I. Introduction

Up to the point of the Sejm’s passing of the Act on National and Ethnic Minorities as well as Regional Language\(^1\) the legal status of national minorities had been regulated on the basis of international treaties\(^2\) to which Poland was a party, adequate provisions of the Constitution and ordinary law developing the constitutional provisions. In the Constitution of the Republic of Poland of 2 April 1997, the legal status of national minorities is regulated directly in Article 35. However, this regulation does not provide any special rights to national and ethnic minorities. It guarantees the freedom to maintain their identity and develop their culture, and gives the right to establish institutions designed to protect and preserve their national identity and culture.\(^3\) Article 27 of the Constitution (which concerns the official language in Poland) also relates directly to the protection of minority rights. Additionally, there are some other constitutional provisions that refer to the protection of minority rights, although these do not contain the notion ‘national minority’. As an example Article 25 can be mentioned, since it introduces equality of rights of churches and other religious organizations and Article 53, which ensures freedom of faith and religion. Other provisions, which can be

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\(^{1}\) The Journal of Laws of the Republic of Poland (Dziennik Ustaw) 2005.17.141 with further amendments.

\(^{2}\) The Republic of Poland is *inter alia* a party to the Framework Convention for the Protection of National Minorities, signed on 1 February 1995, ratified on 20 December 2000. Additionally, the rights of national minorities are included in bilateral treaties on friendly relations that Poland completed with all its neighbouring countries.

indirectly referred to the rights of national minorities, are for instance Article 13, which forbids political organizations aiming at incitement of racial or national hatred, Article 54, which ensures the freedom to express opinions and Article 58, which provides for freedom of association.4

The most important provisions concerning the rights of national minorities within the framework of the ordinary law5 have been placed in particular in Article 2 of the Act on Polish Language,6 the Act on Educational System7 as well as in its executory provisions, which regulate the rules of teaching the minority languages and being taught in the minority languages as well as oblige the state to finance that education from the state budget. The Act on Radio and Television8 contains relevant regulations concerning the consideration of the needs of national and ethnic minorities in programmes of public radio and television. The minority rights of a political character are guaranteed by the Electoral Law for the Sejm and Senate of the Republic of Poland.9

At present the main legal act regulating the legal status of national minorities in Poland is the Act on National and Ethnic Minorities as well as Regional Language. However, the constitutional and ordinary law regulations mentioned above are still considered as the relevant complement of this act’s provisions.

II. The Act on National and Ethnic Minorities as well as Regional Language

A. Genesis of the Act

The passing of the Act completed the formation process of one of the pillars of democracy, based on the European standards in this field. That process took almost 16 years because until 1989, no national minorities had officially existed in Poland. The state policy towards minorities reflected the post-war changes to the social structure—its homogenization.10 Identity preservation rights were limited, and assimilation and exclusion from the social life were taking place. However, that policy was faintly institutionalized, so minorities’ activities were tolerated to some extent.

The turning point in the minority problem area seems to have been the year 1989. Firstly, the Sejm Commission on National and Ethnic Minorities was appointed, and secondly, Prime Minister Tadeusz Mazowiecki emphasized in his speech at Sejm that Poland is a home country also for national and ethnic minorities. The need to take minority issues into consideration, as well as into the structure of the state’s legal system,

4 Ibid., 140 et seq.
5 Only exemplary provisions are mentioned within the scope of this article. A detailed description of the regulations concerning minority rights in the ordinary law can be found in Malicka, op.cit. note 3, 142 et seq.
6 Dziennik Ustaw 1999.90.999 with further amendments.
7 Dziennik Ustaw 2004.256.2572 with further amendments.
8 Dziennik Ustaw 1993.7.34 with further amendments.
9 Dziennik Ustaw 2001.46.499.