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**RESEARCH ARTICLE**

**Children's Residency in Divorce Disputes – Examination of Social Work Reports to the Court**

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## **Children's Residency in Divorce Disputes – Examination of Social Work Reports to the Court**

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### **Abstract**

The paper examines how children's residency is portrayed in the reports of social workers to courts in cases of contested divorce. In addition, light will be shed on how the descriptions contained in the reports pass into the court orders. The reports are approached through a micro-sociological lens: as assessment practices of social work which define children's residency and welfare. The results show that extensive and detailed descriptions of the physical residential situation of the child's mother and father were the most prevalent in the reports. People in the home and their interpersonal relationships together with the atmosphere of the home were also reported on. However, in the summaries of their reports the social workers place particular value on the cooperative parental relationships and stabilised circumstances of the child. Similar arguments were central in the judges' orders. The results raise questions of the appropriateness of the reports when settling the cases.

**Keywords:** child custody dispute; children's residency; well-being; social work reports to the court

## **Children's Residency in Divorce Disputes – Examination of Social Work Reports to the Court**

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### **Introduction**

In this article, we examine how children's residency is portrayed and used in reports based on home visits and compiled by Finnish municipal social workers (MSW) at the request of courts in cases of contested divorce (hereafter social work reports to the court). There is very little research in Finland or internationally on the practice of writing reports to the courts and on the relation of the reports to the judges' final orders. The social work reports to the court are statutory documents (Act on Child Custody and Right of Access 1983) and ultimately also based on the United Nations Convention on the Rights of the Child (UNCRC) (1989). In the context of these reports, an evaluation of a child's place of residence is one of the things decided together with custody and contact. Our study focuses particularly on an examination of the ways and meanings by which residency is 'worked out' in social work reports to the court. Focusing on residency is important, since it is argued that children's residency is emerging as a new battle ground for divorcing parents, with shared custody becoming more common (Beck & Beck-Gernsheim 1995). The study of the meanings of residency is part of our broader research project on children's (multi-local) residency and its links with social work (e.g., Forsberg, Autonen-Vaaraniemi & Kauko, 2016; Forsberg & Ritala-Koskinen 2017).

The social work reports to the court are part of a process of multi-professional divorce work, in which judges, psychologists, child psychiatrists and social workers each practise their professional expertise. In the Finnish context, the role of social work expertise in compiling the court reports has been viewed in varying ways. In the early 1980s, as the reports had newly been introduced, some legal experts understood social work to be a supporting agency with the task of clarifying certain limited issues as requested by the courts. In contrast, the social workers themselves considered it important to clarify the overall social circumstances of the family and the child instead of reporting on isolated facts. In a broader sense, they felt it to be important to take the child's best interest into account (Taskinen 2001, p. 4). Since then, the debate on the use of social work expertise in the court reports has continued. Mari Antikainen (2007, p. 137) challenges social work to create a stronger social scientific knowledge base for divorce-related social work, as well as relying on psychosocial professional expertise – since the service often also includes tasks defined as child welfare. In her opinion, the norm stressing the child's best interest is too vague and loose to serve as the theoretical framework of the activity. However, Ralf Sund (2005, p. 71) presents an interesting notion about the increased weight given to social work expertise: after municipal social services began to issue recommendations on how to settle conflicts related to children, courts have very rarely gone against them (see also Auvinen 2006, pp. 464–465).

For compiling the social work reports to the court there are scant instructions in Finnish social work, and there is even less research on how these reports are compiled or on the 'divorce social work' in general (with the exception of Auvinen 2006). The guide (Taskinen 2001) dealing with the child's best interest in a divorce situation (and other, related children's rights, such as consulting them about their views and wishes, as required by the UNCRC 1989) continues to be the most comprehensive set of instructions on the topic within Finnish social work. The guide also provides instructions for an assessment of a child's home

environment. It also stresses that when compiling a social work report to the court it is advisable to make home visits to the residences of both parents. (Ibid., pp. 28–32.) In addition, the electronic Handbook of Child Protection (2017) includes a set of simplified instructions on how to compile a social work report to the court in parental dispute cases. Local authorities are also likely to have in-house instructions and practices related to the compiling of social work reports to the court.

