



FROM THE IUSTORIA BLOG

Child Custody Disputes: What Every Parent Needs to Know — and What You Won't Escape

Custody proceedings are not a regular civil case. The main character is not the parent — it's the child. Ten things recent case law is telling parents plainly, even when it hurts.

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I know this article will be read by parents standing at the beginning of something they never wanted. Or in the middle of it, barely able to breathe. Or on the other side of a decision that went differently than they hoped, trying to understand why. I want to say the same thing to all three: a custody dispute is not an ordinary civil case in which the court merely "hands out rights and duties" between two adults. Custody proceedings have one uncomfortable but fundamental peculiarity — the main character is not the parent. It's the child. Almost everything follows from that.

If you walk into the proceedings expecting the court to confirm at last which partner was worse, who behaved badly, and who "deserves to win," you are usually headed in the wrong direction. Already at the [divorce stage itself](#), it becomes clear that the difference between agreement and a fight often dictates how the subsequent custody proceedings will look. Recent Czech case law keeps repeating — increasingly firmly — that the court is there to deal mainly with:

- what is in the best interests of the child,
- which arrangement is stable, safe, and workable for the child,
- what the child actually thinks and experiences,
- and whether the parents are not using the dispute over the child as a continuation of the dispute between themselves.

Here are ten things every parent entering — or considering — custody proceedings should know.

1. You don't have a right to "half of the child." And the court has no duty to set 50:50 care.

This is usually the first big surprise. The key recent ruling is the Constitutional Court finding file no. I. ÚS 3718/25 of 30 March 2026. The Court said very clearly: equal care is not a default. It is not the case that the court has to start with a 50:50 model and only then look for reasons why it wouldn't work.

On the contrary:

- the primary consideration is always the best interests of the child,
- the care of both parents can be asymmetrical,
- equal standing of parental roles cannot be equated with a mechanical equality of time.

The Constitutional Court also reminded us that, after the statutory amendment in force since 1 January 2026, the court should not cling to "labels" like sole or shared custody but should above all set the appropriate scope of each parent's care. For context on the reform, see my earlier piece on [what changed in Czech family law in 2026](#).

If you walk in with the line "I want my fair half," that's a procedurally weak start. The court will care far more about: nursery or school, the child's daily routine, housing stability, commuting, medical needs, and the parents' ability to communicate.

Continuity of existing care and the child's view often weigh more in practice than the week's hour-budget.

Asymmetric care is not automatically "unfair." Sometimes it is the best thing that exists for the child right now. A dispute over a child is not a property settlement. A child is not an asset to be split into ideal halves. Running the case that way usually hurts you procedurally — and, worse, hurts the child too.

2. Want to change an existing arrangement? Disliking the old decision for a long time isn't enough.

The same finding I. ÚS 3718/25 is important in another way. If there is already a final decision or a parental agreement on care, change will not come just because one parent thinks "it should be different now." A change of circumstances has to be shown.

The Constitutional Court expressly stressed:

- changing the existing care arrangement requires a relevant change of circumstances,
- the statutory amendment of 1 January 2026 does not, by itself, automatically "reopen" old decisions,
- the court will assess whether the change is necessary precisely to protect the best interests of the child.

If you want change, don't serve up recycled complaints about your former partner. The court expects specifics: "what has changed since the last decision."

Strong arguments: how the child's needs, school situation, health, or view have changed; how your work and housing conditions have changed; how the parents' ability to cooperate has developed.

Weak argument: "I didn't like it then and I don't like it now." The court will not reopen a case on that basis.

A very common mistake is replaying the old partnership conflict in new proceedings. But the court is not looking for why your former partner was bad three years ago — it is looking for what is different today for the child.

3. The best interests of the child are the centre of everything. Not your wounded ego, not your sense of what feels fair.

In finding I. ÚS 3718/25 the Constitutional Court described the best interests of the child as a flexible and individual concept. It is not a universal maxim or a one-off phrase to insert into a judgment. It must be filled with concrete content.

