



BALANCE BETWEEN "SHARED PARENTAL CUSTODY" AND THE BEST INTEREST OF THE CHILD

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Thematic Report: THE BALANCE BETWEEN “SHARED PARENTAL CUSTODY” AND THE BEST INTEREST OF THE CHILD

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THEMATIC REPORT:

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Author: **Natasha Petkovska**



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INTRODUCTION

The best interest of the child remains a concept that cannot (and should not) be narrowly defined. However, its essence can be captured in its threefold nature¹; it represents a substantive right, a fundamental principle and a rule of procedure that aims to ensure the full and effective enjoyment of all rights of the child.

The principle of “the best interest of the child” is elevated to the highest level in numerous international standards. First and foremost is the Convention on the Rights of the Child (CRC)², to which North Macedonia is a signatory. Under to the CRC, the best interest of the child shall be a primary consideration in every process, activity and action concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies³. Member states undertake to ensure the protection and care necessary for the well-being of children and to make decisions to safeguard children from physical, emotional and psychological abuse, taking into account the rights and duties of their parents, legal guardians or other individuals legally responsible for the child.⁴

The application of this principle is mandatory in situations such as divorce, decisions regarding parental responsibilities, when a child is deprived of a family environment, in cases of adoption, restrictions of freedom and court hearings related to criminal matters involving minors. The primary obligation is to ensure the comprehensive development of the child through a continuous assessment of their best interest in each specific case.

Assessing the best interest of the child involves giving particular consideration to the child's individual views and needs, taking into account their age, sex, personal and family background, family environment and personal relations, the risks they face, their well-being, social surroundings they are exposed to, educational and healthcare needs, as well as their needs arising from their development and transition into adulthood and other individual needs of the child.

The fundamental principle outlined in the CRC is that member states must ensure that children shall not be separated from their parents against their will. However, the Convention recognizes exceptional circumstances where such separation may be justified and provides for an exception to this fundamental principle. This exception applies in situations where competent authorities, subject to a prior judicial review and in accordance with applicable law and procedures, determine that such separation is necessary and serves the child's best interest. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.⁵ The Convention emphasizes that member states must respect the right of the child to maintain personal relations and direct contact with both parents on a regular basis in situations when the child is separated from one parent. The Convention reiterates the importance of ensuring that this is not contrary to the child's best interests.⁶

The CRC explicitly requires member states to use their best efforts to ensure recognition of

¹ European Commission, the Best Interest of the Child (BIC). Available at https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/best-interests-child-bic_en

² UN, Convention on the Rights of the Child (CRC). Adopted by the UN General Assembly on 20 November 1989, entered into force in September 1990.

³ Article 3 (1) of the CRC

⁴ Article 3 (2) of the CRC.

⁵ Article 9 (1) of the CRC

⁶ Article 9 (3) of the CRC.

the principle that both parents have common responsibilities for the upbringing and development of the child, with the best interests of the child being their basic concern.⁷ With this in mind, the Convention further obligates member states to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.⁸

All these provisions of the Convention on the Rights of the Child are designed to protect the best interest of the child. More specifically, the CRC allows exceptions to the rule that a child should not be separated from their parents and to the rule that a child should maintain personal relations and direct contact with the parent they don't live with if doing so is contrary to the child's best interest. It also mandates protection from all forms of violence. Collectively, these provisions protect the child (and their growth and development) in situations where they may be a victim or witness of domestic violence.

In addition to this protection, the Istanbul Convention (IC)⁹, which came into force in North Macedonia in 2018, plays a crucial role.¹⁰ A key provision is its Article 31, which requires all parties to take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of the Convention are taken into account.¹¹ Moreover, the IC obligates all parties to take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardize the rights and safety of the victim or children.¹²

A new Civil Code is currently being drafted in the Republic of North Macedonia, with a special section dedicated to family law relations, which introduces the concept of "shared parental custody" after divorce. The best interest of the child is mentioned only when the court is deciding on the individual exercise of parental responsibilities, specifically in cases where due to illness, absence or other justified reasons, the other parent is unable to fulfill their parental responsibilities. However, the provision does not specifically stipulate that cases of violence will be taken into account when determining child custody. Therefore, it is important to examine the balance between the proposed legal solution of "shared parental custody" and the best interest of the child. This report aims to do precisely that.

⁷ Article 18 (1) of the CRC.

⁸ Article 19 (1) of the CRC.

⁹ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (May, 2011).

¹⁰ Law on the Ratification of the Convention on Preventing and Combating Violence against Women and Domestic Violence (December, 2017). Official Gazette of the Republic of Macedonia no.198/2017.

¹¹ Article 31 (1) of the IC.

¹² Article 31 (2) of the IC.

METHODOLOGY OF THE REPORT

The report aims to examine the newly proposed solutions in the Macedonian legislation regarding the introduction of the concept of "shared parental custody" from the perspective of the best interest of the child. The researcher contends that inadequate definition of the concept of "shared parental custody" and the potential legal gaps could result in the concept being incorrectly applied, ultimately failing to achieve its intended purpose. Furthermore, the report focuses on the conflict between the right to the best interest and welfare of the child and the right of the parent they don't live with to spend an equal amount of time with the child.

Research question: *Is the proposed legal solution of shared parental custody as rebuttable presumption in the best interest of the child?*

To answer this question, the research aims to:

- 1) analyze the necessity of introducing the concept of "shared parental custody" in the Macedonian legislation from the perspective of the best interest of the child; and
- 2) provide an overview of the application of the concept of "parental custody" by analyzing experiences from other countries.

To that end, the report provides:

- An overview and analysis of the concept of "shared parental custody" in the national legislation, by examining the current Family Law and the draft version of the Civil Code concerning family law relations;
- An overview and comparative analysis of legislation from the region and Europe, where this concept has been introduced;
- An overview and analysis of the practices and experiences of other countries with the concept of "shared parental custody", identifying the issues, challenges and benefits of its application, through interviews with NGOs from the countries in the region that work on this issue;
- An overview and analysis of the best interest of the child in the context of shared parental custody after divorce, analyzing the impact on the child's development when parental relationship is strained or when the child is a victim of domestic violence (directly or as a witness), based on interviews with NGO from the region; and
- Concluding observations and targeted recommendations.

