

CASE LAW MOSAIC

QUARTERLY INFORMATION BULLETIN OF THE DEPUTY COMMISSIONER FOR THE PROTECTION OF THE RIGHTS OF NATIONAL MINORITIES IN HUNGARY, 2021/3

Police action against a minor

A mother reported that the head of the criminal investigation department of the local police station had visited her at her home, but as she was not at home, her 12-year-old daughter answered the door. The police officer spoke to her daughter in a rude manner and even threatened her, which the complainant substantiated with an audio recording. The complainant first complained to the National Police Headquarters, attaching the audio recording, but her complaint was forwarded to the police department concerned. The head of the police station wrote to the complainant informing her that the head of department, as local coordinator of the school guard employed at the school where the complainant's children were attending, had carried out an inspection of the school, during which the school guard had reported to him problems with the behaviour of the complainant's children (disrespectful language towards teachers). The head of department then decided to visit the complainant at her home with a colleague and to draw her attention to the fact that the act of defamation was a criminal offence. In the opinion of the head of the police station, the head of department did not speak rudely to the complainant's child or threaten her, but merely drew her attention to the possible consequences of her behaviour. The following statement can be heard on the audio recording: 'From now on, if you speak to the teachers in that way, you will always be reported at my request. So if you cause problems, we will cause problems.'

In her earlier complaint, the mother complained that the police had opened criminal proceedings against her son, who was then under 14, without informing her as his legal representative. The Minority Ombudsman concluded her investigation in October last year and found that the police had opened an investigation into the minor boy for assault and defamation, which was later closed. She stressed that the investigating authority must dismiss a complaint if the information available to it shows that the perpetrator is a child, and therefore called for the observance of the rules of criminal procedure guarantees.

In view of the above, the Minority Ombudsman requested the Prosecutor General to inform her of his position on the legality of the police proceedings in question and to investigate how many criminal proceedings were conducted in 2020 and 2021 against persons known to be of minor age at the time of opening the investigation.

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In the opinion of the Deputy Prosecutor General for Criminal Matters, the police procedure did not comply with the provisions of the Decree of the Minister of the Interior on the Police Service Regulations, however, there was no suspicion of a criminal offence (abuse of office).

It was also found that in 2020, five cases were investigated at the police station concerned against persons known to be underage, but the proceedings were terminated within a short time. In 2021, the investigating authority already acted in accordance with the rules of the Code of Criminal Procedure when it dismissed the reports of crime against children.

The Minority Ombudsman stressed that the Code of Conduct only establishes the obligation for the police officer to "provide the necessary information to the person entitled to report a crime punishable on private initiative, upon request".

In the procedure where the police officer, on suspicion of a defamation offence punishable on private initiative brought to his attention by a school guard, told the apparently minor-age offender that if she continued to speak to teachers in this way she would always be reported at his request, the limitations of the police officer's powers were exceeded.

She also stated that both the National Police Headquarters and the County Police Headquarters, and not least the head of the police force concerned, should have detected the offence and taken the necessary action, based on the complaint and the attached audio recording.

The Minority Ombudsman called on the National Police Commissioner to draw the attention of the police staff concerned to the need to investigate complaints carefully, to comply with the relevant provisions of the Police Act and the Service Regulations, and to organise appropriate child and youth protection programmes.