The court therefore has to weigh, among other things:

- stability of the environment,
- social and educational ties,
- the need for continuity,
- the specific needs of the particular child,
- the child's view,
- and the practical workability of the proposed regime.

And one more important point from the same decision: the parents' faults and failures in their own relationship play only a secondary role unless they directly spill over into the child's interests.

Arguments of the "she cheated on me," "he was a terrible partner," "I deserve satisfaction" kind may be humanly understandable, but they are legally weak. What has weight is what the child specifically needs, who provides it and how, what is sustainable long term, and which solution puts the least strain on the child's development.

4. Contact with the other parent is not automatic. But its absence is not a "normal state" either.

An important ruling is Constitutional Court order file no. I. ÚS 3672/25 of 17 March 2026. The Court said something that often gets oversimplified in practice: it is not true that every decision by which the court does not order contact with the other parent is automatically unconstitutional.

In other words:

- a parent's right to take part in raising the child is not absolute,
- contact can be limited or not ordered at all where this is necessary in the best interests of the child,
- a clearly formulated wish of the child can be a legitimate reason, especially for older children capable of forming an independent view.

At the same time, the Constitutional Court emphasised that active effort to restore or maintain the relationship is part of parental responsibility. A passive parent is in a substantially worse position in litigation.

Saying "the other parent turned my child against me" is not enough. The court will also examine what you did for the relationship with the child yourself.

Long-term passivity can later turn sharply against a parent — a late "I would have liked to, but..." usually cannot carry the weight of parental responsibility.

The court does not have to force contact at any cost if an authoritative order would be counterproductive, fail to repair the relationship, and only deepen the conflict.

For some parents this is a painful realisation: the court sometimes concludes that forced contact harms the child more than it helps at that particular moment. That is not a celebration of alienation. It is a realistic acknowledgement that, after years of conflict, some relationships can only be rebuilt carefully — not by court order from one day to the next. I wrote on this earlier in [when a child refuses to visit the other parent] ([/en/blog/when-a-child-refuses-to-visit-the-other-parent/](#)).

5. The child's wishes carry weight. But it's not a referendum at home.

Recent case law repeatedly shows that a child's wish can be extraordinarily important. In order I. ÚS 3672/25 the Constitutional Court expressly allowed that a clearly formulated wish of an older child can be a legitimate reason for the court not to order contact in the way the parent wanted.

Similarly, Constitutional Court order file no. I. ÚS 2789/25 of 12 March 2026 shows that courts can take into account a minor's long-expressed wish and, on a change of circumstances, adjust custody accordingly.

The child's view matters to the court. The older and more mature the child, the greater the weight of that view. Manipulating a child against the other parent is an extraordinarily risky strategy — and "coached lines" are spotted more often in proceedings than parents realise.

The court assesses not only what the child says, but how, why, and in what context it is said.

Many parents assume the child "will of course just tell the truth." But a child's wish is not a referendum on parental popularity, and the child is not the judge of their own parents.

6. An interim measure is not a shortcut to final victory.

This is one of the most important procedural lessons of recent times. In order file no. IV. ÚS 1863/25 of 18 March 2026 the Constitutional Court spelled out the limits of interim measures in custody matters:

- it is only a temporary tool,
- it generally cannot be used to replace a decision on the merits,
- and certainly not in a situation that calls for deeper factual findings.

In that case the Constitutional Court expressly stressed that proceedings on an interim measure may not make it possible to learn enough about the specifics of the child — and therefore an interim measure may not be in the child's interest at all.

A motion for an interim measure must show real urgency — not just impatience.

An interim measure does not bypass the need for proper taking of evidence on the merits.

The more complex the child and the family situation, the more restrained the court will be. That is not reluctance to help. It is protection of the child from a hasty intervention.

The emergency button is not a magic wand. The more complex the child and the family situation, the less the court can operate on a "let's quickly set something and see" basis.