The review is based on the contributions of representatives from civil society organizations from the regions that actively work on the protection and prevention of gender-based violence, shared parental custody and alienation, who were interviewed using a pre-developed questionnaire specifically designed for the purposes of this research (see Annex 1). The following participants provided their contribution to the research:

- Nataša Škrbić – a sociologist and social policy consultant with a focus on the policy's effects on

human rights;

- Tanja Ignjatović – a psychologist, working at the Autonomus Women's Center (Autonomni ženski centar) on education, research, public policy analysis, advocacy and individual counseling for women victims of violence;
- Ana Pecotić – a Gestald psychotherapy educator, activist in the fight against violence against women and member of the Initiative "Save Me" (Spasi me Inicijativa);
- Sandra Turkanović – a coordinator and legal advisor at SOS Rijeka – Center for Nonviolence and Human Rights (SOS Rijeka – centar za nenasilje i ljudska prava).

The report is comprehensive and systematic, prepared by cross-referencing data from official documents, existing literature and primary data obtained from conducted interviews. The existing data were gathered and processed through desk research, with data sources including:

- Domestic and international legal sources and legislation;
- Applied policy framework;
- Existing academic literature;
- Civil society organizations;
- Reports from institutions, international organizations, etc.

To analyze the data, qualitative methods for document analysis, a critical reading approach, comparative legal analysis and thematic analysis of primary data were employed.

The first part of the report provides an overview and analysis of the concept of "shared parental custody" in the national legislation, by examining the current Family Law and the draft version of the Civil Code concernig famuly law relations. **The second part** focuses on a comparative analyses of legislation and practices from the region and Europe. Based on contributions from interviewed participants, this section provides examples and experiences from two countries in the region. **Finally**, the report presents concluding observations and targeted recommendations that emerged from the findings of the report.

The findings of the report will be used as arguments in the process of drafting the Civil Code and throughout its adoption procedure (publishing on the Single Electronic Registry of Regulations- ENER, conducting public consultations and engaging in expert discussions).

CURRENT AND PROPOSED SOLUTIONS IN MACEDONIAN LEGISLATION

The current Family Law¹³ is rich with provisions that guarantee equality for parents when it comes to their parental rights. For example, in the introductory general provisions, this equality of parental rights is established as a fundamental principle in family relations:

Article 8

Parents have **equal rights and duties** (parental rights) concerning their children.

The relationship between parents and children is based on the rights and responsibilities of parents to care for, nurture, raise and educate their children and develop their working skills and habits.

Parental rights are exercised jointly by parents in accordance with the needs and interests of the children and the interests of the community.

Furthermore, the Law specifically stipulates that:

Article 45

Parental rights belong **equally** to the mother and the father.

The Family Law contains a specific section dedicated the exercise of parental rights. Here, joint and consensual exercise of parental rights is considered the norm. The exception applies to situations when parents are unable to reach a consensus on how to exercise those rights:

Article 76

The parents exercise their parental rights **jointly and consensually**.

In cases when the parents cannot reach a consensus on how to exercise parental rights, the decision is made by the center for social work.

If the parents don't live together, the Family Law initially allows them to jointly and consensually determine how to exercise parental rights. This includes decisions regarding the child's living arrangements for care and upbringing, as well as how the non-custodial parent will sustain personal relations and direct contact with the child. The agreement must prioritize the child's best interests. If the parents are unable to reach an agreement on these matters, or if the proposed agreement is contrary to the child's best interests, the center for social work will make

¹³ Family Law ("Official Gazette of the Republic of Macedonia" no. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 and 150/15 and "Official Gazette of the Republic of North Macedonia " no. 53/21 and 199/23).

the final decision:

Article 78

When the parents of a child are living separately, they must come to an agreement on which parent will have the custody of the child. If they are unable to reach an agreement, or if their arrangement does not serve the child's best interests, the center for social work will make the final decision.

Article 79

When the parents of a child are living separately, they must **come to an agreement** on how to maintain personal relations and direct contact with the child. If the parents fail to reach an agreement within a period no longer than two months, the center for social work will decide on the matter.

When determining the child's personal relations and direct contact with the parent, the center for social work informs the child and takes into consideration their views and opinions, depending on the child's age and level of development, and informs them on the possible consequences of their decision.

In case of a divorce, priority is given to the agreement reached between the parents concerning the care, upbringing and support of their children. If the parents fail to reach an agreement, or if the agreement reached is not in the child's best interests, the court will decide on the exercise of parental rights, after obtaining an opinion from the center for social work. The court may determine that the children stay with one parent, that some are placed with the mother while others stay with the father, or that all the children are entrusted to a third party or an institution:

Article 80

In its divorce ruling, the court will decide on the care, upbringing and support of the children.

If the parents have not reached an agreement on these matters, or if their decision is not in the best interests of the child, the court will determine, after obtaining an opinion from the center for social work and considering all relevant factors, whether the children will remain in the care of one parent, whether some will remain with the mother while others will remain with the father, or if all children will be placed in the care of a third party or institution.

All of the above means that our current Family Law recognizes the institute of "shared parental custody", i.e. joint and consensual decision-making regarding all important decisions related to the care and upbringing of the child and their rights and responsibilities.

However, shared parental custody is left to the parents to agree on in cases where that is possible, making sure that any such agreement is in the child's best interests.

However, the concept of "shared parental custody" as the sole basis for exercising parental responsibilities is a demand put forward by numerous organizations advocating for children's rights.¹⁴

A new Civil Code is currently being drafted, with a special section on family law relations, where the concept of "shared parental custody" after divorce is being incorporated:

¹⁴ Fokus, The Parents' Association is Advocating for Shared Parenting after Divorce. (March, 2024). Available at: <https://fokus.mk/zdruzhenieto-na-roditeli-bara-zaednichko-roditelstvo-po-razvod/>

Shared parental responsibility after divorce

Article 4:63

Parents shall jointly and consensually exercise parental responsibilities both during the marriage and after its dissolution.