International research into reviews of the practise of social work reports to the court in cases of divorce is scant (exception: Cafcass 2012; Field, Jeffries, Rathus & Lynch 2016; James 1990; James et al. 1992; Weatherall & Duffy 2008). The assessment of and reporting on a child's social circumstances in the context of divorce are implemented by many different organizations and rely on varying professional practices, which makes it difficult to utilize international research data. As far as any studies can be found, they often repeat the observation that there is surprisingly little research into divorce-related social work and the assessment and reporting linked to it (e.g., James et al. 1992). Social work reports to the court are intersected by international research on the evaluation of custodial decisions in contested divorces (e.g., Lytle-Vieira 1987; Davidson-Arad & Cohen 2004; Luftman et al. 2005), but evaluation of social work practice regarding assessment of the residency issues is rarely addressed there.

### **Study of professional work practices as approach**

We approach the social work reports to the court as an assessment practice in social work that defines and constructs the assessment of children's place of residence. An inherent

element of the assessment practices is the use of home visits as a working method. What we are studying here are the work practices of professionals, and we are particularly interested in the meanings assigned to children's residency and welfare in these practices.

We approach the compilation of court reports as situational conventions implemented by social workers (Miller 1994; Dingwall & Strong 1997). This perspective on expert activity, drawing on ethnomethodology and social constructionism, focuses on concrete everyday work practices – in this case, on the activity of writing social work reports to the court (Taylor 2006). What gets written and how is important, because in divorce-related decisions concerning children the courts rely on information recorded in the social work reports (Auvinen 2006). The writing activity of social workers is naturally also constrained by legislation and guidelines on the reports (and the principles of the UNCRC) and based on professional knowledge, but we will focus on those as they are visible in actual social work reports. Understanding expertise in this way emphasises it as manifested through actual practices.

Home visits as a regular working method provide a special framework for the compilation of social work reports to the court. Meeting the clients in their everyday social environment and reporting on a social circumstances on that basis is an age-old method of social work (e.g., Frost et al. 2015, pp. 67–74). As a basis for custodial and residency decisions, the home visits also allow an eye witness view of the child's potential home environment. The method makes use of interviews with children and parents and first-hand observation of the home environment (Taskinen 2001, pp. 28–32). The work interestingly highlights the 'person in environment and place' approach, which has been seen as missing from the debate on social work with families with children (e.g., Jack 2015). As a social work method, observation is most typically utilized as a 'holistic empirical' (Butler 2015, p. 38)

method of mapping the client's social circumstances. The worker's observations and experiences and the reporting based on them hold a central role (Ferguson 2011, pp. 53–65).

The meanings assigned to children's residency and the ways these meanings are compiled in the reports are central to our interest. Understanding expertise as a practical and situational phenomenon means that the social workers' descriptions of children's residency are regarded as the result of complex situational expert work and cultural interpretation activity. What we then particularly look at are children's residency as a symbolic system of meanings and the ideas of good childhood that it includes (Gubrium & Holstein 1990, pp. 77–94). There is previous research that has taken a similar approach. Studying different psychosocial expert practices, the U.S. researchers Jaber Gubrium and James Holstein (*ibid.*) noted the central role of a more general cultural interpretation activity in the characterizations of client homes: the external characteristics of a dwelling were considered to speak about the family who lived there, the special characteristics of a home revealed the quality of family life and the expectations and standards of home life posited by this interpretation. (*Ibid.*, pp. 78–79). For example, in interpretation work, disorder in the dwelling could reveal to the professional that a parent's mental health problem had worsened, or a well-maintained external environment could speak of harmonious family life (*ibid.*; Ferguson 2011, p. 64). Since the physical environment may have different meanings for different actors, it is important to study how homes are observed and used as an indicator of the quality of children's circumstances (Gubrium & Holstein 1990, pp. 79–80).

On the basis of the above, we further define our research task as follows: 1) How do the social work reports to the court describe children's residency and what meanings are assigned to a residence as an indicator of children's well-being; and 2) how do the

descriptions and meanings of residences pass on to the summaries and potential recommendations of social work court reports and further into the court orders?

## **Data and analysis**

The data in our study consists of social work reports concerning 45 cases<sup>1</sup> for district courts and the related petitions and district court orders from the year 2011. The cases in our data were selected from five district courts (out of 27) in different parts of the country<sup>2</sup>. (See Kääriäinen, 2015.) The social work reports to the court in the data were compiled in 33 localities. The data consists of a total of 1,488 pages.

