childhood. Therefore, the relationship between the parent and the child should be preserved to such an extent that the parent does not actually harm the child's development. The best indicator for assessment is to examine how the parent viewed the child's interests and needs in the regime before the breakdown of the relationship.

If in fact the parent has not shown love, care and consideration for the child's interests in the past, or even the child refuses contact because of violence committed against him, and the child therefore quite logically wants to be with the other parent from whom he feels love, then the procedure of the courts is against the interest of the child, because it in fact elevates the parent's right over the child's right to have happy and satisfied childhood in a safe environment. It is not in the interest of the child to see the parent unconditionally, it is in the interest of the child to have a happy and satisfied childhood, and if he does not feel love from one of the parents, **then joint / exclusive custody from that parent is definitely not in the interest of the child.** In the event of a custody dispute, it is therefore always necessary to analyse the parent's behaviour towards the child in the past and to listen to and comply with the child's wishes. It is necessary to focus on the child and always look at the situation through the eyes of the child in order to achieve a happy and satisfied childhood, not to decide only the parent's right to raise the child.

Resolution IV.ÚS 654/25 states that *"When deciding on the modification of the conditions of minor children, it is necessary to proceed from the premise that the child has the right to care of both parents equally and the rights of both parents to care for the child have the same weight (Article 32 para. 4 of the Charter, Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 7 para. 1 of the Convention on the Rights of the Child). The best interests of the child must be taken into account as paramount (Article 3(1) of the Convention on the Rights of the Child). Restrictions on contact with a parent must therefore pursue that interest and be proportionate. The damage to the parent-child relationship as a result of estrangement is difficult to repair later."*

The current case law does not consider the fact that the relationship between a parent and a child was damaged before the moment of separation of the parents, while the cause of the damage is the callous behavior of this parent towards the child, which is unfortunately a frequent phenomenon in practice.

The above premise should therefore be supplemented by the following quotes from the Convention on the Rights of the Child¹:

'The States Parties to this Convention shall

- ***Recognizing that in order to fully and harmoniously develop the personality, a child must grow up in a family environment, in an atmosphere of happiness, love and understanding,***
- *Recognizing that in all countries of the world there are children living in exceptionally difficult conditions and that these children require special attention."*

The court should primarily evaluate from which parent the child feels love, care and understanding so that he or she can grow up happily and ensure full and harmonious development of his or her personality. This can be traced by an analysis of the parents' behavior towards the child in the past (who was primarily concerned with the needs and interests of the child) and by an interview with the child, while in very young children, where an interview is not possible due to the fact that the child is not yet able to speak, other psychological methods and the above-mentioned analysis of the past are suitable.

Only if we look up to the interest of the child, which is a happy and satisfied childhood in a safe environment (the child must *grow up in an atmosphere of happiness, love and understanding*) and look up to the child's wishes, then the care will be decided correctly and the negative impacts described below that occur in our society will no longer occur in practice. Of course, the child has the right to care for both parents equally and the parents' rights to care for the child have the same weight, but if the child does not feel an atmosphere of happiness, love and understanding from one of the parents, then the court should take into account the best interests of the child and limit contact with the parent, because wider contact with this parent will actually harm the child, as I state below in the evidence. The feeling of happiness, love and understanding that a child feels from a parent should be placed above the right of both parents to raise the child. After all, Section 907 par. 2 of the Civil Code states that "The court shall always take into account which of the parents has so far properly cared for the child and properly taken care of its emotional, intellectual and moral upbringing."

It is necessary to realize that the child is defenseless and afraid to express his feelings if he is already in the alternating or even exclusive custody of a heartless parent. He believes there is no salvation for him. This was in fact the case of the boy (see the evidence for details) who committed suicide because

¹ chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://vlada.gov.cz/assets/ppov/rlp/vybory/pro-prava-ditete/Preklady-dokumentu-OSN.pdf

he did not confide in his mother, whom he saw once every 14 days for a weekend according to the court's decision, about his father's violence.

Therefore, it is necessary to pay attention to the best interests of the child, in detail during the first court proceedings. Only with this approach will there no longer be fear on the part of the child to speak the truth. Every other court proceeding (appeal, constitutional complaint), where the child is in fact already under the influence of the other parent (alternating or exclusive custody), is characterized by a great fear of the child to speak, because the heartless parent having more influence over the child often threatens the child in practice, as you can see in the evidence. The children who have found the courage to even beg the Constitutional Court in practice have my great admiration.

From the point of view of legal norms, it is necessary to maintain the care of one parent in the law, because with regard to the child's interest in growing up in an atmosphere of happiness, love and understanding and the current state of our society, this care is unconditionally necessary in practice.

4) Negative impacts of inappropriately determined care by the court

The regulation contained in the Civil Code has 3 variants of custody: joint custody, alternating custody and custody of one parent.

a. Joint custody

If a child is to be granted joint custody, the parents must agree to it. Joint custody is characterised by the fact that the parents are able to "agree" on alimony and custody in the interest of the child, and it is therefore not necessary for the state to intervene in the determination of alimony and custody.

