FROM THE IUSTORIA BLOG

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

> *Custody proceedings are not an ordinary civil case. The central figure is not the parent but the child. Ten things recent Constitutional Court case law tells parents, even when it hurts.*

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This article will be read by parents who are at the start of something they never wanted. Or in the middle of it and struggling to breathe. Or who have been through the court and want to understand why it ended the way it did.

The same applies to all of them: a dispute over children is not an ordinary civil case in which the court divides rights between two adults. In custody proceedings, the central figure is the child. Almost everything else follows from that.

Anyone who goes to court expecting it to confirm at last who was the worse partner is usually mistaken. Even at the divorce stage itself, it becomes clear that the choice between agreement and a fight shapes what the proceedings about the children will look like. Constitutional Court case law from recent months keeps repeating that the court's task is mainly to deal with:

- what is in the best interests of the child,
- which arrangement is stable, safe and workable for the child,
- what the child really thinks and experiences,
- and whether the parents are using the dispute over the child to continue their dispute with each other.

Here are ten things every parent who is entering custody proceedings, or considering it, should know.

1. You are not entitled to "half of the child". The court does not have to set 50:50 care.

This is usually the first big surprise. The key decision is Constitutional Court finding file no. I. ÚS 3718/25 of 30 March 2026 (a finding, or *nález*, is a ruling on the merits of a constitutional complaint; an order, or *usnesení*, typically disposes of a complaint without such a ruling). According to it, equal-time care is not the default. The court should not automatically start from a 50:50 model and only then look for reasons why it would not work.

On the contrary:

- the primary consideration is always the best interests of the child,
- the care of both parents can be asymmetrical,
- the equal value of both parental roles does not mean the same number of days.

The Constitutional Court also pointed out that since the amendment in force from 1 January 2026, the court should not fix on labels such as "sole" or "alternating" custody, but should set an appropriate extent of care for each parent. In July 2026 it developed this in finding file no. IV. ÚS 765/26: care "of equal value" is a matter of worth, "equally divided" care is purely a matter of quantity, and the two must not be confused. For an overview of the new rules, see What changed in Czech family law.

Walking into the proceedings demanding "my fair half" puts you in a procedurally weak position. The court is more interested in school, the child's daily routine, stable housing, commuting, health and whether the parents can communicate with each other.

Continuity of existing care and the child's view often weigh more than the number of hours per week. Asymmetrical care is not automatically unfair. Sometimes it is the best option available for the child at the time. A child is not an asset to be split into ideal halves. Running the case that way usually harms you procedurally. And it harms the child too.

2. Want to change the existing arrangement? Long-standing disagreement with it is not enough.

The same finding, I. ÚS 3718/25, is important in another respect. If there is already a final decision or an approved agreement on care, a change will not come simply because one parent thinks things should now be different. There has to be a change in circumstances.

The Constitutional Court stressed that:

- changing the existing care arrangement requires a relevant change in circumstances,
- the amendment in force from 1 January 2026 does not by itself "reopen" old decisions,
- the court assesses whether the change is necessary to protect the best interests of the child.

If you want a change, do not bring up old complaints about your former partner again. The court asks what has changed since the last decision.
Strong arguments: changes in the child's needs, school situation, health or views; a change in your work or housing situation; how cooperation between the parents has developed.
Weak argument: "I didn't like it then and I don't like it now."
A common mistake is to replay the old relationship conflict in new proceedings. But the court is not looking for why your partner was bad three years ago. It is looking for what is different for the child today.

3. The best interests of the child are at the centre of everything. Your wounded sense of justice is not.

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 stock phrase for the court to insert into a judgment. The court has to fill it with concrete content.

The court therefore weighs, among other things:

- the stability of the environment,
- social and educational ties,
- the need for continuity,
- the particular needs of the specific child,
- the child's view,
- and whether the proposed arrangement works in practice.

One more detail: the parents' mistakes and faults in their relationship with each other can play only a secondary role and do not outweigh the interests of the child.

"She cheated on me", "he was a terrible partner", "I deserve satisfaction": humanly understandable, legally weak. What carries weight is what the child specifically needs, who provides it and what is sustainable for the child in the long term.

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

In order file no. I. ÚS 3672/25 of 17 March 2026, the Constitutional Court said something that is often oversimplified in practice: not every decision that does not order contact with the other parent is unconstitutional.

In other words:

- a parent's right to take part in the child's upbringing is not absolute,
- contact can be restricted, and exceptionally not ordered at all, if the best interests of the child require it,
- a legitimate reason can also be the clearly expressed wish of a child who is able to take a clear position.

A passive parent is in a considerably worse position. Actively trying to maintain or restore the relationship is part of parental responsibility.

