

## The Deaf as a Linguistic Minority in Poland: Legal Aspirations and Legal Pursuits

Dorota Lis-Staranowicz<sup>1</sup>

Urszula Bartnikowska<sup>2</sup>

**Abstract:** The article aims to introduce the issue of Deaf language rights in Poland. It is a linguistic minority that derives its identity from deafness, and its culture is based on Polish Sign Language. The Deaf linguistic minority, both in the world and in Poland, face discrimination because of their language. Therefore, we analyze the relationship between deafness and disability, outline the complexities of Deaf/Deaf community as a linguistic minority, and then contextualize Deafness and Polish Sign Language within a legal framework. An analysis of the laws and initiatives undertaken by the Deaf community in Poland shows that the current status of the Deaf in Poland is still far from satisfactory with regard to their access to goods, services and full enjoyment of their civil rights due to challenges in accessing information. An analysis of initiatives undertaken by the Deaf shows that there is a growing awareness among the Deaf community of their civil rights. These activities are inspired by the changes taking place in other countries and the initiatives of international organizations for the Deaf.

**Keywords:** Deaf, linguistic minority, human rights, rights to Sign Language/Polish Sign Language

**Summary:** 1. Introduction, 2. Deafness as a disability, 3. Deaf people as a linguistic minority group, 4. The right to language, 5. Legal aspirations and legal pursuits of the Deaf, 6. Conclusion.

### 1. Introduction

This paper aims to shed light on the matter of language rights of the Deaf in Poland. It is a linguistic minority which derives its identity from deafness, and its culture is structured around Polish Sign Language. Therefore, we analyze the relationship between deafness and disability, delineate the intricacies of Deaf culture as a linguistic minority, and subsequently contextualize the Deaf and Polish Sign Language within the legal framework. Finally, we present the legal aspirations of the Deaf community, exemplified by documents developed by the World Federation of the Deaf (hereinafter the WFD), an organization representing the interests of the said community, and petitions submitted to the Polish parliament. The paper serves as a scholarly contribution, acknowledging that it does not exhaustively address all the complexities related to the subject at hand.

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<sup>1</sup> Phd with habilitation, University of Warmia and Mazury in Olsztyn, Poland, Faculty of Law and Administration, Department of Constitutional Law. Orcid: 0000-0002-2118-3761; [staran@uwm.edu.pl](mailto:staran@uwm.edu.pl).

<sup>2</sup> Professor at University of Warmia and Mazury, phd with habilitation, University of Warmia and Mazury in Olsztyn, Poland, Faculty of Social Sciences, Chair of Special Education and Resocialisation. Orcid: 0000-0001-5706-5276; [u.bartnikowska@uwm.edu.pl](mailto:u.bartnikowska@uwm.edu.pl).

## 2. Deafness as a disability

The medical model of deafness has prevailed for many centuries. Deafness entails the loss of the sense of hearing and poses significant challenges in speech development. Hearing impairment has been viewed as a bodily injury, and deafness is still frequently regarded as a disability. The medical model aligns with the imperative to assist deaf people, historically focusing on therapies (speech development) or technological interventions (hearing aids, cochlear implants) with the goal of “curing” and transforming a deaf person into an individual indistinguishable from the norm represented by the majority. In essence, the objective of such support has been and continues to be the assimilation of the deaf minority into the majority represented by hearing people.

It is crucial to acknowledge that the repercussions of hearing impairment extend beyond mere medical aspects. Essentially, they pertain to the reception of stimuli from the surrounding environment, which include auditory components of human speech. Exposed to such stimuli, a child or individual can undergo multifaceted development. That process encompasses communication with the environment, the cultivation of profound social connections, and social, emotional, and cognitive growth. Constraints in interpersonal communication affect the overall progress of a child or individual, subsequently altering their social standing. Issues arising from restricted communication with others are considered to be the primary reason for the marginalization of that group<sup>3</sup>. People with profound hearing impairment often exhibit a low level of language competence, as evidenced by research examining their proficiency in both spoken and sign languages<sup>4</sup>. Researchers attribute the causes of such challenges to the education system that is not adapted to the needs of deaf students<sup>5</sup>. As evident, hearing impairment affects the quality of life not only through limited auditory stimuli but primarily due to restricted access to language, consequently limiting the ability to acquire information and actively participate in social life.

