

Summary

General Comment 1/2021 of the Minority Ombudsman on the specific and systemic shortcomings identified in the investigation of the educational and child protection problems of a Roma pupil

(AJB-733/2021.)

The purpose of this General Comment is to draw attention to the developmental, educational and integration problems of a Roma pupil with difficulties in integration, behaviour and learning, and the resulting serious, almost unresolved conflicts between parents and teachers, based on the experience of the investigation of a specific complaint. The weight of the specific experience of the study has also made it necessary to draw up observations and suggestions which could help other children with similar problems and provide guidance for the institutions and authorities concerned.

The complainant mother – through her legal representatives and later in person – has on several occasions submitted complaints to the Office of the Commissioner for Fundamental Rights and then to the Minority Ombudsman in the education and child protection case of her minor child, complaining about the attitude, discriminatory treatment and measures of the teachers of the educational institutions concerned. She also complained about the procedures of the family assistance centre and the guardianship office, in particular the measures taken to protect the child. According to the petitioner, the abusive and degrading treatment of the children by the public education institutions and child welfare and child protection services may also be linked to their Roma origin.

The Minority Ombudsman began investigating the circumstances of the complaint in 2017. In her General Comment, the Minority Ombudsman sought to highlight the more general systemic problems identified in relation to the specific complaint.

The Minority Ombudsman concluded that the primary schools concerned had not done everything possible to ensure the proper development of the child, despite the formal legal procedures in the case of a pupil with difficulties of integration, learning and behaviour. Their failure to do so violated the principle of due process in the best interests of the child.

In her General Comment, the Minority Ombudsman indicated that the discrepancies between the parents' grievances as set out in the complaint and the teachers' opinions could not be resolved or remedied by the Ombudsman. However, she also stressed the importance of ensuring that no form of abuse and humiliation is tolerated in primary schools, in respect of any single actor.

The Minority Ombudsman also stressed that the case on which the resolution of principle is based should also be considered and analysed from the point of view of how children and parents with similar problems could be supported more effectively, with greater involvement and mobilisation of local institutions and experts, to provide them with opportunities for change and development.

Finally, the Minority Ombudsman proposed to the State Secretary for Public Education, in view of the importance of the issue covered by the General Comment, that the EMMI Decree No. 15/2013 (II. 26.) be amended in order to ensure that, in the case of the status of pupils with difficulties in integration, learning and behaviour, the expert opinion not requested for review by the parents must be forwarded by the expert committee to the educational institution where the child is being educated. Furthermore, she proposed to consider the amendment of EMMI Decree No. 20/2012 (VIII. 31.) so that in the case of the transfer of a child or pupil with integration, learning and behavioural difficulties, the transferring educational institution should always be obliged to provide the receiving educational institution with the expert opinion containing the pedagogical tasks and improvements.