Saying "the other parent alienated my child from me" is not enough. The court will also look at what you yourself did for your relationship with the child.
Long passivity turns against the parent. A belated "I would have liked to, but..." does not meet the demands of parental responsibility.
The court does not have to enforce contact at any cost if an order would not repair the relationship and would only deepen the conflict.
For some parents this is painful: the court sometimes concludes that forced contact would, at that point, harm the child more than help. That does not mean it approves of alienation. After years of conflict, some relationships can only be rebuilt carefully, not by a court order overnight. More in When a child refuses to visit the other parent.

5. The child's wishes carry weight. But this is not a family vote.

In order I. ÚS 3672/25 the Constitutional Court accepted that a clearly expressed wish of the child can be a reason for the court not to arrange contact the way a parent wants. Order file no. I. ÚS 2789/25 of 12 March 2026 shows that courts may rely on a child's long-held wish and, where circumstances change, adjust care accordingly.

The court is interested in the child's view, and its significance grows with the child's age and maturity.
Turning a child against the other parent is extremely risky. "Coached lines" are recognised in proceedings more often than parents expect.

The court assesses not only what the child says, but how, why and in what situation they say it.
A child's wish is not a popularity contest between the parents. And the child is not their parents' judge.

6. A quick decision is not a shortcut to winning.

In order file no. IV. ÚS 1863/25 of 18 March 2026, the Constitutional Court restated the limits of interim measures in matters concerning children. An interim measure is only a temporary tool, and the proceedings on it do not allow the court to understand everything specific to the child. It therefore cannot replace thorough evidence-taking on the merits.

New rules have applied since January 2026. In matters of care and contact, the interim measure has been replaced by the **provisional decision**. The court may only issue it once all parties, including the child, have had the opportunity to respond to the application. It lasts no longer than three months. If proceedings on the merits are already under way, the court can extend it, up to six months in total, and beyond that only exceptionally. There is no appeal against the decision on the application. In summer 2026 the Constitutional Court twice found a breach of the rights of a parent to whom the court had not served the application in time and whom it had not given room to respond (findings file nos. I. ÚS 1382/26 and II. ÚS 1971/26). The reasoning of IV. ÚS 1863/25 continues to apply.

The application must show a genuine need to settle matters straight away. Impatience is not enough.
In an application for a provisional decision, you must state how you have communicated with the other parent about the matter and whether you notified them of the application in advance.
If you are the one receiving the application, respond immediately. There will be no appeal; your only chance to influence the outcome is your response before the district court.
A provisional decision is not meant for a child in acute danger. In that case, call the police and the child welfare authority (known in the Czech Republic as OSPOD), which can apply for a special interim measure.

7. Preliminary enforceability must be genuinely justified.

In finding file no. III. ÚS 3700/25 of 5 February 2026, the Constitutional Court quashed decisions that, without persuasive reasoning, had declared preliminarily enforceable extensive, uninterrupted contact between a young child (three and a half years old) and a person other than a parent.

The court has to state:

- which specific circumstances were established,
- what serious or hard-to-remedy harm the child would face without immediate enforceability,
- and why this course of action is in the interests of the particular child.

The same finding makes one more point: where someone other than a parent is seeking contact, the court must first establish with certainty that the child has a genuine emotional bond with that person. An adult's good will is not enough.

In family cases you often hear "we have to act fast". Sometimes that is true. But speed without reasoning does not protect the child. Sometimes it is just a mistake made more quickly.

8. Restrictions on contact must have a way forward.

Where a child faces a risk of violence, even a complete ban on contact with a parent can be proportionate. In order file no. I. ÚS 3588/25 of 25 February 2026, the Constitutional Court did not find unconstitutional a ban on contact with a father who was being prosecuted for violence against the children and their mother. At the same time, it pointed out that the longer such a measure lasts, the more serious the interference it represents, and the more carefully its continuation has to be justified.

Assisted contact is not meant to be a long-term solution. Its purpose is to calm strained relationships and allow safe contact, and to be extended when conditions permit. Stringing together quick interim measures is not the way to get there, though. In order file no. II. ÚS 191/26 of 13 February 2026, the Constitutional Court found no error in the courts' refusal to extend assisted contact by an interim measure when the proceedings on the merits were nearing their end and contact was taking place in the meantime. A final arrangement cannot be replaced by repeated interim measures. For a fuller discussion of protecting children from violence, see Domestic violence and the law.

Assisted contact is neither a defeat nor a stigma. It is often a sensible bridge to rebuilding the relationship.
It should not, however, remain a frozen arrangement with no prospect of a next step.
The court keeps considering whether it is possible to move towards more ordinary contact or, on the contrary, to strengthen protection.
In this way the courts give two types of parents two uncomfortable messages. To the parent who wants a total ban on contact: without a demonstrated risk, you will not get one. To the parent who is content that "at least I have something": even assisted contact is not guaranteed for ever.