In that respect, the medical model presents hearing as the norm, while deafness is considered a pathology. The standard procedure solely involves mitigating hearing impairment and enhancing competencies in spoken language. However, there exists an alternative understanding of deafness.

## 3. Deaf people as a linguistic minority group

In the 20<sup>th</sup> century, a departure from the medical model of deafness was initiated by William Stokoe's research on American Sign Language (ASL), ushering in a period of promoting other perspectives. First, linguistic distinctiveness was acknowledged. Research presented sign language as a valuable, natural, and continually evolving means of

<sup>3</sup> O. SACKS, *Zobaczyć głos. Podróż do świata ciszy*, Poznań, 1998, p. 27.

<sup>4</sup> M. CZAJKOWSKA-KISIL, A. SIEPKOWSKA, AND M. SAK, *Edukacja głuchych w Polsce*, in M. ŚWIDZIŃSKI (ed.), *Sytuacja osób głuchych w Polsce. Raport Zespołu ds. g/Głuchych przy Rzeczniku Praw Obywatelskich*, Warsaw, 2014, pp. 13-27.

<sup>5</sup> H. LANE, *Maska dobroczynności. Deprecjacja społeczności głuchych*, Warsaw, 1996; pp. 164-182; H. LANE, *Ethnicity, ethics, and the Deaf-World*, in *Journal of Deaf Studies and Deaf Education*, 10 (3), 2005, pp. 291-310; P. TOMASZEWSKI, *Rozwój językowy dziecka głuchego: wnioski dla edukacji szkolnej*, in *Audjofonologia*, 16, 2000, pp. 21- 57; P. TOMASZEWSKI, *Język dzieci głuchych - wskazówki dla edukacji szkolnej*, in *Szkoła Specjalna*, 3, 2005, pp. 167-181; B. WIŚNIEWSKA, *Dzieci z wadą słuchu – specjalne potrzeby edukacyjne*, in E. WOŹNICKA (ed.), *Tożsamość społeczno-kulturowa głuchych*, Łódź, 2007, pp. 120-127; K. RUTA-KORYTOWSKA, M. WRZEŚNIEWSKA-PIETRZAK, *Obraz szkoły i edukacji uczniów głuchych w Polsce w wypowiedziach dorosłych osób niesłyszących*, in *Kultura i Wychowanie*, 2(14), 2018, pp. 55-71.

communication<sup>6</sup>. Consequently, deaf sign language users began to be recognized as part of a linguistic minority. As time progressed, the recognition extended to cultural differences rooted in the use of a different language. It was reflected in the introduction of a distinction between “deaf” and “Deaf.” The former term describes an individual with a severe hearing impairment, while the latter denotes someone who identifies with the Deaf community and uses natural sign language. The capitalized form signifies a distinctiveness similar to that associated with nationality<sup>7</sup>. Minority groups are defined by factors such as numerical size, physical (or mental) and cultural particularity (relating to e.g., language, customs), intersubjective social bonds, limited group autonomy (especially in political matters) and the mobilization of the group's interests that prompts its members to engage in activities to protect its status<sup>8</sup>. It is also common for a minority group to experience discrimination by most of the population in a given society<sup>9</sup> as confirmed by researchers of the deaf community<sup>10</sup>.