In practice, however, we also encounter the following phenomena (monitored on a sample of the public by questioning, especially on public social networks), which I would like to draw your attention to:

- The child actually wants to live with the first parent, from whom he feels happiness, love, understanding, security. He wants to see the other parent once every 14 days for a weekend (in fact, it would concern the care of one parent, specifically from the first parent); The first parent advocates custody on his part (sole custody), the second parent advocates alternating custody. Alternating custody is not preferred by the first parent with regard to the child's interest and wishes. The courts vigorously enforce alternating custody, so as a consequence the first parent agrees to joint custody. In practice, the first parent with this choice:
 - o does not receive any alimony from the other parent and in fact the first parent provides sole custody (i.e. the child lives with the first parent, sees the other parent as the child wishes or as required by the other parent - according to the sample surveyed, the other parent requires minimal contact),

- the first parent receives alimony in the form of half of extraordinary expenses (so that the second parent shows at least some interest), ordinary alimony does not, the child lives with the first parent, sees the other as the child wishes, or as required by the other parent - according to the surveyed sample, the other parent requires minimal contact).

By doing so, the first parent achieves the best interests of the child, i.e. a happy and satisfied childhood in a safe environment in an atmosphere of happiness, love and understanding that the child wants, but the other parent does not contribute to the alimony as he should. The first parent's fear of the fact that the Constitutional Court has long considered alternating custody to be the default model of custody demotivates the first parent to file a lawsuit for a change in custody, as it would be difficult to achieve sole custody under the currently applied judicial practice. The other parent, whose factual motive for applying for alternating custody was, as practice shows, to avoid payment of alimony, and not caring for the child with love, thus achieves his or her interest by joint custody.

Joint custody therefore has a negative impact on the sole caring parent in the sense that this first parent provides for the child's needs in his or her household from his or her own funds, which are in many cases insufficient, especially if the child is often ill (fever, cold, cough, etc.) and the parent receives care benefits for a family member that are lower than his or her salary. Such a parent is therefore financially insufficiently secured, has several jobs in practice, which in turn has a negative effect on the home environment in which the child grows up, as the parent is tired and actually stressed by the financial situation.

In addition to the fear of the threat of alternating custody, this parent also faces the fact that in practice he does not have enough money for legal representation to change child custody.

b. Alternating Custody

As far as alternating custody is concerned, the court (e.g. the decision from the end of 2024, the District Court Prague - West) still refers to the judgment of the Constitutional Court of the Czech Republic, file no. I. ÚS 3065/21, from which it follows that the alternating custody should be the rule, while another decision must be carefully clarified and justified, and the facts against alternating custody must not only be claimed but also proven in the proceedings.

The courts do not examine the past at all, i.e. the actual interest in the child on the part of the parents, or the child's wishes. The lower courts fully respect the fact that the Constitutional Court has long considered alternating custody to be the default model of custody, and so the OSPOD worker intensively pushes both parents into an agreement on alternating custody, in practice even by personal visits to households under the threat of institutional care (the child would be placed in an asylum), stating that it would be better for the child to be in an institution/asylum than in a conflicting relationship between the parents. The argument over institutional care, as a tool for the parents' agreement, is also widely used by the court.

Although the court summarizes in its judgments that "*Provided that the child is sufficiently intellectually and emotionally mature, it is necessary to consider his or her wishes as an essential criterion in the search for his or her best interests*", however, in practice (again an example from the end of 2024 of the District Court Prague - West) it is evident that the court refused to take into account the opinion of an almost 12-year-old child in this case. He stated that at this age it is not yet possible to assume such a high intellectual and emotional maturity for the child to be able to accept information concerning him, to form his own opinion and to communicate it, and above all to assess its impacts. I am of the opinion that a child who expresses his opinion, calls the police out of fear for his safety, demonstrably talks about violence committed by the parent and speaks about his or her quite logically rejecting the parent, should be the key guideline for determining in which household and with which parent the child will have the full harmonious development of his personality in an atmosphere of happiness, love and understanding.

By not dealing with custody in the past, the courts cannot in fact find out what the real motive of the parent applying for alternating custody is. If in the past this parent did not show real interest in the child, did not take care of the child with love and the child does not feel love from the parent, the following phenomena occur in practice in many cases:

- The reason for the parent's interest in alternating custody, **and in many alarming cases even the granted sole custody to heartless parent**, is
 - o Unwillingness to pay alimony,
 - o Trying to force the other parent to return to relationship
 - o Revenge on the other parent for so-called "disobedience in partnership/marriage" through a child who does not really want to be with the other parent because he does not feel love from him.

For example, there is a case from practice where a child is entrusted with alternating custody, while the other parent factually and quite demonstrably does not have time to devote himself to the children with love and the care of the parent is provided by telephone (morning wake-up call) or to a large extent represented by the wider family. The children are suffering, and it is clear that the only motive of the non-caring other parent was the unwillingness to pay alimony to the first parent, who has the space to take care of the children with love and care.

