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## LEGAL RECOGNITION AND ETHNIC IDENTITY

### THE 2005 ACT ON NATIONAL AND ETHNIC MINORITIES AND REGIONAL LANGUAGE<sup>1</sup>

**ABSTRACT** This article explores ethnic relations in Poland, with a particular focus on the role of legal frameworks in shaping the status and rights of ethnic and national minorities since the fall of communism in 1989. It traces the historical context of restrictive state policies under communism and the subsequent transition to more inclusive legislation, culminating in the 2005 Act on National and Ethnic Minorities and Regional Language. The study highlights how this act, by formally recognizing certain minority groups, influences cultural preservation, identity formation, and intergroup dynamics within Polish society. Additionally, it examines the limitations imposed by the rigid legal categories and exclusionary criteria that affect new or unrecognized communities. Through this lens, the article illustrates how state policies and legal recognition impact the interactions between minority and majority groups, reflecting broader socio-cultural and political dynamics in contemporary Poland. The analysis underscores the complex interplay between formal regulations, state power, and ethnic identity, demonstrating both the potential for empowerment and the constraints embedded in institutional frameworks.

**Keywords:** identity, law, minority – majority relations

<sup>1</sup> This article is related to the author's earlier co-authored publication: Warmińska K. & Michna E. (2025). "The Impact of Legislation on the Process of Group Identity Formation: the Case of Polish Tatars, Kashubs, Lemkos, and Silesians", *International Journal of Minority and Group Rights*, s. 1-33. The present paper develops the issue independently and focuses on a different analytical aspect.

This article explores ethnic relations in Poland focusing on the role of legal frameworks in shaping the status and rights of ethnic and national minorities since the fall of communism in 1989. The study highlights how the 2005 Act on National and Ethnic Minorities and Regional Language, by formally recognizing certain minority groups, influences cultural preservation, identity formation, and intergroup dynamics within Polish society. It also examines the limitations imposed by the rigid legal categories and exclusionary criteria that affect new or unrecognized communities. Through this lens, it illustrates how state policies and legal recognition impact the interactions between minority and majority groups, reflecting broader socio-cultural and political dynamics in contemporary Poland. The text highlights how legal categorization, institutional frameworks, and state-imposed parameters influence the processes of identity creation, identity politics and societal roles of minority communities in Poland, underscoring the powerful role of regulation in shaping ethnic relations. This legislation has become central to the structuring of interethnic relations, shaping their legal, social, and cultural dimensions.

The main aim will not be to describe the formal and legal effects of the legal regulation. The focus is on the impact of such standardization processes on the methods in which individual ethnic and national identifications are defined, communicated or realized.

Ethnic relations in Poland have undergone a profound transformation since the fall of communism in 1989. Historically, Poland was characterized by a high degree of ethnic homogeneity, with minorities facing restrictive state policies that sought to assimilate or marginalize their identities. However, the democratic changes following 1989 set in motion a gradual shift towards the recognition and protection of ethnic and national minorities, resulting in the adoption of the 2005 Act on National and Ethnic Minorities and Regional Language. This year will be the 20<sup>th</sup> anniversary of introducing this regulation. Therefore, it is important to grasp its impact on minorities in the aspect of their identity.

For several decades, researchers have focused on ethnicity issues including problems of ethnic identity or ethnic boundaries, questions concerning the functioning of ethnic groups and group leadership, and aspects related to nationalism or identity politics. The scope, character, and expression of ethnic diversity are still a focal point, and are analyzed in the context of minority-majority relations, cooperation or conflicts between them, or the seeking recognition.<sup>2</sup> These problems are important not only for researchers, but also for social practitioners, politicians, and activists of local and international organizations, as well as the parties involved, that is, the members of ethnic communities. The

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<sup>2</sup> C. Calhoun, *Nations Matter: Culture, History, and the Cosmopolitan Dream*, Abingdon 2007; J.L. Comaroff, J. Comaroff, *Ethnicity, Inc*, Chicago 2009; R. Jenkins, *Rethinking Ethnicity*, 2<sup>nd</sup> ed., London 2008; T.H. Eriksen, *Ethnicity and Nationalism*, London 2018; R. Brubaker, M. Loveman, P. Stamatov, "Ethnicity as Cognition," *Theory and Society*, vol. 33 (2004), pp. 31-64; S. Malešević, *Grounded Nationalisms: A Sociological Analysis*, Cambridge 2019; University of Cologne Forum »Ethnicity as a Political Resource« (ed.), *Ethnicity as a Political Resource: Conceptualizations across Disciplines, Regions, and Periods*, [transcript], Bielefeld 2015.