Considering the cultural aspect, numerous researchers have deliberated on the existence of “Deaf Culture.”<sup>11</sup> Ultimately, observations and research conducted among the Deaf have shown that they exhibit certain distinct behaviors indicative of a separate culture. Such behaviors include maintaining intense eye contact, engaging in specific rituals during greetings and farewells – marked by more pronounced tactile contact than observed among the hearing, sharing information (withholding information that might not have reached other members of the Deaf community is deemed impolite), transcribing information while adhering to sign language grammar, and assigning “name signs” to individuals, representing specific people through sign language symbols<sup>12</sup>. Moreover, while living among the hearing, the Deaf uphold a distinct set of values. Sign language stands out as a fundamental value, serving as the foundation for the Deaf community and its culture. Another significant aspect is a stronger preference for collectivism over individualism. Many of the Deaf prefer to build relationships with other Deaf people, which is related to the preservation of Deaf identity. In addition to those elements, “Deaf Culture” also comprises the creative output of the Deaf, which is visual, as well as the history of the Deaf, highlighting events significant to the Deaf community (e.g., “‘Deaf President Now’ movement” in 1988 at Gallaudet University, the establishment of organizations such as Deaf Power and Deaf Pride), and initiatives intended to fortify the position of the Deaf in a society formed primarily by the hearing<sup>13</sup>.

<sup>6</sup> W. C. STOKOE, *Sign Language Structure: An Outline of the Visual Communication Systems of the American Deaf, Studies in Linguistics*, in *Occasional Papers*, 8, 1960 pp. 3-78, [https://web.archive.org/web/20160308223153/http://saveourdeafschools.org/stokoe\\_1960.pdf](https://web.archive.org/web/20160308223153/http://saveourdeafschools.org/stokoe_1960.pdf).

<sup>7</sup> C. PADDEN, T. HUMPHRIES, *Inside Deaf Culture*, Harvard University Press, 2005, p. 1.

<sup>8</sup> T. PALECZNY, *MNIEJSZOŚĆ*, in Z. BOKSZAŃSKI, K. GORLACH, T. KRAUZE, W. KWAŚNIEWICZ, E. MOKRZYCKI, J. MUCHA, A. PIOTROWSKI, T. SOZAŃSKI, A. SUŁEK, J. SZMATKA, W. WINCŁAWSKI (eds.), *Encyklopedia socjologii*, Warsaw, 1999, 2, pp. 259-264.

<sup>9</sup> A. GIDDENS, *Socjologia*, Warsaw, 2005, pp. 272-273.

<sup>10</sup> H. Lane, *Ethnicity, ethics, and the Deaf-World*, in *Journal of Deaf Studies and Deaf Education*, 10(3), 2005, pp. 291-310.

<sup>11</sup> Eg. C. PADDEN, T. HUMPHRIES, *Inside Deaf Culture*, Harvard University Press, 2006, pp. 1-10; D. PODGÓRSKA-JACHNIK, *Głusi. Emancypacje*, Łódź, 2013, pp. 102-163; H. Lane, *Maska dobroczynności. Deprecjacja społeczności głuchych*, Warsaw, 1996; pp. 33-53; C. BARNES, G. MERCER, *Disability*, Cambridge, 2004, pp. 110-116.

<sup>12</sup> U. BARTNIKOWSKA, *Sytuacja społeczna i rodzinna słyszących dzieci niesłyszących rodziców*, Toruń, 2010, pp. 68 and et; L. PAALES, *A Hearer's Insight into Deaf Sign Language*, in *Electronic Journal of Folklore*, 27, 2004, pp. 49-84. <http://www.folklore.ee/folklore/vol27/paales.pdf>; L. PAALES, *Name Signs for Hearing People*, in *Folklore Electronic Journal of Folklore*, 47, 2011, pp. 43-76.

<sup>13</sup> C. PADDEN, T. HUMPHRIES, *Inside Deaf Culture*, Harvard University Press, 2006, pp. 123-143; D. PODGÓRSKA-JACHNIK, *Głusi. Emancypacje*, Łódź, 2013, pp. 138-150.