Another phenomenon that occurs frequently in practice is the deterioration of the child's health condition when the child is with the other parent, while the child returns to the first parent ill because the care provided by the other parent is insufficient (inappropriate clothing, sports even in a state of minor cold, etc., i.e. to a significant extent there is a preference for the other parent's own interests over the interests and needs of the child). Thus, at the moment when the first parent takes the child into their care, they take over the sick child, cannot perform work activities, and in fact he/she heals the child in his/her week, which is subsequently repeated. This first parent thus has in fact lower income in the household where

the parent takes care of the child and faces the fear of losing job, i.e. the fear of ensuring a safe household in which the child can experience a happy and satisfied childhood. Unfortunately, there are examples from practice where the court, if it is notified of this with a request for sole custody by the first parent, proposes that the first parent, if he or she has low income due to low carer's allowance, find a second job for a week when he or she does not have custody of the child. The court therefore again places the burden only on the first parent, whose interest was and is to care for the child with love and in the interest of its needs and the child himself wishes to be with this first parent.

a. Sole Parent Custody

In practice, the following negative phenomena occur:

- The child is officially in the sole custody of the other parent against the child's wishes and the first parent, while the child and the first parent testified before Ospot and the court about the violence committed by the other parent. The child does not actually feel an atmosphere of happiness, love and understanding from the other parent and is afraid of the other parent because, according to the child's statements, the parent is hurting him.
 - o After the court decides to entrust the child to the sole custody of the other parent, the child in fact remains with the first parent, who takes proper care of the child all day long, but does not receive alimony and is afraid to apply for a change of custody, under the threat of sole or alternating custody, which the child does not want due to the lack of love from the other parent, as the child would suffer under this regime.
 - o The child is in the care of the other parent against the child's wishes. In practice, the child suffers as I show you through the attached evidence.

The case law states that contact between a parent and a child may be restricted or prohibited if the contact would jeopardize the healthy development of the child and if it is necessary in the child's interest. Furthermore, if one of the parents prevents the other from having contact with the child, this may be a reason for the court to regulate contact of such parent, even in the form of limiting or withdrawing parental responsibility.

In general, the child has the right to care of both parents equally, and the rights of both parents to care for the child have equal weight (Article 32(4) of the Charter, Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 7(1) of the Convention on the Rights of the Child). However, the best interests of the child must be taken into account as paramount (Article 3(1) of the Convention on the Rights of the Child). The State, in accordance with the preamble to the Convention on the Rights of the Child, recognizes that in order to develop the person fully and harmoniously, the child must grow up in an atmosphere of happiness, love and understanding. It is necessary that the determination of contact with a parent respects this interest and the atmosphere of happiness, love and understanding is determined by the courts by interviewing the children or by observing the past.

In practice, if one parent protects a child from violence committed by the other parent, then the courts impose fines, and the other (violent) parent receives sole custody. I have identified a case from 2008 (see the evidence in the appendix for details; but there are earlier cases which I prove as well) where the father obtained sole custody of the child and the mother obtained contact once every 14 days for a weekend or only a few hours of contact or even a ban on contact. In the cases I identified, this happened because the mother reported violence in the home to Ospd and the court. However, her opinion was downplayed by the court, with the court stating that the mother was "mentally ill" and entrusting the child to the father's care. There are many such cases in practice and they are very common in contemporary society. It must be taken into account that in practice the violent parent does not acknowledge his or her mistake or inappropriateness of his or her behavior, as was also proven in judgment ref. no. 2 T 5/2022-330 (where the father claimed throughout the proceedings that he did not commit violence and at the same time, as the judgment confirms, he discussed his situation with the Union of Fathers, which has been promoting the right of fathers to take care of children in the Czech Republic for many years). Only a minimum of violence in families reaches the criminal court. This is primarily due to the fact that the child is afraid to speak due to helplessness and fear for his life. The child does not feel in the current society that he has a chance to be saved.

A loving parent tries to fight for sole custody in practice, but very often faces the above-mentioned sanctions or even criminal proceedings. In custody proceedings, there are expert opinions, protocols from the Police, interrogations of children talking about violence from the other parent, but despite all the evidence and against the child's wishes, the child is placed in the custody of the violent parent, which results in:

- Acceptance of the values of this parent by the child, which is not suitable for the child's future family relationship, as the child becomes aggressive. On 29 June 2025, Supreme State Prosecutor Lenka Bradáčová spoke about the growing aggression of children. *"If you look back ten years, we recorded one murder committed by a child. Today we have ten of them a year. It is a seemingly small number, but let's realize that there are around 130 to 150 murders a year in our country. This trend can't leave us in peace."*
- Or, in the case of non-acceptance of values, the child's frustration and negative impact on the child's development and future family relationship, because we bring the basis for our own family life from our own childhood. These children then suffer in the care of the violent parent, self-harm, and even commit suicide.

It is pathetic to see unhappy children when they do not grow up in a safe environment in which they do not feel love, happiness and understanding. This happened, for example, in the case of a ten-year-old boy in June 2023, who was sent to a crisis center (institution) for 3 months by the court to force the child to change his mind about contact with his father, which subsequently, fortunately, the Court of Appeal reversed by stating that a son would not learn to love his father in an institution. Another example is a

nine-year-old boy from December 2024 who begged your Institutional Court to be with his mother. This child did not succeed, and I hope that this boy has not yet given up his hope for a better life.