role of institutionalization of certain identity choices, as well as its petrification, leads to consideration over identity politics and the politicization of ethnicity nowadays.<sup>3</sup>

The text will touch upon the problems of the so-called old, recognized minorities in Poland, which currently have this status according to the 2005 Act on National and Ethnic Minorities and Regional Languages.<sup>4</sup> It will not delve into the issues concerning postmigration minorities, as their status and legal position are different and prescribed by the separate regulations.<sup>5</sup>

For years, Poland has been perceived as a relatively ethnically homogeneous country. The percentage of people declaring an ethnicity other than Polish in the 2021 census is not considerable, as it constitutes about 3.69 per cent of the entire population (1,404,773).<sup>6</sup> The OECD 2020 report shows that this homogeneity is related to a small percentage of immigrants, defined in the report as foreign-born people living in Poland. Thus, the number of residents of foreign origin is small.<sup>7</sup>

The situation has changed since February 2022, however, when the vast flow of migrants from Ukraine arrived in Poland. Today, the number of foreign residents in the country is estimated at 3.5-4 million, of whom 60-75 per cent are Ukrainians. The rest are people of various origins, such as Belarus, Georgia, India and Moldova.<sup>8</sup> The Social Insurance Institution reported that the number of foreigners registered in Poland reached 1,127,744 at the end of 2023.<sup>9</sup> Their existence in Polish society triggers certain problems and generates interesting social phenomena in the sphere of ethnic relations, but these aspects are not presented in this article.

However, the impact of their presence on the functioning of traditional minorities in Poland is clearly noticeable. For example, the addition of newcomers with Polish

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<sup>3</sup> S. Gupta, *Social Constructionist Identity Politics and Literary Studies*, Basingstoke 2007; C. Heyes, "Identity Politics," in *Stanford Encyclopedia of Philosophy*, at <https://plato.stanford.edu/entries/identity-politics/>, 1 November 2024; F. Fukuyama, *Identity. Contemporary Identity: Anthropological Perspectives*, 3<sup>rd</sup> ed., New York 2018.

<sup>4</sup> Ustawa z dnia 6 stycznia 2005 r. o mniejszościach narodowych i etnicznych oraz o języku regionalnym, Dz.U. z 2005 r., Nr 17 poz. 141.

<sup>5</sup> "Rząd opublikował tekst strategii migracyjnej na lata 2025-2030. Co może zmienić się w samorządach," PAP, 17 October 2024, at <https://samorzad.pap.pl/kategoria/aktualnosci/rzad-opublikowal-tekst-strategii-migracyjnej-na-lata-2025-2030-co-sie-moze?>, 1 November 2024.

<sup>6</sup> GUS, "Spisy powszechne 2021," at <https://stat.gov.pl/spisy-powszechne/nsp-2021/nsp-2021-wyniki-ostateczne>, 12 November 2024.

<sup>7</sup> OECD, *All Hands In? Making Diversity Work for All*, Paris, 2 September 2020, at [https://www.oecd.org/en/publications/all-hands-in-making-diversity-work-for-all\\_efb14583-en.html](https://www.oecd.org/en/publications/all-hands-in-making-diversity-work-for-all_efb14583-en.html), 1 November 2024.

<sup>8</sup> E. Karbowicz, "Liczba imigrantów w Polsce to ok. 3,5-4 mln, z czego 60-75 proc. stanowią Ukraińcy [RAPORT]," *Gazeta Prawna*, 26 September 2023, at <https://www.gazetaprawna.pl/wiadomosci/kraj/artykuly/9307688,liczba-imigrantow-w-polsce-to-ok-35-4-mln-z-czego-60-75-proc-stano.html>, 1 November 2024; R. Ditrich, "Cudzoziemcy w Polsce. W tym roku to nie Ukraińców przybyło najwięcej. Na czele inny kraj ze Wschodu," *Forsal*, 25 January 2024, [<sup>9</sup> Ibid.](https://forsal.pl/gospodarka/demografia/artykuly/9410129,cudzoziemcy-w-polsce-w-tym-roku-to-nie-ukraincow-przybylo-najwiecej.html#:~:text=Zakład%20Ubezpieczeń%20Społecznych%20poinformował%2C%20że,wzrost%20o%206%2C1%20proc,4 April 2024.</a></p></div><div data-bbox=)

citizenship, which is the threshold condition for being covered by the Act of 2005, to the activities of existing minority organizations in Poland, will undoubtedly affect their position, and the nature of their activities. In this context, changes in the ethnicity sphere can be expected in the coming years. These new processes require further research.