Apart from their separate language and culture, the Deaf also navigate different life experiences, which are rooted in a visual perception of reality, where visual stimuli play a foundational role not only in communication but also in the process of learning<sup>14</sup>. Thus, this is a process different from what unfolds for the hearing. Consequently, there emerged an advocacy for incorporating deaf experiences into education, alongside experiences related to gender, race, and other factors<sup>15</sup>. Additionally, deafness is a collective experience, as it involves the Deaf communicating in sign language and forming communities.

Tom Humphries concluded his paper “Talking Culture and Culture Talking” by stating that “we need to move on from 'How are we different?' to 'how are we being?'”<sup>16</sup>. It highlights another shift, i.e., the necessity to move away from defining what Deaf Culture is and what it is not. We can thus transition to another concept that emerged, namely Deafhood, which encompasses all the hearing-impaired. Deafhood ousts terms like “hearing impairment” and “deafness,” which describe people from a medical perspective, prompting a view of the audiological condition as a pathology. The concept offers a deaf-constructed model that grows out of deaf people's own ontologies. Deafhood emphasises positive, experience-oriented views of deaf people,<sup>17</sup> stating that Deafhood is an act of defiance against the oppression of hearing people. Deafhood is also a process of discovering one's own identity by every deaf person. Such an approach aims to uncover the inherent potential within the Deaf world, which can benefit not only the deaf but also the hearing community.

Deaf Gain is another perspective on d/Deafness, which encourages considering the benefits of deafness, both on an individual and societal level<sup>18</sup>. It signifies a return to viewing human deafness as an individual experience while simultaneously revisiting the medical perspective, albeit in an altered context. Deaf Gain is defined as “a reframing of ‘deaf’ as a form of sensory and cognitive diversity that has the potential to contribute to the greater good of humanity”<sup>19</sup>. The proponents of the Deaf Gain concept identify several aspects of this framework: Deaf Increase (emphasizing that Deaf people have something important), Deaf Benefit (emphasizing that hearing impairment is not only a loss but also a gain), Deaf Contribute (emphasizing the importance of the various ways in which Deaf individuals contribute to society). This approach points to the concept of diversity of life in all its manifestations – biological, cultural, and linguistic<sup>20</sup>. Deafness is one form of human existence on the biocultural and linguistic continuum, and sign language is a distinguishing feature of the analyzed group.

#### 4. The Right to Language

<sup>14</sup> P. C. HAUSER, A. O’HEARN, M. MCKEE, A. STEIDER, D. THEW, *Deaf Epistemology: Deafhood and Deafness*, in *American Annals of the Deaf*, 154 (5), 2010, pp. 486-492.

<sup>15</sup> G. A. M. DE CLERC, *Deaf epistemologies as a critique and alternative to the practice of science: an anthropological perspective*, in *American Annals of the Deaf*, 154(5), 2010, pp. 435 – 446.

<sup>16</sup> T. HUMPHRIES, *Talking Culture and Culture Talking.*, in H-D. L. BAUMAN (ed.), *Open Your Eyes: Deaf Studies Talking*, Minneapolis, 2008, pp. 35-41.

<sup>17</sup> P. LADD, *Deafhood: A concept stressing possibilities, not deficits*, in *Scandinavian Journal of Public Health*, 33(66), 2005, pp. 12–17; P. LADD, *What is Deafhood and why is it important?*, in H. GOODSTEIN & J. DAVIS (eds.), *The Deaf Way II Reader: Perspectives from the Second International Conference on Deaf Culture*, Washington, 2006, pp. 245–250; A. KUSTERS & M. DE MEULDER, *Understanding Deafhood: In search of its meanings*, in *American Annals of the Deaf*, 157(5), 2013, pp. 428–438.

