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# LEGAL STATUS OF NATIONAL MINORITIES IN THE REPUBLIC OF POLAND AGAINST THE BACKDROP OF CULTURAL SECURITY

Jarosław Walczak\*

## ABSTRACT

Multicultural societies have been formed since the dawn of history, and the approach of a democratic state and society to the treatment and understanding of minorities reflects the changes occurring in the social and political awareness of the citizens. For some, ethnicity is just a relic of history, and a source of conflicts. For others, it is a much-valued pluralism, a touchstone of social justice, contributing to the exchange of cultural property and general development. The fundamental principle of the Republic of Poland is equal treatment of all of its citizens regardless of their nationality. It guarantees the minorities the freedom to maintain and develop the native language, habits and traditions as well as to nurture their cultural identity. Cultural security refers to the public and social spheres. At present, it is defined as a state where society may consolidate and cultivate values underpinning its identity, while drawing on the example of other nations. It is perceived as a set of norms, conditions and various mechanisms which guarantee the ethnic groups the sense of safety, unthreatened development of identity and unhindered perpetuation by active cooperation and tolerance.

**Key words:** National minorities, ethnicity, equal treatment, tolerance,  
Cultural security

*In varietate concordia — United in diversity*  
(Official motto of the European Union)

## Introduction

There are many arguments supporting the view that we live in a world of increasing danger and proliferating threats. The complexity of reality affects our ability to anticipate many events, as well as the current social, political or even economic processes. The list of threats seems to have no end - revolts, terrorist

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\* Jarosław Walczak, Ph.D. is an Assistant Professor at the National Security Faculty, National Defence University in Warsaw, al. Gen. A. Chruściela 103, 00-910 Warszawa, Poland, e-mail: j.walczak@aon.edu.pl.

attacks, various technological and environmental disasters, humanitarian crises, ethnic purges, diseases of modern civilisation, and even wars that are still erupting. Humans are bound to operate in a world of abstract systems with unclear meaning<sup>1</sup>, and their overwhelming feeling of helplessness prevents them from making any attempts at controlling it. And yet, it is their innermost desire to preserve independence and enjoy safety - understood as being free, guarded against any potential or real threats, and confident of undisturbed life and personal development. This condition is to be achieved through creative activities which employ all available means and tools (Kitler, 2011). Safety is a value whose pursuit is a fundamental obligation of a greater significance than the socio-economic, cultural and historical aspects of social activity. It might be ventured then that safety comes before any other value and is the basis upon which spiritual and material values may be built. So, is there any way out for the contemporary man other than to give up a significant part of their competencies for the sake of society out of fear of common weaknesses and threats? In a multilevel, extremely interactive and complex world it is impossible to manage on one's own, as everyone faces threats and risks. Cooperation is no longer a luxury, but a prerequisite for survival.

In contemporary Polish language the term "minority" is most frequently used to denote a community or other group living in a certain territory which differs from the majority of the population in traits that set them apart in the civic awareness (Nowa Encyklopedia Powszechna, 1996). Such traits may include language, religion, race, national awareness, culture, etc.<sup>2</sup>. Without a doubt, the approach of a democratic state and society to the treatment and understanding of minorities (not only national ones) nowadays reflects the changes occurring in the social and political awareness of the citizens. It may be assumed that the attitude to minorities is a touchstone of the democratisation of societies. The process itself should be understood as the potential of a given society to guarantee the possibility to exercise the rights and freedoms to its minorities, as well as to grant them the possibility to manifest their distinctiveness and originality, as well as to choose the means to confirm their identity. It needs to be stressed that such guarantees are provided despite the conviction that relationships between different groups (and individuals) have always been a

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<sup>1</sup> Financial markets, mass media, telecommunications in the 21<sup>st</sup> Century, bureaucratic state, etc.

<sup>2</sup> Nowadays, the concept of minority covers also other groups and categories of individuals. Sexual minorities, women and disabled are increasingly viewed as social minorities. (Szymczak, 1993)

very sensitive topic.

## 1 National minorities in Poland - historical background

Multicultural societies have been formed since the dawn of history, and Poland has a rich tradition in this respect. It is one of the countries which, ever since its foundation, have recognised the need for peaceful coexistence of multiple national and religious groups within a single political organism. Poland, as a political body that grew out of a union of two independent states, has been by its nature a multicultural country for centuries. It ensured peaceful coexistence of multiple national, linguistic and religious groups<sup>3</sup>.

First data on the size of the population on the territory of Poland were recorded, similarly to the rest of Europe, in the Middle Ages, among others in the Chronicles by **Gallus Anonymus** (around 1113-1116) and in the papal bulls, and from the 15<sup>th</sup> Century also in documents called Liber Fundationis Episcopatus. Since the 16<sup>th</sup> Century, land tax registers and inspections of regalities (*królewszczyna*) compiled for tax and military purposes became a similar source of information. In a manner very similar to contemporary practices, the number of population was estimated on the basis of: the 1789 population census in the Republic of Poland, the population censuses in the Duchy of Warsaw of 1808 and 1810, the 1827 population and housing census in the Kingdom of Poland, the 1897 population census in the Kingdom of Poland and the 1910 population census in Galicia. After Poland regained its independence, the General Statistical Office (founded by the rescript of the Regency Council of 13 July 1918) obtained statutory authority following a year of operation, which spurred preparations for the first general population census in the entire territory of the Republic of Poland. It was followed by the 1921, 1931, 1946, 1950, 1960, 1970, 1978, 1988, 2002 and 2011 censuses.