Shared parental responsibility means that all major decisions related to the care and upbringing of the child, and their rights and responsibilities, as outlined in this Code, are made jointly and with mutual consent.

Shared parental responsibility can be agreed upon by the parents in the form of a parenting plan or determined by a court decision.

The proposed legal solution also provides for sole parental responsibilities after divorce based on a court decision, when it is in the best interest of the child, but only in cases where due to illness, absence or other justified reasons, the other parent is unable to fulfill their parental responsibilities:

Sole parental responsibility after divorce

Article 4:64

If the court determines that it is in the best interest of the child, it may assign the exercise of parental responsibilities after the divorce to one of the parents only, in cases where the other parent is unable to do so due to illness, absence, or other justified reasons.

In cases of sole parental responsibility after divorce, the other parent is obligated to provide child support and maintain personal relations and direct contacts with the child.

Similar to the current legal solution, the proposed regulation, as presented, fails to take into account the obligation imposed on the state by international standards. The Law must ensure that when determining custody and visitation rights for children, cases of violence covered by the Istanbul Convention are duly considered.

IMPACT ON VICTIMS OF DOMESTIC VIOLENCE

This incomplete and improper definition of “shared parental responsibility” harms a very vulnerable category – victims of domestic violence. A significant issue with the “shared parental custody” model is that for many women and girls, violence intensifies after separation. The contact of the parent with the child becomes a setting where violence is perpetuated, with abusive fathers using visitation as a way of maintaining control over women victims of violence.¹⁵ In Macedonia, more than two out of five women who have had a partner report experiencing psychological violence from their current or former partner. A prevalent form of this violence is coercion involving children. This coercion manifests in threats to take the children away, threats to harm the children, situations when the abuser physically harms the children, or threats concerning custody arrangements (in cases when the abuser is an ex-partner).¹⁶

According to the new Law on Prevention and Protection from Violence against Women and Domestic Violence, a child is considered a victims when they experience direct violence, when they witness violent behavior between family members or when they live in an environment where violence occurs. In custody proceedings, the centers for social work take into account the interest of the child who is a victim of domestic violence. The center for social work may temporarily restrict or prohibit personal relations and direct contact of the child with the parent they don't live with in case when it is deemed to be in the best interest of the child who is a victim of domestic violence. However, this restriction may not exceed one year.

According to the Istanbul Convention, in cases of violence against women or domestic violence, protection and support measures must address the specific needs of child victims. The Convention also recognizes children who witness violence and obligates states to take the necessary legislative and other measures to ensure that when providing protection and support services to victims, the rights and needs of children who witness any form of violence are taken into account.¹⁷

During GREVIO's visit to North Macedonia, the state failed to present any case law to demonstrate that judges take domestic violence into account when making decisions regarding child custody. There are also no clear guidelines ensuring that violence against women must be considered by judicial or other relevant authorities when determining custody and visitation rights.

In certain cases, centers for social work have temporarily restricted or prohibited personal relations and direct contact between the child and the parent they don't live with when it was deemed in the best interest of the child, as long as the risk and consequences of violence

¹⁵ See in Thiara R. and Harrison C., *Safe not sorry: Key issues raised by research on child contact and domestic violence* (2016).

¹⁶ OSCE. *OSCE-led Survey on Violence Against Women: North Macedonia - Results Report* (maj, 2019). Available at: <https://www.osce.org/secretariat/419264>.

¹⁷ Article 26 of the IC.

persisted. However, this principle of the “best interest of the child” has been applied inconsistently, leading to a situation where custody was awarded to the father due to his financial status, despite him being an abuser. In another case, due to lack of knowledge and sensibility among the employees of the center for social work, a woman and her ten year old child have been referred to counselling for the purpose of improving their relationship with the father, despite the fact that he had been convicted for violence against the child.

The situation is similar worldwide. The consequences of domestic violence and its effects on children are often misinterpreted and underrated by judges, who tend to prioritize and approve contact with fathers. In doing so, judges fail to fulfill their duty to protect children, granting abusive fathers unsupervised access to their children, including in cases when physical and/or sexual violence has been confirmed.¹⁸ Research shows that in 27 out of 31 countries (87%), women who have survived domestic violence often receive unfavorable treatment in custody proceedings.¹⁹ In many countries, violence is only considered in theory in custody cases but is frequently overlooked in practice.²⁰

In social services and courts, the belief that a husband with a history of violence can still be a competent father remains prevalent. The father’s right to visitation is given priority, even at the expense of the woman and child’s safety. In some cases, mothers are even held responsible if they are unable to protect their child from violence. Another troubling pattern is the display of prejudice against women who bring up concerns of domestic violence during custody and visitation proceedings. These victims are often stigmatized as uncooperative parents and paradoxically deemed “unfit for parenting”. While those perpetuating this stigma claim that forced visitation ensures the child’s right to access both parents, it can be extremely dangerous in cases of domestic violence.²¹

One aspect that is often overlooked by the advocates of introducing the concept of shared parental custody as a rebuttable presumption is the psychological effects of forced visitation in cases of domestic violence against children. Children forced into visitation with an abusive parent often experience anxiety, depression and fear which can lead to long-term emotional trauma. Forced visitation can lead to feelings of helplessness. Forcing children to have contact with an abusive parent can expose them to ongoing emotional and physical harm as witnessing or experiencing abuse can lead to long-lasting psychological trauma, anxiety, and depression. When abusive parents are granted visitation rights without adequate safeguards, it sends the message that abusive behavior is tolerated or even condoned.²²

¹⁸ United Nations Special Rapporteur on violence against women and girls, Custody report (2023) Available at: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5336-custody-violence-against-women-and-violence-against-children>

¹⁹ European Women’s Lobby Towards a Europe Free from Male Violence Against Women and Girls’ Recommendations from the European Women’s Lobby to end violence against women and girls in Europe once and for all (2020). Available at: <https://www.womenlobby.org/Towards-a-Europe-free-from-male-violence-against-women-and-girls>.