<sup>18</sup> H-D. BAUMAN, *Audism*, in D. Mitchell, S. Snyder (ed.), *Encyclopedia of Disability*, London, 2006, vol. 5, pp. 141-143; H-D. BAUMAN, J.M. MURRAY, *Reframing: From Hearing loss to Deaf Gain*, in *Deaf Studies Digital Journal*, 1, 2009, pp. 1-10.

<sup>19</sup> *Ibidem*, p. 3.

<sup>20</sup> L. MAFFI, *Linguistic, Cultural, and Biological Diversity*, in *Annual Review of Anthropology*, 29, 2005, pp. 599–617.

Language rights are acknowledged as universal human rights<sup>21</sup>. Language is inherent to humanity and human dignity, which is inalienable and inviolable, serving as the source of human rights, including the right to sign language<sup>22</sup>. It is argued that the core of language rights encompasses the freedom of expression in one's language, the prohibition of discrimination based on language in all areas of life, and the right to education in one's own language<sup>23</sup>. Deaf people, as a linguistic minority, demand that their language rights also include: a) legal recognition of national sign languages as natural, b) respect for Deaf culture and identity based on sign languages, c) bilingual education, i.e., in national sign languages and the national language (speech and writing), d) information accessibility in all areas of social, political and cultural life, e) and, above all, the availability of a sign language interpreter<sup>24</sup>. The latter right is crucial for Deaf people who have limited proficiency in spoken and written language.

Deaf people experienced, and experience discrimination known as audism, which arises from the perception of speech as a form of communication superior to sign language, thereby asserting the superiority of the hearing majority over the deaf minority. The very ability to hear and speak makes the hearing majority feel superior to deaf people. Audism means: “1. The notion that one is superior based on one’s ability to hear or behave in the manner of one who hears.; 2. A system of advantages based on hearing ability; 3. A metaphysical orientation that links human identity with speech. The first is the initial seed planted by Tom Humphries (1975). The second is adapted from Wellman’s (1993), definition of racism and is mindful of Lane’s (1992) discussion of institutionalized audism. The third definition was presented at the Deaf Studies VI conference by Bahan and Bauman (2000)”<sup>25</sup>. In this context, the focal point of the endeavours of the Deaf community in Poland, as well as globally, was the legal acknowledgment of sign languages and the pursuit of language rights.

It seems that the process of advocating for the language rights of the Deaf began in the 1950s, with the first scientific studies confirming that national sign languages are natural. Around the same time, the World Federation of the Deaf was established (1951)<sup>26</sup>, with its primary task being the preservation of sign languages and Deaf culture<sup>27</sup>. Recognition of national sign languages and the acknowledgment of Deaf culture are fundamental conditions for the exercise of the language rights of that minority. At international level, the legal recognition of sign languages was a development that unfolded in the 21<sup>st</sup> century with the adoption of the United Nations Convention on the Rights of Persons with Disabilities by the UN General Assembly on 13 December 2006 (hereinafter the Convention). The Polish government signed the Convention on 20 March 2007, but its ratification was only completed on 6 September 2012. As per the stipulations of the Convention, language is construed as both

<sup>21</sup> T. SKUTNABB-KANGAS, *Linguistic Human Rights*, in L. SOLAN, L., P. TIERSMA, (eds.), *Oxford Handbook on Language and Law*, Oxford, 2012, [https://www.researchgate.net/publication/297831861\\_Linguistic\\_Human\\_Rights](https://www.researchgate.net/publication/297831861_Linguistic_Human_Rights).

<sup>22</sup> D. LIS-STARANOWICZ, *The Right of the Deaf to Polish Sign Language*, in *Przełqđ Prawa Konstytucyjnego*, 6, 2021, p. 403.

<sup>23</sup> A. SKORUPA-WULCZYŃSKA, *Language rights of the citizen of the European Union*, Warsaw KSAP, 2020, pp. 246-267.

