THE DEVELOPMENT OF "SHARED CUSTODY" IN SPAIN AND SOUTHERN EUROPE

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"SHARED CUSTODY": EXPRESSIONS AND MEANINGS

Given the differences in the practice of "shared custody" in the family law of different countries (Spain, Portugal, Italy and France, on the one hand, and Anglo-Saxon countries on the other) it is necessary to clarify the meaning of the term and other related terms.

In Southern European countries, the tendency of the most recent legal reforms and judicial decisions has been towards establishing that the periods of time that children spend living with each of the parents after separation or divorce should be as equal as possible. More specifically, *Resolution 2079 (2015) of the Council of Europe* "Equality and shared parental responsibility" states in paragraph 5 that the Assembly calls on member states to "introduce into their laws the principle of shared residence following a separation, limiting any exceptions to cases of child abuse or neglect, or domestic violence, with the amount of time for which the child lives with each parent being adjusted according to the child's needs and interest".

Once shared custody of the children has been decided, the functions which constitute parental responsibility correspond to both parents who will continue to share the titularity (ownership) and exercise of parental responsibility unless a court has suspended it or taken it away permanently.

This section addresses principally Spanish Family Law but also deals with the characteristics it shares with Italian, Portuguese and French Law, together with the differences, particularly in relation to the meaning of "shared custody" and related terms.

The expression "shared custody" in Spanish Law can be defined in general terms as the way of exercising parental responsibility after partnership breakdown under which the parents actively and equally participate in the personal attention and care of their

children, in proportion to their personal circumstances (which may include employment, income, health, and so on). This also applies to the material needs of the children. As regards living arrangements, the children can live alternately with each parent for periods of time agreed between themselves or decided by the court[1].

The separation or divorce of the parents does not deprive them of their obligations towards their children. This includes the payment of "alimentos"[2], a concept in Spanish Law obliging parents to provide for their children in terms of clothing, food, education and due care and attention. The court decides the contribution of each parent in this respect. It is highly advisable for the parents to reach an agreement about the ordinary daily expenses and also other expenses (e.g. medical care) which may otherwise become a source of conflict or dispute between them.

In the national law (the Civil Code) and regional laws covering shared custody, priority is given to the divorce or separation agreements reached between parents. These agreements must include parental planning, setting out the financial contribution each parent must make to the children. If there is no agreement, the criteria followed by the court will be the proportionality of each parent's contribution in relation to their income[3].

Under shared custody arrangements, each parent is responsible for the ordinary daily expenses of the children when he or she is living with them. The extraordinary expenses are paid in equal parts provided that the financial situation of both parents is similar. If this is not the case, the contribution of each parent must be proportional to his or her resources in relation to both the ordinary and the extraordinary expenses[4].

The Spanish Supreme Court has noted that if one of the parents is unemployed and has a minimal income, if any, then the other parent is obliged to pay the expenses of the children (Art. 146 of the *Spanish Code of Civil Law*). In a recent case, a father appealed to the Supreme Court on the grounds that shared custody did not oblige him to pay the whole cost of caring for the children merely because the mother did not have a job. The Supreme Court ruled that shared custody does not relieve a parent from the obligation of paying for the care of the children if the other parent does not have a salary or other resources. In any case, the situation of the children cannot depend on the mother being able to find work (FJº 4, STS 55/2016, 11th February).

In general terms, the Italian Law (Law 54/2006) establishes the joint exercise of parental responsibility by the parents after divorce or separation. The parents should cooperate together in the upbringing and care of their children, and also make joint decisions about the most important aspects of the children's lives (within the framework of co-parenting –co*cogenitorialità*-)[5].

If there is disagreement between the parents about the exercise of parental responsibility, the court makes the decision in the best interest of the child. Then the court also guarantees the rights of the children to maintain contact with both parents (the child has the right to *bigenitorialità*)[6].