It is necessary to acknowledge that love from a child must be built, precisely by **giving it to the child as a parent, not by forcing respect and obedience of the child through the court**. Please take a look at the consequences of such decisions in practice on families and children, e.g. "mixed anxiety-depressive disorder, post-traumatic stress disorder, polyvalent allergies and autoimmune diseases", or "both suffer from post-traumatic stress disorder and autoimmune diseases as a result of the psychological stress they have experienced" (source: SOOD zpravodaj 2/2016), as we already have experience from the past.

I am convinced that the significant increase in children's mental health problems is not caused by COVID, as is often lectured, but by the family environment in which children have to grow up. After all, the Safety Line in the Czech Republic has recorded a significant increase in calls on the topic of violence against children (CAN syndrome) in recent years. In 2024, there were 2,433 calls. Psychical health problems account for 38% of all calls, specifically over 20,000 calls in 2024. In 2024, 46 children committed suicide, the youngest was 10 years old.

For children, court decisions that lead to joint or sole custody on the part of a heartless parent are devastating, because the child needs love for its development more than the mere presence of the male/female element. The court constantly prioritizes the parent's wishes over the child's wishes, and this clearly has negative consequences for the child's future personal development.

The child's wish, whatever it may be, must always be placed above the parent's wish/requirement, because only by looking only at the child's wishes, through the eyes of the child, will we eliminate any possible manipulation on the part of the parents through the care of their personal interests (e.g. revenge, low or zero alimony, etc.). Only a procedure that fully respects the child's wishes can ensure a happy and satisfied childhood, which is the goal. I believe that a child realizes at an early age, even before the child can speak, with whom he is happy and satisfied (from whom he feels love), and it is therefore possible to find out through appropriate psychological methods. After all, the UN Committee is of the same opinion. A confirmatory indicator is the examination of the past, which should always be carried out by the court/OSPOD.

Please look deeper into other consequences that current judicial practice causes when it does not take into account the interests and wishes of the child. Of course, an unconditionally loving parent who provides love and care to the child logically tries to ensure that the child has a happy and satisfied childhood, because the greatest pain for an unconditionally loving parent is the moment when his child is unhappy and cries. However, in current court practice, this parent is punished with financial penalties and withdrawal/restriction of custody of the child for not sufficiently supporting the child's relationship with the other parent. Again, the court effectively enforces respect and obedience of the child by forcing respect and obedience from the other parent. How painful is it for a child when his "loving parent" starts forcing him to go to the other parent, from whom he feels pain rather than love? This child, quite logically,

loses the feeling of love even from the first parent and begins to hate him for what he does to him (he forces him to go to the other parent, even if the child does not want it). The consequences for the child are fatal, for their psychological development, future possible family relationship, and now demonstrably even lead to the child's decision to end his life.

It should also be noted that parents protecting the interests and wishes of their children are currently facing even the above-mentioned criminal proceedings and children are being taken away from their custody into the sole custody of the other parent on the grounds that the first parent does not sufficiently support and create love for the other parent. However, the other parent should create this for the child himself, with his care, love, looking up to the child's needs, because only then will the child love him. Love cannot be forced; we receive love as a gift for giving it. Achieving one's goals (respect, obedience) by order of OSPOD and the courts is therefore devastating in practice for the child and the loving parent.

Every day I hear from loving parents how children cry and are unhappy – some children talk openly to a loving parent that they would like to be with them, but they are afraid of the other parent and therefore do not speak. Some children are so desperate that they write to you, begging that they wish to be with their mother – without success. How difficult must it be for a child to express his opinion publicly and then still have to live with this other parent? If this child is still alive today, will he live tomorrow if he has not found support even from the highest authority? We should fulfil children's wishes to be with the parent from whom they feel love, happiness and understanding.

According to the UN, a child must grow up in an atmosphere of happiness, love and understanding in the interest of his or her full harmonious development of personality.

One of the core values of the Convention is the right of all children to express their own opinion and to be taken seriously. VII. GENERAL COMMENTARY NO. 12 (2009) states:

- *Paragraph 4: the Committee particularly recognizes that certain groups of children, including younger boys and girls, as well as children belonging to marginalized and disadvantaged groups, face particular barriers in the realization of this right. The Committee also remains concerned about the quality of many of the practices that do exist.*
- *Paragraph 18: Article 12 manifests that the child holds rights which have an influence on her or his life, and not only rights derived from her or his vulnerability (protection) or dependency on adults (provision). The Convention recognizes the child as a subject of rights.*
- *Article 12, paragraph 1, provides that States parties "shall assure" the right of the child to freely express her or his views. "Shall assure" is a legal term of special strength, which leaves no leeway for State parties' discretion. **Accordingly, States parties are under strict obligation to undertake appropriate measures to fully implement this right for all children. This obligation contains two elements in order to ensure that mechanisms are***

in place to solicit the views of the child in all matters affecting her or him and to give due weight to those views.