<sup>24</sup> H. HAUALAND, A. COLIN, *Deaf People and Human Rights*, World Federation of the Deaf and Swedish National Association of the Dea, 2009, p. 9 <http://www.wfdeaf.org/wp-content/uploads/2011/06/Deaf-People-and-Human-Rights-Report.pdf>

<sup>25</sup> H-DIRKSEN L. BAUMAN, *Audism: Exploring the Metaphysics of Oppression*, in *Journal of Deaf Studies and Deaf Education*, 9(2), 2004, p. 245; P. TOMASZEWSKI, R. WIECZOREK R., E. MOROŃ, *Audyzm a opresja społeczna*, in J. KOWALSKA, R. DZIURLA, K. BARGIEL-MATUSZEWICZ (eds.), *Kultura a zdrowie i niepełnosprawność*, Warsaw, 2018, pp. 164-165.

<sup>26</sup> The Polish Association of the Deaf is a member of the World Federation of the Deaf.

<sup>27</sup> Our story, <http://wfdeaf.org/who-we-are/our-story/>.

spoken and signed languages, along with other forms of non-spoken languages (Article 2). Furthermore, the Convention makes explicit references to sign language on multiple occasions.

First and foremost, the Convention guarantees accessibility, which entails the obligation of states to enable persons with disabilities to live independently and participate fully in all aspects of life. Accordingly, states are required to take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas (Article 9). The Convention also guarantees freedom of speech and opinion, as well as access to information. It is therefore incumbent on states to take all measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention. States Parties are obliged to legally recognise and promote the use of sign languages and to ensure that Deaf people have the right to use sign languages or alternative forms of communication in official interactions (Article 21). Moreover, sign language is also referred to in the Convention in the context of the education of the Deaf (Article 24). States Parties recognize the right of persons with disabilities to education. Consequently, they are obliged to take appropriate measures to a) facilitate the learning of sign language and promote the linguistic identity of the deaf community, b) ensure that the education of the Deaf is delivered in sign languages, and c) employ teachers, including teachers with disabilities, who are qualified in sign language. References to sign languages can also be found in Article 30 of the Convention, which pertains to participation in cultural, recreational, leisure, and sports activities (Article 30). In this context, the Convention grants Deaf people the right, on an equal basis with others, to recognition of their specific cultural and linguistic identity, including sign language (Article 30(4)).

The UN General Assembly designated September 23 as the International Day of Sign Languages in order to raise awareness of the importance of sign languages for the exercise of the language rights of the Deaf. “With Sign Language, everyone is Included!” was the theme for the first International Day of Sign Languages in 2018. Despite such awareness campaigns, the mistaken belief that sign language is universal and not a national language continues to persist. This misconception has not been dispelled by state actions, which involve enacting legislation to protect the national status of sign languages. An example of such legislation is the Act of 19 August 2011 on sign language and other means of communication (i.e. Journal of Laws of 2023, item 20), which, on the one hand, fulfils the obligations imposed on Poland by the Convention and, on the other, does not fully meet the expectations of Deaf Poles, as it fails to recognize Polish Sign Language as official and does not equate it with spoken language.

### *5. Legal aspirations and legal pursuits of the Deaf*

The UN Convention is also the first international legislative measure that explicitly addresses sign languages. However, it falls short of meeting the expectations of the Deaf community. They demand a direct guarantee and full implementation of language rights by states. The “Deaf Charter on Sign Language Rights for All” (hereafter: the Charter)<sup>28</sup>, adopted by the WFD, is a reflection of those aspirations. While not normative (as it represents soft law), it is an important instrument of legal policy. It advocates for the full social integration of the Deaf (Article 1.1), while emphasizing their cultural and linguistic distinctiveness (Article 2.3): “We acknowledge that deaf communities are part of a unique intersectionality of rights,

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<sup>28</sup> Deaf Charter on Sign Language Rights for All, <https://wfdeaf.org/charter/>.

