

# THE LEGAL STATUS OF KASHUBIAN IN POLAND

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**Abstract:** The objective of the article is to delineate the present status of the Kashubian language. The analysis will be based on the 2007 reports compiled by the Council of Europe with reference to the commitments made by Poland concerning the implementation of the European Charter for Minority or Regional Languages. In particular, the analysis will cover the provisions defined in Part III thereof with regard to Kashubian. The paper will try to assess whether the privileged status given to the Kashubian language has triggered significant changes in the treatment of the language by the Polish government and Kashubians. Do the reports prove that the language policy towards regional and minority languages within the European Union is in fact state-based? Do legislative grounds correspond with the change of attitudes of both the authorities and Kashubians?

## STATUS PRAWNY JĘZYKA KASZUBSKIEGO W POLSCE

**Abstract:** Celem artykułu jest przedstawienie obecnego statusu języka kaszubskiego w Polsce w oparciu o dane z raportów sporządzonych na potrzeby Rady Europy dotyczących zobowiązań Polski względem wdrożenia postanowień części III Europejskiej karty języków regionalnych lub mniejszościowych dotyczących języka kaszubskiego. Artykuł ma również na celu ocenę czy uprzywilejowany status języka kaszubskiego doprowadził do zmian w traktowaniu tego języka przez władze lokalne oraz postrzeganiu przez Kaszubów. Autorka stawia pytania czy raporty stanowią dowód na to, iż polityka językowa Unii Europejskiej względem języków regionalnych i mniejszościowych jest w rzeczywistości zależna od danego państwa oraz czy zmiany legislacyjne korespondują ze zmianami wprowadzanymi przez władze oraz samych Kaszubów.

## Introduction

Following Hornsby and Wicherkiewicz (2010, 1), the Polish legislation of 2005 concerning the minority rights has improved the sociolinguistic situation of Kashubian, while the ratification of the Charter for Minority or Regional Languages by Poland in 2009 additionally strengthened the process of distinguishing the special role and position of the said language among other lesser-used languages in Poland. Applying the territorial aspect towards Kashubian by the Polish government, based on viewing Kashubia as a region, privileges the language and the speakers of the language within the national psyche. It assumes that Kashubian affiliation is within, not outside, the territory of Poland. (2010, 1-4) According to the research conducted by Mordawski (2005) there are 390, 509 Kashubs and 176, 228 persons of partly Kashubian descent living in Poland. Most of them live in the Province of Pomerania in the north central region of Poland, which is also referred to as the 'Kashuby' region. (Obracht-Prondzyński 2007, 8-9). The

Kashubs appeared at the present territory of the Pomerania region in the VIth century (Mazurek 2010, 43). The issue of the Kashubian identity and language has been enormously influenced by the nation's history, including Germanization of Kashubs and the delegitimization of Kashubian by the Communist government that extended to forbidding the use of the term 'language' and resorting to the use of 'Kashubianness' and 'Kashubian speech'. Despite the fact that Kashubian has been granted the official status of a regional language, the inferiority complex and the idea of "Kashubianness" still persist (Hornsby and Wicherkiewicz 2010, 3). The question that arises is whether the changes in the treatment of the language, through verifying its legal status, have changed much in preserving and cherishing the language as well as the perception of the language by Kashubians.

### **EU policy towards minority languages, measures taken and applied definitions**

The policy advocated by the EU with reference to languages in general is multilingualism. In the resolution of the Council of the European Union dated November 21, 2008 on a European strategy for multilingualism, the European Union member states jointly confirm that multilingualism encompasses the social, cultural, economic and educational spheres, and as linguistic and cultural diversity constitutes an integral element of the European identity, the promotion of less widely used European languages is a significant contribution to multilingualism.

Being a supranational institution aimed at economic and political integration, the European Union relies and incorporates the values and documents adopted by the Council of Europe with regard to the protection of democracy, respect for human rights and fundamental freedoms, and the rule of law<sup>38</sup>. Therefore and further, not being in the position to impose any specific obligations related to the preservation of regional or minority languages and leaving the said issue to the discretion of individual member states, it has adopted the definition of the minority or regional languages that is applied within the European Charter for Regional or Minority Languages drafted by the Council of Europe<sup>39</sup> on 5 May 1992, stating that:

Article 2

a "regional or minority languages" means languages that are:

- i traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and
  - ii different from the official language(s) of that State;
- it does not include either dialects of the official language(s) of the State or the languages of migrants;

b "territory in which the regional or minority language is used" means the geographical area in which the said language is the mode of expression of a number

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<sup>38</sup>[www.hub.coe.int/web/coe-portal/european-union](http://www.hub.coe.int/web/coe-portal/european-union)

<sup>39</sup>The Council of Europe and the European Union have signed cooperation documents, which state that the Union shall respect and incorporate, with reference to the protection of human rights, including language preservation, all and any documents adopted by the Council. [www.jp.coe.int/Default.asp](http://www.jp.coe.int/Default.asp). The main actor in addressing the issue of the protection of minority rights within the EU is the European Parliament. However, it lacks competence to enact law and the resolutions passed by the Parliament are mainly political in nature (Bokajto and Dziubka 2004, 27).

of people justifying the adoption of the various protective and promotional measures provided for in this Charter;

c “non-territorial languages” means languages used by nationals of the State which differ from the language or languages used by the rest of the State's population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof.

Within the preamble, the Charter stresses the importance of the protection of historical regional and minority languages of Europe, with some of them being in danger of extinction, viewed as a contribution to the maintenance and development of Europe's cultural wealth and traditions. It emphasizes the fact that the right to minority and regional languages is an inalienable right that remains in line with the United Nations International Covenant on Civil and Political Rights, the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, the Helsinki Final Act of 1975 and the document of the Copenhagen Meeting of 1990. It also emphasizes the value of interculturalism and multilingualism, stressing that the protection and encouragement of regional and minority languages should not be to the disadvantage of official languages. Most important, the objective of the charter is to build Europe based on principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity.

Part I (Article 1-6) of the Charter defines general provisions, stating that each and every party thereto shall comply with the provisions of Part II in respect to all the regional and minority languages spoken within the country's territory and which comply with the definition of minority and regional languages provided in the Charter. Part II (Article 7) defines the objectives and principles binding for all signatories and obliges the Parties thereto to base their policies, legislation and practice thereupon<sup>40</sup>:

Besides, the Parties thereto undertake to promote mutual understanding and tolerance as well as to refrain from discrimination against and amongst minority and regional languages which might be manifested in unjustified distinction, exclusion,

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<sup>40</sup> Article 7.1

- a the recognition of the regional or minority languages as an expression of cultural wealth;
- b the respect of the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;
- c the need for resolute action to promote regional or minority languages in order to safeguard them;
- d the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life;
- e the maintenance and development of links, in the fields covered by this Charter, between groups using a regional or minority language and other groups in the State employing a language used in identical or similar form, as well as the establishment of cultural relations with other groups in the State using different languages;
- f the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages;
- g the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;
- h the promotion of study and research on regional or minority languages at universities or equivalent institutions;
- i the promotion of appropriate types of transnational exchanges, in the fields covered by this Charter, for regional or minority languages used in identical or similar form in two or more States.

restriction or preference, discouragement or endangerment of the maintenance or development of a given language. The policy towards minority and regional languages shall be conditional upon the needs and wishes expressed by the minority and regional languages users. Part III of the Charter, being optional, provides measures to promote the use of regional or minority languages in public life remaining in compliance with the provisions of the Charter. The Article 8 provides for education, Article 9 – judicial authorities, Article 10 – administrative authorities and public services, Article 11 deals with the media, Article 12 concerns cultural activities and facilities, Article 13 – economic and social life, and Article 14 refers to transfrontier exchanges. Charter signatories are obliged to present to the Secretary General of the Council of Europe and disclose to the public periodical reports on the policy undertaken pursuant to provisions of Part II and the application of the provisions of Part III, provided they have been accepted.

### **Poland' commitments to observe the Charter provision**

Poland became a signatory to the European Charter for Regional or Minority Languages in 2003, while the ratification of the charter took place in 2009. With reference to Kashubian, Poland committed itself to pursue and implement the following, among others, objectives<sup>41</sup>: with regard to Article 8 (Education), Poland has undertaken, without prejudice to the official language of the state, to (i) make available pre-school, primary and secondary education as well as (ii) to provide, within technical and vocational education, for the teaching of Kashubian as a part of the curriculum, (iii) to provide the basic and further training of the teachers required to implement the said objectives as well as to (iv) set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of the regional language. With regard to Article 10 (Administrative authorities and public services), Poland has obliged itself to allow for (i) the possibility for users of Kashubian to submit oral or written applications in Kashubian, (ii) to use or adopt, if necessary in conjunction with the name in the official language, traditional and correct forms of place-names and (iii) to allow the use or adoption of family names in the regional language. With regard to Article 11 (Media) - (i) to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional language, (ii) to encourage and facilitate the creation and/or maintenance of at least one newspaper in the regional language and (iii) to support the training of journalists and other staff for media using Kashubian. With regard to Article 12 (Cultural activities and facilities) – (i) to foster the different means of access in other languages to works produced in Kashubian by adding and developing translation, dubbing, post-synchronization and subtitling activities and (ii) to foster access in the regional language to works produced in the language in question by aiding and developing translation, dubbing, post-synchronization and subtitling activities<sup>42</sup>.

