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In case no. 5981-20, **AA** (Appellant) v. the **Swedish Tax Agency** and **BB** (Respondents), the Supreme Administrative Court delivered the following judgment on 4 January 2022.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court grants the appeal and declares that CC is to be registered on the same property as AA.

BACKGROUND

1. A person is to be registered in the population register on the property at which he or she resides. A person who resides at more than one property, e.g. a child who, following separation of the parents, resides with both parents, is to be registered on the property on which he or she, taking into account all circumstances, may be deemed to have his or her actual residence.
2. AA and BB are parents of CC who was born in 2009. After the parents divorced, BB remained in the home in which the family had previously resided together (hereinafter referred to as the original residence). CC continued to be registered at that address.
3. In January 2018, the Gothenburg District Court decided that the parents would continue to have joint custody of CC, but that she would permanently reside with AA, i.e. that he would be the so-called custodial parent. The court further decided on contact between CC and BB according to which the daughter, as previously, shall in practice reside half of the time with each parent. The reason given for the decision that CC will permanently reside with AA was stated to be that he appears to generally be the most orderly of the parents, e.g. as regards the daughter's school attendance and doctors visits.

4. Thereafter, AA submitted a moving notification for CC. The Swedish Tax Agency disallowed the notice given that BB had not consented to the change of the daughter's registration. Thereafter, the Swedish Tax Agency commenced an investigation of where CC is to be registered.
5. In September 2018, the Swedish Tax Agency decided not to change the registration for CC. The reason given for the decision was stated to be that she resides as often with both parents and, given that BB remains at the original residence, the daughter is to be registered at her address.
6. AA appealed the decision to the Administrative Court in Gothenburg which rejected the appeal with the following explanation. CC actually resides to an equally large extent with both parents. Since BB remains in the original residence, the daughter shall, as a starting point, be registered at the same address as she is. The fact that CC is to permanently reside with AA according to the judgment of the district court cannot, in and of itself, form the basis of her registration on his address.
7. The Administrative Court of Appeal in Gothenburg rejected AA's appeal there. The following reasons were stated therefor. A judgment which governs custody, accommodation and visitation may be material in an investigation of where the child actually resides in the event the parents have provided contradictory information thereon. In this case, no information has come to light other than that the parents are agreed that the daughter resides half of the time with each of them. The judgment of the district court thus lacks weight in the assessment of where the daughter maintains her actual residence. Accordingly, CC shall be deemed to have her actual residence at the original residence and her registration is not to be changed.

CLAIMS, ETC.

8. AA claims that CC shall be registered at his address.

9. *The Swedish Tax Agency and BB* are of the opinion that the appeal is to be rejected.

REASONS FOR THE RULING

The question in the case

10. The question in the case is, in the determination of where a child is to be registered, what weight is to be ascribed to a judgment in which it is determined that one of the parents shall be the custodial parent.

Legislation, etc.

11. According to section 6, first paragraph of the Population Registration Act (1991:481), a person shall be registered on the property at which he or she is deemed to be resident.
12. According to section 7, first paragraph, a person is deemed to be resident of the property at which he or she habitually engages in or, when there has been a change in residence, may be assumed to habitually engage in, daily rest. A person who may thereby be deemed to be resident of one or more properties is deemed to be resident of the property at which he or she, taking into account all circumstances, may be deemed to have his or her actual residence.
13. Section 7, second paragraph states that a person shall be deemed to habitually engage in daily rest at a property at which he or she, according to his or her normal lifestyle, habitually resides not less than once per week or to the same extent but with another time schedule.
14. If a child is in the care of two guardians who do not reside together and the child, according to his or her normal lifestyle habitually engages in daily rest to the

nearly same extent with each of them, the child may, in accordance with section 7 (a) be registered with the guardians agreed upon by them.

15. According to Chapter 6, section 14 (a), first paragraph of the Children and Parents Code, the court may, where a child is in the custody of both parents, decide on the application of one or both of them with which of the parents the child shall reside. According to section 15, first paragraph, the child shall have the right of contact with a parent with whom he or she does not reside.