belonging to both linguistic and cultural groups, and the disability movement. Deaf people have their own identity, mainly tied to national sign languages and social connections built on the shared experience of the use of these languages. Sign language and deaf culture strengthen multilingualism and are means of promoting, protecting and preserving the diversity of languages and cultures globally. Deaf people are found among all cultural, linguistic, and ethnic minorities and the deaf community is a diverse and intersectional community”. In addition, the Charter places emphasis on the legal recognition of national sign languages and the equalization of their legal status with spoken language. “National sign languages are full, complex natural languages with the same linguistic properties as spoken languages, including phonetic, phonemic, syllabic, morphological, syntactic, discourse, and pragmatic levels of organisation. They are the mother tongue and the natural language of deaf children. They are the vector of the inclusion of deaf children both in deaf communities and in society, fostering the building of their own identities and communities” (Article 2.2.). In essence, the WFD demands that national sign languages be recognized as official languages (Article 2.1). Most importantly, the WFD advocates for free access to sign language interpreters, which entails the obligation for states to provide professional interpretation training (Article 4.2)<sup>29</sup>.

It is worth noting that the WFD has developed the Declaration on the Rights of Deaf Children (hereinafter the Declaration). It contains 10 articles that respectively proclaim: equality (Article 1), the right to a sign language from birth onwards (Article 2), the prohibition of infringing the right to sign language (Article 3), the right of hearing parents of deaf children to language instruction (Article 4), the right to bilingual education (Article 5), the right to know Deaf culture (Article 6), the prohibition of discrimination (Article 7), the right of access to individuals proficient in sign language, including in the education process (Article 8), the right to express opinions on all matters affecting them (Article 9), and the need for the immediate implementation of these rights (Article 10). Although the Declaration is a not a legally binding document, it may be an important reference point in the development of international legislation of global (e.g., UN) or regional (e.g., Council of Europe) significance, as well as national legislation, as it expresses the demands of the Deaf community<sup>30</sup>.

Changing a perspective from global to domestic, it should be said the Polish Sign Language (polski język migowy, PJM) was “emerged around 1817, with the foundation of the first school for the deaf in Warsaw and has been continually in use since then. The current number of PJM users is estimated to exceed 50,000. Despite being one of the largest minority languages in Poland, PJM has not – until recently – attracted much attention from the hearing linguistic community. The first-ever academic unit specializing in research on the grammatical and lexical properties of PJM was created at the University of Warsaw in 2010 (the Section for Sign Linguistics, SSL)”<sup>31</sup>.

For many years, Deaf Poles were deprived of language rights. Firstly, they lacked the right to bilingual education since there were no instructional programs in Polish Sign Language within schools for the Deaf. Consequently, deaf children were compelled to acquire proficiency in spoken Polish, expressing their identity through a language that was often inaccessible or challenging to grasp due to their deafness. Secondly, the state did not grant the Deaf the right

<sup>29</sup> See more L. BUSATTA, *The legal recognition of sign languages in an intersectional perspective*, in *Comparative Law and Language*, 1, 2022, pp. 75-77.

<sup>30</sup> Declaration on the Rights of Deaf Children, <https://wfdeaf.org/rightsdeafchildren/>.

<sup>31</sup> J. LINDE-USIEKIEWICZ, M. CZAJKOWSKA-KISIL, J. ŁACHETA, P. RUTKOWSKI, *A Corpus-based Dictionary of Polish Sign Language (PJM)*, in A. ABEL, CH. VETTORI & N. RALLI (eds.), *Proceedings of the XVI EURALEX International Congress: The User in Focus*. 15-19 July 2014. Bolzano/Bozen, 2014, p. 365.

to a Polish Sign Language interpreter and failed to remove barriers to information accessibility. Thirdly, they experienced discrimination known as audism.