²⁰ Ibid.

²¹ Women Against Violence Europe – WAVE. Safety as the best interest of the child - Toolkit for victim-friendly judicial practice in child custody, contact and visitation matters (2023). Available at: https://wave-network.org/wp-content/uploads/WAVE_ToolkitChild_EN_231208_web.pdf.

²² Ibid, p.19.

Abusive fathers, when facing allegations of violence, often turn to parental alienation as a defense strategy. Parental alienation is not a scientifically and empirically recognized concept, with no accepted definition. Its basis is the claim that one parent alienates the child from the other. Parental alienation is often used against mothers, when they are victims of domestic violence and oppose the perpetrator's contact with the child. 75% to 100% of cases of intimate partner violence during divorce proceedings involved claims of parental alienation by the alleged perpetrator. Abusive fathers turn to parental alienation in an attempt to divert attention from their abusive behavior, creating a false equivalency between their actions and the actions of the woman survivor of violence. This misuse of parental alienation can have severe consequences for the survivors of domestic violence. It places the burden of proof on the victim to demonstrate her innocence and often leads to protracted legal battles, further traumatizing the children involved. In some cases, it even results in the abusive parent gaining custody or visitation rights, putting the children's safety at risk.

Taking all this into account, it is necessary to evaluate whether shared parenting as a rebuttable presumption truly serves the best interest of the child. This can only be effectively done by reviewing and analyzing the practices of other countries where this concept is already in place and its consequences have become evident.



PRACTICES OF OTHER COUNTRIES

This idea stems from similar legal solutions in other countries. **In Austria**, the Civil Code presumes that parents generally agree on decisions regarding their child when exercising joint custody. However, Austrian law only refers to sole legal representation, meaning that either parent can act independently on behalf of the child, and legal actions are effective even if the other parent disagrees. There are specific situations where both parents' consent is required, such as changing the child's name, acquiring citizenship, or acknowledging paternity. Matters related to property require consent from both parents and court approval.

Austria's Civil code lists aspects to consider when deciding on the best interest of the child.²³ Among these is the notion of "reducing the risk of a child to suffer violence or to witness violence inflicted upon people close to them". It also refers to the importance of "ensuring contact with both parents to build a steady relationship." Striking a balance between these two often conflicting elements is crucial, as they form a strong foundation for preventing violent parents from obtaining custody and for limiting visitation rights with an abusive parent.²⁴ In practice, however, family court judges seldom recognize this provision. There have been cases where existing protective measures against violence which were in effect at the time of determining visitation rights were completely disregarded.²⁵ To assist family judges in reaching satisfactory decisions in custody cases of all sorts, a group of professionals (social workers, psychologists and child pedagogues) are available to family judges as part of a new institution called "family court assistance. This institution aims to support judges in achieving custody agreements, assessing pertinent factors that could influence their decisions, and preparing an opinion rooted in the best interests of the child, which will form the foundation for the court's ruling.²⁶

In Spain, joint custody was introduced in 2005, in cases when it is requested by both parents and in exceptional circumstances, when it is requested by one of the parents. To implement this arrangement, two conditions need to be met: there must be a positive report from the public prosecutor, and it must be the only way to adequately protect the best interests of the child.²⁷ This concept has sparked considerable controversy within Spanish society, as it raises many gray areas. One contentious viewpoint supports joint custody even in cases of conflict between former partners, arguing that it encourages shared parental responsibility and ensures continuity of the bond with both parents after the separation. The other considers that the courts should not automatically favor any residence or custody arrangements, but should work on a case-by-case basis, because of the possibility of unreported situations of gender-based violence (GBV).²⁸ In Spain, 65% of cases of gender-based violence are not reported, which means that they are invisible to the Family Courts where the former partners fight for custody.²⁹ Other studies show that the courts provide almost no protection for children when their mothers report gender-based violence. Only 9.1% have any protection for children. 96% of children were present when their mother was assaulted by their father, thus establishing violence in their lives as an everyday occurrence. Thirty per cent witnessed

²³ Article 138 of the Civil Code of Austria. Available at: https://www.trans-lex.org/602100/_/austrian-civil-code/.

²⁴ GREVIO's baseline evaluation report on Austria (2017), p.133. Available at: <https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619>.

²⁵ Ibid, p.134

²⁶ Ibid, p.136

²⁷ Article 92.8 of the Civil Code of Spain. Available at:

[https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Spanish_Civil_Code_\(Codigo_Civil_Espanol\).PDF](https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Spanish_Civil_Code_(Codigo_Civil_Espanol).PDF).

²⁸ Jabbaz Ch, Marcela Custody and Care of Children in Spain: Can the Two Rights be Reconciled? (2021). Available at: <https://link.springer.com/article/10.1007/s10691-021-09466-2>.

²⁹ Ibid, p.10.

beatings, kicking, hair pulling, pushing or saw their father grabbing their mother by the throat, and 96% witnessed mostly insults, humiliation, death threats, breaking objects, perceiving the tension and threat in the environment, as well as the suffering of their mother. It is worth noting that 36% of the cases suffered direct aggression.³⁰

Only in 2015, with the adoption of the Law 26/2015, which amended the child and adolescent protection system, children were included as direct victims of gender-based violence and their right to be informed, and heard was established. However, even now, the merits of this law have not been fully translated into legal practice.³¹ In 2013, the Supreme Court of Spain established joint custody as an imperative, asserting that it should be viewed as normal and desirable since it allows children to maintain effective relationships with both parents, even in conflictual situations.³²

In 2009, joint custody accounted for 9.6% of court decisions on custody and visitation. Over the next ten years, this percentage increased to 30%. The average for exclusive maternal custody in Spain fell from 84% in 2009 to 64% in 2017, while paternal custody remained constant in the same period, at around 5% of the total.³³ Research indicates that, generally, fathers do not significantly change their involvement in childcare after divorce, meaning the rise in joint custody applications is not a result of changing gender roles. Furthermore, when the case involves unreported gender-based violence, the court's decision does not enable calmer relations between the partners post-trial, but rather the conflict, coercion and threats continue through other channels. The abuser, in order to regain some of the status lost after the divorce, uses his right to parental authority and questions the mother's control over everyday decisions related to their children, such as school activities, parties, schedules, doctor's visits, etc.³⁴

The absence of social consensus on how to best protect the child's best interests has not hindered the promotion of joint custody in Spain. However, data reveals that its rapid advancement has no significant correlation to shared parental responsibility for child care. Not only has the goal of maintaining "peaceful" relations between parents and safeguarding the child's well-being not been achieved, but it has also, in fact, contradicted the child's best interests.