Looking at the petitions leading to the court process of which the social work reports form a part, we notice that in these disputes mothers more typically apply for sole residency, whereas fathers apply either for shared residency or sole residency of the child. The general trend with children's post-divorce residency in Finland is that she/he most often stays with the mother<sup>3</sup> (see Okkkonen 2014).

The data analysis was started by identifying in the social work reports all passages that contained descriptions of residency. A separate list was made of summaries and potential recommendations in the social work reports and the sections in the district court orders that contain descriptions of residency<sup>4</sup>. The actual analysis consisted of studying what meanings are attributed to children's residency and how residency is described or interpreted in the reports. Here, we made use of the analytical ideas by Gubrium and Holstein (1990) presented

above, about the descriptive and symbolic meanings of the living environment and the home and about interpretations in professional activity.

The social work reports are compiled at the request of district courts<sup>5</sup>. They form what is called natural data, and they are therefore important for describing work practices. However, the social work reports to the court are confidential as research data, which is why they must be handled with particular care. When studying documents, researchers always have the ethical obligation to do justice to the persons they study – in this case, to those who wrote the documents and also to the persons described in them. The researchers also have an ethical obligation to highlight any defects they notice in their object of study, to the extent that they may have a significance for the evaluation and development of professional expertise.

The reports proved to be uniform in structure and, in terms of their sub-headings, to follow a pattern that presents 1) the request from the district court, 2) the parties concerned, 3) the preparation of the matter and the meetings, 4) background information, 5) the father's and the mother's situation, described separately, 7) the children / the children's opinions, 8) the workers' summary/conclusions and potential recommendations. As to their contents, the reports varied in writing style and scope, though this cannot be explained by the particularities of a case (Kääriäinen, 2015). Some of the texts emphasise the child's point of view and mention, for example, the methods used when meeting with the children, some are more neutral and others fairly detailed and 'impressionistic'. These varying 'styles' of writing are to some extent also visible in the descriptions of the dwellings, but the main lines of the descriptions and of the meanings assigned to residency are still the same in both.

The findings from the analysis of the social work reports to district courts and the related petitions and district court orders are outlined and discussed below.

## **Physical circumstances of residency**

The most typical way of opening a description of a child's residential situation in the reports written by social workers to the court is to characterise the physical features of homes.

### ***Square metres and surroundings***

The openings of descriptions of a child's residential situation in the reports characterise the type, size and number of rooms of the dwelling of the mother, the father, or in some cases the grandparents, as well as the child's own room, if any, the child-friendliness of the dwelling and the yard or garden and the neighbourhood of the dwelling.

The mother and child live about 10 kilometres from the town centre. They live in a detached house (about 70 square metres) which they rent. The house is old and constructed of logs, the downstairs consisting of living room, bedroom, toilet and shower cubicle. Upstairs, there are two bedrooms.

(1)

The descriptions of the residential situations of the mother and father also contain comparisons:

The mother lives in a tower block, in a flat of 82.5 square metres consisting of 4 rooms, kitchen and bathroom in the immediate vicinity of the city centre on a quiet street. [...] The father lives with the boy in a spacious, two-storey detached house with a large plot of land a few kilometres from the inner city. The house is situated in a quiet neighbourhood. (8)

The descriptions of the residential situation mainly paint a picture of the everyday resources it provides for the child. Occasionally, the descriptions include detailed accounts of the parent's financial situation and the cost of housing. Some passages record unexpected details of the residence – such as a description of the heating system.

The father lives with his spouse in a detached house of 160 square metres. The plot size is 895 square metres. The house consists of four rooms, kitchen, sauna and shower room. There are a shed and a Wendy house on the plot. Near the house, about 50 metres away, there is a playground. The house is situated in a quiet neighbourhood with detached houses and close to the centre where normal services and a school are located. If the child was to live with this parent he would go to the primary school, the distance to which is 500 metres. (11)

Typical elements of the descriptions include the closeness to nature and quietness of the area, the opportunities for play and activities in the outdoor areas, a room of one's own and toys and other 'age-appropriate accoutrements', as well as the adequate size of the dwelling in relation to the number of people living there. The descriptions of the material details of housing reveal the cultural standards of how families with children should be housed. The reader is assumed to share the writer's cultural conceptions of the nature and quality of housing. (Cf. Gubrium & Holstein 1990, pp. 79–80.)