- Paragraph 20: States parties shall assure the right to be heard to every child “capable of forming his or her own views”. This phrase should not be seen as a limitation, but rather as an obligation for States parties to assess the capacity of the child to form an autonomous opinion to the greatest extent possible. **This means that States parties cannot begin with the assumption that a child is incapable of expressing her or his own views. On the contrary, States parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them; it is not up to the child to first prove her or his capacity.**
- Paragraph 21. The Committee **emphasizes that article 12 imposes no age limit on the right of the child to express her or his views and discourages States parties from introducing age limits either in law or in practice which would restrict the child’s right to be heard in all matters affecting her or him.** In this respect, the Committee underlines the following:

*(a) First, in its recommendations following the day of general discussion on implementing child rights in early childhood in 2004, the Committee underlined that the concept of the child as rights holder is “... anchored in the child’s daily life from the earliest stage”. **Research shows that the child is able to form views from the youngest age, even when she or he may be unable to express them verbally.** Consequently, full implementation of article 12 **requires recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices and preferences.***

b) Second, it is not necessary that the child has comprehensive knowledge of all aspects of the matter affecting her or him, but that she or he has sufficient understanding to be capable of appropriately forming her or his own views on the matter.

(c) Third, States parties are also under the obligation to ensure the implementation of this right for children experiencing difficulties in making their views heard. For instance, children with disabilities should be equipped with, and enabled to use, any mode of communication necessary to facilitate the expression of their views. Efforts must also be made to recognize the right to expression of views for minority, indigenous and migrant children and other children who do not speak the majority language.

- paragraph 22: The child has the right “to express those views freely”. “Freely” means that the child can express her or his views without pressure and can choose whether or not she or he wants to exercise her or his right to be heard. **“Freely” also means that the child must not be manipulated or subjected to undue influence or pressure.** “Freely” is further intrinsically

related to the child's "own" perspective: the child has the right to express her or his own views and not the views of others.

Paragraph 23. States parties must ensure conditions for expressing views that account for the child's individual and social situation and an environment in which the child feels respected and secure when freely expressing her or his opinions.

With regard to the above excerpts from the commentary, I am of the opinion that neither the courts nor the OSPOD (as you can see in the evidence) do not respect the Convention on the Rights of the Child and the VII. GENERAL COMMENTARY 12 (2009).

I would like to ask you, following a deep look at the evidence from practice below, to assess whether you can make an effort from your position to ensure that children in the Czech Republic have a happy childhood again, feel love and base their future family life on the right principles.

(5) Evidence:

- 1) 2/2016 newsletter SOOD - Jiří Kronhoffmann - During custody proceedings, the mother reported domestic violence committed against the mother and child to the court and OSPOD. The same was reported by the child. The court and OSPOD downplayed the violence committed against the mother and child. The court sent Jirka to an institutional isolation for 3 months to "find" love for his father; the court decided on sole custody on the part of the father; A mother who defended the child (for example, did not pull him out from behind the table when the child was afraid to go to the father) faced a large number of fines for defending the child. The child suffered, the father committed violence against him for 6 years, punished him. The boy was afraid to go home; he had bad grades. The son begged another judge (already a different court) in July 2014 to be with his mother, specifically "I don't know how much longer I can stand it, I can't take it anymore", "I don't know if it was worse that he bullied me or that he caused me to suffer a brain concussion", "if I get a bad grade, I'm afraid to go back to his house. Sometimes he throws himself at me and beats me. I never know what he'll do. I'm not good at school anymore", "He often has outbursts of anger". "I wonder what the meaning of life is. I wouldn't have lasted if I hadn't had a mother, I wouldn't have lived anymore." Jirka, as well as his mother, have serious health problems and trauma as a result of an incorrect decision of the court and OSPOD, which was not in the interest of the child. About Ospod, Jirka says: "She and my father laughed and shouted at me to write that I wanted to live with my father and see my mother once per two weeks. I had to write it to them because they threatened me that if I didn't write it, I would never see my mother again. So I wrote it out of fear, but I still didn't see her."

This is not a conflict between parents, but a clear mistake by the state authorities, who downplayed violence and did not act in the interest of the child, namely that the child would grow up in love, happiness and understanding.

Such behavior on the part of OSPOD and the courts often occurs in our current society - the parent is punished with fines for protecting the child and the children are entrusted to the exclusive custody of violent parents. OSPODs and the courts threaten, both formally and informally, that they will put the child in institutional care if the parents do not find an agreement in the form of alternating custody, even though there is violence in the family, the child demonstrably feels violence from the other parent and suffers from staying with the other parent. Violence against a child and a loving parent is therefore committed not only by the violent parent, but also by OSPOD and judges. The courts do not take into account expert opinions and psychological examinations of children, and in some cases judges request their own opinions from experts who are on the court list, but they are aware of what the desirable goal is, i.e. either alternating custody or care of the parent who does not prevent the other parent from having contact with the child, following the existing case law. In practice, these assessments show opinions that differ from those of other experts involved in examining the family situation.