In Australia, one woman is murdered every four hours.³⁵ This alarming statistics highlights the critical importance of not overlooking the family law and the family system when we talk about gender-based and domestic violence. After nearly 10 years, in May 2024, major changes to the Family Law Act came into effect, including the repeal of the controversial legal presumption introduced in 2006 that "equal shared parental responsibility" is in the best interest of the child.³⁶

The changes in 2006 were a result of the efforts of fathers' rights groups. Data showed that decisions for equal shared parental responsibility were often made even in cases where there were serious allegations of domestic violence.³⁷

The 2023 changes have also repealed the section about equal, substantial and significant time and simplified a list of best interest factors that need to be taken into account when

³⁰ Ibid, p.12.

³¹ Ibid.

³² Decision 495/2013 of the Supreme Court of Spain. Available at: https://bj.scjn.gob.mx/doc/sentencias_pub/ozEF3ngB_UqKst8o_n4J/%22Historia%20de%20M%C3%Agxico%22

³³ Jabbaz Ch, Marcela Custody and Care of Children in Spain: Can the Two Rights be Reconciled?

³⁴ Ibid.

³⁵ Guardian. Almost 30% spike in rate of Australian women killed by intimate partner last year, data shows (2024). Available at: <https://www.theguardian.com/australia-news/2024/apr/29/30-spike-in-rate-of-australian-women-killed-by-intimate-partner-last-year-data-shows>.

³⁶ Guardian. What are Australia's family law reforms, and how will they help women and children fleeing violence? (2024) Available at: <https://www.theguardian.com/commentisfree/article/2024/may/06/australia-family-law-act-reforms-children-fleeing-violence>.

³⁷ Australian Government. Australian Institute of Family Studies. Evaluation of the 2006 family law reforms (2009). Available at: https://aifs.gov.au/sites/default/files/publication-documents/evaluationreport_o.pdf.

determining the child's best interest. The new factors include: the safety of the child and others who have their care, the views of the child, their developmental, psychological, emotional and cultural needs, the capacity of each of the parents to provide these needs and the benefit to the child of having a relationship with each of their parents. In terms of safety, the court must consider any history of family violence, abuse or neglect.³⁸

THE CASE OF CROATIA

In Croatia, shared parental custody has been part of the Family Law since 2015. However, civil activists, particularly those that have been working in the field for a long time, consider it a highly problematic concept in the context of gender-based violence against women and in the context of family court decisions and administrative rulings concerning custody and contact with children during divorce proceedings. For Croatian civil activists, the principle of protecting the best interests of the child should remain central when discussing "true shared parental care", which only presumes equal parental time spent with the child and equal influence in all decisions regarding the child, including after divorce.

In the Croatia, shared parental care/responsibility of former partners is the rebuttable presumption under the Family Law.³⁹ Custody can be awarded to one parent or it can be shared based on an agreed parenting plan which must be approved by the court. However, if one of the partners is opposed to the shared parental responsibility, it often leads to a series of interventions to protect children and endless legal battles. Parents who are unable to agree on a parenting plan (which constitute 20 to 30% of cases), face significant negative consequences. Their lives are under constant scrutiny by experts, centers for social work and judges. This legal solution stems from the evolution of the family law theory, shifting from the "tender years doctrine", where mothers were seen as primary care-givers in early childhood, to a gender-neutral family law approach where both parents are considered equally capable of caring for their children. Although this law is progressive in theory, society lags behind in practice. Croatia ranks at the bottom in Europe when it comes to equally shared care for children under 11 years of age, which indicates a large gap between the aspirations of the law and the social reality.

In 2023, the Family Law in Croatia underwent modest amendments.⁴⁰ One of the key changes explicitly requires courts, in custody proceedings, to take prior violence into account. However, the law still contains conflicting provisions, such as the requirement to actively promote contact with the other parent. If a parent fails to promote contact of the child with the other parent, the court assesses which parent is more cooperative. Another contentious provision is the requirement for mandatory mediation before divorce, which contradicts the standards set by the Istanbul Convention, particularly in cases involving domestic violence.

According to the Law, regardless of the family context involving minor children, both parents are expected to maintain significant contact with their children after divorce, unless it is proven that this is not in the child's best interest. However, this principle of the "best interest of the child" is often ignored, leading to extreme situations, such as the one where even when the former partner attempted femicide, the mother was forced to take the children to prison to visit

³⁸ Guardian. What are Australia's family law reforms, and how will they help women and children fleeing violence? (2024).

³⁹ Family Law (Obiteljski zakon pročišćeni tekst NN 103/15, 98/19, 47/20, 49/23, 156/23), in effect from 31.12.2023. Available at: <https://www.zakon.hr/z/88/Obiteljski-zakon>.

⁴⁰ According to the interviewed participants, the Prime Minister Andrej Plenković held a meeting with the women's NGOs and expressed the position that the practice of alienation should be stopped and prohibited (interview with a participant).

their father. Despite the fact that the children had witnessed violence and were mistreated, the authorities did not consider this sufficient grounds to prevent the father from maintaining contact with them.

In another case, a mother of a child with a disability was abandoned by the father, who refused to pay child support and wanted nothing to do with his former wife or the child, as he found caring for a child with a disability overwhelming. According to Croatian family law, the mother was forced to take the children to the center for social work every week to visit the father, even though he never showed up. However, it was her legal obligation to "promote and encourage contact with the other parent." So, this mother, like many other women traumatized by violence, is required to actively promote contact with the abusive father. Furthermore, in such cases, the system fails to recognize the immense burden on a mother who is the only one responsible for caring for a child with a disability. She has to find transportation, money, and emotional stability every week to wait for a parent who never appears, while the child may feel rejected and unloved instead of engaging in activities that could support their development.