### ***Tidiness***

Roughly four out of five of the descriptions contain mentions that 'the flat is tidy', 'the home is tidy', 'the house is tidy'. In the great majority of cases, tidiness is simply mentioned without details of what this expression actually means and how tidiness is related to the report and the assessment of the child's social circumstances.

The family rents a two-storey rowhouse unit of 103 square metres in the [Neighbourhood] area.

The unit consists of four rooms, kitchen and sauna. The boy, 5 years of age, shares a bedroom with his mother. The home is tidy and comfortable and meets the age-appropriate needs of the child in all respects. (3)

The father lives in a small village about 15 kilometres from the town, in a small detached house of 55 square metres, with two rooms, toilet and sauna. The house is tidy and cosy. (3)

Should this be interpreted that a home is appropriate for a child when it is tidy? In some passages, tidiness is linked to other attributes which allow the conclusion that tidiness indicates a pleasing and positive living environment: ‘The flat is tidy and comfortable.’ (5)

In this case, tidiness is linked to a beautiful and quiet environment – which is balanced and supports well-being. In some passages, the meaning of a tidy home is explained to indicate that tidiness speaks of the parents' life management to the social worker observing the home situation. Occasionally, tidiness is contrasted with untidiness. For example, the dwelling of one parent may be described as tidy, that of the other as untidy or as in need of more cleaning.

The mother's dwelling seems adequate enough, but its general appearance is untidy and smelly.

The kitchen in particular looked messy during the visit. (11)

Untidiness may nevertheless be offset and its importance mitigated by the good and spontaneous atmosphere in the home, associated with interpersonal relationships. In one single case tidiness is associated with some sort of 'bleakness' and 'austerity', and its meaning turns negative; the dwelling is 'too well ordered'. (Cf. Ferguson 2011, pp. 58–59.) This kind of “dust-under-the bed reporting” was noticed also by Adrian James (1990, p. 237) in his study on welfare reports in UK.

### ***Residential stability***

In the reports, the stability of the residential situation appears as something that supports the child's well-being. A familiar and predictable everyday environment creates security.

A stable residential situation supports the children's well-being: the familiar environment that feels safe to the children will not change, as the father plans to go on living in the same house. (14)

The father's residential situation is to some extent more stable than the mother's. (44)

Conversely, the social work reports do not consider temporary residency, many relocations and changes in the living environment to be good for the child.

Having one single, permanent home would support the growth and development of the child. On hearing the statement 'It is important that a child has a single, permanent home', the 10-year-old child responded by nodding affirmatively. (55)

Living in two homes is, however, viewed favourably in the reports in cases where the parents cooperate well and live close enough to each other that the child's daily environment stays the same (also Rissanen, Kääriäinen, Rantala, Sarasoja & Aikio, 2017). In Sweden, Schiratzki (1999) noted similar emphases on stability, closeness and cooperation in the social work reports to the court.

## **Dwelling as the stage of social relationships**

Parallel to the physical characteristics of the residence, the social work reports to the court focus on the social relationships in the home. The home forms a kind of stage for the expression of care and the social relationships between the people living there. What the social workers hear and observe during their home visits is interpreted by them as signs of the functionality or dysfunctionality of social relationships and their meaning for the child's well-being.

### ***People in the home***

The reports typically list the persons who live permanently or occasionally in the father's and mother's dwellings. At the same time, they describe how people occupy the spaces in the home, which sheds some light on interpersonal relationships. Similarly, Adrian James (1990, p. 237) recognised issues of family dynamics as central in welfare reporting in UK.

The mother lives in the centre in a tower block, in a flat of about 70 square metres, consisting of three rooms and kitchen. The elder girls share a room, which also serves as a playroom for the girls. The younger girls share the mother's bedroom. The boy does not have a room of his own at their mother's; he sleeps on a sleeping couch in the living room. (30)

Beside the occupation of various spaces social work reports describe situations where an appropriate individual need for space is not met. The reports also describe the spatial arrangements required by the visits of grown-up siblings or children from earlier relationships of the parents.

At times, a parent's dwelling is represented as a stopover while a suitable residential arrangement is debated after divorce. In such cases, the reports describe lack of space,

frequent changes of residency and of people who live in the home, and the consequences of all this for the child.

