

Joint Physical Custody: Lessons from the European Union

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Abstract : When thinking about custodial arrangements after divorce or separation, there has been a shift from sole custody, particularly maternal preference, to joint physical custody. In many Western countries, an increasing of children with separated parents have joint physical custody, which is believed to be in the best interests of the child, as children can maintain personal relations and direct contact with both parents on a regular basis. The aim of the article is to examine joint physical custody, both from the perspective of the binding legal instruments that are relevant to joint physical custody, the Principles of European Family Law drafted by the CEFL, as well as the international research on this matter. The thesis underlying this paper is that joint physical custody is in itself neither good nor bad, and it depends on how the arrangements are managed by the parents. The paper includes a reflection on joint physical custody in the face of the COVID-19 crisis. The results indicate that in normal circumstances, joint physical custody demands broad communication, and now it times of crisis, we need over-communication about children and plans. Only a very tight and coordinated co-parenting plan make the whole family safer.

Keywords : joint physical custody, co-parenting, child welfare, COVID-19

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