

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



CASE LAW MOSAIC

In 2016, the guardianship authority decided on the temporary placement of the minor child concerned, and then on foster care. In 2017, the guardianship authority declared the child suitable for adoption, and in 2018, the adoption of the child was approved.

According to the petition, the complainant had visited the competent guardianship authority several times since the birth of the minor to make a declaration of paternity concerning his child, but this was not recorded in the minutes, according to the petitioner, and no action was taken in this regard. As a result, in 2018, the complainant brought an action for the establishment of paternity before the competent district court, which was rejected by the court on the grounds that the secret adoption had resulted in filling the status of the father and that no action could be brought to establish the paternity of another man in respect of the same child. Following his appeal, in 2018, the competent regional court, as the court of second instance, set aside the ruling of the district court and ordered the court to conduct new proceedings. According to the regional court, the district court had failed to take into account the fact that the paternity status was not yet established when the statement of claim was lodged, and had therefore held that the fact that the child had been secretly adopted during the proceedings at first instance did not affect the admissibility of the statement of claim.

In 2021, the district court declared the complainant to be the father of the minor, and ordered the civil registry department of the mayor's office of the relevant town to notify the establishment of paternity.

In order to find out the background of the complaint and to provide the complainant with the most accurate information possible, the Minority Ombudsman contacted the head of the registry department and requested information.

According to the response letter from the head of the department, the district court notified the paternity determination to the registry office in 2021. Since this letter did not contain the final court judgment, which would have allowed the data to be entered in the register, the court sent a new letter as a supplement, together with a copy of the judgment. However, even on this basis, the civil registry department was unable to enter the judgment in the Electronic Civil Status Register, as the child's legal status was settled, the adoption resulted in making the child a lineal descendant of the adoptive parents and the adoption was not annulled.

In view of this, the civil registry department has requested a professional opinion from the Prime Minister's Office. In its information letter, the Prime Minister's Office indicated that the judicial determination of paternity applies to a minor with an unresolved family status, and that the complainant must be entered in the birth register as the child's biological father (from the date of birth).

CASE LAW MOSAIC

However, the head of the department wrote that the registration of the father was still not effectuated, since according to section 14 of the Act I of 2010 on Civil Status Procedure (Civil Status Act), the data to be registered in the civil status procedure must be proved by a public deed. For this reason, the registry department again approached the court, which forwarded in 2022 the final ruling of the regional court declaring the complainant the father of the minor. On the basis of the ruling, the court's decision became enforceable.

During the execution of the judgment, the adoption was first temporarily deleted from the Electronic Civil Status System, to which the registry office added the court's corrected judgment and the data of the minor's biological father, and then the secret adoption order was re-recorded in the civil status register.

With regard to the issue of the birth certificate, the head of department referred in his information letter to the section 73/A (1) of the Civil Status Act, according to which a birth certificate is a public authentic record of the information contained in the register of births and deaths at the time of its issue. Section 74 (2) of the Civil Status Act further stipulates that no official birth certificate may be issued for a deleted birth registry entry. In view of the above, the head of department pointed out that at present, no certificate can be issued with the details of the biological father, but he can prove the biological paternity status by the court ruling.

In her information letter, the Minority Ombudsman drew the complainant's attention to the fact that, on the basis of the documents available to him, the adoption of the minor remained in force despite the court's establishment of paternity, and the legal consequences of the adoption continued to apply. However, the adopted child's right to know his or her parentage may be respected if the child subsequently wishes to contact his or her biological parents of his or her own free will.