7. Preliminary enforceability must be genuinely reasoned. In matters concerning children, especially.

The truly key ruling here is Constitutional Court finding file no. III. ÚS 3700/25 of 5 February 2026. The Court said that a decision on preliminary enforceability in custody matters must be properly and persuasively reasoned.

The court has to state:

- which specific circumstances have been shown,
- what hard-to-repair or significant harm threatens without immediate enforceability,
- and why such a course of action is in line with the best interests of the particular child.

Without that, preliminary enforceability is constitutionally problematic. And another important point from the same finding: if someone other than a parent is seeking contact, the court has to look especially carefully at the real emotional bond between the child and that person. The adult's good will is not enough.

In family cases you often hear "we have to act fast." Yes, sometimes we do. But recent case law reminds us that speed without reasoning is not protection of the child — sometimes it is only a fast-tracked mistake.

8. Assisted contact is an interim step, not a lifelong label.

Recent case law shows that assisted contact can be a reasonable transitional solution where there is tension, uncertainty, or unresolved risk between the child and the parent.

Constitutional Court order file no. I. ÚS 3588/25 of 25 February 2026 indicates that where the risk of violence or inappropriate conduct has not yet been established, assisted contact can be a solution compatible with the best interests of the child — rather than a full ban on contact. On when the risk is real instead, and how to balance protecting the child against the rights of the other parent, I've written separately on [domestic violence and the law](#).

At the same time, Constitutional Court order file no. II. ÚS 191/26 of 13 February 2026 makes clear that the longer assisted contact continues, the higher the bar for its continued justification. In other words: what makes sense as a temporary measure may not survive as a long-term regime.

Assisted contact is not automatically a defeat or a stigma — it is often a reasonable bridge to rebuilding the relationship.

It should not, however, settle into an indefinite "frozen" regime without explanation.

The court keeps reassessing whether the child and the parent can move to more normal contact — or, conversely, whether something needs to change to protect the child.

The courts are sending two uncomfortable messages to two types of parents at once: to the parent who wants a total ban on contact — a ban will not always be proportionate; to the parent who is content with "at least I have something" — even assisted contact is not an obvious permanent standard.

9. Child support cannot be set by feeling. The court has to show its working.

In disputes over children, the second major battlefield is usually child support. And the key ruling here is Constitutional Court finding file no. III. ÚS 1952/25 of 12 February 2026.

The Constitutional Court criticised the lower courts for deciding on child support on the basis of non-reviewable reasoning. It is not enough to note that the parents have certain incomes and that the child has certain needs. The reasoning must make it intelligibly clear:

- which income and assets the court considers decisive,
- how the parents' standard of living is reflected in the child's standard of living,

- and how the court arrived at the specific amount.

The Constitutional Court also reminded us that child support is not a tool for "equalising" parental incomes. Its function is to cover the child's needs and enable the child to share in the parents' standard of living. For the calculation and the practical aspects after the recent reform, see my separate article on [child support after the 2026 reform](#).

Document income and assets as concretely as possible — current payslips, tax returns, asset positions.

Describe the child's real needs firmly and concretely — not in abstract categories, but in actual line items.

Demand a logical and reviewable calculation from the court. If you are the parent challenging the amount, look for the gap in the reasoning — case law is on your side.

Child support is the area where "judicial estimate" often meets parental frustration. Recent case law is sending a clear message: the amount cannot fall from the sky.

10. In a custody case, you don't have to be the one who legally represents the child. And sometimes you can't be.

An interesting and underestimated ruling is Constitutional Court order file no. II. ÚS 611/26 of 18 March 2026. The Court reminded us that where a conflict of interest between the parent and the child may arise, the parent cannot represent the child — and the court will appoint a guardian for the child.

This matters in family proceedings because some parents take it personally: "How can someone speak for my child against me?" The legal logic is different, though. If the child is a party or secondary party to the proceedings and the child's interests may diverge from the parent's, the child must have an independently protected procedural position.