## THE TIMES OF COMMUNISM AND POST-1989 CHANGES

To understand contemporary ethnic relations in Poland, the period preceding the political and system change, that is, the time of communism, is an essential starting point for further analysis. During communism, the state was the main and the most important shaper of interethnic relations. State policy towards ethnic and national minorities whose number, according to some estimations, never exceeded 1 million people, was based on a total hegemony. While policy changed in different periods, the shape, content, or image of any given ethnicity was created according to the authorities' current interests. Limitations on these groups' public endeavors were imposed by those in power, that is, the government and the ruling party. Patronizing ethnic/national communities, subsidizing some activities, or suppressing others were the manners to manage the ethnocultural diversity of Polish society, establishing only a narrow field for groups' initiatives. Nevertheless, some organizations and group institutions were accepted, and their efforts were supported. In those days, ethnicity became mostly a private matter.<sup>10</sup> According to Łodziński,<sup>11</sup> the authorities' attitude towards minorities was characterized by an emphasis on assimilation, and the exclusion of these communities from public life. In this regard, the authorities pursued a blurring of the possible cultural differentiation of society, or defined it in an ethnographic means, as minor, local, or folksy.

Post-1989 changes in the sphere of ethnic relations primarily represented a revival or reinvigoration of minorities. The state now implemented policy based on the recognition of ethnic minorities' right to maintain their own cultural identity and their right to implement social or political projects with other members of the community. After the fall of communism, a stepping stone was the adoption of the Act of 7 April 1989 Law on Associations<sup>12</sup> as well as the constitutional provision of 1997 guaranteeing

<sup>10</sup> See also: S. Łodziński, "Polityka wobec mniejszości narodowych i etnicznych w Polsce w latach 1945-2008," in S. Dudra, B. Nitschke (eds), *Mniejszości narodowe i etniczne w Polsce po II wojnie światowej. Wybrane elementy polityki państwa*, Kraków 2010, pp. 13-34; S. Łodziński, "Equal and More Equal: Ethnic Communities and Polish Public Policy 1989-2018," in E. Michna, K. Warmińska (eds), *Identity Strategies of Stateless Ethnic Minority Groups in Contemporary Poland*, Cham 2020, pp. 1-29; H. Chałupczak, T. Browarek, *Mniejszości narodowe w Polsce w latach 1918-1995*, Lublin 1998; S. Dudra, B. Nitschke (eds), *Mniejszości narodowe i etniczne w Polsce po II wojnie światowej. Wybrane elementy polityki państwa*, Kraków 2010; P. Madajczyk (ed.), *Mniejszości narodowe w Polsce. Państwo i społeczeństwo polskie a mniejszości narodowe w okresach przelomów politycznych (1944-1989)*, Warszawa 1998.

<sup>11</sup> S. Łodziński, "Polityka wobec mniejszości narodowych..."

<sup>12</sup> Ustawa z dnia 7 kwietnia 1989 r. Prawo o stowarzyszeniach, Dz.U. z 1989 r. Nr 20, poz. 104.

Polish citizens belonging to national and ethnic minorities the freedom to maintain and develop their own language and culture, and to preserve customs and traditions. This law has given national and ethnic minorities the right to establish their own educational and cultural institutions and bodies to protect their religious identity, as well as the right to participate in resolving matters concerning their cultural identity. The introduction of the Act on National and Ethnic Minorities and Regional Language in 2005 completed the long process of institutionalizing these relations at the legal level. Thus, at the formal-legal level, a shift from assimilationist to integrationist measures was decreed, in the spirit of a policy of acceptance of cultural plurality. From the perspective of minority groups, the political changes after 1989 created a relatively free market of ideas and practices concerning ethnic issues in Poland in comparison to the previous period.

The democratization of the Polish political system that began in 1989 enabled members of national minorities to freely express their separate ethnicity, to create their own organizations, and to engage in public actions. The new regulations helped them to receive funding for cultural activities, to participate in political life, and to have their children educated in their native language. These benefits related to Poland's implementation of international human rights standards, which were significant for the protection of the rights of members of minorities. The recognition of minorities and the introduction of national legal guarantees of their rights provoked practically no political disputes or social conflicts during the times of the democratic changes.<sup>13</sup> These new circumstances gave ethnic groups the opportunity to undertake their own initiatives, especially in the sphere of culture and identity. From that moment, they were inscribed in the newly established democratic rule. The visible signs of this new regime were the right to express one's own identity and the right to associate in the name of one's own community, including modifications in the law concerning ethnic issues.<sup>14</sup>

