



**DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS
OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES**

**Joint Report by the Commissioner for Fundamental Rights and the Deputy
Commissioner for the Protection of the Rights of Nationalities in Hungary
in connection with the registration of a surname under foreign law**

Case AJB-2946/2022

SUMMARY

In the summer of 2022, a grandparent lodged a complaint with the Office of the Commissioner for Fundamental Rights against the refusal of the registrar to register the birth name of his grandchild in the register of births, as determined by the parents.

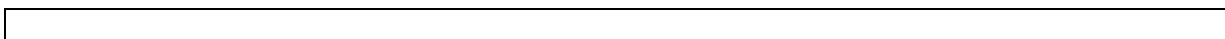
The parents of the girl child are the father, a Swiss citizen of French nationality, and the mother, a Hungarian citizen having ancestors of both German and French nationality, who wanted to register the female surname of their child in the birth register, which is not listed in the Hungarian register of surnames. According to the petitioner, the registrar informed the parents that the surname they wished to register could not be registered in Hungary and asked them to choose another surname for their newborn child.

According to the petitioner, in view of the foreign citizenship of the father, the registrar should have registered the surname requested by the parents under the relevant foreign law, pursuant to section 44 (7) of the Act on Civil Registration Procedure, regardless of the fact that it is not listed in the register of surnames compiled by the Institute of Linguistics.

According to the petitioner, the refusal to register the name violated his grandson's right to his own name and deprived his grandson's parents of the free exercise of their right to choose their child's name.

Given that the case also had implications for nationality law and other relevant fundamental rights, the Commissioner for Fundamental Rights and the Minority Ombudsman launched a joint investigation. In the framework of the investigation, the Head of the Government Office of Budapest was contacted and requested to conduct an investigation in his own competence.

On the basis of the information provided by the Head of the Government Office of Budapest, the Commissioner for Fundamental Rights and the Minority Ombudsman have established that the registrar correctly applied the provisions of the Act on Civil Registration Procedure in the course of the civil registration procedure. The registrar examined the citizenship of the parents, established the fact of the father is a Swiss citizen, which was of paramount importance for the registration of the child, and allowed the application of section 44 (7) of the Act on Civil Registration Procedure. Under that provision, if one of the parents is not a Hungarian citizen or if one of the parents has several citizenships and one of them is Hungarian, the registrar may, at the request of the parents, enter the child's surname or forename in the register on the basis of the rules applicable under the foreign law concerned. The parents have to certify the fact that the surname or forename they have indicated is in accordance with that foreign law. It is not necessary to prove the registrability of the requested surname if the registrar has official knowledge that any surname is registrable in the foreign country concerned.



Given that the parents had not provided any proof of their chosen surname, the registrar, acting on his own authority, inquired about the registrability of the surname chosen by the parents. The registrar, satisfied that the surname in question was a female surname registrable in the Swiss Confederation, registered the birth and the surname chosen by the parents within the time limit.

The Commissioner for Fundamental Rights and the Minority Ombudsman found that the parents' right to choose their child's name had not been infringed in the case under examination, as they had been able to make use of the option provided by the Act on Civil Registration Procedure, which allowed them to register their child's surname in accordance with the rules of foreign law applicable to the father's citizenship. The child was given a surname that reflected both her family ties and her nationality.

During the investigation, the Commissioner for Fundamental Rights and the Minority Ombudsman did not have sufficient information to clarify the discrepancies in the birth registration procedure, based on the petition and the response of the Head of the Government Office of Budapest. It was not clear whether, at the beginning of the procedure, the registrar had in fact refused to apply section 44 (7) of the Act on Civil Registration Procedure by asking the parents to choose a different surname for their newborn child.

In the joint report, the Commissioner for Fundamental Rights and the Minority Ombudsman positively assessed the fact that the registrar, in the absence of official information, acted on his own authority and took steps to obtain information proving the conformity of the surname with the rules of foreign law and registered the birth of the child and the surname determined by the parents within the time limit.

Nevertheless, the Commissioner for Fundamental Rights and the Minority Ombudsman considered it important to review in general the obligation of the parent(s) to certify the foreign law conformity of the surname or given name concerned in the light of section 44 (7) of the Act on Civil Registration Procedure.

On the basis of their investigation, the Commissioner for Fundamental Rights and the Minority Ombudsman consider it justified to consider amending paragraph (7) of section 44 of the Act on Civil Registration Procedure in such a way that the registrar would be obliged to verify whether the surname or given name chosen by the parent(s) complies with the rules applicable under the foreign law concerned by the non-Hungarian citizenship of the parent(s) and can be entered in the civil status register accordingly.

The Commissioner for Fundamental Rights and the Minority Ombudsman – in order to create the legal basis for the forward-looking registry procedure presented in the joint report and to prevent possible abuses of fundamental rights – finally asked the Head of the Government Office of Budapest-Capital to consider initiating with the minister heading the Prime Minister's Office – as the member of the Government in charge of civil registration matters – the amending of section 44 (7) of the Act on Civil Registration Procedure to make it the official duty of the registrar to examine whether the surname(s) chosen by the parent(s) comply with the rules applicable under the foreign law concerned on the basis of the non-Hungarian citizenship of the parent(s).