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<sup>41</sup> [http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/PolandECRML1\\_en.pdf](http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/PolandECRML1_en.pdf) (accessed July 31, 2013)

<sup>42</sup> [http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/PolandECRML1\\_en.pdf](http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/PolandECRML1_en.pdf) (accessed July 31, 2013)

## **Polish law on national and ethnic minorities and a regional language and its consequences**

In the aftermath of signing the European Charter for Minority or Regional Languages, on 6 January 2005 Poland enacted law on national and ethnic minorities and a regional language. Section 4 of the Act states that Kashubian is the only regional language officially recognized in Poland, emphasizing its territorial aspect in applying the definition provided by the Council of Europe. The Act provides Kashubs with the right to use and spell their names in accordance with the rules of spelling of that regional language<sup>43</sup>, whereas the article 9 of the said Act states that Kashubian may be used, in conjunction with the official language, as a supplementary language in commune offices. Still, this shall only be applicable within communes where the number of speakers of Kashubian is not smaller than 20% of the total number of commune inhabitants, while the commune itself needs to be entered into the Official Register of Communes at the territory of which the supplementary language is used. Further, the communes concerned shall have the right to apply Kashub names, together with Polish ones, of places and physiographic objects.

The enactment of the said law led to the establishment of the Kashubian Language Board (*Rada Języka Kaszubskiego*) under the resolution no. 14 of the main organization of the Kashubian language, *Zrzeszenie Kaszubsko-Pomorskie*, dated 26 August 2006, and pursuant to the § 28.2 and § 28.4 of the Statute of the *Zrzeszenie Kaszubsko-Pomorskie* and the Strategy for Protection and Development of the Kashubian Language and Culture. According to the Rules of the Kashubian Language Board<sup>44</sup>, the scope of the Board's activity encompasses all and any affairs concerning the use and development of the Kashubian language. In particular, the main objectives of the Board comprise (i) an analysis and assessment of the condition of Kashubian, (ii) dissemination of knowledge concerning Kashubian and its varieties, (iii) resolution of any linguistic doubts related to vocabulary, grammar, pronunciation, spelling, punctuation as well as (iv) seeking solutions within the scope of applying Kashubian in various forms of science, technology, especially in new disciplines, (v) providing opinion on the use of Kashubian in public activity and legal affairs, especially in advertising, press, radio, television and administration, (vi) providing opinion on names (and their grammatical and spelling forms) proposed for new goods and services, and (vii) establishing spelling and punctuation rules for Kashubian, among others. Between the years 2007 and 2013, resolutions passed by the Council referred to the word order, theory of literature for teaching purposes, media terminology connected with the names of months, days, seasons, time and directions of the world; the spelling of some prepositional phrases, compound adverbs and words, the application of Kashub names and their diminutives, Kashub names of the state authorities, protection of regional Kashub variants, application of Kashub mathematical and IT names, grammatical terms, lexical items, names of museums in the Kashub region, the application of Kashub names of towns and villages, the order of the Kashubian alphabet, vocabulary connected with forest and water, and Kashubian religious and customary language (i.e. Christmas, Easter, holy sacraments).

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<sup>43</sup> Article 7 of the Act on national and ethnic minorities and a regional language.