Two main problems regarding ethnicity issues should be mentioned when analyzing the first decades after the political changes. The first is communities' activities. At the beginning of this period, predominantly all communities were focused on the revival or revitalization of their ethnicity, as this resource had suffered many difficulties during the communist period. This made it necessary to take ancestors' cultural heritage into groups' own hands to secure, repair and regain it. At that time, a rhetoric of loss was common among members of ethnic communities, as well as appeals to act deliberately for the benefit of their own groups. The latter found their expression in the processes of institutionalization of ethnicity, and in the progression in the number of organizations and associations concerned with ethnic issues. In the 1990s, almost every minority group either founded an official representation (for example, the Lemkos, Germans, Karaims, and Tartars) or revived old institutions (for example, for the

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<sup>13</sup> G. Janusz, *Ochrona praw mniejszości narodowych w Europie*, Lublin 2011; S. Łodziński, "Equal and More Equal..."

<sup>14</sup> See also S. Łodziński, *Równość i różnica: mniejszości narodowe w porządku demokratycznym w Polsce po 1989 roku*. Warszawa 2005; G. Janusz, *Ochrona praw mniejszości...*

Slovaks, Lithuanians, and Belarusians). The scope and character of these initiatives differed according to the given community's needs, prospects, and priorities. They were the outcome of the group's shared definition of their situation, especially the definition shared among groups' leaders. In general, the revival of culture (religion and language) as well as the increase of educational and editorial activities could be observed.

Another very important action for these communities was to define ethnic boundaries between them and their social and cultural surroundings, that is, boundaries between *Us* and different kinds of *Others*. During that period, many of them concentrated their work on creating a message of; 'we are here, we are different' with respect to language, customs, and traditions, implying 'we are in command,' 'we govern our assets.' This sometimes caused a necessity to inscribe ethnicity into the hearts and minds of group members once again, or just to invigorate it and more openly communicate it on new occasions and in new social contexts. In contemporary times, the processes of symbolic demarcation have been crucial for the ethnic sphere, especially for these groups whose existence had been denied for years. They undertook the work on cultural content, and the way it was presented to the public. Attention should also be drawn here to the context of minority-majority relations, which raised the question of the extent of such an activity.<sup>15</sup>

These undertakings also involved many cultural inventions, in which cultural engineering played a crucial part. According to Polish anthropologist Ewa Nowicka, very often ethnic activities often take a shape of a project.<sup>16</sup> In her opinion, ethnicity has become an organized phenomenon rather than a spontaneous manifestation. It has become not only an expression of care for one's own culture, nor a sign of respect for ancestors' traditions, nor expression of profound ties or affinity with fellow members, but a well thought-out and consistently implemented venture. Thus, ethnicity could be regarded as an important asset in the discourse of social recognition. Having one's own specific, distinct, inimitable culture allows access to participation in the competition for certain important social goods. It means having the right to the social identity based on it, expecting the right to its acceptance and preservation, and, finally, the legal claim of identity recognition in relations with a dominant group.

Today, the processes and phenomena described over the three decades since the political changes are still present in the ethnic domain. However, the rush of change and the feeling of crisis and uncertainty visible then may not be evident nowadays. Instead, a kind of stability and routine on the minority side can be noticed.<sup>17</sup>

It should be noted that minorities currently face various problems. First and foremost, their language, cultural and identity activities are underfunded. The level of

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<sup>15</sup> F. Barth, "Enduring and Emerging Issues in the Analysis of Ethnicity," in H. Vermeulen, C. Govers (eds), *The Anthropology of Ethnicity. Beyond Ethnic Groups and Boundaries*, Amsterdam 1994, pp. 11-32.

<sup>16</sup> E. Nowicka, "Etniczność w procesie przemian," *Przegląd Polonijny*, vol. 3, no. 113 (2004), pp 9-16.

<sup>17</sup> University of Cologne Forum »Ethnicity as a Political Resource« (ed.), *Ethnicity as a Political Resource...*

subsidies has not changed for many years, although the needs and activities of minorities are constantly being modified. There is a lack of independent cultural institutions that cater to the needs of minorities. There is an insufficient presence of minorities in public discourse, in the media. There are many disadvantages for these communities, the extent and nature of which is reflected in the 2023 Opening Balance. National and ethnic minorities in Poland – key issues affecting minority communities’ prepared by the minority side of the Joint Commission of the Government and Minorities on National and Ethnic Minorities (2023).

## THE 2005 ACT ON NATIONAL AND ETHNIC MINORITIES AND REGIONAL LANGUAGE

In the 1990s, the process of passing a new law concerning the legal status of minority groups was initiated in Poland.<sup>18</sup> As a result, the Polish state made a separate law that protected Polish citizens who were members of ethnic and national minorities and retained an individualized approach to minority protection as opposed to a collective one.<sup>19</sup> The accession to the EU required the adoption of European provisions on the protection of minorities, above all the Framework Convention for the Protection of National Minorities and The European Charter for Regional or Minority Languages, which was finally reflected in a bill passed in 2005. Poland ratified the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages in 2009.