The mother told us that she cohabits with her partner. At the time, she and her partner were looking for a bigger dwelling for the family instead of the three rooms and kitchen they then had. The mother told us that her partner is divorced and has 12-year-old twins from his previous marriage, whose mother is dead. The partner's twin daughter also lives with the mother and her partner. The twin son lives in a foster family and spends every third weekend at home. (40)

According to the reports, post-divorce residential arrangements can sometimes be solved by a parent moving in temporarily with his or her own parents. In such cases, the grandparents and possibly the parent's siblings are also included among the people living in the child's home.

Mother and child have mostly stayed at Granny's, even though they have had a flat of their own for almost the whole time. The mother's brother also lived with Granny. The child says that she likes it better in Granny's detached house than in the mother's rented flat. (45)

In addition to people, pets are included as a matter of course on the list of who lives in the home, which shows that they are considered important for a child. For example reports listed that the family also includes 'two cats, two turtles and a scorpion' (37).

### ***The child's personal space***

The social work reports to the court meticulously describe the spaces accessible to the child in the home. The description of the physical space allocated for the child is intertwined with the other spaces accessible to the child in the home.

The child's personal space is most clearly concretized in descriptions of the child's own or a shared children's room. The child's space in the home is also revealed by what is said about the child's things. If the child has no personal room, his or her things are often kept in the living room, the reports describe. The order and rules in a home are also partly revealed by whether the child's things must be kept in his or her room or whether they can be freely left in other spaces as well. If the child's space is restricted to his/her own room, this is mentioned.

The father considers the flat to be too small and hopes to be able to rent a bigger flat in the near future. Despite its small size, space has been found in the flat for the children's things and toys. (2)

The mother lives in a rented flat with three rooms and kitchen. The child has a room of her own, furnished appropriately for a child. (54)

At the core of the descriptions of children's personal space are the sleeping arrangements, which are described in exceptional detail. If the child has a personal room, it is a self-evident assumption that the child sleeps there in his/her own bed. If there is no personal room, the child generally sleeps in the same room as the parent. In this case, the reports describe whether the child has a bed of his/her own or a mattress on the floor, or whether the child shares a bed with the parent. If the child shares a bed with the parent, this is always explained.

The younger girls share the mother's bedroom. The boy does not have a room of his own at their mother's; he sleeps on a sleeping couch in the living room. (14)

The child previously often shared a bed with the mother, but nowadays he sleeps in his own room. The mother says that the child still sometimes wishes he could sleep with the mother. (45)

As regards a child's personal space, on the basis of the reports, the norm would appear to be that a child should have a room of his/her own or, at the least, a separate bed to sleep in.

Furthermore, space should be found for the child's things in the dwelling, preferably so that the space is not strictly limited to the child's own room. This norm indicates that parent and child should have a sufficient physical distance and the child's need for personal space has to be met in the home.

### ***Parenting and atmosphere***

The social work reports to the court contain plenty of material that describes and assesses the relationship between the child and the parent. The social worker's gaze focuses on the physical closeness and interaction between parent and child, on mutual caring, nurturing, guidance and setting of boundaries. The child's general demeanour is also observed.

He tried to open cupboard doors, but the mother firmly said not to do that. The other child wanted to play with the PlayStation, but the mother had put the console away because one day, when the mother and child were grocery shopping together, the child had gone home from the shop forecourt without the mother's knowledge. The mother stood firm and did not allow any gaming. She justified the matter calmly and assertively. While we were having coffee, one of the children wanted some as well. The mother told the child that he would be allowed to have coffee after his fifth birthday. The child gave in and had some milk. (37)

To some extent, the descriptions are also gendered, for particular attention is directed on the concrete caring skills of fathers:

“The father likes to cook and the child likes his cooking, he also does the laundry in between other household tasks”. (45)

In addition to observations by the social worker, the reports to the court contain passages related to discussions with parents on house rules (restrictions or punishments on the child), daily schedules (parents' working hours, child's school or day care hours, bedtimes and waking up), everyday household routines (mealtimes, doing laundry) and leisure pursuits. The social workers importantly focus on expressing and describing adequate parenting and positive emotional ties between parent and child. In the reports, this is contrasted with how the ex-spouses are reported to describe the other parent's inability to care for the child, emotional coldness or other behaviour that threatens the child's well-being. The other parent's substance abuse, violence or suspected sexual abuse of the child are examples of behaviour that threatens the child's well-being. The social workers also describe parents' disturbing behaviour as reported by the children.