Children who refused to maintain contact or visitations with an abusive or emotionally distant father who had neglected them were still forced to continue the visits. In some cases, when the mother could not compel the child to see the father or was concerned that the contact would harm the child, the court ruled that she must ensure the father's contact with the children. Otherwise, the mother would face legal action, and potentially even imprisonment, under the Criminal Code for acting against the child's well-being. Often, the mother in such cases is accused of being manipulative and alienating the child if she does not actively promote contact between the child and the father. According to one of the interviewed participants, this stems from the narrative promoted by men's rights activists. The leading authority responsible for providing expert opinions in child custody cases, the Zagreb Child Protection Clinic, has used the term "parental alienation syndrome." In October 2021, the Ministry of Health conducted an audit of the clinic's work but did not find any irregularities.⁴¹

Many mothers who find themselves in such situations feel degraded, humiliated and traumatized. The children are subjected to legal disputes, experiencing stress and being monitored by numerous individuals they have never encountered before. The consequences of these policies are such that abusers can be granted custody of the children and have unsupervised contact with them, which means they continue to abuse the children and perpetuate the abuse of women through the system and through endless lawsuits. The outcome is that even when a woman physically distances herself from the abuser, he continues to exert violence against her and the children, which essentially constitutes coercive control.

In one case in Croatia, an abuser with multiple convictions was allowed to visit his ex-wife and have contact with their mutual child. In January 2023, he attempted to murder his ex-wife, severely injuring her and killing her baby (from another partner) in her arms. As a consequence of this incident, she was placed in an induced coma. All of this leads to the conclusion that there is no proper risk assessment and risk management for extremely dangerous perpetrators of violence. In this particular case, a participant in one of the interviews identified 14 visible risk markers.

There are concerning reports indicating that, in some cases, courts have ordered contact between the child and the father to take place in a shelter for victims of domestic violence where the mother and child were staying. This has jeopardized the safety not only of the victim

⁴¹ GREVIO Baseline Evaluation Report, Croatia (September, 2023). p.181. Available: <https://rm.coe.int/baseline-evaluation-report-on-croatia/1680ac76c9>.

but also of other residents and the professionals working there.⁴²

In another case, a woman left her husband who was under criminal investigation for three offences (prolonged violence, death threats and violation of childrens' rights). As a result, the father was forbidden to approach and contact the mother, but these measures did not extend to the children. This once again highlights the common narrative underlying shared parenting – if the parent was violent against the mother, it doesn't necessarily mean that they were violent toward the children. In this case, since the children lived with their mother, arrangements had to be made for them to see their father. The center for social work issued a measure stating that a person would visit their home every week to supervise the family's interactions, so that "the restriction on the father's access to and contact with the mother does not harm his relationship with his sons."

There are also frequent cases where a woman wishes to change the child's residence, but she needs the father's permission, which he is unwilling to give. The center for social work can grant such consent if the change does not significantly hinder the father's ability to see the child. However, due to inconsistent practices, many centers do not provide this consent. In such instances, legal aid organizations find themselves advising women to seek sole custody from the court for practical issues, such as changing the child's residence. The problem arises when the woman is staying in a shelter in a different location, as very few remain in their home town.

In 2021, the Ministry of Labor, Pension System, Family, and Social Policy issued guidelines to centers for social work for the protection of victims of domestic violence, clarifying the interpretation of "exposure to violence." In cases of domestic violence, the guidelines explicitly recognize that a child's exposure to domestic violence, even if they are not a direct victim, constitutes a form of psychological abuse that significantly impacts their psychosocial development.⁴³ Despite this, courts do not systematically take into account incidents of violence when deciding on contact rights.⁴⁴

THE CASE OF SERBIA

According to the Family Code of Serbia, a child has the right to live and be cared for by its parents. However, the court can make a decision to separate the child from its parents in cases where there are grounds for it and in cases of domestic violence. The court may limit the child's right to maintain a personal relationship with the parent that the child does not live with if it is in the best interest of the child, if there are reasons to deprive this parent of parental rights either fully or partly, or in cases of domestic violence. According to the Family Code, the court can also impose one or more protective measures against domestic violence and order new measures, if they are necessary to assure the safety of the victim and their children. This can also include ordering contact to occur in the centers for social work, under the supervision of professionals, where the victim's safety demands there be no contact between her and the perpetrator. However, the Family Code does not specify whether domestic violence in this context includes violence against a child or if it is confined to violence against an adult.⁴⁵

In practice, courts rely heavily on assessments provided by the centers for social work in order to make such decisions and rarely seek to investigate violence themselves. Where centers for social work advise against contact, contact can still be ordered by the courts despite their recommendations against it. Both supervised and unsupervised contact is often the outcome in

⁴² Ibid, p.183.

⁴³ Ibid, p.180.

⁴⁴ Ibid, p.181.

⁴⁵ GREVIO Baseline Evaluation Report on Serbia (January, 2020). Available at: <https://www.coe.int/en/web/istanbul-convention/-/grevio-publishes-its-first-baseline-report-on-serbia>.

cases involving violence, because forms of abuse such as coercive control and its continuation through child contact regulations go unrecognized by social workers and/or judges. Although supervised visitation exists as a temporary measure and should be used in cases involving violence, it has been ordered only in a limited number of cases. By contrast, the ability to withdraw parental rights in such cases seems to be rarely used, if ever. This suggests a worrying lack of understanding among key professionals as to the dynamics of domestic violence and the impact upon children. Equally alarming is the practice of removing children from their mothers' care in cases of domestic violence. According to the authorities, this has only been done in exceptional circumstances where mothers were deemed to be lacking parental ability, or where safe accommodation was only available for mothers and the children were thus temporarily placed in foster care.⁴⁶

Similar to North Macedonia, Serbia is currently preparing a new Family Law that aims to incorporate the concept of shared parental custody. Women's rights activists will advocate that shared parental custody should not be the rebuttable presumption when a marriage ends. Currently, Serbian Family Law recognizes shared parental rights, which are jointly agreed upon by the parents. If the parents do not live together, they draft an agreement regarding the exercise of parental rights, which must be approved by the court as long as it does not contradict the best interests of the child. In this case, it is expected that the court will examine what occurred prior to the divorce, specifically whether there was any violence, to determine the best interest of the child.