The 2005 Act legally defined relations between the majority minority groups. Under it, the Polish state acknowledged thirteen minorities: nine of them called national, four called ethnic minorities and a regional language (that is, Kashubian). As written in the preamble, the act regulates the issues concerning the preservation and development of cultural identity of ethnic and national minorities and regional languages, entrenches the rule of equal treatment of persons regardless of ethnic origins, as well as administrative bodies’ tasks and competences regarding these issues.

The Act defines a national minority as a group of Polish citizens who jointly fulfill the following conditions:

- 1) their number is smaller than the remaining part of the population of the Republic of Poland;
- 2) they significantly differ from the other citizens in language, culture or tradition;
- 3) they strive to preserve their language, culture or tradition;
- 4) they are aware of their own historical, national community, and are oriented towards its expression and protection;

<sup>18</sup> G. Janusz, “Polska ustawa o mniejszościach narodowych,” in C. Obracht-Prondzyński, M. Milewska (eds), *Tożsamość – Kultura – Równość. Refleksje z okazji piętnastolecia Ustawy o mniejszościach narodowych i etnicznych oraz o języku regionalnym*. Gdańsk 2020.

<sup>19</sup> Ustawa z dnia 6 stycznia 2005 r. o mniejszościach narodowych i etnicznych...

- 5) their ancestors have lived on the present territory of the Republic of Poland for at least 100 years;
- 6) they identify themselves with a nation organized in their own state.

The following minorities are recognized as national minorities: the Belarusians (56,607); the Czechs (7,818); the Lithuanians (10,287); the Germans (144,177); the Armenians (6,772); the Russians (15,994); the Slovaks (5,889); the Ukrainians (82,440); and the Jews (17,156). The numbers come from the last census of 2021. (Stan i struktura demograficzno-społeczna i ekonomiczna ludności Polski w świetle wyników NSP 2021). 2023.

Ethnic minorities are described similarly to national minorities, except for one criterion: the identification with their own state, which 'ethnic minorities' lack. The Karaims (3,479), the Lemkos (13,607), the Roma (13,303) and the Polish Tatars (5,295) are ethnic minorities under the Act.<sup>20</sup>

The criteria mentioned in the Act are crucial for the groups who are currently claiming their ethnic or national identity, as they are the basis for being included in the sphere of minority protection. Particularly important is the criterion of 100 years of residence on the Polish territory, as it excludes newly arrived immigrants, although if they have Polish citizenship, it includes them in the system. The criterion 'they significantly differ from the other citizens in language, culture or tradition' is not entirely clear, as not many are able to indicate the degree of their difference, apart from the persons concerned.

This meant that members of such immigrant groups as Greeks, Macedonians and Vietnamese are excluded from this legal protection, but at the time, there was no particular protest about the matter. The legislature has not yet discussed what will happen in these groups' case after a hundred years.

There are also two groups, yet not recognized by the Act, i.e. the Kashubians (here only the regional language is acknowledged) in the number of 179,685, and the Sile-sians, the group of 596,224 people, the biggest ethnic minority in Poland nowadays.<sup>21</sup> 2023. The Vilamovians also seek recognition by this act.

## ETHNIC RELATIONS IN THE PERSPECTIVE OF THE 2005 ACT – A STRUCTURAL INSIGHT

It is a simple and obvious statement that the 2005 Act legalizes or orders the sphere of ethnic relations in Poland within its own scope, to more complex processes that function in numerous social contexts. In this sense, the Act is not only a context in which, or in relation to which, ethnic processes can be analyzed.

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<sup>20</sup> Ibid.

<sup>21</sup> GUS, "Stan i struktura demograficzno-społeczna i ekonomiczna ludności Polski w świetle wyników NSP 2021," 27 November 2023, at <https://stat.gov.pl/spisy-powszechne/nsp-2021/nsp-2021-wyniki-ostateczne/stan-i-struktura-demograficzno-spoeczna-i-ekonomiczna-ludnosci-polski-w-swietle-wynikow-nsp-2021,6,2.html>, 1 November 2024.