Specifically, in Italian Law, the concept of "affidamento" regulates, in general terms, the exercise of parental responsibility over the children after the separation of the parents. Unlike Spanish Law, the decision about the residence of the children with each parent is made by the court at a later stage. First, custody is granted, usually "affidamento condiviso" (shared custody) to both parents. Second, the judge decides the time that the child will live with each parent, which may vary, and the arrangements for contact with the other parent. Shared custody does not imply that the children will live with each parent for a similar period of time. In Italian Law, the concept of "collocazione" (placement) identifies the parent with whom the children will live for longer periods of time (art. art. 337 ter. 2 of the *Italian Code of Civile Law*). [7]

Under *affidamento condiviso*, the most important decisions regarding the child are taken jointly by both parents (art. 337 ter. 3). However, the court may decide that for ordinary day-to-day decisions the parents will exercise their parental responsibility separately (art. 337.ter 3).

Both legislation and jurisprudence state that the parents should agree a common approach to the education and upbringing of their children, but on that basis each parent can act separately provided that they do not deviate from the jointly agreed arrangements. However, this does not exclude regular reciprocal consultations between both parents.

To summarize, under *affidamento condiviso* the most important decisions regarding the children must be decided jointly by both parents. Other decisions can be made by the parent with whom the children are living at the time, but always informing and

consulting with the other parent and without departing from the general arrangements agreed between the parties.

As in Spain, under *affidamento condiviso* priority is given to the separation agreement between the parents as regards the financial contribution to the ordinary and extraordinary expenses of maintaining the children. If there is no agreement, the court will decide that each parent should pay in proportion to their income (*art. 337 ter 5 del Code Civile italiano*). More specifically, one important criterion courts take into account to determine the contribution of each parent is the period of time that the children will spend with the parent. The parent who has the principal residence (*collocazione*) has to pay the day-to day expenses[8].

The *Portuguese Divorce Law* (Law 61/2008) suppressed the concept of "paternal" responsibility and replaced it with that of "parental" responsibility. The Portuguese Law subsequently established joint parental responsibility (art. 1906.1 *Portuguese Civil Law*). "Shared parental responsibility" has become the rule and "sole parental responsibility" the exception. Then, shared parental responsibility can only be excluded by the decision of the court. In cases of separation or divorce of the parents, the law establishes that the children should have one resident parent and keep a close relationship with both parents, who together should make the major decisions about their upbringing. Shared custody (joint physical custody) does not figure in the law as an explicit option[9].

Specifically, the joint exercise of parental responsibility involves the parents deciding together about the main issues in the lives of their children and about the main residence where the children will live. In this context, for the terms "joint custody" and "alternating custody" are not synonymous with "joint exercise of parental responsibility"[10]. For this reason, it is not correct to use them indiscriminately[11].

Portuguese law, therefore, establishes the joint exercise of parental responsibility for important issues in the lives of their children after divorce (e.g. education, religion, surgical operations, moving to another city (art. 1906.1 of the Portuguese Civil Code). At the same time, it establishes that the children will live mainly with one of the parents (main residence) while the other parent will have visiting rights in the traditional manner.

According to Oliveira, this shows that Portuguese law has not established that the time spent with each of the parents should be more or less the same[12]

To summarise, the Portuguese Law 61/2008 replaces the concept of "custody" in the previous law with the more neutral term "residence" (art. 1906. 3 of the Portuguese Civil Code) to move away from the previous system of "sole custody" and avoid its associated connotations (custody generally having been granted to the mother)[13].

Deciding the residence of the child with one of the parents not only means that the child will live mainly with that parent. It also means that the parent in question will be responsible for the day-to-day care during the time the child is living with him or her.

