

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



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A Roma complainant complained that a notary had informed him in writing that he had been subject to an order for payment procedure because of his outstanding water bill. According to his complaint, the debt had been outstanding for more than ten years.

The complainant said that he had been contacted years ago about the debt, but had not received a payment notice. In his current submission, he complained that, apart from the single request mentioned, he had not been ordered by any company to settle the above-mentioned debt for the past ten years and therefore contested the legal basis of this claim.

The Minority Ombudsman informed the complainant in detail about the rules on jurisdiction and the possibilities for investigation. She indicated that she could deal with the case if there was an instance of maladministration or imminent threat of maladministration by a public authority in relation to fundamental rights. The order to investigate is also subject to the condition that the person making the complaint has already applied to the competent bodies, that they have taken a final decision and that, where remedies are available, they have been exhausted by the complainant.

The Minority Ombudsman drew the complainant's attention to the fact that, as his submission did not indicate whether he had made use of the legal remedies available to him, and the Minority Ombudsman could not review the legal title of the disputed claim, she was not in a position to open an investigation.

In her reply, the Minority Ombudsman informed the complainant about the main rules of the order for payment procedure, which are set out in the Act L of 2009 on the Order for Payment Procedure. The Minority Ombudsman pointed out that the debtor may lodge an objection to the order for payment with the notary public within fifteen days of its service. The notary public in charge of the case decides on the application for excuse for failure to comply with the time limit for lodging a statement of objection.

The Minority Ombudsman stressed that if the obliged party (the complainant) does not acknowledge the claim of the creditor, i.e. if he opposes the order for payment (even partially), the proceedings will be converted into a lawsuit for the part of the order that is opposed, and the proceedings may continue in court.

If the order for payment is not contested within the time limit, it will have the same effect as a final judgment. If the debtor fails to pay despite the final force of the judgment, the creditor may proceed to enforcement for the amount of the order for payment.

The Minority Ombudsman also drew the complainant's attention to the institution of a statutory objection to service, which may be used to object to the service of an order for payment according to specific rules. Finally, she informed the complainant that he could also apply for payment by instalments or deferred payment within the time limit for objection.