Complete data on the national structure of population in pre-war Poland may only be found in censuses conducted in 1921, and later in 1931. The Act on the Organisation of Administrative Statistics of 21 October 1919 (*Ustawa o organizacji statystyki administracyjnej*, 1919) was a legal basis for the censuses. Article 6 of the Act provides for the preparation and conduct of the first general population census within the year 1920; the next one on 30

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<sup>3</sup> An interesting indication of this openness is *Akt Konfederacji Warszawskiej (Confoederatio Generalia Varsoviae)* of 1573 which proclaims religious tolerance and peaceful coexistence between different religious groups in the Republic of Poland.

December 1930 and the subsequent censuses every 10 years. As the population census could not be carried out in 1920 due to the situation in the country, the Act was amended on 13 May 1921. Article 1 of the Act stipulated that the first general population census would be held on 30 September 1921, the next one on 31 December 1930, and the subsequent ones every 10 years<sup>4</sup>.

The General Statistical Office included a summary breakdown by nationality and religious denomination in the entire territory of Poland in the Statistical Yearbook RP 1924. The population of Poles amounted to 18,820.2 thousand (69.2%), Ruthenians - 3,899.2 thousand (14.3%), Jews - 2,111.3 thousand (7.8%), Belarusians - 1,060.0 thousand (3.9%), Germans - 1,058.8 thousand (3.9%), other nationalities - 235.3 thousand (0.9%) (Siemakowicz, 1993).

According to the 1931 census, the population of the Republic of Poland stood at 31,915,779 (*Drugi powszechny spis ludności, 1931*), and using the linguistic criterion 10 million people (31.1%) belonged to national minorities. Included in this figure were 4,442 thousand (13.9%) Ukrainians; 2,733 thousand (8.6%) Jews; 990 thousand (3.1%) Belarusians; 741 thousand (2.3%) Germans; 139 thousand (0.4%) Russians; 83 thousand Lithuanians; 38 thousand Czechs; and 707 thousand so-called *tutejsi* (locals) residing in Podlasie (Chałupczak - Browarek, 2000).

The Second World War redrew the Polish borders, changed the country's national structure and the mentality of society. The Romani people and Jews were subject to the Holocaust, and the construction of the nation-state began, bringing about forced migrations and resettlements. Poland lost to migration citizens of German origin and a large part of the Ukrainian and Belarusian population, and after 1968 the majority of Polish Jews who survived the Holocaust. These were replaced by the people of Polish nationality who came from the *Kresy Wschodnie* (Eastern Borderlands), a territory lost by Poland during the war. The new authorities equated citizenship with nationality in a drive to create a homogeneous society.

Among the activities of the Polish communist authorities towards existing minorities after 1945 was elimination by reducing and destroying the awareness of being different. A number of stages may be distinguished within this process -

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<sup>4</sup> Journal of Laws of the Republic of Poland of 1921, No. 43, item 262. The Regulation of the Council of Ministers of 9 June 1921 (*Journal of Laws of the Republic of Poland of 1921, No. 58, item 368*) was the executive order implementing the Act. It stipulated the scope of the census and imposed on the citizens the obligation to participate in it. The public authorities were to carry out necessary preparations and supervise the census activities.

beginning with the nation-state armed with a system of repression through the focus on class issues at the cost of ethnic considerations, ending with the total elimination of autonomy of ethnic communities and their organisations. Two priorities underlay all the activities: false internationalism and homogeneous nation-state. There was a short-lived thaw in 1950s when the co-existence of different forms of cultural and social life was accepted, but under strict supervision by the Ministry of Internal Affairs. The following decades saw the deceleration of the barely started process of identity restoration. This lasted till the beginning of 1970s, arguably marking the climax of the fanatical strife for the Poland's national unity that was meant to be one of the greatest successes of the Polish People's Republic (Nikitorowicz, 2009). The studies carried out in 1970s estimated the population of national minorities as follows: 200 thousand Ukrainians; 180 thousand Belarusians; 25 thousand Czechs and Slovaks; 15 thousand Jews; 15 thousand Gypsies; 10 thousand Greeks and Macedonians; 9 thousand Lithuanians; 8 thousand Russians; and 3 thousand Germans (Żołędowski, 1992).