### **Use and impact of descriptions of residency**

We will now move on to examine the sections in the data that contain conclusions and decisions based on the information available: social workers' summaries and conclusions in the reports to the court and the final court orders.

#### ***Summaries based on co-operation and stability***

The social work reports to the court are closed by the social workers' summary or conclusions and potential recommendations to the district court. The arguments presented are mainly based on the nature of interpersonal relationships and the atmosphere in the home. As regards the social relationships associated with the child's residential arrangements, particular

value is placed on the functional interaction and cooperation between parents. Conversely, conflicts between parents are an important counter-argument in the proposed decision, and they are seen as a risk to the children's well-being. At the background to this is the predominant ideal of shared parenting, the feasibility of which is reflected in the analysis of the nature of interpersonal relationships and atmosphere in the home (see Kääriäinen, 2008).

If the parents could manage their mutual conflict so that the child was not exposed to it, we could say that the child's situation is ideal in the circumstances. Having the child only reside with one parent and restricting right of access to every second weekend only would provide significantly fewer opportunities for quarrelling. This option would go against the wish clearly expressed by the child and the demand by the father. (8)

The parents' uncomplicated cooperation in matters related to the child and lack of quarrelling are strongly emphasised as an argument for the recommendation in the summaries of social work reports. They present observations from home visits on this relationship, on the child's behaviour in the company of the parents, and on the ease of interaction.

According to observations by the social workers, the child's behaviour both in the company of the father and alone was considerably more relaxed and easy, and the child stuttered less than when meeting him together with the mother. (15)

The child seemed to act naturally together with either parent, but especially at the mother's, the child was not afraid to spontaneously disagree with the mother. (22)

Despite the predominant role given to descriptions of the physical circumstances of the residences in the social work report, they are not regularly referred to in the summary part, except by saying that 'the parents' residential situations are similar' or 'the residential situations of both parents are adequate'. It was only in a few individual cases that the

conclusions expressed concern about the consequences of the physical circumstances of the parent's residence for the child's well-being and security:

The writers of this report continue to be concerned about the child's residential situation and about the mother's capability to watch over the child and provide security. The mother's flat is untidy. The father's flat is tidy and the living environment corresponds better to the child's needs than at the mother's. (11)

The conclusions and recommendations only refer to the residential situation in cases where the conditions are obviously inadequate or cause particular concern to the workers compiling the report.

However, the stability of the residential situation is a factor repeated in the summaries. The fact that the child has several parallel residences is considered a source of instability:

The child expressed her conception that she has three homes (at her father's, mother's and Granny's). On the basis of this and of the child's history (such as problems with keeping to agreements about meetings) we recommend that contact should be restricted in order that the child's daily life could be as structured as possible and the times of meetings could be predicted. (55)

The conclusions section highlights the thought that changes in residency are harmful to the child's well-being:

Stable conditions support the well-being of children. For the younger children it is more important that the father has more time for the children and the possibility of providing a stable situation. (14)

The distance between the parents' dwellings was highlighted, particularly when assessing dual residency arrangements.

The descriptions of the physical circumstances in the summaries or recommendations of the social work reports were thus fairly brief. Nevertheless, the stability of the housing environment was an important factor commented on. Changes in the child's residential arrangements were viewed with reservation and the recommendations favoured keeping changes to the child's daily life at a minimum. The arguments used by the social workers to support their proposals rely, above all, on an emphasis of the nature of the relationships and atmosphere of the home.

### ***Decisions about residency in court orders***

In the final court orders children's residency was determined as follows: 55% sole residency with the mother, 18% sole residency with the father, 14% shared residency; in 13% of the cases no explicit opinion was expressed on how to arrange the child's residency.

Compared to the rich descriptions of residential situations in the social work reports to the court, it is interesting that of the statements of reasons in the district court orders, only one third of the cases (13 out of 45) refer to the parents' and the child's residential situation. This is partly explained by the fact that in many cases the parents were able to agree about residency during the process, which meant that the court order only detailed the arrangements for right of access. It is also common practice that the section containing the decision in a court order is brief and simple. It presents the statement of reasons for the decision; that is, how and why it was reached (Aaltonen 2009, p. 293, p. 295, p. 297).