The French law uses the term "l'autorité parentale" which is similar to the Spanish concept of "patria potestad", which is essentially parental responsibility. This includes the rights and responsibilities of the parents to protect and provide for their children and to educate them ((art. 371-1 of the *French Civil Code*), exercised jointly by both parents, in accordance with the principle of equality between parents. The term "coparentalité" included in the Law nº 2002-305 means that the two parents exercise the functions of parental authority jointly both when they are together (in a marriage, a "pacto civil de solidarité", or as a cohabitating couple) and after divorce or separation of the parents[14]. According to this principle of coparentalité, the separation or divorce of the parents has no effect on the exercise of parental responsibility (art. 373-2 of the *French Civil Code*). Therefore, after separation or divorce, the parents have to take decisions jointly about their children (including surgical interventions, religion, hospitalization, etc.). Both parents also have the right to decide on the education of their children[15].

As regards residence in France, the term "residencé alternée" (similar to shared custody) is based on the idea that the children have a residence with each of their parents, after divorce or separation (art. 373-2-9 of the *French Civil Code*). The period of time spent with each parent is not necessarily the same. However, the courts have tended to decide that children should spend equal periods of time with each parent, depending on the interest of the child[16]. Despite this tendency, there are often differences in these alternating residence times depending on the age and the development of the children[17].

The legal reforms relating to the "residence alternée" (2002, 2005) retain the obligation of the parents to provide "alimentos" for the children after divorce or separation[18], which includes maintenance and education (art. 373-2-2 *French Civil Code*), similar to the arrangements in Spain. This must be included in the agreement of

the parents after separation which, if the parents so wish, may be ratified by the court (art. 372-2-7 of the French Civil Code).

Having explained the main features and the terminology relating to shared custody in Spain and in southern Europe, the following section addresses the various types of shared custody and their development at both a legislative and judicial level in recent years.

THE DEVELOPMENT OF "SHARED CUSTODY" IN SPAIN AND SOUTHERN EUROPE

In Spain, the issue of shared custody being ordered by the courts when there is no agreement between the parents continues to be the subject of debate. In fact, there are even significant differences between the national state law (Law15/2005) and the laws of five of the country's autonomous regions, Catalonia, Aragon, Valencia, Navarre and Basque Country.

The national law 15/2005 states that, exceptionally, in cases of contested separation or divorce, the court may order shared custody at the request of only one of the parents provided that this is in the best interests of the child (art. 92.8 of the *Spanish Civil Code*).

Aragón was the first Autonomous Region to establish the legal preference of shared custody by order of the court even if there is no agreement between the parents and even if neither parent has applied to the court for custody (art. 80.2, Law 2/2010; STC 192/2016, 16th November).

This *Aragonese Law* (2/2010) was amended after considerable argument in the Regional Parliament and controversy among professionals and the public in general. The legal preference for shared custody in the absence of an agreement between the parents was replaced by a provision in the Law (6/2019) giving the court the competence to decide the kind of custody in accordance with the best interest of the child and certain legal criteria. These criteria include: the age of the children, the opinion of the children, the attitude of the parents towards ensuring the stability of their children, the possibilities of combining family life with the work of the parents, and the

past contribution of each parent to the care of their children during the period of living together (the latter criterion was the most controversial).

The *Catalan Civil Code* and the *Basque Law* (7/2015) provide for shared custody in the absence of an agreement between the parents as the priority position, but not as a legal requirement as stated in the previous *Aragonese Law* (2/2010) [19]. Article 233-10.2 of the Ca*talan Civil Code* states that in the absence of a parental agreement the court should decide on the type of custody of the children as far as possible with joint parental responsibility. However, the court is able to award sole custody if this is in the best interest of the child.

The *Basque Law* (7/2015) also considers shared custody as the most appropriate arrangement but it must be requested by at least one of the parents and the court must be satisfied that it is not prejudicial to the best interest of the child (art. 9.3).

In Navarre, the previous Law (3/2011) and the new Law (21/2019) about custody after the divorce or separation of the parents follow the current Aragonese system of shared custody (Law 6/2019): in the absence of a parental agreement, the court decides taking into consideration the best interest of the child.