The situation was changed by the political breakthrough of 1989 that allowed for unhindered activities of minority organisations and genuine revitalisation of their culture. In 1989 the General Statistical Office included a new category in the population census, namely "nationality". The national population and housing census was carried out from 21 May to 8 June 2002, and the census form contained two questions particularly relevant to the issue of national minorities: what is the respondent's nationality, and which language (or languages) is spoken most often at home (*Ustawa z dnia 2 grudnia 1999 r. o narodowym spisie powszechnym ludności i mieszkań w 2002 r.*) Its results showed that the Republic of Poland had a population of 38,230,080, out of which 0.8% (305,938 people) declared nationality other than Polish. The group included 157,094 Germans; 47,640 Belarusians; 27,172 Ukrainians; 5,639 Lithuanians; 3244 Russians; 1710 Slovaks; 1055 Jews; 386 Czechs; and 262 Armenians. Among the ethnic minorities, 12,731 people declared themselves as Romani; 5,850 as Lemkos; 447 as Tatars; 43 as Crimean Karaites and 52,665 as speaking Kashubian (*Zasady opracowywania wyników Narodowego Spisu Powszechnego Ludności i Mieszkań*, 2012).

The last general population and housing census was held in 2011 under

relevant national regulations<sup>5</sup> and international obligations<sup>6</sup>.

For the first time, it was conducted using diversified methodology<sup>7</sup>, i.e. acquiring data from administrative sources (registers and information systems) and collecting data directly from the population as part of a representative study and the so-called full study. The latter was employed for 86 districts that were initially marked out based on the results of the 2002 census. The criterion behind the choice was at least 10% share of minorities in the district population of 2002, since data from the study were essential for analysing the census results in the areas of nationality and language, and especially for determining the so-called minority districts. The census form included, traditionally, two questions concerning the national and ethnic identity, language used in a domestic context and mother tongue (*Zasady opracowywania wyników Narodowego Spisu Powszechnego Ludności i Mieszkań*, 2011, 2012). The 2011 census, for the first time ever, allowed the citizens to declare complex national and ethnic identities. The open form of the question on national and ethnic identity made it possible to declare membership in one or two ethnic categories.

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<sup>5</sup> The following regulations provided a legal basis for the publication, conduct and analysis of the census: Act of 4 March 2010 on the National Population and Housing Census in 2011 (*Ustawa z dnia 4 marca 2010 r. o narodowym spisie powszechnym ludności i mieszkań w 2011 roku*) (Journal of Laws of 26 March 2010, No. 47, item 277); Regulation of the Council of Ministers of 30 August 2010 on Detailed Data to be Updated and Completed by District Offices in the Register of Buildings and Dwellings and the Population Register (*Rozporządzenie Rady Ministrów z dnia 30 sierpnia 2010 r. w sprawie szczegółowego wykazu danych przewidzianych do aktualizacji i uzupełnienia przez urzędy gmin w zestawieniu budynków, mieszkań i osób*) (Journal of Laws No. 169, item 1138); Regulation of the Council of Ministers of 13 December 2010 on Detailed Conditions and Means of Distributing Broadcasts Promoting the National Housing and Population Census of 2011 (*Rozporządzenie Rady Ministrów z dnia 13 grudnia 2010 r. w sprawie szczegółowych warunków i sposobu rozpowszechniania audycji propagujących ideę narodowego spisu powszechnego ludności i mieszkań w 2011 r.*) (Journal of Laws No. 241, item 1615), Regulation of the Council of Ministers of 17 December 2010 on Remuneration for Activities Relating to the National Housing and Population Census of 2011 (*Rozporządzenie Rady Ministrów z dnia 17 grudnia 2010 r. w sprawie wynagrodzenia za wykonywanie czynności związanych z narodowym spisem powszechnym ludności i mieszkań w 2011 roku*) (Journal of Laws No. 239, item 1595).

<sup>6</sup> According to the UN recommendations prepared jointly with the EU, the housing and population censuses should be conducted every 10 years, at the turn of decades, in years ending with "1".

<sup>7</sup> Data regarding people living in dwellings not selected at random came from public administration registers. Such households received a short-form questionnaire. They could participate in the census mainly via self-administered online surveys, supported by local census offices as far as possible by direct interviews with census takers and phone interviews. The latter method was used when the form was incomplete — the officers asked previously omitted questions or clarified inaccuracies and inconsistencies in the collected information.

As a result, many (over 200) different types of identification were recorded. These were the declarations of membership in national and ethnic, as well as ethnoregional, regional or even local groups. 917 thousand citizens took this opportunity. Based on the results of the 2011 census it was found that the population of Poland is dominated by people of uniform Polish national identity whose number amounts to 36,522 thousand (94.8%) compared to the entire population of the Republic of Poland in 2011 standing at 38,512 thousand. Around 871 thousand people (2.26%) declared both Polish and other national and ethnic identity. The group declaring national or ethnic membership other than Polish comprised 597 thousand (1.55%) people, of which 46 thousand identified themselves with as many as two non-Polish nationalities. The results of the census indicate an increasing feeling of ethnicity of regional communities in Poland. However, in the great majority of cases, this is paired with the sense of Polish identity. The biggest groups declaring nationality other than Polish are Silesians and Kashubians. Compared to the previous census, in 2011 a smaller group declared German nationality, i.e. 148 thousand, of which 45 thousand subscribed to German nationality only and 64 thousand as combined with the Polish nationality. Other, more numerous groups declaring national and ethnic identity other than Polish include Ukrainian (51 thousand) and Belarusian (47 thousand) communities. Further groups less frequently declared a non-Polish nationality or a national and ethnic identity shared with the Polish one. These include the Romani (17 thousand), Russian (13 thousand), American (12 thousand), Lemko (11 thousand) and British (10 thousand) communities (Gudaszewski, 2013).