The court orders do not pay detailed attention to the physical residential conditions. However, the stability of the residential situation appears to be an important factor even in

court orders. The stability and permanence of residential conditions are central reasons stated in district court orders.

Having the child move to another locality would bring about a complete change in the child's living environment and circumstances. The child would land in unfamiliar circumstances and in the midst of unfamiliar people, the only familiar person being the father, who has recently started up a business. (32)

Thus, there is a strive to minimize the changes caused by the parents' divorce by ensuring that the child's residential arrangements change as little as possible. The importance of the continuing to live in the same house and of eliminating changes in the environment are arguments used by the judges.

Stability is also indirectly associated with the consequences that the distance between the parents' dwellings has for the child. Some orders express an opinion on the distances and the arranging of meetings in cases where one parent lives in another locality. The court also assesses the child's capability to travel alone and manage a trip that takes several hours.

Another important criterion used by the courts is the nature of the social relationships in the home. The court orders may even provide instructions to the parents for improving the nature of interpersonal relationships: about communicating with each other in matters related to the child, about daily schedules and carrying the child's things between the two dwellings.

Communication about matters related to the child shall be effected by means of a travelling notebook or via text messages. The mother shall record in the notebook the child's daily schedule, which the father shall strive to follow during the meetings. The parties shall mutually agree not to speak negatively of each other to the child, but shall attempt to stress the good characteristics of the other parent to the child and to support the upbringing efforts of the other parent. The father shall contribute to the costs of the child's sports equipment. The equipment in question shall travel with the child to meetings with the father. (17)

As can be seen, settling the parental conflicts may give rise to highly detailed guidance on how to run the daily life and act as a parent.

A central theme underlying the court orders is the child's best interest, the letter of the law (Act on Child Custody and Right of Access, 1983). However, District Court Judge Anna-Kaisa Aaltonen (2009) points out that the reasons underlying a court order are a mixture of a concrete application of the general principles in the Act, an assessment of parenting and the child's daily life and forecasting the future, and all this relies on the court's extensive power of discretion. (Ibid., p. 297.)

## **Discussion and conclusions**

In the above, we have examined the meanings assigned to children's residency in social work reports to the court and how these meanings passed to the report summaries/conclusions and to court orders. The social work reports described extensively and in detail the physical residential situation of the child's mother and father and assessed the tidiness of the home and the stability of the residential situation. Attention was also paid to the spaces occupied by different people in the home, the child's personal space and the nature of interpersonal relationships in the home and the atmosphere created as a result of them. Of these, the stability of the residential situation and the nature of the social relationships in the home were seen to be the most central arguments in both the summaries of the social work reports and the judges' orders. The final decisions show the use of the principles listed (Aaltonen 2009, pp. 39–59) to be applied when settling the residency of children, which have become central in professional practice: 1) the importance of a

stabilized situation – the status quo principle – and 2) the parents' ability to act as parents vis-à-vis the child and in other relationships important for the child (ibid.).

These observations give rise to some questions, the first of which concerns the relevance of the extensive description of the physical residential conditions, the residential situation and the family members' occupancy of home space in the social work reports, bearing in mind that these aspects are rarely referred to when settling the cases. The acquisition of such information is part of the traditional orientation of social work.

Ideas about the significance of the living environment for a child's well-being have long historical roots. For example, already in the late 19th century Ellen Key, the Swedish advocate for children's rights, spoke about the importance of physical housing conditions and the quality of the home environment in the fight for a better society. In her book *Beauty for All* (Key 1899) she speaks for beautiful, harmonious and airy homes and child-friendly spaces as important factors of well-being. The idea of humans as part of social circumstances is included in the first formulations of social work theory and method from the 19th century. Mapping the client's social circumstances and the conclusions based on that were crystallized in the idea by Mary Richmond, the American pioneer of social work, of a 'social diagnosis' (Richmond 1917). In current debate, the UK researcher Harry Ferguson (2011), has underlined the importance of observing the home environment in the knowledge formation of social work. He also speaks (in the context of child welfare work) of the importance of reading the physical signs of housing conditions. According to him, they may bring to light some hints, otherwise overlooked, of the possible risks in a child's living conditions (such as dirty homes or homes of a military tidiness). (Ferguson 2011, pp. 64-65.) But, because these traditional social work observations of the social circumstances of the child are not often explicitly referred to in the final conclusions and decision-making, one must ask what is the

relevance of such broad welfare knowledge in the process of the multi-professional assessment work and decision-making. The writing of reports of this kind could be interpreted as a practice of storytelling, based on interaction with the family members at their homes (Roets et al. 2016). When social workers were integrated in divorce work in Finland in the early 1980s, one of the key points was the presumed ability of social workers to be close to people, everyday life and folk knowledge. Divorce was understood as a normal transition and, as much as possible, a private matter and an ordinary issue.