In fact, a loving parent must not talk about violence in today's society and must support the relationship between the violent parent and the child and motivate the child to want to be with the abusive parent, which has fatal consequences for the child's health.

- 2) 2/2016 SOOD newsletter - Mother reported violence against children and left father. Two psychologists, a paediatrician and two child psychiatrists considered the boy's statement credible and recommended not to expose him to traumatic and stressful situations or contact with his father. The mother turned to a forensic expert from the University Hospital in Pilsen, Mgr. Petra Sumcová, on the recommendation of the police; conclusions were "the minor shows signs of a reaction to stress with fluctuations in the time of retraumatization - by investigation or contact with the father, there is a reasonable suspicion that the disorder is caused by sexual abuse by the father, and the minor is also traumatized by secondary traumatization during repeated examinations, especially when confronted with the disbelieving attitude of those around him." Institutional psychologist: "He often cries, when he is in any discomfort he says he wants to see his mother. He shouts that he needs to do something, but he can't because he doesn't have the strength. He is very stressed, unhappy and emotionally unstable. However, the emotions are appropriate, corresponding to the current stress load of the child, who has been isolated from the mother from the caring environment and has lost the strong emotional ties up to now. Péťa cooperated very well, soon burst into tears and shared deep feelings of lack of freedom, fear and regret. He is afraid that he does not know how to dose the truth so that it does not become too much and he does not cause something bad. He is afraid that he will not see her mother again. He is afraid that no one believes him. His fragile psyche is exposed to stress that can seriously threaten his further mental development. I observe not only regression in Honzík's development, frequent self-harm, but also a cry for help and an effort to express the deep level of despair that Honzík experiences (thoughts of death).

When the mother tried to talk to the children, the father hit her on the head in front of them. The children shouted "stop, mommy is good" and then screamed and cried for long minutes behind

the door. Honzík is sad in kindergarten, Pét'a is introverted, he doesn't talk to anyone. The mother was fined CZK 15,000 for greeting the children at the time of their placement in the institution. Nothing changed for the children even when SOOD alerted the Ministry of Labour and Social Affairs, the Public Defender of Rights, the Regional Authority of the Pilsen Region, MPs and senators of the Social Committee from the parties.

The court responded to this by taking into account only two expert opinions prepared by the court-appointed experts who, as is usual in our judicial practice, did not trust the children. The judge awarded custody of both children to the father and established assisted contact with the mother twice one hour a week at the child welfare authority under the supervision of a social worker.

- 3) 2/2016 SOOD newsletter – already in 2005, a project for the protection of abused children was proposed by the Fund for Children in Need. However, the Ministry of Labour and Social Affairs did not support this change.
- 4) 3/2025 - Verdict handed down - the father disproportionately punished his son for 5 years until the moment of his son's suicide (14 years) in 2021. In 2016, the mother fought for custody of her son. At the time, she told the court and OSPOD that violence had been committed in the household by her father. The court and OSPOD downplayed the violence in the family and entrusted the child to the care of the unloving father, which is an unequivocally proven cause of the subsequent suffering of the child and his suicide. The state prosecutor described: "In the shared household, he disproportionately punished his son by beating him with his fists, especially in the stomach and shoulder, slapping him, ridiculing him and humiliating him", and then breaking his nose and strangling him. A young witness said: "He was afraid to go home. He told us that he wasn't looking forward to being there, that it wasn't easy, that his father had once shot by gun around his head." Other witnesses: "the father shouted vulgar insults at the boy at the hockey game when he was five years old", "when he got a worse grade, he beat him many times until he bled", "once he even said that he was thinking about leaving the world because of his father". Mother: "the husband beat and humiliated her for a longer time before leaving", "the son never confided that his father had ridiculed or beaten him, he brushed off obvious minor injuries for other reasons". Father's ex-partner: "he slammed him against the wall, strangled him, punched him in the nose, told him he was going to shoot him", "when she once tried to defend the boy, he pushed her to go away, or he would get it too". The guilt of the father was fully proven without any doubt, although the father claimed throughout the proceedings that he had not abused the child, as is usual in practice. The key evidence was witness testimonies, where many of the almost 30 witnesses spoke in detail about the matter, often not knowing each other.

The child was afraid to speak, which is understandable. Children do not believe that they have any chance of improving their life situation. I don't agree that the father was punished by the fact that he lost

his son. This father did not love his son, so his death, which his father caused, certainly did not punish him.

- 5) 6/2023 – A ten-year-old boy refused to see his father. The court decided to place the child in a crisis center in Brno for 3 months. The court made the decision at the request of OSPOD, saying that a stay in a crisis center could make the son change his mind about contact with his father. The mother was willing to accept only assisted contact for the father under the supervision of experts. The Court of Appeal overturned the decision of the first instance on the grounds that even the expert opinion had not proven that the mother had incited the son against the father, and moreover, his attitude could be formed by memories of possible incidents with the father. Unfortunately, the court practice is such that the decision of the Court of Appeal is first measured from the floor down to the court of first instance, which only sends the verdict to the parties. The lawyer therefore had to wait for the decision to be delivered and then called on the crisis center to immediately hand the child over to the mother's care. However, he encountered the fact that the crisis center required a clause. Therefore, the lawyer had to contact the Police with a request to intervene against the restriction of the child's personal freedom and obstruction of an official decision. Only after that did the crisis center act.