At the beginning, it should be mentioned, that the state is an agent who establishes ethnic politics in the legal, institutional and ideological dimension. It imposes basic parameters determining ethnic relations. It would be a mistake, however, to recognize the state only as a scene on which social life takes place in the dimension discussed here. This is noted by Fredrik Barth,<sup>22</sup> who treats the sphere of state policy, bureaucratization, legal regulations, ideology, control over cultural and information resources as one of the three basic levels for analyzing contemporary ethnicity, the macro level (along with the micro and median levels). A state should not be treated as a *silent imagined community*, but as an important actor involved in the processes of identity creation in social relations. Therefore, Barth recommends looking closely at the state as the creator of politics, because its style significantly affects the processes of identity management or the creation of ethnic communities. This point of view leads to recognizing ethnic processes as happening in a complex field of state politics and culture.

Framing the analysis of ethnic relations from a possible minority point of view leads to the reflection on a fundamental aspect of these relations, namely their inequivalence. A minority position is, by definition, an unprivileged one<sup>23</sup> and it generate certain definitions of situations, activities and world views on the side of minority agents.

In general, when applying a potential minority perspective to ethnic issues related to the 2005 legal regulation, the following problems should be considered.

Looking at the Act from the structural point of view, the unequal distribution of power among positions in the field – in this case between the dominant group and minorities – should be noted. As mentioned before, it is the state, and its authorities at different levels, which create official and consequential rules of the social reality construction in this respect. The minority status seems obvious in the context of this regulation, but is contested by certain groups included in the Act.

The nomenclature of the Act specifies the possible positions that agents can take. These positions become institutionalized and petrified in the social awareness, both in majority and minority parties. The position determines the possible means of empowerment of cultural communities. In this respect, this is a dominant group, the Poles, who constitute the silent majority not mentioned in the Act; and the ethnic and national minorities plus one language community. Since the Act has called into being a type of social actor who can be named a legal entity, it has created the positions from which one can speak about and explain one's existence, interests and desires. It has opened the space for an identity politics which could be undertaken by these legal entities who are recognized social actors. And by those unrecognized.

The fact of being in the minority position generates specific needs, aims, interests and, consequently, activities. It also creates a kind of a social actor who participates in this political game and in the network of connections described by the Act. The minority subject must be familiar with the rules and operating procedures prevailing there.

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<sup>22</sup> F. Barth, "Enduring and Emerging Issues..."

<sup>23</sup> JJ. Preece, *Minority Rights*, Cambridge 2005.

The Act decides what kind of criteria should be fulfilled if a person or a group wants to be included and consequently hold one of the predefined positions. Power over inclusion is in the hands of authorities, courts and experts who operate on behalf of the state. Institutionally, they represent the hegemon. As recent years have shown, this regulation has a rather closed nature. It is difficult to enter it, or to resign or change a position in it. The best examples are the case of the Silesians, who have been trying to get access to the field for years and almost succeeded, as will be described further on; and the case of some Kashubian leaders. In **April 2024**, the Polish parliament adopted an amendment to the Act on National and Ethnic Minorities and on the Regional Language that would have granted **Silesian** the status of a **regional language**, alongside Kashubian. However, in **May 2024**, the amendment was **vetoed by the President of Poland, Andrzej Duda**. The act providing legal protection for the **Silesian language as a regional language was adopted again by the Sejm of the Republic of Poland on 9 January 2026** and subsequently passed by the Senate of the Republic of Poland; **however, it was not signed into law by the President, Karol Nawrocki**.

Given the current configuration of political power on the Polish political scene, it can be assumed with a **high degree of probability** that the bill will not be signed by the incumbent President.

There is also another group, the Vilamovians, who would like to enter the field and have their language included as a regional language with a similar status to the Kashubian language.<sup>24</sup> They have already undertaken some activities oriented towards this goal and have not yet succeeded, as some linguists consider their language to be a dialect of German, not a separate ethnolect. This first opinion prevails in the parliamentary committee which decides on changes to the Act on National and Ethnic Minorities and Regional Language. The **amendment to the legislation on regional languages**, which would have granted the **Wilamowicean language** the status of a **regional language**, was **passed by the Sejm of the Republic of Poland on 12 September 2025**, and subsequently by the **Senate of the Republic of Poland on 25 September 2025**. However, on **16 October 2025**, the bill was **vetoed by the President of Poland**, who referred it back to the Sejm for reconsideration, citing the need for **substantive review**.