What happens in Serbia is that parents first submit their plan to the center for social work, which, without much scrutiny, confirms that the agreement is in the best interest of the child. It is also common for the victims of violence to reach such agreements to avoid a legal dispute over child custody. According to the interviewed participants, the problem that arises is the lack of guidelines on what should be included in that agreement—specifically, whether it addresses the essence of the parental relationship or merely the child's living arrangements, such as whether the child will live with one parent, for example.

There are agreements that stipulate that the child will live with the mother, or in an arrangement with both the mother and father, or with the mother for seven days and then two weeks with the father, or with the mother from Monday to Thursday, and with the father from Thursday to Monday. However, all of this means that the parents need to constantly negotiate, which means that they should be flexible, well-meaning, respectful towards each other and not manipulative. This essentially involves everything that is non-existent in cases of violence. When a woman divorces her husband, she does so because she wants the violence to stop. It is very likely that if the father was violent during the marriage, he will start to control the mother through the children and continue the violence against both her and the children.

Similar to Croatia, in practice, centers for social work and courts completely ignore domestic violence unless children are direct victims. Even when children were direct victims but the violence did not involve severe physical violence or proven sexual violence, it is expected that after a certain period of supervision, the children will have more unrestricted contact with the abusive father. The problem is that the court does not take into account the violence and the possibility of the violent partner, who is prone to controlling behavior, to manipulate the children after the divorce and to use them as a tool for harassment.

Another problem arises when the party that doesn't want shared parental custody has to prove that it is in the best interest of the child. This shifts the burden of proof onto all victims of violence to demonstrate that they are victims and that the violence that occurs is harmful to their children. In cases where the victim couldn't prove psychological abuse, which is very difficult, the court has the right to grant custody to the other parent who proposed shared

⁴⁶ Ibid, p.167 – 171.

parental custody. Thus, the court grants sole custody to the abusive parent. Only 9% of women report their partner for violence while they are living together, and 5% only after they have separated or stopped living together, which confirms that, in fact, the violence hasn't stopped. One in four women experiences violence after divorce or leaving their partner. ⁴⁷



⁴⁷ OSCE OSCE-led Survey on Violence Against Women: Serbia (2019). Available at: <https://www.osce.org/secretariat/419750>.

CONCLUDING OBSERVATIONS

In an ideal world, shared parental custody would be the preferred solution because it ensures that both parents are directly involved in the care of their children. However, this is often not the reality in many divorce cases, where custody disputes arise in conditions of significantly strained relations. The actual circumstances for many mothers and fathers are characterized by high levels of disagreements, making it difficult for them to resolve their conflicts without resorting to legal battles. Children are often caught in the middle of accusations and resentment, or face aggression from one parent, while the other is trying to remain reasonable. Divorce rarely ends the relationship between former partners when children are involved, but available data show that violence can continue through the strategic use of parenting.

One thing is clear, shared parental custody should not be granted in cases of violence. The constant stress affects both the child and the parent who is the victim, and effectively reducing conflict is often unachievable. To protect the rights and safety of victims, contact with the abusive parent should not be allowed, or, at the very least, it should be strictly limited. As long as there is a risk of violence against the mother and/or the child, or as long as intense psychological stress persists, the child should not have contact with the abuser, even under supervision. The minimum the abusive parent can do is refrain from violence and take part in counselling or social training before any contact is considered, provided that no further risk of violence is identified. The importance of contact should not be overestimated, especially in cases of violence, and the needs of the children for care should take priority. Furthermore, when domestic violence exists, the situation requires more than a simple court decision. Institutional support must be comprehensive, offering children both legal information and psychological support. Courts should not force children to maintain contact with a parent against their will without understanding the reasons behind their refusal. Although the best interest of the child is a principle held in the highest regard in numerous international standards, the most important one being the Convention on the Rights of the Child, it seems that in our domestic court practice, as well as in other countries in the region, courts often place the rights of the parents above the rights of the child.

It is crucial to recognize that formal equality in family law may not take into account the different experiences of women, men and children during separation. Moreover, it fails to acknowledge that violence against women is a manifestation of historically unequal power relations between women and men, which have led to male domination and discrimination against women, hindering their full advancement.

RECOMMENDATIONS

- A broad expert debate should be conducted at the national level, involving all societal actors, to reach a social consensus before introducing such an amendment to the Civil Code regarding parental rights and responsibilities;
- Before introducing any provision, a broad comparative analysis should be conducted to examine the practices of other countries that result from the implementation of shared parental custody;
- Shared parental custody should in no case be the rebuttable presumption for exercising parental rights in the new Civil Code; it should be an option that parents can agree on;
- A detailed definition of shared parental custody in all its aspects should be provided, with a special focus on and explicit mention of *the best interest of the child* in the text of the Law;
- *The best interest of the child* should be specified through legal provisions in such a way that the competent authorities conduct a continuous assessment in each individual case. It should be explicitly stipulated that the assessment of the best interest of the child would involve taking into consideration the child's individual views and needs, taking into account their age, sex, personal and family background, family environment and personal relations, the risks they face, their well-being, social surroundings they are exposed to, educational and healthcare needs, as well as their needs arising from their development and transition into adulthood and other individual needs of the child;
- The new legal solution should explicitly stipulate that cases of violence will be taken into account by the competent authorities and courts in custody proceedings, including violence by one parent against the other where the child is a victim due to having witnessed the violence;
- The new legal solution should specifically stipulate that the concept of *shared parental custody* cannot be applied in cases of gender-based violence and domestic violence, regardless of whether criminal proceedings are being conducted against the perpetrator;
- Risk assessment and risk management procedures should be established in situations of determining custody and visitations, in order to limit these rights when necessary to ensure the safety of the mother and the best interest of the child, with mandatory completion of appropriate forms containing risk markers;
- The cooperation of all relevant bodies should be improved, including but not limited to health and education authorities and specialized support services for women, to ensure that every report of violence is appropriately handled;
- An expert body should be established, following the example of Austria, composed of psychologists, sociologists, educators, pediatricians and special education experts to assist courts in comprehensively examining issues in custody proceedings.