The Court's assessment

16. Sections 6 and 7 of the Population Registration Act provide that a person is to be registered where he or she resides and that, in order for someone to be deemed to reside at a certain property, it is sufficient that the relevant person engages in daily rest there on average once per week. Children who have parents who do not reside together will thus often have double residence, i.e. be deemed to reside with both parents notwithstanding that they reside at different addresses. The child's registration shall then be determined on the basis of what, taking into account all circumstances, may be deemed to be his or her actual residence.
17. In the determination of where someone is to be registered, consideration shall be given, furthermore, to the fact that the information in the population register is to be characterised by stability (cf. RÅ 1997 reported case no. 8 and HFD 2019 reported case 9). This entails that, in conjunction with the determination of where a person with double residence maintains his or her actual residence, there is a presumption that the current registration shall persist. A child who, following separation of the parents, is deemed to reside at two different addresses and who, prior to the separation, resided and was registered at one of these addresses shall thus, as the starting point, continue to be registered there. Only where the living arrangements and other circumstances more clearly indicate that the child, following the separation, has his or her actual address at the other address is a change in the registration justified. This may be the case, for example, where it is

clear that the child mostly engages in daily rest at the parent who has moved to a new residence.

18. Where, on the other hand, the child engages in daily rest to nearly an equally great extent with each of the parents, there is no reason, as a rule, to change the child's registration as a consequence of the separation of the parents so long as one of the parents remains at the family's former residence. This means that the child in this situation – unless the parents otherwise agree – will continue, as the main rule, to be registered together with the parent who continues to reside there.
19. As stated, however, it is not only the living arrangements which are to be considered in the determination of where someone actually resides but, rather, an overall assessment is to be conducted of all circumstances. The question which is to be determined now is the weight to be ascribed in the overall assessment of the fact that a court has decided that the child shall permanently reside with one parent who has moved to a new residence, i.e. that the parent shall be the custodial parent in accordance with Chapter 6, section 14 (a) of the Children and Parents Code.
20. The provision in section 7, first paragraph of the Population Registration Act regarding what is to apply in conjunction with double residence obtained its current wording on 1 January 2014. The following is apparent from the preparatory work (Government Bill 2012/13:120, p. 94 f.). A child shall, like adults, be registered where they actually reside. For children with double residence, there should be, given that all circumstances are to be taken into account now, a greater possibility than previously to take into account judgments and agreements which govern custody, visitation and residence in the determination of where the child is to be deemed to have his or her actual residence. In the event either of the parents calls into question the purport of the judgment or the agreement in any respect which is relevant to the decision regarding registration, however, the judgment or agreement alone should not be able to form the basis for the determination of the child's residence. The Swedish

Tax Agency must then further investigate the child's living and visitation arrangements. In the event a judgment or an agreement instead provides clear guidance on the registration question, there shall, where the purport thereof is not called into question, be room for the Swedish Tax Agency, within the context of the more flexible examination which is to be carried out in conjunction with double residence, to allow the judgment or the agreement to form the basis of the assessment of the residence question.

21. It may thus be observed that, even following the statutory amendment, it is the actual living arrangements which are to weigh most heavily in the determination of where a child with double residence maintains his or her actual residence. A decision in accordance with Chapter 6, section 14 (a) of the Children and Parents Code according to which one parent is to be the custodial parent cannot thereby lead to a situation in which the child is registered with that parent where it is apparent that the child in practice largely resides with the other parent.
22. In a case such as the current one in which the district court has determined that the child shall reside half of the time with each of the parents and it is common ground that such also occurs in practice, however, the decision regarding which of the parents shall be the custodial parent should be an important circumstance to be considered when the child's actual residence is to be established. According to the assessment of the Supreme Administrative Court, this circumstance weighs more heavily than the stability considerations which justify that a child who resides approximately equally as much with both parents shall, as a main rule, continue to be registered at the same address as prior to the separation of the parents. In such context, the Court takes into account the fact that these stability considerations are no impediment to the registration of the child in this situation being changed now, as opposed to what applied previously, if the parents agree thereon (see section 7 (a) of the Population Registration Act and, cf. RÅ 1997 reported case no. 8).
23. No circumstance other than that BB continues to reside at the original residence has been asserted in support of CC, notwithstanding the judgment of the district

court, continuing to be registered with her. Accordingly, AA's appeal shall be granted and CC shall be registered at his address.

Justices Jäderblom, Ståhl, Bull, von Essen and Jönsson have participated in the ruling.

Judge Referee: Birgitta Fors Almassidou.