<sup>44</sup> [http://www.skarbnicakaszubska.pl/dokumenty/akty\\_prawne/Regulamin%20RJK.pdf](http://www.skarbnicakaszubska.pl/dokumenty/akty_prawne/Regulamin%20RJK.pdf)

**Report on the implementation of the provisions of Part III of the Charter (in regard to Kashubian) dated 7 December 2011**

According to the report, the Committee of Experts considers the undertaking to make available the pre-school, primary school and secondary school education not fulfilled. The basic reservation is that Kashubian is taught only as a subject and that the regional language is not the language of education. Whereas at the tertiary-level of education, the Committee considers the undertaking fulfilled as in 2009/2010 the University of Gdańsk introduced the specialty of 'Kashub studies' within the faculty of Polish studies. Still, the Committee stresses that there have appeared some problems with opening Kashubian Philology Department, with Kashubian being a major. As for the training of teachers, the Committee of Experts notes that tertiary education is still aimed at providing basic training for Kashubian teachers, rather than for teachers who would be able to teach specialist subjects in the language in question. As for the provision concerning judicial authorities, the report confirms that the Act on the Polish Language (Article 2.2) confirms the validity of legal documents in regional and minority languages and, thus, views the undertaking as fulfilled. Still, the report neither presents nor refers to any examples of enjoying the said privilege by native speakers of Kashubian. As for administrative authorities and public services, the Act on national and ethnic minorities and the regional language, as mentioned above, states that the regional language may be used in contacts with local authorities of municipalities where the population of Kashub people amounts to 20% of the total population figure of a given municipality according to the census of 2002. In such municipalities, the people concerned are permitted to address both in writing and orally, and upon a request, receive a written or oral reply in Kashubian, with one reservation only that the appeal procedure must be carried out in Polish. Still, the auxiliary language might be applied only at the local level, with no possibility of using it in contact with district (powiat) or province (województwo) authorities. Additionally, the Committee points out that the arbitrarily set 20% threshold is incompatible with the Charter, encouraging Polish authorities to change it and enable its application within the official context in areas where the number of Kashubs is sufficient and to extend the scope to districts and to the Pomerania Province. Usually, the number of people justifying protective measures is usually below that value. As far as the use of place names in Kashubian is concerned, the situation is similar as in this case the 20% threshold of Kashubian population within a given municipality is also required. Still, within the municipalities where the population of Kashubs does not reach 20% of the total population of the municipality, the local council may, on the basis of consultations held, adopt place names in Kashub in conjunction with Polish names in parts of the municipality where the majority of voters opted for the bilingualism of place names. Again, the basic reservation is the fact that the Kashub population threshold is incompatible with the charter. On the date of the report, place names have been introduced in seven of the ten municipalities having the requirement met. Family names used in Kashubian are allowed; still, no name change was reported during the reporting period. The undertaking connected with the media is also assessed as unfulfilled as, according to the report, there is no radio station nor any public television channel broadcasting mainly or exclusively in Kashubian. As for the cultural activities, and the provision to enlarge access in other languages to works in Kashubian by aiding or

developing translation, dubbing, post-synchronization and subtitling, the Committee of Experts was not in the position to take a stance whether the task is fulfilled or not. As for the access in Kashubian to works published in other languages, the report refers to the translation of a Polish drama, *The Wedding* by Witold Gombrowicz.

### **The actual situation of Kashubian**

Following Obracht-Prondzyński (2007, 16-18), legal regulations such as the Act on national and ethnic minorities and the regional language definitely brought a new impulse into the endeavor of the Kashub people to advance the status of their native language. Still, based on the findings of the report, Kashubian is present within the public domain but not to the extent desired by the Council of Europe and not to such an extent that would enable unconstrained improvement and preservation of the language. The report seems to indirectly reflect the findings of the research made by Makurat (2007) and Mazurek (2010).

The former author (Makurat 2007, 97-100) writes about bilingualism on the Kashubian language area, claiming that within the age group up to 30, the majority of people represent passive bilingualism, that is passive knowledge of Kashubian. For them, any attempts to speak Kashubian highlighted the frequent lack of linguistic skills in reference to the Kashubian language. Between 31 and 70 years of age, the majority of respondents declared active bilingualism, while the eldest generation (71 and elder) opted for passive bilingualism, with the knowledge of Polish being passive. Applying the classification of bilingualism adopted by Weinrich, Makurat (2007, 97-100) categorizes the current bilingualism of the Kashub region as coordinate bilingualism. The bilingual representatives of the Kashub society often cannot translate Polish into Kashubian and Kashubian into Polish by not being able to provide a given equivalent. Individual words are either reserved for the Polish language code or the Kashubian language code. The natural bilingualism of the Kashub community is undergoing residual bilingualism. The phenomenon is embodied in the cessation of natural handing down of Kashubian from generation to generation at home. As the middle-aged, elder and the eldest generations communicate with the youngest generation usually in Polish, their lack of full competence in that language leads to the intensification of Polish and Kashubian linguistic interference, resulting in the emergence of a mixed contact dialect. Makurat (2007, 97-100) stresses that the previously bilingual community is transferring into a linguistically heterogeneous one, using, in speech, three language codes: Kashubian, Polish and mixed.<sup>45</sup> Mazurek (2010:181) names the phenomenon ‘a hybrid identity’ as Kashub people adopted the Polish language from the Polish culture for the purposes of communication, stressing, at the same time, their cultural identity within the public domain.