However, **this is a unique case in the Czech Republic** where the appellate court examined the case in detail, assessed that the actual situation was different from the situation described by the first instance and **decided in favour of the child's interest**, allowing the child to experience a happy and satisfied childhood in a safe environment. Unfortunately, this boy also had to suffer, during the time he spent in the institutional care, again as a result of a bad decision by OSPOD and the court.

- 6) 11/2024 – A nine-year-old boy begged the Constitutional Court that he did not want to be with his father and see his mother only once per two weeks during weekend. The Constitutional Court did not find the bagging of the child as the sincere wishes of the small child, but the efforts of his mother, specifically "due to his still young age, the minor complainant is not able to fully understand the meaning of the court proceedings, to express his own opinion on the filing of a constitutional complaint and to evaluate the possible consequences associated with these proceedings".

With regard to this particular case, with which I disagree, I would like to draw attention once again to the Convention on the Rights of the Child and the VII Convention. GENERAL COMMENTARY No. 12 (2009), specifically on the provisions cited above in the text.

I hope that this boy has not yet lost hope for a better life and is still alive. My wish is that this child can also grow up in an atmosphere of love, happiness and understanding.

- 7) 11/2024 – A minor boy was placed in the custody of his father by a preliminary measure and regulated the son's contact with his mother once every 14 days for a weekend. During the

proceedings, the mother pointed to the violence committed by the father against the child: "the minor was injured during parkour (the father repeatedly removed the ankle fixation from the minor's leg) and persistent ear pain. The violence is also evidenced by hematomas and scratches on his body." The mother also said that "the child has concerns about his father, which he should have repeatedly expressed in the past." The child said he had a positive relationship with his mother. However, the Municipal Court found that the child was seriously endangered by mother in terms of his development, as the mother did not respect the court decisions, recommendations, and instructions she received during the guardianship proceedings. The mother made recordings of the child.

The Constitutional Court stated that the Court of Appeal cannot be criticised for having completely ignored the mother's rights. At the same time, he said that in order to extend custody (specifically he spoke of alternating custody), he places increased demands on both parents in terms of their mutual communication and understanding of the different opinion of the other parent.

With regard to this particular case, I would like to draw attention once again to the Convention on the Rights of the Child and the VII Constitution. GENERAL COMMENTARY No. 12 (2009), specifically on the provisions cited above in the text.

At the same time, I would like to point out that in this case, the mother alleged violence committed against the child, and the child expressed a sincere wish to live with the mother. It is quite logical that a loving parent makes the best to save his child and if the child testifies about violence, then the loving parent wants to record this statement so that he can prove it further. Therefore, I consider it completely inappropriate to punish a loving parent, because it is the loving parent who acts in the interest of the child. In addition, it is in the interest of the child to grow up in happiness, love and understanding, which the child feels with the mother, as it is clear from the judgment.

Again, the judgement speaks about some kind of requirement to understand and respect the different opinion of the other parent. However, the fact is that the child does not feel comfortable with the parent, violence is implied and this violence, sadness and suffering of the child should definitely not be understood by the loving parent. A child has the right to express himself, his opinion should be respected and he has the right to live in happiness, love and understanding.

- 8) Ondřej – 15 years old – suicide in 2/2018; he left the suicide note at a friend's house, not at home. The father reported him missing. The suicide happened on the day when the annual school report were handed out. *Why did Ondrej leave the letter at a friend's house? Was he also in sole custody of his father? What did he write in his farewell letter? There is a risk that this is a similar case.*
- 9) Boy – 15 years old - 10/2023 – suicide in the Prokop Valley. Information communicated in the media: a child was bullied (the proof was a video). However, the anonymous testimony of the

bully in the video (available in the media) rejects bullying as the cause of the suicide, specifically: "We talked it out, we were in contact, he told me he had nothing to live for." *Was he in sole custody of one parent? What did the deceased's closest friends and girlfriends tell the police? There is a risk that this is a similar case.*

