

CASE LAW MOSAIC

The complainant submitted her complaint to the Minority Ombudsman in the context of her difficult financial circumstances and her problems in finding a job, claiming that her husband was discriminated because of his Roma origin. The Minority Ombudsman did not have the competence to examine the general nature of the complaint, which primarily complained of financial difficulties, but considered it important to provide the complainant with detailed information.

A Roma petitioner complained that the registrar did not enter his details in the birth register of a minor, despite the fact that the court had declared him to be the father of the minor. He also indicated that he would like the guardianship office to allow him to have contact with the minor and to annul the adoption of the minor. The Minority Ombudsman provided the complainant with full information to make him understand his situation and options.

A petitioner of Roma nationality complained about the circumstances of determining medicine support on the basis of equitableness. The delay of almost six weeks could have been caused by an administrative error within the organisation, and the Minority Ombudsman sent a letter of formal notice to the competent authority asking it to correct its practice of accepting applications.

A petitioner of Roma nationality living in a small rural village complained to the Minority Ombudsman because he said his grandson had been shamed in kindergarten. According to the complainant, the child had been brought to the institution with a short haircut the morning of the incident, which the kindergarten considered was probably due to a lice infestation, and therefore they called the district nurse. The nurse examined the scalp of the child and family members but found no infestation. As it turned out, there had been previous conflicts between the family and the institution, which the family perceived as discrimination because of their Roma origin.

A complainant of Roma nationality turned to the Minority Ombudsman about a procedure for the payment of water charges. The Minority Ombudsman did not have the competence to investigate the payment order procedure contested by the complainant, but considered it important to inform the complainant in detail about the case.

**Office of the Commissioner for Fundamental Rights
Secretariat of the Minority Ombudsman**

1055 Budapest, Falk Miksa u. 9-11.
nemzetiseg.info@ajbh.hu



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The complainant complained about the procedure of the kindergarten, that only his grandchildren and children were suspected of being infested with lice, and because of this his grandson was allegedly ostracized and banned from playing with other children in the institution.

He also complained that the institution communicates with his family through the family support service and not directly (in person or by phone), and that the kindergarten has also asked them to take the children home after lunch because they are only allowed to stay for four hours a day.

In this case, the Minority Ombudsman contacted the head of the kindergarten and asked for information on the specific case of the complainant, and also – in order to identify possible discrimination – for information on the proportion of disadvantaged and severely disadvantaged children attending the institution. In addition to the kindergarten, the Minority Ombudsman also contacted the local family and child welfare services and the district nurse.

The head of the kindergarten only partially cooperated with the Minority Ombudsman in answering the question: for example, she refused to answer the question about the proportion of disadvantaged and severely disadvantaged children attending the institution, from which the number of Roma children could have been inferred. She also disputed whether this data could have any relevance to the specific case. Finally, data on this issue was provided by the district nurse and the family welfare service, who also unanimously stated that the number of Roma children attending the institution was particularly low.

On the basis of the information received from the above-mentioned bodies, the Minority Ombudsman came to the conclusion that the education and care of the children concerned within the institution could be a real challenge for the teachers and carers of the kindergarten due to family and other problems. However, the Minority Ombudsman also found that the parents and grandparents of Roma origin might have had grounds for perceiving the taking home of their children or grandchildren after lunch and the screening of their children or grandchildren for lice, which was initiated only in their case – and later found to be unfounded – as discrimination on the grounds of their origin.

On the basis of the above, the Minority Ombudsman expressively reminded the head of the kindergarten to the provisions of the Equal Treatment Act prohibiting discrimination and called on paying more attention in the future to ensure that the rights of some Roma children and their parents to equal treatment are not violated.

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The Minority Ombudsman also pointed out that the head of the kindergarten only reported on the problems with the Roma children, but did not provide any information on the measures taken by the staff of the institution to improve the situation of Roma children in the kindergarten.

The Minority Ombudsman also drew the attention of the head of the kindergarten to the fact that data on the number of disadvantaged and severely disadvantaged children attending the institution did not fall within the scope of personal data, as the head of the institution had wrongly claimed, and that the request for the actual data of the kindergarten concerning such children was a legitimate and relevant issue. Indeed, it is not for the authority or body subject to the investigation to decide whether or not any data or information is related to an investigation into a complaint, but for the Ombudsman and the Deputy Ombudsmen. Pursuant to section 27 (1) of the Act, the Ombudsman and the Minority Ombudsman may, in the course of their proceedings, process personal data, including data classified as secrets protected by law and data subject to professional secrecy, which are related to the investigation or the processing of which is necessary for the effective conduct of the investigation, to the extent necessary for the conduct of the investigation. Pursuant to section 21 (2) of the Act on the Commissioner for Fundamental Rights, the head of the investigated body shall comply in all respects with the request of the Commissioner for Fundamental Rights, within the time limit set by the Commissioner for Fundamental Rights.