## **2 Legal and formal considerations regarding national minorities in Poland**

The world we live in is changing in unpredictable ways. Beside the almost traditional borderland (direct and indirect) contacts of the indigenous people, there are other opportunities for interaction with broadly interpreted distinctiveness. This is the effect of mobility connected with refugees, migrations, opening of borders as well as educational or exploratory travels.

In this mind-boggling dynamic world there arises a problem of marginalising and excluding minorities from the political life as well as depriving them of their

national identity<sup>8</sup> on the one hand, and stressing autonomy and strengthening or reevaluation of the weaning sense of ethnic identity on the other. For some, ethnicity is a negatively viewed relic of history, a source of conflicts, and an attack on universal values. For others, it is a much-valued pluralism, a touchstone of a democratic society and social justice, contributing to the exchange of cultural property and general development (Nikitorowicz, 2009).

Currently around a million (or 3%) of Polish citizens declare a nationality other than Polish. Some of them live in groups, others are dispersed, but all are entitled to exercise the rights granted to them as members of national or ethnic minorities.

The fundamental principle of the Republic of Poland is equal treatment of all of its citizens, guaranteed by a general anti-discrimination clause contained in its Constitution, which also applies to the members of national and ethnic minorities<sup>9</sup>. Beside general prescriptions, the Constitution includes also detailed provisions pertaining to national and ethnic minorities. It prohibits the existence of political parties and other organisations whose agendas or activities envisage or accept racial and ethnic hatred. The Penal Code, on the other hand, imposes penalties for acts against the members of national and ethnic minorities<sup>10</sup>. At the same time, the Basic Law of the Republic of Poland grants special rights to “national and ethnic minorities”<sup>11</sup>, but fails to define these concepts and criteria for distinguishing the two types of minorities<sup>12</sup>. One of the Articles is devoted

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<sup>8</sup> Increasingly, we are dealing with ethnocide or cultural genocide, and assimilation, particularly of small ethnic groups that cannot stop the unifying tendencies, migrations or even mixed marriages; in Poland this affects the Karaites and Tatars.

<sup>9</sup> These provisions guarantee the application of the equality principle in all spheres of the public life, e.g. access to products of culture (Art. 6(1)), creation of political parties (Art. 11(1)), access to the public service (Art. 60), protection regarding ownership (Art. 64), access to health care services (Art. 68(2)), access to education (Art. 70(4)), voting rights (Art. 96(2), 169(2), 127(1)), (Safian).

<sup>10</sup> Art. 257,119: “Whoever publicly insults a group of people or individual person because of their national, ethnic, racial, religious, or because of its lack of religious beliefs or from such grounds violates the bodily integrity of another person, is punishable by imprisonment of up to 3 years. Whoever uses violence or makes unlawful threat towards a group of persons or a particular individual because of their national, ethnic, political or religious affiliation, or because of their lack of religious beliefs, shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years (The same punishment shall be imposed on anyone, who incites commission of the offence).” (Ustawa z dnia 06 czerwca 1997 Kodeks karny, 1997)

<sup>11</sup> It is essential to distinguish the concepts of “national” and “ethnic” minorities. The ethnic minority is defined as a stateless minority.

<sup>12</sup> This distinction was made in the Polish legislation in 2005 in Article 2 of the Act on National and Ethnic Minorities and the Regional Language (*Ustawa o mniejszościach narodowych i etnicznych*

entirely to minorities. It guarantees them the freedom to maintain and develop the native language, habits and traditions, as well as to nurture their cultural identity. It also highlights their right to create their own educational and cultural organisations and institutions founded for the protection of religious identity, and to participate in debates about their cultural identity (Konstytucja Rzeczypospolitej Polskiej, 1997), which indicates that the forced assimilation<sup>13</sup> of national minorities has been renounced. In a fashion that leaves no room for doubt, the Act on National and Ethnic Minorities and the Regional Language prohibits discrimination against national and ethnic minorities. This is also enacted by other laws regulating different spheres of social life<sup>14</sup>.

The Law on National and Ethnic Minorities and the Regional Language defines the national minority as a group of Polish citizens which meets all of the following conditions:

- it should be less numerous compared to the rest of the population of the Republic of Poland;
- it should differ substantially from other citizens with respect to language, culture or tradition;
- it should strive to preserve its own language, culture or tradition; should be aware of its common history and focused on expressing and protecting it; and their ancestors should have lived on the current territory of the Republic of Poland for at least 100 years;
- it should identify itself with the nation organised into a separate state (Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym, 2.1).