The child may have a separate guardian in the proceedings (typically OSPOD — the child welfare authority — or an attorney).

The child's procedural voice does not have to mirror the parent's voice — and that is not a failure of the system, it is its core.

Take the guardian's presence as a protective mechanism for the child, not as an attack on your parental rights.

In custody proceedings parents sometimes discover an uncomfortable fact: the court is not dealing only with a dispute between mother and father, but also with who actually speaks for the child as an independent interest. And that interest may not be identical to either parent's.

What works in court — and what doesn't

Let me put this into a simple table that clients often photograph:

Area	What the court won't reward	What works in court
Scope of care	"I want my half of the time."	A concrete regime that reflects school, commute, health, continuity.
Change of arrangement	"I didn't like it then and I don't like it now."	A concrete, documented change since the last ruling.
Best interests of the child	"I deserve satisfaction for what my ex did to me."	Stability, bonds, needs, the child's view, a workable regime.
Contact	"They alienated the child from me," without your own effort.	Documented effort to maintain the relationship — even in hard phases.
Child's wishes	Coached lines, manipulation.	An authentic, consistently expressed view.
Interim measure	Impatience dressed up as urgency.	A real, evidenced threat of irreparable harm.
Preliminary enforceability	Generic boilerplate in the reasoning.	Concrete circumstances + concrete harm + the child's best interest.
Assisted contact	An open-ended "frozen" regime.	A transitional bridge with a clear next-step perspective.
Child support	A "judicial estimate" with no calculation.	Documented income, assets, needs, and a logical calculation.
Representation of the child	"I'm speaking for my own child."	Accepting the guardian as protection, not as an attack.

Facing custody proceedings — or already in them and feeling the strategy slipping? I specialise in **family law** and know how to steer these cases so the child does not become the instrument of the dispute. **Get in touch** — an initial consultation lets us go through your situation calmly and work out what belongs in court and what is better handled otherwise.

So what "won't you escape" in a custody dispute?

Let me be direct. This is what recent case law is telling parents:

You are not entitled to a mechanical half of the child's time.

Without a change of circumstances, an old decision won't change just because you don't like it.

The best interests of the child outweigh a parent's sense of fairness.

The child's view can be decisive — and the court can read it more deeply than parents expect.

Contact with a parent is not automatic, but blocking it is not a convenient shortcut either.

Interim measures do not replace honest taking of evidence.

Child support must be reasoned, not a feeling.

And the child is not a procedural accessory to the parent — the child has an independent voice that someone defends in the proceedings.

Perhaps the hardest practical lesson is this: a custody case is not a contest for a parent's moral victory. It is a test of who can translate their parenting into the language of the child's needs. And that test is uncomfortable for adults precisely because almost nothing that worked in the partnership war works here.

If you are in the middle of such a dispute — or heading into one — don't handle it alone. Turn to an attorney who specialises in family law, work with the child welfare authority, and above all try to look at the situation through the child's eyes. Not because it's a cliché. Because the child's perspective is what the courts are looking for most today.

Case law cited

Full texts of the cited decisions can be looked up in the official Czech database [NALUS \(Constitutional Court\)](#).

- Constitutional Court finding file no. I. ÚS 3718/25 of 30 March 2026
- Constitutional Court order file no. I. ÚS 3672/25 of 17 March 2026
- Constitutional Court order file no. I. ÚS 2789/25 of 12 March 2026
- Constitutional Court order file no. IV. ÚS 1863/25 of 18 March 2026
- Constitutional Court finding file no. III. ÚS 3700/25 of 5 February 2026
- Constitutional Court order file no. I. ÚS 3588/25 of 25 February 2026
- Constitutional Court order file no. II. ÚS 191/26 of 13 February 2026
- Constitutional Court finding file no. III. ÚS 1952/25 of 12 February 2026
- Constitutional Court order file no. II. ÚS 611/26 of 18 March 2026

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