9. Child support cannot appear out of thin air. The court has to show its calculation.

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

In it, the Constitutional Court criticised the lower courts for setting child support in a way that could not be reviewed. It is not enough to state that the parents have some income and the child has some needs. The reasoning must make clear:

- which income and financial circumstances the court considered 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.

Child support is the child's income and is not meant to compensate for the income of the parent providing care. It is meant to cover the child's needs and give the child a share in the parents' standard of living. And note: according to the Constitutional Court, child support cannot be automatically disregarded even in alternating care, where the parents share care equally. The court must set it so that it reflects the standard of living of both parents. On calculation and enforcement after the reform, I have written a separate article on child support.

Document income and assets specifically: payslips, tax returns, your financial situation.
Describe the child's needs as real items of expenditure, not in general categories.
Insist on a calculation that can be reviewed. If you are challenging the amount of child support, look for the gap in the reasoning.

10. In a dispute over a child, you do not have to be the one representing the child. Sometimes you are not allowed to be.

Where there may be a conflict of interest between a parent and the child, the parent cannot represent the child and the court appoints a guardian ad litem for the child (*opatrovník*, Section 892(3) of the Civil Code). The Constitutional Court does this routinely in its own proceedings too, for example by order file no. II. ÚS 611/26 of 18 March 2026.

Some parents take this personally: "How can someone else speak for my child?" The logic is simple, though. The child is a party to the proceedings, and the child's interests may differ from the parent's. That is why the child needs separate representation.

The child's guardian ad litem is typically OSPOD, sometimes an attorney.
The guardian ad litem's voice does not have to mirror that of either parent. That is how it is meant to be.
See the guardian ad litem as protection for the child, not as an attack on your parental rights.

What works in court and what doesn't

A summary in a table that clients often take a photo of:

Area	What the court won't reward	What works in court
Extent of care	"I want my half of the time."	A concrete arrangement that takes account of school, commuting, health and continuity.
Change in circumstances	"I didn't like it then and I don't like it now."	A concrete, provable change since the last arrangement.
Best interests of the child	"I deserve satisfaction for how my partner failed."	Stability, bonds, needs, the child's view and a workable arrangement.
Contact	"They alienated my child from me," with no effort of your own.	Documented effort to maintain the relationship, even in difficult periods.
Child's wishes	Coached lines, manipulation.	A genuine view expressed consistently over time.
Provisional decision	An application without notifying the other parent; impatience instead of urgency.	A demonstrated need, information about communication with the other parent, room for the other side to respond.
Preliminary enforceability	Generic phrases in the reasoning.	Specific circumstances, specific threatened harm, the child's interests.
Assisted contact / ban on contact	An open-ended "frozen" arrangement.	A temporary measure with a prospect of the next step and ongoing review.
Child support	An estimate with no calculation.	Documented income, assets and needs, and a logical calculation.
Representation of the child	"I speak for my own child."	Accepting the guardian ad litem as protection for the child.

Facing custody proceedings, or already in them and feeling the strategy slipping away? I specialise in family law and know how to handle these cases so the child does not become an instrument of the dispute. Get in touch — at an initial consultation we'll go through your situation and work out what to resolve in court and what is better handled another way.

What you won't escape in a custody dispute

Without sugar-coating:

You are not entitled to a mechanical half of the child's time.
Without a change in circumstances, an old decision will not change just because you don't like it.
The best interests of the child count for more than your idea 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 excluding it must not be a convenient shortcut.
A quick decision does not replace evidence-taking, and since 2026 the court may not issue one without hearing the other side.
Child support must be calculated, not estimated.
The child has their own voice in the proceedings, and someone speaks up for it.
The hardest lesson lies elsewhere, though. A custody dispute is not a contest for moral victory. It is a test of who can translate their parenting into the language of the child's needs. Adults tend to find it uncomfortable precisely because nothing that worked in the war between partners works here.

If you are in the middle of such a dispute, do not deal with it alone. Turn to an attorney who specialises in family law, cooperate with OSPOD and try to see the situation through the child's eyes. That is the perspective courts are looking for most today.

Case law cited

The texts of the decisions are available in the NALUS (Constitutional Court) database.

- Constitutional Court finding file no. I. ÚS 3718/25 of 30 March 2026
- Constitutional Court finding file no. IV. ÚS 765/26 of 28 July 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. I. ÚS 1382/26 of 2 July 2026
- Constitutional Court finding file no. II. ÚS 1971/26 of 31 August 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

This article was updated on 17 September 2026 (adding the rules on provisional decisions, including their extension, and case law up to 16 September 2026, and clarifying the interpretation of orders I. ÚS 3588/25 and II. ÚS 191/26). It is for information only and does not constitute legal advice. The conclusions in any specific dispute will always depend on the circumstances of the case and on current judicial practice.

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