The Act identifies the following national minorities in Poland: Belarusians,

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*oraz o języku regionalnym*). It has some practical consequences, namely the Polish Elections Statute grants special privileges to national minorities, but not to ethnic minorities.

<sup>13</sup> Assimilation may only be the result of an unforced decision of the interested party.

<sup>14</sup> The Labour Code precludes any direct or indirect employment discrimination, in particular on the grounds of sex, age, race, religion and ethnic origin (Article 11 of the Act of 26 June 1974 Labour Code (*Ustawa z dnia 26 czerwca 1974r. Kodeks Pracy*), Journal of Laws of 1974, No. 24, item 141, as amended). The Act of 29 August of 1997 on the Protection of Personal Data (*Ustawa z dnia 29 sierpnia 1997 r. o ochronie danych osobowych*) prohibits processing data that reveal ethnic origin (Journal of Laws of 1997, No. 133, item 883), the Act of 7 October 1999 on the Polish Language (*Ustawa z dnia 7 października 1999 r. o języku polskim*) (Journal of Laws of 1999, No. 90, item 999) includes a statement that the provisions therein do not violate minority rights, and the regulation of the Minister of Internal Affairs and Administration based on it stipulates, among others, that in cities with coherent national or ethnic minority communities, the Polish names and texts may be accompanied by their equivalents in minority languages.

Czechs, Lithuanians, Germans, Armenians, Russians, Slovaks, Ukrainians and Jews. The Karaites, Lemko, Romani and Tatars are considered ethnic minorities (Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym, 2005). If we agree to treat the regulations as objective criteria, it must be accepted that the key factor in this sensitive matter is a purely individual sense of belonging to a given minority and identification with its history, traditions, language, etc. The criterion of individual decision is all the more important as no one can be forced to declare or renounce membership in a given minority.

The Polish legislation is not oblivious to political rights of national minorities<sup>15</sup>. In particular, the following was authorised: unrestricted use of minority languages, both in private and in public, including distribution of information in such languages<sup>16</sup>, and providing education in minority languages. What is more, the public radio and TV stations were obliged to account for the needs of national and ethnic minorities, as well as communities speaking a regional language in their programmes. Thus, it became possible to broadcast programmes in these languages<sup>17</sup>. Out of concern for minority languages, their use was permitted before the district bodies as supporting languages. And if traditional, historical names of cities, streets and physiographic objects existed in such languages, they could be used alongside the official Polish names (Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym, 2005). Children belonging to national and ethnic minorities were granted at least the same educational rights as other children in Poland, and at all levels, i.e.

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<sup>15</sup> The election committees of national minorities are exempt from the obligation to reach a 5% threshold in the Sejm elections (apart from Poland, similar privileges are only in place in Albania, Croatia, Romania and Slovenia, and in case of national parliamentary elections — Schleswig-Holstein), and the Election Statute prohibits combining counties (*powiat*) to create a constituency, should it affect social bonds between voters belonging to national or ethnic minorities, who reside in the counties that are to be combined (Ustawa z dnia 16 lipca 1998 r. ordynacja wyborcza do rad gmin, rad powiatów i sejmików województw, 1998).

<sup>16</sup> Minority group members have the right to use and write down their first and last names according to the spelling rules of their own language, and to use them in such a form in the register office certificates (such as birth, marriage or death certificates) and identity cards. The only limitation is the use of a non-Latin alphabet — in such cases the first and last names are transliterated; in Poland, for obvious reasons, this refers to Cyrillic alphabets. (Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym, 2005)

<sup>17</sup> Polish legislation stipulates that the public radio and television stations should account for the needs of national and ethnic minorities. (Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji).

primary and secondary schools as well as universities<sup>18</sup>.

### **3 International legal considerations - assumptions**

If we assume that there are universal human rights and people have similar needs, that one is not straightaway Polish, Ukrainian, Muslim, Judeo-Christian, white or coloured, all the differences created so far, pertaining to class, caste, religion and even to a certain extent sexes become secondary. And this is a starting point for a cosmopolitan order that unites all people, and no doubt - all Europeans. It is us who established the unprecedented political entity, the European Union - radically different from former empires whose roots stretch back to victorious campaigns against other countries - which found a firm footing on the continent ravaged by wars for thousands of years. Out of the conviction that it was time to stop the ceaseless conflicts, bloodshed and destruction of the common cultural heritage, the nations within the EU contrived a mechanism that let them break off with the all-consuming rivalry. It is called a mechanism, because the united Europe is still deprived of the traditional attributes of a state (although it may grant citizenship). Does it lead to a dwindling sense of national identity of the Europeans? It seems not, as in the new circumstances their identity and loyalty stretches far beyond the country borders and the traditional national values. This may be called a specific European cosmopolitanism.