- 10) Widespread suicide - a mother killed herself and her child in the Krkonoše Mountains in December 2022 (no further description is needed, as this fact was reported in detail by the media during the search operation); the child was entrusted to the sole custody of the father by the District Court Prague - West. The mother was supposed to hand the child over to the father at that time. *Did helplessness and loss of hope that the system would not help her son lead to such a sad act, just like the boys above? It is necessary to look into the file and find out why the child was entrusted to the father's sole custody and whether the mother testified about the violence committed against her or the child. There is a risk that it may be a similar case.*
- 11) Widespread suicide – a mother with two children jumped to Macocha Abbys in 2023; the mother left behind a suicide note explaining her decision. In April 2024, the police released information that they knew the motive, specifically "family and psychological problems". *Wasn't it also a similar case of a complete loss of hope for a better life for the mother and children?*
- 12) Jana Paurová - disappeared on February 3, 2013 and her case remains unsolved. She was the mother of four children and lived with her husband Pavel Paur in the village of Slavětín. Jana was allegedly abused by her husband, which was confirmed by several witnesses. Pavel Paur was sentenced to a suspended sentence for the abuse. The media reported that her younger son Pavlik has psychical problems and is afraid of his father and older brother. The older brother probably has accepted the role model of his father.
- 13) Safety Line – email inquiry, article
- 14) Alarming statistics of the Police Presidium
- 15) Public questionnaire
- 16) 1/2022 SOOD Newsletter called "When the state abuses children and drives them almost to suicide" – fifteen-year-old Honzík: "Mum is good, dad beats me, from the age of 5 it's a big beating", he said "you can't do anything, you're useless", "When my mum tried to protect me, he beat her too, he called her pussy, bitch, you're stupid". Based on Court decision the child must go to therapy with his dad, "My dad told me that the therapist would rearrange my head so that I would go to him until I shit myself." Psychiatric Clinic of the General Hospital and the 1st Faculty of Medicine of the Charles University: it is not possible to enforce contact with the father by force, in such a situation there is a high risk of suicidal behavior. Jan Lorenc, M.D.: anxiety-depressive disorder with post-traumatic syndrome. Expert PhDr. Simona Měchová: The minor refuses contact with the father, if this is not respected, there is a risk of serious disruption

of the minor's development and damage to his psyche in the sense of psychological traumatization. The minor has suicidal and self-harm considerations in connection with possible contact with his father. For these reasons, the expert does not recommend assisted intercourse. And what did the Prague-West court say? He ordered assisted contact with his father. And how did OSPOD react? The Municipal Authority of Černošice recommended not to listen to the minor's opinion because ***"it is not possible that child dictates to adults where he will and where he will not go, given the fact that the whole situation must be resolved in the interest of the minor, where contact with both parents is necessary for the minor's all-round development."***

Neither the courts nor the OSPOD have evidently yet understood what is meant by the term "interest of the child" according to the UN, because it is definitely not a definition that "contact with both parents is definitely necessary for the child's healthy development", but that ***"in the interest of full and harmonious development of the personality, the child must grow up in a family environment, in an atmosphere of happiness, love and understanding."*** If a parent does not provide this to the child from the child's point of view, his or her care should be substantially limited or denied in its entirety. The right of a parent to care for their child must therefore be subordinate to the child's right to grow up with the parent in an atmosphere of happiness, love, and understanding.

SOOD said in its statement: *"International research shows that only five percent of reported cases of sexual abuse are false, usually in older children. In our country, however, the procedure is as if this ratio were reversed."* Let's change that, please. Let's start from the assumption that domestic violence of various kinds (physical, psychological, social, economic, etc.) exists in families, because the breakdown of the family relationship is only a consequence and the cause of violence is the dysfunction of family principles that we bring from our own childhood, in which violence occurred.

In the appendices you will find the evidence described above.

At the same time, I am also sending you an attachment to the letter I sent to the ministers in March 2025 "Report to the Ministers of 19 March 2025" and the response of the Ministry of Justice. The letter to the ministers contains a comprehensive analysis and findings from practice, together with proposals for solutions that relate to divorce as a whole, i.e. not just a cross-section of child custody, which I am dealing with in this document. As you can read in more detail in the attached report, I do not agree with the opinion that simplifying and speeding up the divorce process, as well as deciding on the custody of a minor child for the period after the divorce, will lead to an improvement in the system of protection of children's and family rights. I also disagree with the statement in the explanatory memorandum to Parliamentary Document No. 728 that *"the existing divorce legislation contains some elements that are evaluated as obsolete in terms of application practice and legal theory. 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."* I am of the opinion that, on the contrary, there is a substantial interest in the protection of one

of the spouses and also an interest in protecting the safe environment of the household where the child is located and in which he or she is to experience a happy and satisfied childhood, i.e. in fact an interest in protecting the child's needs. When making laws, it is necessary not to look at the given area with one's own view, one's own impressions and feelings, i.e. not to put oneself in others, but it is necessary to create laws in such a way as to protect and regulate situations that arise in practice and should not arise in practice, because the main goal of the status of marriage is to protect the family, while protecting the family, i.e. parents and children. It is also necessary in the divorce phase, which subsequently has an extremely serious impact on the future life of parents and children after divorce.

Therefore, I would like to ask you to read this document, and I hope that these findings will be at least a little useful to you in some respect. However, please give priority to this document and to the evidence that has already been received by both the participants of the round table in the Chamber of Deputies and the Senators of the Committee on Constitutional and Legal Affairs, because every day a child has spent in an environment in which he or she is unhappy and actually suffers can have a major negative impact on his or her development or his or her decision on whether to continue with his or her life.

With the hope that there will be an improvement in the system of protection of children's and family's rights, and with kind regards

Ing. Zuzana Andreatta

zuzana_andreatta@outlook.cz



Attachments:

- 1) Violence against children - evidence 1
- 2) Violence against children - evidence 2
- 3) Report to ministers of 19.3.2025
- 4) Response from the Ministry of Justice dated 23.5.2025