At the national level, a Green Paper was presented in the Spanish Parliament in 2014 for the reform of the Civil Law in relation to parental co-responsibility after divorce or separation[20]. To date, this has yet to become a bill. The Green Paper does not propose a legal preference for shared custody when there is no agreement between the parents. In this case, the court is free to decide whether to award shared or sole custody depending on the best interest of the child and following certain legal criteria[21]. Therefore, the court could decide on shared custody even if neither of the parents have applied for it, provided that this is in the best interest of the child (art. 92 bis).

In the last six years, Spanish jurisprudence has produced a significant change in relation to shared custody[22]. There has been an increasing tendency in favor of shared custody. The Supreme Court has stated repeatedly that shared custody should be the norm, and not an exception, on be grounds that it preserves the right of the children to maintain relations with both parents, wherever possible from the point of view of the best interest of the child. Specifically, the court has stated, in a sentence in July 2014, that shared custody is the arrangement closest to the family life before the divorce or separation, and which guarantees that the parents can continue exercising their parental

rights and obligations and participate on equal terms in the upbringing of their children, all of which would be beneficial for the children (STS 29th April 2013, STS 2nd July 2014).

Furthermore, the Supreme Court has referred sometimes to the "objective goodness" of shared custody, for example in the following sentences: STS 17th November 2015; STS 3rd May 2016, STS 17th February 2017, STS 22nd September 2017.

However, the Supreme Court has also pointed out that the main objective of shared custody is not to protect the principle of equality between the parents, but to ensure the best interest of the child in the most effective way possible. This is not to say that the interest of the parents should not be taken into account, but that it carries less weight than the best interest of the child. (STS 7th March 2017).

Almost all the Supreme Court decisions since 2015 (STS 15th October) have awarded shared custody. In some cases, it has been argued that this is not an exceptional measure and is applied in the absence of negative circumstances in relation to the best interest of the child ((STS 194/2016, 29th March, STS 51/2016, 11th February and STS 369/2016, 3rd June, STS 133/2016, 4th March).

Moreover, the Supreme Court has also stated (STS 51/2016, 11th February) that awarding shared custody does not necessarily require a perfect agreement between the parents. A reasonable attitude of the parents towards the upbringing of their children and towards dialogue is sufficient. In this case, the Supreme Court adopts the concept of the best interest of children defined in the Organic Law 8/2015 of 22nd July, on the Protection of Children. According to this Law, the best interest of the children requires maintaining their family relationships, satisfying their basic needs, both in material, physical and educational terms and in emotional and affective terms. In any case, we have to ensure that "the measure adopted in the best interest of the child must not restrict or limit more rights than it gives" (referring to the rights of the parents) (STS 51/2016, 11th February, FJ 3º; STS 680/2015, 26th November, FJ 2º).

Since 2017, the decisions of the Supreme Court have not considered the previous behaviour of the parents towards their children as a determining factor for not granting shared custody. That is to say, unless one of the parents has not spent time with the child nor been concerned with the child before the separation or divorce, shared custody

should be granted. Also, a poor relationship between the parents is not in itself a reason for the courts to refuse shared custody, unless the relationship is extremely bad[23].

During the last 15 years, the situation in Spain has changed from one in which the courts almost automatically granted sole custody to the mother with contact and visiting rights for the father to the current situation in which shared custody is the norm. This has been a gradual change since 2008 and 2009 with a marked increase from 2013 and 2014 until today.

Although shared custody has generally become accepted in the last decade as the norm by the courts and by society in general, and above all in the north-eastern regions of the country[24], a few studies suggest that this is not in fact the case. For example, recent research carried out by the ATYME Foundation about shared custody "imposed" by the courts in the absence of an agreement between the parents, in Madrid, Aragón and Málaga, concludes that despite the legal reforms and the recent Supreme Court decisions, shared custody continues to be granted in a minority of cases, whether or not there is an agreement between the parents. However, the same study adds that in Catalonia, the Basque Country and the Balearic Islands, each year the number of court decisions "imposing" shared custody is increasing[25].