Its main characteristic is that the recognition of distinctiveness in thought, co-existence, and in action becomes a fundamental rule, both in external and internal relations. No one attempts to eliminate or arrange the differences in a hierarchical order. They are accepted as such or even positively valued. The rule behind this behaviour is that others should be perceived as different but equal. Within the EU, being different is assessed and experienced not as a threat but as an opportunity to prosper. There is one reservation, though. This distinctiveness, strangeness is accepted, but under no circumstances absolutised. Simply put, what is sought after are the best means to make it

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<sup>18</sup> The Constitution entrenches the national and ethnic minorities' right to create their own educational institutions; (*Ustawa o systemie oświaty*) stipulates that schools and public institutions should enable children belonging to national or ethnic minorities to maintain and develop their national, ethnic, linguistic, religious, cultural and historical identity, which is achieved by providing instruction in minority language, history, geography, culture, etc. (instruction may be offered in minority languages, in bilingual schools or in schools where Polish is the language of instruction, but minority language classes are also envisaged.)

universally respected (Beck - Grande, 2009). A Europe based on such principles is characterised by freedom and free individuals; it is colourful, open, filled with distinct cultures, but definitely secular, where religion does not influence politics. It does not impose absolute truths on anyone and does not tell its citizens how to live, unless they do harm to others.

#### **4 International legal considerations - status**

Beside the already mentioned Polish regulations, the rights of national and ethnic minorities are also protected by international obligations. These comprise multilateral ones, such as: European Charter for Regional or Minority Languages; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities<sup>19</sup>; Framework Convention for the Protection of National Minorities; International Covenant on Civil and Political Rights; Convention for the Protection of Human Rights and Fundamental Freedoms; Charter of Fundamental Rights<sup>20</sup>; UN documents (conventions) concerning to a variable extent the protection of national minorities: UNESCO Convention against Discrimination in Education; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Rights of the Child; C111 Discrimination (Employment and Occupation) Convention of the International Labour Organization; Convention No. 169 on the Protection of Native People; as well as bilateral treaties of alliance and mutual cooperation with all the neighbouring countries and, among others, Hungary, Latvia, Estonia, the Kingdom of Spain, Romania, Bulgaria, Republic of Moldova, Uzbekistan and Greece. All of the regulations contain clauses treating of national minorities which take into consideration the rights of minorities as well as obligations of both contracting parties<sup>21</sup>.

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<sup>19</sup> UN General Assembly resolution No. 47/135 adopted and proclaimed on 10th December 1992 stipulates, among others, that the states should take appropriate measures so that people belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue. The act is moral and political in its essence rather than legal, as it does not impose on the states any legal obligations.

<sup>20</sup> Title III, Article 21. Non-discrimination.: "1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited." (Karta Praw Podstawowych Unii Europejskiej, 2007)

<sup>21</sup> All of the treaties refer to international standards and contain a list of minorities' rights (the level of detail differs from treaty to treaty; most often they enumerate the right to use the minority language in private and public spheres, to learn and take instruction in the native language, create minority

A prominent position in the short overview of international regulations should be accorded to the International Covenant on Civil and Political Rights — the most important, and in a way pioneering document in the area of national minorities. The covenant of the Commission on Security and Cooperation in Europe is the outcome of the 1990 meeting that took place in Copenhagen. It is a declaration that outlines political principles pertaining to the protection and rights of minority members, and entrenches the right to protection and development of their ethnic, cultural, linguistic or religious identity. It guarantees freedom to use the native tongue by the minorities, to create and preserve their own cultural, educational or religious institutions, organisations, associations, to believe in and practise their own religion and to participate in public life (*Międzynarodowy pakt praw obywatelskich i politycznych*, 1966). The provisions of the final document of the Copenhagen meeting, commonly recognised as the “European Minority Chart”, directly prescribe the protection of minorities, broach upon the struggle against ethnic discrimination as such, grant the minority members the right to free expression, preservation and development of their ethnic, cultural, linguistic and religious identity, and to maintain and develop their culture at all levels, without making attempts at assimilating the people against their will, and stressing their entitlement to the full and efficient use of human rights mechanisms and fundamental freedoms arising from the principle of equality before law.

Another document, mentioned earlier in the text, is the European Charter for Regional or Minority Languages<sup>22</sup>. Its main goals are: recognition of regional or minority languages as cultural heritage, their promotion, facilitation of cultural interactions between people using the language in speech and writing, both in private and in public, and the avoidance of solutions introducing administrative divisions that might hinder the promotion of regional or minority languages (*Ustawa o ratyfikacji Europejskiej karty języków regionalnych lub*

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institutions and associations, practise minority religion without any interference, freely interact with compatriots in the country of residence and abroad, participate in public life, transcribe first and last names in their native tongue) accompanied by a list of obligations undertaken by each country, which also differs in content depending on the document (in the most extended version, the countries undertake to refrain from discrimination against national minorities as well as engagement in assimilation activities intended to change the nationality structure; they also undertake to ensure learning and taking instruction in the native language, access to mass media, protection of national identity; the treaties with Lithuania, Belarus, the Czech Republic and Slovakia mention the possibility to use minority languages in official communications).