The question remains: what is at stake if a community is under this regulation? It is the recognition of a given identity because of empowerment. Only entry into the Act grants symbolic capital in the form of social appreciation, which in the communist times had been denied. Obtaining it also means access to such resources as privileges, social visibility, social respect, and financial and institutional support from the state, as this is an important provider of financial resources for different minorities' undertakings. It also provides access to the participations in a collegial body, as The Joint Commission of the Government and National and Ethnic Minorities. It can be claimed that being included in the Act gives a certain entitlement, not only symbolic entitlement,

<sup>24</sup> T. Król, "Czym jest dla dzisiejszych Wilamowian język wilamowski? Różne funkcje, różne postawy językowe," *Łódzkie Studia Etnograficzne*, vol. 55 (2016), pp. 241-264; T. Król, *Wymysōi ej – sejny, kliny stot. Gys̄ibta fu Wymysiōejyn yr wymysiōeryša šprōb/ Wilamowice to piēkne, małe miasto. Wilamowski jēzyczne opowieści Wilamowian*, Wrocław 2023.

but real entitlement as well. The fact of being a recognized and protected minority embroils groups in a range of activities, from applying for funding for activities to building a narrative in the spirit of the Act.

The other side of this coin, however, is the specific manner of recognizing groups' identity as a minority. Paradoxically, on one hand, this status helps to gain something very precious for such communities – namely, recognition, which has been important for such groups as the Lemkos, Polish Tatars, and Germans. Yet, on the other hand, it dictates how groups can operate in social relations regarding culture and identity. Three possible model situations could appear:

- 1) A given minority accepts the existing legal situation and agrees that it falls under the Act's descriptions according to its identity and aspirations. As a result, the group uses the prospects quarantined by the law plays according to the rules. This strategy is undertaken in most cases, mainly by the so-called national minorities, whose position seems to be stable in this respect. Moreover, their rights are also guaranteed by the international treaties between Poland and their nation-states. For such groups as the Lemkos or Polish Tatars, being situated in the field in the minority position was a kind of status enhancement, since previously they were not perceived as separate ethnic communities (the former were perceived as part of the Ukrainian group, and the latter were perceived as part of the Polish group, different only by religion).
- 2) A given group distances itself from the existing status quo, and perceives it as a situation that cannot be easily changed or as a necessary evil. Partly, the lack of the acceptance of a minority status as such is the main motivation in this respect. This especially concerns these groups whose members share multiple identities and feel they belong to both an ethnic and a Polish group, such as the Kashubian group. In some regards, being classed as a minority does not fit their self-description. This can lead to a passive attitude towards these circumstances. Otherwise, the group members undertake a sort of symbolic work aimed at redefining the symbolic borders between their own group and the Polish group. Initially, the group members somehow try to deny their minority status, underlining their location on the Polish, majority, side. In most cases, the members of this group share Polish-Kashubian dual identification.
- 3) Finally, minority actors take active and deliberate actions according to the current legal regulation, focused on the desire to change their group's position in the legal nomenclature. The motivation for these activities results from several reasons. It could be a desire to correct the existing description of the group according to the legal categories, for example, not to be considered as a community using a regional language, but as an ethnic community, which is part of the Kashubians' concern. Another reason could be a will to advance in the hierarchy inscribed in the field or a wish to gain better access to the symbolic capital it offers. In the eyes of ethnic leaders, to win a national minority status instead of an ethnic one seems to be more prestigious.<sup>25</sup>

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<sup>25</sup> S. Łodziński, *Równość i różnica...*

The 2005 Act not only includes given actors, but also excludes them, by denying access to participation in the competition as a recognized party. This context involves the groups which are not accepted as legal entities but still desire the inclusion, that is, the Silesian group, which in terms of numbers is the biggest national group in Poland, apart from the Poles.

There is therefore a sphere of ethnic activities which exceeds the influence of the legislation. Ethnic discourse and its factual processing are realized in the numerous other dimensions of public life, as guaranteed in a democratic society in which all individuals have the right to communicate their ethnicity openly.

The Silesian case is an excellent example of the potential significance of legal recognition. Since the 1990s, Silesian leaders have been organizing and institutionalizing community life.<sup>26</sup> They have founded several associations and initiatives that operate on both local and regional levels. The activities undertaken by these organizations are of a different character. They are focused on gaining recognition from the state for their ethnic/national demands. It concerns the acceptance by the state of the Silesians' identity choices, their cultural and especially linguistic rights and separateness, and their vision of history and the past. They are especially interested in attaining official acceptance from the state by having the group included in the 2005 Act. The group's activists have launched several projects, mostly campaigning for Silesian to be acknowledged as a regional language or the Silesians to be recognized as an ethnic minority group. The first attempt to include the Silesians in the official system of regulating minority rights took place in 2003, when the Silesian organizations appealed to the Parliamentary Commission on National and Ethnic Minorities (which was working on the draft of the Act) to be included in the list of the recognized minorities.<sup>27</sup> Finally, in 2024, after many years of rejection of the needs and will of people to be acknowledged officially as the Silesians, the amendment to the 2005 Act was introduced in the Polish Parliament. According to this proposal, Silesian will obtain the status of a regional language.<sup>28</sup> As I mentioned above, the current parliamentary majority voted in favor, but the President did not sign the law. So, the Silesians are still waiting for the legal recognition of their language and identity. There is also another group that calls for statutory recognition of the regional language, the Vilamovians.