In general terms, there is a similar tendency in southern European countries towards granting shared custody as opposed to sole custody in judicial practice, especially in France and Italy, and towards making sure both parents spend equal time with their children after separation or divorce.

In France, the controversy about *résidence alternée* continues among journalists, jurists, psychologists, psychiatrists and educators. Many meetings and publications have discussed this question with arguments both for and against[26]. For example, *Le libre Blanch de la résidence alternée* (2014) appeared as a response to the *Livre Noir de la garde alternée* (2006). In Hachet's opinion, committed professionals are trying to clarify the issue of résidence alternée and inform politicians about what the best solution is in cases of separation or divorce[27]. These experts, basing their arguments on clinical and scientific studies together with their professional experience, feel qualified to judge what is the best arrangement for children after their parents' relationship breakdown. They have been criticized by Hachet for reducing the issue of résidence alternée to a psychological problem of childhood.

As we have seen, since 2002 (Law nº 2002-305), when there is no agreement between the parents, the courts in France can award résidence alternée provisionally. After this provisional trial period, the court makes a definitive decision on alternating residence with both parents or with only one of them[28].

If there is no agreement between the parents about résidence alternée, the courts are reticent about "imposing" it. However, in general terms there has been an increase in approving résidence alternée in judicial decisions[29].

When courts reject résidence alternée, the decision is mainly based on the best interest of the child. Other reasons may include: a bad relationship between the parents, the age of the child, long distances between the parents' homes, or the availability of one of the parents to take care of the child.

In cases of résidence alternée, the periods of time spent by the child with each parent vary depending on the age and development of the children[30]. The courts have tended to decide that the children should spend equal periods of time with each parent, depending on the best interest of the child[31].

In Italy, the courts require the parents to agree on the education and upbringing of their children as a condition for awarding shared custody, but without regard to the level of conflict in the relationship between them unless it is demonstrated that the degree of conflict puts the best interest of the children at risk[32].

During 2019 there has been a fierce controversy in the media and among professionals about two bills modifying the "affidamento condiviso" and there have been calls for the two bills to be withdrawn. The first Bill (DDL nº 735, 1st August 2018) aims to increase the "affidamento condiviso" in judicial practice, while the "Pillon Bill" (DDL nº 768, 7th August 2018) would make it a legal requirement that the children spend the same periods of time with each parent after separation or divorce ("bigenitorialità perfetta", art. 11).

In Portugal, there is no consensus among judges as to whether shared custody (physical joint custody) is beneficial for children or even if it is consistent with existing law ((Law 61/2008). Consequently, the courts continue to apply the traditional arrangement by which the child resides mainly with the mother while the father has contact and visiting rights[33].

According to Marinho "In Portuguese society the father increasingly participates in the upbringing of the children, and there is a growing tendency for the children to spend more similar times with both parents after separation or divorce"[34]. This emphasizes the contradictory situation in which the traditional arrangements about parental roles after separation or divorce continue to coexist with the new arrangements.

Recent scientific studies[35] which support the idea of "alternating residence" with each parent being the arrangement which best satisfies the needs of the child and which best guarantees equality between the parents form the basis of the Bill nº 1182/XIII/4ª, 22nd March 2019, which gives preference to this model. The court should give preference to alternating residence whether or not there is an agreement between the parents, provided that it is in the best interest of the child. This bill has been criticized by the *Associaçao Portuguesa de Mulheres Juristas*[36] who consider that imposing whatever custody arrangement without considering the wishes of the parents is an anachronism and represents a backward step in the recognition of the rights of the child. Moreover, this association considers that the promotion of gender equality and insistence on equal periods of time spent by children with both parents from a perspective of "absolute egalitarianism" poses a risk of "objectifying" children, limiting their unquestionable right to express themselves.

CONCLUSION

This chapter addresses the various terms and meanings relating to the shared custody of children after the parents' separation or divorce, and other terms such as parental responsibility (patria potestad, l'autorité parentale, etc.), in Spain and other southern European countries (France, Italy and Portugal).

