

CASE LAW MOSAIC

Complainants of Roma nationality complained that the guardianship authorities had terminated the placement in family of two of their grandchildren/children by their grandparents and decided to take them into foster care. The complainants also complained that they were not informed of the decision of the guardianship authority and that when they received it later, they were unable to interpret the appeal notice. They also complained that the guardianship authorities did not try to find guardians for the children within the family.

The Minority Ombudsman, following the police's rejection of a report of atrocities against a Roma family, has sent a signal to the competent prosecutor general to investigate whether the case involves a suspicion of violence against a member of the community.

A Member of Parliament has complained to the Minority Ombudsman that a teacher in a primary school in a town in northern Hungary is treating Roma pupils and their parents inappropriately. Most of the parents have good daily contact with the teachers, and there are a number of projects for children's development in addition to the compulsory lessons. However, a few years ago, the complaint report indicated that, in addition to the good experiences, there were many problems with one of the mathematics teachers in the institution.

A complainant of Ukrainian nationality living in Hungary turned to the Minority Ombudsman for help, complaining about the actions of the common representative of the condominium property she owned and the statements she made in public at the condominium's general meeting, which insulted her Ukrainian nationality.

A Roma complainant with a lung disease and his spouse turned to the Minority Ombudsman for help in settling the rent arrears of an oxygen concentrator they had rented, sharing their difficulties in making a living. In their petition, they indicated that they felt that they had been discriminated against because of their Roma origin.

One complainant complained that the districts of Tetemvár and Ózegró in Miskolc are not connected to the city's public transport network, which raises the possibility of discrimination against Roma residents living there, primarily in terms of access to public education, employment, health and social services.

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According to the complaint, the complainant owns apartments in a condominium building in Budapest. In one letter, she asked the common representative of the property for information on the insurance of the condominium in connection with a leakage, and in another letter she asked for information on the possibility of paying the common charges in instalments, but received no reply in either case. The representative spoke to the complainant in an insulting tone at the general assembly meeting, and the conversation escalated into an argument.

At the assembly, the joint representative made statements insulting the complainant's Ukrainian nationality, and also said that she should go back to where she came from, that she would not be listened to, that no one wanted to hear her opinion, and that she should go home and fight. At the assembly, the complainant also asked about the two unanswered letters, but the common representative said that the complainant will not receive a reply because she would not deal with them. Overall, the complainant believed that she had been discriminated against by the common representative because of her Ukrainian nationality.

The Minority Ombudsman informed the complainant that she could act under the legal provisions governing her powers if, in the context of an administrative case, there was an irregularity or imminent threat of an irregularity caused by the authority in relation to fundamental rights. However, given that the action of the common representative of a condominium does not constitute an act or omission by a public authority, the complainant's case cannot be the subject of an Ombudsman inquiry.

However, the Minority Ombudsman provided detailed information on the remedies available to the victim. With regard to the complaints concerning the professional conduct of the common representative of the condominium (failure to inform the residents about leaks, insurance, possibilities to pay the common costs in instalments), she pointed out that the municipality notary in charge of the condominium, the bodies of the condominium and the operation of these bodies is responsible for the supervision of the lawfulness of the operation of the condominium. According to the Act CXXXIII of 2003 on Condominiums, the notary may act *ex officio* or on the basis of a notification and the condominium owner may make a notification.

However, the Minority Ombudsman stressed that the monitoring of the lawfulness of the operation of the condominium does not cover matters that would be subject to judicial or administrative proceedings, nor can it be directed at the economic or expediency aspects of the operation of the condominium. Furthermore, the notary's competence to supervise the legality of condominiums does not include matters relating to the resolution of personal conflicts with the common representative, the audit committee or the management committee.

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She also drew the complainant's attention to the fact that if she considered that the behaviour of the common representative at the general meeting of the condominium was liable to damage his honour, it could have consequences under civil law, administrative offences and, where appropriate, criminal law. Thus, under the Civil Code, the violation of personal rights constitutes, in particular, an infringement of honour and reputation, but the injured party may assert his or her personal rights only in person before a civil court by bringing an action.

In addition, according to the Act II of 2012 on Offences, Offence Proceedings and the Offence Registration System, anyone who uses an expression or other act of defamation against another person commits an offence. An offence of defamation can only be prosecuted on a private prosecution.

The Minority Ombudsman also indicated that if the use of a term capable of defaming honour was made in public, then in view of all the circumstances of the case, committing the offence of defamation may even be established under the Criminal Code.