

CASE LAW MOSAIC

A Roma complainant appealed to the Minority Ombudsman with a petition objecting to the municipality's expropriation procedure and valuation. According to the complainant, the municipality wanted to expropriate his parents' house and the house he built, but the expropriation value included in the municipality's offer was much less than the real market value of the properties.

A Roma complainant turned to the Minority Ombudsman for help in his housing case. The complainant lives without a legal title with his family in a municipal emergency apartment, therefore their permanent address was declared fictitious. The complainant, who only has a residential address at the settlement level, complained that due to their address problems, they faced many difficulties when applying for benefits. In addition, he complained that their requests for a new municipal apartment were rejected.

A Roma complainant complained that the guardianship authority rejected his request to accept his grandson into the family, on the grounds that he was diabetic. He also reported that he had lost the decision authorizing contact with his grandchildren, and when he inquired on the phone about replacing it, the staff of the guardianship authority spoke to him in an unacceptable tone. In his next submission, in an enforcement case, he objected that he had not received information about the legal basis of the claims and the settlement of his paid and outstanding debts.

The president of the Roma self-government (RNÖ) of a settlement in eastern Hungary addressed several complaints to the Minority Ombudsman. As the authorized representative of his adult child, he complained that his son's mandate as a nationality representative was terminated. In his next complaint, he objected that the local government moved the RNÖ out of the property it had been using since 1995, but did not provide another independent property for the nationality self-government. In a subsequent submission, the complainant complained about an article published in a publication of the local government, which, in his view, contained false statements about his activities as president. In the end, he expressed as a complaint that the RNÖ could not exercise its right to consent when appointing the head of the local kindergarten.

The deputy commissioner investigated the health care conditions of a detainee of Roma origin. The complainant was finally transferred to the penal institute appropriate for his condition.

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1. In the matter related to the mandate of a representative, the president contested a decision of the RNÖ, in which the representative body terminated his child's mandate as a nationality representative, by referring to Section 102 (1) (j) of the Act CLXXIX of 2011 on the Rights of Nationalities (ARN), which states that the mandate of the representative of the nationality self-government is terminated if the representative of the nationality self-government fails to attend the meeting of the representative body, general assembly for one year from the date of the meeting from which he was absent for the first time. The complainant objected that his son did not receive an invitation to the meeting of the representative body at which it was decided to terminate his mandate.

In order to get to know the full background of the complained case, and to inform the petitioner as fully as possible, the Minority Ombudsman contacted the government office of the competent county and asked for information on the case.

Regarding the termination of the mandate of the nationality representative, the government office confirmed that the relevant nationality representative was only present at the founding meeting of the nationality self-government, but after that he no longer participated in the meetings of the representative body. In the framework of its legality procedure, the government office found that - taking into account the special period of emergency operation - one year had passed from the date of the meeting from which the nationality representative was absent for the first time, so the RNÖ lawfully terminated the mandate of the nationality representative.

In the framework of providing professional assistance, the government office called the RNÖ's attention to the fact that the mandate in the described case was terminated by virtue of the law, so the representative body does not need to adopt a resolution on this subject, it is sufficient to inform the members of the body of the fact of the termination of the mandate.

However, the Minority Ombudsman contested this, and in order to enforce the rights of nationalities as fully as possible, and for the uniform interpretation and application of the relevant legislation, drew the attention of the government commissioner to the fact that Section 102 (2) of the ARN clearly states that in the case of point (j) of paragraph (1), the representative body or general meeting establishes the termination of the mandate of the representative in a resolution.

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Based on all of this, according to the position of the Minority Ombudsman, the representative body of the nationality self-government had to make a decision on the disputed case of the termination of the mandate of the representative of the nationality self-government, and in the future it is not enough to merely inform the members of the representative body of the fact of such termination. As proposed by the Minority Ombudsman, the government office amended its previously issued notice and, in the context of repeated professional assistance, informed the representative body of the RNÖ that it should act legally by establishing the termination of the mandate in a decision.

2. In connection with the use of premises by the nationality self-government, the complainant complained that the local government had moved the RNÖ out of the property previously used, because of its poor condition and the high costs of renovation.

In this case, the Minority Ombudsman contacted the municipality notary of the given settlement and requested information from the county government office.

In connection with the use of premises, the Minority Ombudsman learned from the notary, among other things, that the local government provided the RNÖ with the free use of a room equipped with physical and technical tools necessary for the performance of the municipality's tasks for the RNÖ, as required by law, for at least thirty-two hours per month at the customer service room and the boardroom of the mayor's office. According to the position of the local government, this placement enables effective cooperation and even the possibility of immediate assistance in solving problems and managing cases.

In his reply, the notary informed the Minority Ombudsman in detail about the conditions of customer reception, its order of operation, as well as the provision of the appropriate infrastructure. In his answer, he pointed out that based on the agreement with the RNÖ, it is also possible to use the premises for more than thirty-two hours.

However, according to the notary's answer, the local government did not refrain from providing again in the future the nationality self-government with an independent building or premises, for which the government office also made a professional proposal based on the Minority Ombudsman's proposal.

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However, the answers received indicated that the problems related to the operation of the RNÖ were primarily caused by difficulties in cooperation and communication. With this in mind, the Minority Ombudsman drew the attention of the President of the RNÖ that, in order to enforce the rights of nationalities as fully as possible, professional cooperation between the relevant bodies, authorities and representatives of the nationality self-governments, and the establishment and maintenance of an appropriate dialogue between the parties, which can promote the effective functioning of the nationality self-government, are extremely important in order to find a more comprehensive solution to issues affecting ethnic communities, as well as for the adequate representation of their interests.

The Minority Ombudsman also drew the attention of the notary of the municipality and the head of the county government office to the importance of cooperation. She asked the clerk to consider initiating a consultation between the representatives of the Roma nationality, the president and the staff of the local government, with the possible involvement of an external mediator, which could lead to a solution to the disputed situation in order to establish proper communication and dialogue. The government office informed the Minority Ombudsman that – through a nationality expert – it provides professional consultation for the notary, the president and the nationality representatives.

3. In connection with the complaint of the president of the RNÖ regarding the press release, the Minority Ombudsman informed the complainant about the provisions of the law regarding press corrections, in particular how and when he can request the issuance of a correction release due to the indicated content.

4. In relation to the element of the complaint, according to which the RNÖ could not exercise its right of consent when appointing the head of the institution of the local kindergarten, the Minority Ombudsman indicated that, based on the regulations in force, in this case, the settlement's nationality self-government was not entitled to do so. The basic public education tasks of the kindergarten did not include the kindergarten education of those belonging to the nationality, and the founding document did not include the performance of nationality tasks, so it was not necessary to ask for the agreement of the settlement's nationality self-government during the evaluation of the application for the head of the institution.