<sup>26</sup> E. Michna, "Ślązacy między polityczną podmiotowością a poczuciem uprzedmiotowienia," *Kultura i Społeczeństwo*, vol. 62, no. 2 (2018), pp. 87-104; E. Michna, "The Silesian Struggle for Recognition. Emancipation Strategies of Silesian Ethnic Leaders," in E. Michna, K. Warmińska (eds), *Identity Strategies of Stateless Ethnic Minority Groups in Contemporary Poland*, Cham 2020, pp. 145-173; M. Szmeja, "Socjologiczne przesłanki powstania narodu śląskiego," in K. Kossakowska-Jarosz (ed.), *Śląskość: siła tradycji i współczesne problemy*, Opole 2005, pp. 111-123.

<sup>27</sup> E. Michna, "The Silesian Struggle for Recognition...".

<sup>28</sup> "Poselski projekt ustawy o zmianie ustawy o mniejszościach narodowych i etnicznych oraz o języku regionalnym oraz niektórych innych ustaw," druk nr 233, at <https://www.sejm.gov.pl/sejm10.nsf/PrzebiegProc.xsp?nr=233>, 1 November 2024.

## CONCLUSION

To conclude, this article highlights the complex interplay between the legal frameworks and ethnic minority relations in Poland, emphasizing the transformative role of the 2005 Act on National and Ethnic Minorities and Regional Language. The shift from assimilationist policies to a legal recognition of cultural plurality has redefined the landscape for minorities, offering both opportunities and constraints. While the law empowers recognized groups with symbolic and practical resources, it also institutionalizes rigid categories, presenting challenges for new or evolving identities seeking acknowledgment. This duality exemplifies the broader dynamics of ethnic relations in Poland, in which state policies, minority activism, and evolving identity politics continually shape the socio-cultural fabric. Future developments will likely hinge on adapting the legislation to reflect better the changing realities and aspirations of all ethnic groups in Poland.

This legislation defines the official status of various national and ethnic groups, offering them legal acknowledgment, cultural preservation rights, and the access to state resources. Such legal frameworks empower minority groups by providing them symbolic and practical tools for asserting their identities.

However, the legal regulation also imposes limitations by institutionalizing specific categories of minority identity and restricting access to recognition. The law creates a structured space for identity politics, in which the recognized minorities can advocate for their rights, but it also reinforces power imbalances, as the state authorities control the criteria for inclusion and recognition.

Overall, the regulation influences not just how minorities are perceived socially but also how they operate within the legal framework to express and negotiate their cultural identities, highlighting both opportunities for empowerment and challenges related to rigid categorization and limited inclusion. For example, the analysis of the activities undertaken by minorities during the last National Census in 2021 shows that the Act's context was important.<sup>29</sup>

So, the future of this legislation is by some means open, as there are social actors who want to introduce some changes to these regulations. Between them, there are representatives of minorities, academics, politicians, ethnic activists and experts in ethnic domain. All these issues were discussed during the conference, 'National, ethnic and linguistic minorities in Poland in the European context,' which took place in December 2024 in Białystok. By accessing the recording posted online, it is possible to hear the voices of both experts and representatives of the various minorities covered by the Act.<sup>30</sup> It provides an interesting overview of how the Act works, possible changes and improvements, and the role of the Act in shaping the current form of ethnicity of the groups mentioned.

<sup>29</sup> K. Dolińska, S. Łodziński (eds), *Mobilizacja etniczności. Mniejszości narodowe i etniczne w Polsce – wokół spisu ludności z 2021 roku*, Warszawa 2024.

<sup>30</sup> "Konferencja 'Mniejszości narodowe, etniczne i językowe w Polsce na tle europejskim' – dzień 2," at <https://www.youtube.com/watch?v=pPAo8lFvbE&t=19279s>, 12 December 2024.

The year 2025 was marked by a wide range of official and academic events commemorating the twentieth anniversary of the adoption of the Act. As a result, minority-related issues gained increased visibility within a specific segment of public discourse, a situation that occurs relatively rarely. These meetings and conferences generated not only retrospective assessments of the past two decades, but also forward-looking proposals and strategic ideas for the future.

Taken together, these developments indicate that the Act remains an open and contested regulatory framework, whose future shape will need to be closely observed as it continues to be negotiated at the intersection of state policy, minority agency, and evolving understandings of ethnicity in contemporary Poland

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