<sup>22</sup> Poland signed the treaty in May 2003, and ratified it in 2008.

mniejszościowych, 2008)<sup>23</sup>.

The first international law regulating in a comprehensive manner the protection of national minorities is the European Framework Convention for the Protection of National Minorities, a document of the Council of Europe enacted in 1995 which opened a way for a multifaceted approach to the issue. It contains the reservation that the protection of national minorities and the rights and freedoms of these minorities' members is an integral part of the international regulations on the protection of human rights and is covered by international cooperation agreements. For the first time, it was noted that the protection of national minorities is intertwined with ensuring stability, security and safety in Europe. The document acknowledged the ethnic, linguistic, religious and cultural diversity as deserving respect, which reveals a deeply rooted belief that diversity should be considered as a value for the states and their citizens (*Ustawa o ratyfikacji Europejskiej karty języków regionalnych lub mniejszościowych*, 2008). By implementing subsequent articles of the convention, Poland joined the countries which grant their citizens an absolute freedom to view themselves as minority members or to renounce this privilege<sup>24</sup>. These articles also guarantee minority citizens equality before law and identical legal protection, thereby prohibiting any discrimination on grounds of ethnicity, which, as already mentioned, is also a constitutional principle in the Republic of Poland. Moreover, the convention obliges the Parties to foster conditions necessary for the minority members to preserve and develop their culture, and to retain the essential aspects of their identity, such as religion, language, tradition and national heritage<sup>25</sup>. The latter pledges are fulfilled, for example, by solutions adopted in the Polish education system that encourage the preservation of identity of minority members - at the parents' or students' request it is possible to organise classes in religion in public schools, and some

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<sup>23</sup> In case of Poland, Kashubian is a regional language; Belarusian, Czech, Hebrew, Yiddish, Lithuanian, German, Armenian, Russian, Slovak and Ukrainian are national minorities' languages, while the Karaim, Lemko, Romani and Tatar are ethnic minorities' languages.

<sup>24</sup> This is also guaranteed by Article 53 of the Constitution on the freedom of conscience, and Article 31 which grants legal protection to all men and forbids forcing anyone to do what the law does not impose; the principle of unhindered choice of minority membership was included in some of the treaties concluded with Germany, Ukraine, Belarus and Lithuania.

<sup>25</sup> In such cases the Convention is also supported by the Polish Constitution, among others by the above-mentioned Article 35, but also by Art. 48(1) that gives parents the right to raise their children according to their beliefs. Art. 53(3) grants parents the right to educate and give their children moral and religious instruction in line with their principles.

courses may be supplemented by elements of history and culture of the country of origin, not mentioning the language classes themselves. Obviously, the subsequent provisions of the Convention were also reflected in the Polish legislation. These stipulate: strengthening the spirit of tolerance and developing intercultural dialogue, respect for minority members, right of association, freedom to express and manifest opinions (in the minority language) and religious beliefs (there are currently 162 churches and denominational associations in Poland). The Convention, supported by our regulations<sup>26</sup> and treaties of alliance and neighbourhood relationships<sup>27</sup>, draws attention to the right to use and official recognition of first and last names in minority languages, as well as to the right to use the language for free, unhampered expression, both in private and in public, in verbal or written forms<sup>28</sup>, also in broadly understood education and science, to disseminate knowledge of culture, language and the already mentioned religion. The final articles of the Convention stipulate the need to create conditions of authentic participation of national minorities in the cultural, social and economic life and in the public sphere. They call for refraining from means that change the national structure and restrict rights and freedoms, for non-interference with minority rights and, lastly, absolute respect for the provisions contained in the document (*Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym, 2005*).

In Poland, the coordination of the state's activities with respect to national minorities is conducted, on behalf of the Parliament, by the Commission on National and Ethnic Minorities, and on behalf of the government — Joint Commission of the Government and National and Ethnic Minorities as the

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<sup>26</sup> Polish citizens may, free of charge and at will, change their first and last names according to the spelling and pronunciation rules of their native tongue (*Ustawa z dnia 15 listopada 1956 roku o zmianie imion i nazwisk, 1956*). Between 1990 and 2000 2 persons adapted spelling of their first and last names to the spelling rules of Belarusian, 3 to Czech, 30 to Lithuanian, 3382 to German, 9 to Russian, 1 to Slovakian and 7 to Ukrainian (Nikitorowicz, 2009)

<sup>27</sup> With Germany, Ukraine, Belarus and Lithuania.

<sup>28</sup> Article 27 of the Constitution stipulates that Polish is the official language in the Republic of Poland. Yet Article 35 entrenches the minorities' right to maintain their own language, and the treaties concluded with the neighbouring countries guarantee the use of minority languages in interactions between these groups and public authorities. Additionally, Article 5 of the *Ustawa z dnia 27 lipca 2001 roku Prawo o ustroju sądów powszechnych* (Law on the Organisation of Common Courts) enables persons with insufficient knowledge of Polish to use free interpreting services in court proceedings. Similar provisions of the the Code of Penal Procedure (*Ustawa z dnia 6 czerwca 1997 roku kodeksu postępowania karnego*) grant the defendant and other persons in the court proceedings the same rights.

opinion-forming and advisory body of the President of the Council of Ministers.