A second interesting observation is that when reaching the stage of deciding about the child's residency, the orientation of the social workers changes: there is a shift from the broad welfare knowledge describing children's everyday social circumstances to a more narrow orientation assessing the stability of the child's circumstances and quality of parental relationships (absence of quarrelling). At the same time, there is a shift from inside the home to the outside - or across the parents' homes. These shifts are evident in the summary and recommendations sections of the reports. The knowledge base of the principles of stability and parental co-operation, used as an interprofessional criterion for deciding on children's residency, is much more focused and narrow than the social welfare orientation applied when describing the child's social circumstances. It leans on practical psycho-social knowledge of parental relationships and conflicts. This type of writing has features of truth-telling practice (Roets et al. 2016): using the dominant, more closed and mechanistic inter-professional discourses of conflicted divorce. At the same time, divorce becomes more strongly governed by diverse professionals. However, it is also typical for the report-writing practice that social workers often avoid definite expressions of what the right course of action might be.

Finally, our examination of the features of the practice of writing reports makes the 'report work' of social work explicit and helps us to reflect on the appropriateness of the

practices of report writing and on the needs to update the report work. Thanks to a detailed examination of what is mentioned, and in what way, about children's residency in the reports, it is possible to reflect how the decision-making process succeeds in serving the needs of the courts and families in solving their disputes. However, it is a limitation of our study that we concentrated on the issue of residency in social work reports to the court and had to exclude some other contextual information. In the light of the results from our study, further topics worth studying could be the judges' opinions on the relevance of social work reports in the court process, the experiences of different family members (fathers, mothers, children) of the assessment process and related social work reports, and the potential needs of developing the practices of writing social work reports to the courts. One concrete suggestion for developing the social work reporting practices would be to cut down on the customary and time-consuming accounts of the child's physical residential conditions, especially as descriptions of ordinary childhood environments seem to predominate in the reports. The social work reporting could focus on the potential risks related to the child's residential conditions. The social work reports could also be better ordered as to their structure, which would be helpful especially to social workers writing these reports relatively rarely. These changes would lighten the reporting duties of the social workers, add to the professional weight accorded to social work, and shorten the delays (average six months (Aaltonen 2009)) of getting the court orders, which would benefit both parents and children.

Our data deals with the Finnish context and practices, and it is not possible to apply the results directly to other countries. However, we believe that our study has much to give 1) in illustrating the need of studying the practices of divorce-related social work, especially the reporting practices of social work in the court context, 2) in offering a possibility to learn through difference and 3) in identifying features of divorce-related social work as practised in a specific country. Especially, the study shows for the first time, how options for the child's

residency – a topic that is so often a battle ground for parental dispute – is portrayed and used in social work report work and as a symbol for the welfare of the child.

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1 Each social work report concerns one family, which may have one or more children. A report is usually based on (one or more) home visits to the homes of the mother and the father, with the child or children present during the visit. Children are also often met with individually. If a parent's new partner or a grandparent happens to be present, s/he may also be given a voice in the report. In most cases, the same social workers visit the homes of both parents.

2 The five district courts selected represent small, medium-size and large district courts, and together they deal with 40% of all cases concerning child custody and visiting rights in Finland. Each district court was asked to select 10–15 cases which included a social work report in a divorce situation.

3 In 2012, it was agreed in 82% of the agreements concerning a child's residence that the child would reside with the mother (Okkonen 2014).

4 The data was originally collected by Aino Kääriäinen, who holds the rights to it. The selected passages in the data were anonymized by her before allowing them to be used in our collaborative analysis.

5 The district courts request a social work report in about one third of the cases. The reports are requested during the preliminary process before the main court hearing and the preparation of the court order. (Aaltonen 2009, 147–168, 204–205; Kääriäinen 2015, 380.)