

## Abstract

The rigorous thesis called *The application of joint physical custody in practice from a perspective of a child's right to care of both parents* deals with joint physical custody as a form of child custody which fulfills a child's right to care of both parents in the most suitable way. The main goal of this thesis is to define limits of joint physical custody determined by case law which exclude its appropriateness as well as to evaluate options of operating with parents in order to achieve their own agreement about joint physical custody in order to avoid authoritative court decision.

In the introductory chapter the thesis deals with the definition of joint physical custody, its legal basis, social debate following joint physical custody reflecting diverse opinions on it and also with impacts of a parental conflict on joint physical custody. The thesis then deals with the principle of the best interest of a child. It is the most significant principle of family law and as such it is especially necessary to apply it very thoroughly based on the assessment of all circumstances of a particular case. The main part of this thesis is devoted to limits of joint physical custody determined by case law excluding the application of joint physical custody in a particular case based on its inappropriateness. The attention is focused primarily on case law of the Czech Constitutional Court. These limits include a child's wish, age of a child, a child's health condition, distance between parents' residence and preservation of one school, parents' disagreement and inappropriate communication between parents. The last part of the thesis is focused on possible options of operating with parents with the aim of reaching their own agreement. At first this part deals with mediation, its definition, its legal basis and family mediation and evaluates its potential to reaching parents' agreement - followed by the chapter devoted to the Cochem practice. Discourse about the Cochem practice includes its definition, deals with circumstances of its origin and its development and then focuses on the basis of this practice and the roles of particular participating professions. The chapter continues with a model applied at Czech courts and comparison of the Czech model with the German model. Eventually, it deals with the relationship of the Cochem practice and joint physical custody. In the conclusion of the thesis there are the mentioned options of operating with parents evaluated. The method of interdisciplinary cooperation based on the Cochem practice principles is evaluated as the most appropriate and effective.