Besides, following Makurat (2007, 89-93), there exists no single and unanimously organized language code in reference to Kashubian. The Kashubian language functions in two variants, one standardized, i.e. literary, cultural and general Kashubian language and the non-standardized one (regional and local dialects). The standardization process of Kashubian is in progress and requires long time span for its

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<sup>45</sup> Similar findings are presented by Mazurek (2010: 154-177)

popularization, while the spoken Kashubian of the Kashub community is not standardized due to the existence of numerous local and regional dialects. Makurat (2007, 90) writes about two aspects that should be considered within the analysis of the functioning of the contemporary Kashubian. The first one is the functioning of the living speech of the Kashub community and the second is the functioning of the standard Kashubian. As stated above, the former aspect is undergoing a decline of natural bilingualism due to the weakening transmission of the language between generations whereas the standardization of the spoken language is almost impossible. The process is not only unattainable for masses but it also lacks pragmatic consequences within the circle of elites establishing the standard spoken language. Besides, elements of local dialects spread to the written standard through literature, which hinders its full completion (Makurat 2007, 89-93).

Still alive, those numerous local dialects render an obstacle to the establishment of a unanimous and definite supradialectal variant. Further, such measures encounter lack of social approval of literary Kashubian which, in consequence, leads to weak functionality of the standard Kashubian. According to Makurat (2007, 93), for the Kashubian language to receive the status of a cultural language, what is needed is the acceptance of Kashubian as a high language.

The solution for language planners in reference to the revival of the regional language proposed by Hornsby and Wicherkiewicz (2010, 13-14) advocates the promotion of the Kashubian that would go beyond the municipalities with the attained 20% threshold to the territory outside the Kashuby region and non-speakers of the language in question: "A more flexible approach to 'being Kashubian', which would encompass Kashubian speakers outside the ten municipalities mentioned, and indeed outside of Kashubia proper, would ensure a greater number of people being involved in the current revitalisation project. [...] Seeing such 'hybridity' as a strength and an opportunity to be seized, rather than as a weakness, might in fact prove beneficial for speech communities undergoing a reduction in numbers and in the domains in which the language is still used." (Hornsby and Wicherkiewicz 2010, 13-14).

### **Concluding remarks**

The report dated 7 December 2011 proves that the treatment of the regional language is state-based and that insufficient emphasis is put into the application of Kashubian as a specialist language. The charter undoubtedly triggered the development of the state's language policy towards minority and regional languages. The privileged status of the sole regional language in Poland given to Kashubian led to the enactment of the Act on national and ethnic minorities and the regional language. Further, to the compilation of the Strategy for Protection and Development of the Kashubian Language and Culture which led to the establishment of the Kashubian Language Board. Still, most of the provisions of part three of the Charter undertaken by Poland towards the language in question are considered as unfulfilled, especially in the field of education. It appears that the decisive factor in the development and promotion of Kashubian is the enormous internal variety of the spoken Kashubian and the passive bilingualism adopted by the young generation. It appears that the continuation of the vocabulary enrichment, even with borrowings from Polish (suggested 'hybridity'), and its standardization would be vital in the revival and preservation of the language. It would entail the compilation of



specialist dictionaries, which the Kashub community does not possess. Further, it would enable education in Kashubian and it would enrich translation<sup>46</sup> practice, being one of the most powerful tools that refines, cultivates and keeps the language alive.

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<sup>46</sup> In the majority of cases, the translation from Kashubian into Polish and Polish into Kashubian refers to literature and church. For example, in 1992 there appeared the first translation of the Bible into Kashub by Franciszek Gruzca, the following one by Eugeniusz Gołębek (1993) and translation from Greek of the Gospel according to St. Mark by Adam Sikora of 2001. Another example of translation into Kashub refers to the works of Adam Mickiewicz, mainly *Pan Tadeusz*, translated by Stanisław Janke.

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