The development of shared custody in these countries has also been discussed, in particular the case of Spain, together with the points of view of experts, professionals, researchers and politicians. The controversy continues between those in favour and those against shared custody as a preferential option by law whether or not there is an agreement between the parents. This arrangement is not specified in the Spanish Civil Code, the laws of some Autonomous Regions or in the Portuguese law, although many professionals and researchers consider that it should be while others are against it. The

French and Italian laws include this provision but some experts and politicians consider that it is not comprehensively applied by the courts and the law should be tightened up in this respect. Others are strongly against this proposal.

In Spain, France and Italy there is a gradual tendency of the courts to establish that children should spend equal periods of time with each parent after separation or divorce, if the children are not very young.

While it is true that the application of shared custody has significantly increased, several research studies report that sole custody with the mother and contact and visits by the father remains the most common arrangement. In any case, judges make their decisions case by case depending on what they consider to be the best interests of the children.

The difficulty is whether it is really advisable that the courts award shared custody when neither parent applies or wants it, even rejects it.

NOTES

[1] P. Ortuño Muñoz, *El nuevo régimen jurídico de la crisis matrimonial*, Madrid: Civitas, 2006: 60

[2] "Alimentos" is understood to mean "everything which is indispensable for sustenance, nutrition, clothing and medical attention". It also includes "education and instruction" (art. 142 of the *Code of Civil Law*).

[3] J. Martínez Calvo, "El 'affidamento' y la 'collocazione' en el Derecho Italiano: una visión comparada con la guarda y custodia española", en *Revista de Derecho de Familia* (2018) nº 78. [Electronic version: https://pjenlinea3.poder-judicial.go.cr/biblioteca/uploads/Archivos/Articulo/El%20affidamento.PDF. Last access September 2019].

[4] A-M Pérez Vallejo and M. B. Sainz-Cantero, *Protección de la Infancia y marco jurídico de la coparentalidad tras la crisis familiar,* Valencia: Tirant lo Blanch, 2018: 164.

[5] A. Costanzo, "I rapporti personali tra genitori e figli nella prospettiva giurisprudenziale", in M. Sesta and A. Arceri, *L'affidamento dei figli nella crisi della famiglia*, Torino: Wolters Kluwer Italia, 2012: 499-500.

[6] M. Sesta, "La nuova disciplina dell'affidamento dei figli nei processi di separazione, divorzio, annullamento matrimoniale e nel procedimento riguardante I figli nati fuori del matrimonio", in M. Sesta and A. Arceri, *L'affidamento dei figli nella crisi della famiglia,* Torino: Wolters Kluwer Italia, 2012, p. 45; Costanzo, *op cit:* 517

[7] Constanzo, *op. cit.:* 533

[8] See Martínez Calvo, *op. cit.*

[9] S. Marinho, "Separate Mothering and Fathering: The plurality of Parenting within the framework of Postdivorce, Shared Parenting Norms", *Journal of Divorce & Remarriage* (2017) vol. 58: 293. This opinion is not shared by other authors: M. C. Sottomayor, *Regulaçâo das Responsabilidades Parentais nos Casos de Divórcio*, Coimbra: Almedina, 6ª ed., 2014: 305).

[10] M. C. Sottomayor, *Regulaçâo das Responsabilidades Parentais nos Casos de Divórcio*, Coimbra: Almedina, 6ª ed., 2014: 304-305. This is a controversial issue: Pinheiro (2013).

[11] Sottomayor states that "in Portuguese law we have "legal joint custody" without "physical joint custody". Sottomayor, op. cit.: 305).

[12] G. Oliveira, "A ´residência alternada`em Portugal, segundo a Lei nº61/2008, in S. Marinho and S. V. Correia, *Una familia parental, duas casas*, Lisboa: Silabo, 2017: 157.