## **5 National minorities and the cultural security**

In the conditions of a rapidly changing world, globalisation, fast-paced integration processes and the undisputed crisis of the classical nation-state, it is ever more difficult to analyse threats to cultural security. It becomes even harder when we consider the dual character of the concept of cultural security, which relates both to the state (cultural security of the state) and society (cultural security of individuals and cultural groups, i.e. nations, ethnic groups and religious communities) (K.A. Wojtaszczyk, A. Materska-Sosnowska, 2009) Until recently, while defining this category of security the state-centric approach was used. Under this approach, the threats or protected values were specified, and certain phenomena were interpreted in the context of cultural security that affected the state policy. Currently, the method has been abandoned and non-state actors, such as cultural and religious communities, that is nations, ethnic groups or followers of individual religions are becoming subjects of cultural security.

The modern concept of cultural security defines it as a state where people living in a certain country may consolidate and cultivate values underpinning their identity, while drawing on the example and experiences of other nations. The situation is similar at the international level. Here, cultural security is perceived as a set of norms, conditions and various mechanisms which guarantee the social groups (ethnic groups or nations) and individuals unthreatened development of identity and unhindered perpetuation by active cooperation and tolerance (Bobrow - Haliżak - Zięba, 1997). The key factors that impact cultural security are: growth of the social life dynamics leading to greater awareness of differences and to the enhancement of identity, general level of education in society, historical background and, finally, the sociopolitical system that the state is built upon.

Poland's performance in all of the areas is very good. The first part of the article presented legal guarantees for minorities living in the territory of Poland, such as freedom of thought, conscience, speech, access to cultural heritage, and active participation in its creation, as well as education - strengthened or rather consolidated by a dense network of international regulations.

The possible cultural threats are alike for Poland and the communities within. These include the universalisation of culture, a certain crisis of national

identity, problem of migrants' assimilation, movements of ideas, propaganda and the hotbeds of conflict. A great weakness of a fraction of Poles (fortunately dwindling in number) is a specific blindness in viewing certain states and minorities in a purely historical context.

By observing and trying to assess the activities of national minorities and the evolution of our interactions with them, we must notice their contribution to our culture as well as their immense efforts and perseverance. The broadly understood culture is for each and every nation one of the crucial determinants of identity and a fundamental part of the state's security. Members of national and ethnic minorities are truly valuable to our nation<sup>29</sup>, all the more important as they are the living bridge between closely affiliated nations. "Our minorities" have other undeniable values - they bring a lot of joy and animation, and prepare us for the inevitable contact with other nations, religions and traditions, which are coming our way as a result of deepening European integration and cultural aspects of globalisation. Some directly assume that traditional societies within modern states organised in a 19th Century fashion are becoming a mosaic of diverse communities; that we can renounce the outdated thought of one, indivisible republic for the sake of an old Roman idea, according to which the state was a federation of independent tribes. The notion of nation, as an abstract community bound with the country and its territory, is simply losing its meaning. A more lively source of identity is linked to regions - being a Breton or Alsatian is more emotionally laden than the abstract feeling of being Polish. However, this type of thinking does not obstruct the creation of a pan-regional cultural community. Yet such a community would be void of ethnocentrism (Maffesoli, 2013).

Every culture must be prepared for interactions with other traditions, as it is only intercultural contacts that allow us to appreciate our own legacy and facilitate its growth. Without a doubt, the man, society he forms and his culture flourish at their best in the environment of diversity.

## **Conclusion**

The fall of Communism and almost a quarter century of efforts undertaken by the Polish government and society to fight racial discrimination and xenophobia, restore or grant rights to disabled, women and gay people, as well

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<sup>29</sup> In its Preamble, the Polish Constitution defines the Polish nation as follows: "We, the Polish Nation - all citizens of the Republic of Poland..."

as rights related to different types of originality and national awareness of ethnic minorities have transformed the public sphere. Thanks to that we are now dealing with a multi-faceted awareness (political representation, positive media image and most of all, legal reform) linked to the rights to cultural and linguistic differences as well as multiple ethnic and spiritual identities. The former migrants and today's citizens, as if in return, treat their country of origin as their source of identity and the country of residence - as the source of laws. As a result, we observe mixing of identities, culture, as well as state and national politics.

And what about the cultural security? If evaluated against modern, a bit cosmopolitan categories, it is bound to be increasing. Multicultural society, or an open society (the status is guaranteed in Poland by the legislation in force), is eager to venture upon and pursue cooperation on a partner basis, to take steps to eliminate tensions and conflicts, and, more importantly, to improve the chances and opportunities of the minority groups. Such a society is not faced with a conflict between groups of strangers, but is certain to flourish around timeless and cross-national values, in conditions of equality and constant dialogue.

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