BIBLIOGRAPHY

- European Commission, the Best Interest of the Child (BIC). Available at https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/best-interests-child-bic_en
- UN, Convention on the Rights of the Child (CRC). Adopted by the UN General Assembly on 20 November 1989, entered into force in September 1990.
- Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (May, 2011).
- Law on the Ratification of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (December 2017). Official Gazette of the Republic of Macedonia No.198/2017.
- Family Law (Official Gazette of the Republic of Macedonia no. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 and 150/15 and Official Gazette of the Republic of Macedonia no. 53/21 and 199/23).
- Fokus, The Parents' Association is Advocating for Shared Parental Custody after Divorce. (March, 2024). Available at: <https://fokus.mk/zdruzhenieto-na-roditeli-bara-zaednichko-roditelstvo-po-razvod/>
- Thiara R. and Harrison C., "Safe not sorry: Key issues raised by research on child contact and domestic violence" (2016).
- OSCE. OSCE-led Survey on Violence Against Women: North Macedonia - Results Report (May, 2019). Available at: <https://www.osce.org/secretariat/419264>.
- Law on Prevention and Protection from Violence against Women and Domestic Violence (Official Gazette no.24/2021 of 29.01.2021).
- GREVIO - Baseline Evaluation Report North Macedonia (September, 2023). Available at: <https://rm.coe.int/baseline-evaluation-report-on-north-macedonia/1680ac76ab>
- United Nations Special Rapporteur on violence against women and girls, Custody report (2023) Available at: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5336-custody-violence-against-women-and-violence-against-children>
- European Women's Lobby Towards a Europe Free from Male Violence Against Women and Girls' Recommendations from the European Women's Lobby to end violence against women and girls in Europe once and for all (2020). Available at: <https://www.womenlobby.org/Towards-a-Europe-free-from-male-violence-against-women-and-girls>.
- Women Against Violence Europe – WAVE. Safety as the best interest of the child - Toolkit for victim-friendly judicial practice in child custody, contact and visitation matters (2023). Available at: https://wave-network.org/wp-content/uploads/WAVE_ToolkitChild_EN_231208_web.pdf.
- Austrian Civil Code. Available at: https://www.trans-lex.org/602100/_/austrian-civil-code/.
- GREVIO's baseline evaluation report on Austria (2017). Available at: <https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619>.

- Civil Code of Spain. Available at:
[https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Spanish_Civil_Code_\(Codigo_Civil_Espanol\).PDF](https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Spanish_Civil_Code_(Codigo_Civil_Espanol).PDF).
- Jabbaz Ch, Marcela Custody and Care of Children in Spain: Can the Two Rights be Reconciled? (2021). Available at: <https://link.springer.com/article/10.1007/s10691-021-09466-2>.
- Decision 495/2013 of the Supreme Court of Spain. Available at:
https://bj.scjn.gob.mx/doc/sentencias_pub/ozEF3nqB_UqKst8o_n4J/%22Historia%20de%20M%C3%A9xico%22
- Family Law of the Republic of Croatia (Obiteljski zakon pročišćeni tekst NN 103/15, 98/19, 47/20, 49/23, 156/23), in effect from 31.12.2023. Available at: <https://www.zakon.hr/z/88/Obiteljski-zakon>.
- GREVIO Baseline Evaluation Report, Croatia (September, 2023). Available at:
<https://rm.coe.int/baseline-evaluation-report-on-croatia/1680ac76c9>.
- GREVIO Baseline Evaluation Report on Serbia (January, 2020). Available at:
<https://www.coe.int/en/web/istanbul-convention/-/grevio-publishes-its-first-baseline-report-on-serbia>.
- OSCE OSCE-led Survey on Violence Against Women: Serbia (2019). Available at:
<https://www.osce.org/secretariat/419750>.
- Guardian. Almost 30% spike in rate of Australian women killed by intimate partner last year, data shows (2024). Available at: <https://www.theguardian.com/australia-news/2024/apr/29/30-spike-in-rate-of-australian-women-killed-by-intimate-partner-last-year-data-shows>.
- Guardian. What are Australia's family law reforms, and how will they help women and children fleeing violence? (2024) Available at:
<https://www.theguardian.com/commentisfree/article/2024/may/06/australia-family-law-act-reforms-children-fleeing-violence>.
- Australian Government. Australian Institute of Family Studies. Evaluation of the 2006 family law reforms (2009). Available at: https://aifs.gov.au/sites/default/files/publication-documents/evaluationreport_0.pdf

ANNEX 1 – INTERVIEW QUESTIONNAIRE

Introductory question:

1. Can you please tell me more about your work and field of expertise, and more precisely how your work relates to the concept of shared parental custody?

Legislation on shared legal custody, its implementation and impact:

2. Does your country have shared parental custody policies implemented through legal standards and laws?

If yes,

3. What are the outcomes of these policies, and can you provide any supporting evidence (such as reports, media coverage, or anecdotal examples)?

4. Can you give as a short history of the development and reasoning behind legislating this concept?

5. What are the main challenges and problems you have encountered with the implementation of shared parental custody, if any?

6. How do you perceive the impact of shared parental custody on children and parents in your country?

7. Can you share any specific stories or examples that highlight the positive or negative impacts of shared parental custody?

If no,

8. In your opinion is such policy making needed and why?

Good practices and recommendations:

9. Can you identify any good practices related to shared parental custody that you have observed or implemented, and if so, could you briefly describe some?

10. Based on your experience, what do you believe would be the best possible legal solution for implementing shared parental custody?

11. What recommendations would you make to policymakers who are considering to legislate shared parental custody?