[13] This is also open to debate: Oliveira, op. cit., and Marinho, op cit.

[14] V. Égéa, *Droit de la famille,* Paris: LexisNexis, 2nd ed. 2018: 596-8.

[15] P. Courbe and A. Gouttenoire, *Droit de la famille,* 7h ed., Paris: Sirey, 2017: 500

[16] M. Juston, "La résidence alternée: un droit des parents subordonée à l'intéret de l'enfant", in G. Neyrand and Ch. Zaouche Gaudron, *Le Livre Blanc de la résidence alternée. Penser la complexité*, Toulouse: érès, 2014: 36.

[17] J. Dahan, "La résidence alternée: por qui, comment, quand?, ", in G. Neyrand and Ch. Zaouche Gaudron, *Le Livre Blanc de la résidence alternée. Penser la complexité,* Toulouse: érès, 2014: 59

[18] Courbe and Gouttenoire, *op. cit:* 542.

[19] I. Domíguez Oliveros, *¿Custodia compartida preferente o interés del menor*?, Valencia: Tirant lo Blanch, 2018: 176

[20] Spanish Ministery of Justice, Green Paper on the reform of the Civil Code in relation to the exercise of co-parental responsibility in cases of annulment, separation or divorce (2014) electronic version :http://www.juecesdemocracia.es/LegislacionActual/Anteproyecto%20de%20Ley%20Custodia%20Compartida%20CM%2019-7-13.pdf

[21] Domínguez Oliveros, *op. cit.:* 71

[22] *Ibidem:* 74, 110

[23] B. Casado Casado, "Custodia compartida y corresponsabilidad parental. Evolución, valoraciones sobre el cambio de tendencia jurisprudencial", *Diario La Ley,* Nº 9177, Sección Dossier, 13 de Abril de 2018, Wolters Kluwer, Electronic document: https://diariolaley.laleynext.es/. Last Access: October 2019)

[24] L. Flaquer *et al.* "A igualdade de género, o bem-estar da criança e a residencia alternada em Espanha", in S. Marinho and S. V. Correia, *Una familia parental, duas casas*, Lisboa: Silabo, 2017: 101-102

[25] Fundación *ATYME, ¿Custodia compartida?* [Electronic document: https://diariolaley.laleynext.es/. https://atymediacion.es/sites/default/files/2019-04/Custodia%20Compartida%20Fundaci%C3%B3n%20ATYME.pdf Last access: September 2019]

[26] C. Bessière, E. Bilandm A. Fillod-Chabaud, "Résidence alternée: La justice face aux rapports sociaux de sexe et de clase", 2013. Electronic version: https://hal-amu.archives-ouvertes.fr/hal-01547142 [Last access: October 2019]; B. Hachet, "Résidence alternée. Pratiques polémiques et normes ambivalentes", in *Journal des anthropologues,* 2016:192.

[27] Hachet, *op. cit.:* 203-204

[28] Courbe and Gouttenoire op. cit.: 604

[29] Hachet, *op. cit.:* 205

[30] Dahan, *op. cit.:* 59

[31] Juston, *op. cit.*:36

[32] Martínez Calvo, op. cit.; Sest, op cit.: 46; Constanzo, op. cit.: 500

[33] S. Marinho and S. V. Correia, "Notas finais", in S. Marinho e S. V. Correia, *Una familia parental, duas casas*, Lisboa: Silabo, 2017: 255.

[34] S. Marinho, "Separate Mothering and Fathering: The plurality of Parenting within the framework of Postdivorce, Shared Parenting Norms", *Journal of Divorce & Remarriage* (2017) vol. 58: 293.

[35] S. Marinho & Correia, *op. cit.*, S. Marinho, *op. cit.*

[36] Parecer A.P.M.J.-Associação Portuguesa de Mulheres Juristas. [Electronic versión: https://www.apmj.pt/images/noticias/Parecer_APMJ_sobre_RRP.pdf . Last access: october 2019]