Legal situation of the Deaf in Poland has improved considerably. Polish Sign Language was hardly recognized until the adoption of the Act of 19 August 2011 on sign language and other means of communication (i.e. Journal of Laws of 2023, item 20; hereinafter the PJM Act). This law established the Polish Council of Sign Language. The council is an advisory body to the Minister of Family, Labour and Social Policy. The most significant duties of the Council are a) to spread awareness of PJM, b) to give opinions on draft legislation, c) to propose legal solutions that remove barriers to communication. The council consists of 17 members, including the Government Plenipotentiary for Disabled People. Secondly, Polish parliament adopted Act of 19 July 2019 on ensuring accessibility for persons with special needs (i.e. Journal of Laws of 2024, item 1411; hereinafter the Accessibility Act). These acts recognize Polish Sign Language, but PJM is not an official language in Poland. According to Fillipe Venade de Sousa, “Poland’s case has some similarities to the Czech case. Polish law defines sign language as the “«natural visual-spatial communication language for eligible individuals»” i.e., those “«experiencing permanent or periodic difficulties in communication” eligible to use Polish sign language»”<sup>32</sup>. Polish laws grant Deaf people the right to the interpreter PJM in the public sphere. They do not guarantee this right to the whole extent, because they only partially remove communication barriers between the Deaf and public institutions<sup>33</sup>. The Deaf community have been appealing for an improvement in its legal situation and legislative changes.

At the outset, it is important to note that as early as the 19th century, the Deaf united in associations aimed at social aid and support<sup>34</sup>. The Christian Society of Deaf “Opatrzność” (providence) was founded in 1883 (Warsaw). The first association of Deaf Jews “Spójnia” was established in 1916 (Warsaw)<sup>35</sup>. It seems that nowadays associations and foundations aspire to provide the right to PJM than to provide social assistance. They represent individual or group interests of Deaf people. Examples of such organizations are the Polish Association of the Deaf, the Association of the Polish Institute for Deaf Rights or the Institute for Deaf Affairs and the Institute of Deaf History “Surdus Historicus”. These non-profit organizations work vigorously for the realization of the right to PJM. Deaf people recognize the necessity of standardizing the legal status of PSL interpreters and the removal of barriers through laws. They submit their petitions, claims and demands to the constitutional and non-constitutional state bodies.

*Inter alia* it is manifested in petitions submitted to the parliament or to the President<sup>36</sup>. The most far-reaching demand concerns amending the Constitution of 2 April 1997 by adding

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<sup>32</sup> “In the Czech Republic, its law categorizes sign language as «the basic communication system of deaf individuals in the Czech Republic, considering it their primary form of communication». Furthermore, it considers this language as a «natural and complete communication system», and consequently states that «Czech Sign Language has basic language attributes, such as gesturality, systematicity, dual segmentation, productivity, originality, and historical dimension, being stable in terms of lexical and grammatical aspects».” - see more F. VENADE DE SOUSA, *Decoding sign language legal status: exploring a distinct category (or tertium genus) between recognition and officiality. A comparative analysis*, in *Comparative Law and Language*, 3(1), 2024, pp. 75-77.

<sup>33</sup> Malgorzata Talipska points out a dozen legal acts that should be changed because they violate the interests of the Deaf - see M. TALIPSKA, *Wybrane propozycje zmian w prawie z uwzględnieniem potrzeb g/Głuchych*, in M. TALIPSKA, M. DEMIANIUK (eds.), *Głusi mają głos. Głusi aktywni obywatele*, Warsaw, 2024, vol. II, pp. 31-62.

<sup>34</sup> B. MARGANIEC, *Głuchy obywatel*, in M. TALIPSKA, M. DEMIANIUK (eds.), *Głusi mają głos. Głusi aktywni obywatele*, Warsaw, 2024, vol. II, p. 9.

<sup>35</sup> T. ŚWIDERSKI, *Przewodnik po Głuchej Warszawie*, Warsaw, 2017, p. 23 and 33.

<sup>36</sup> We focus our comments on petitions because it is a legal instrument. It is a constitutional political right in Poland (art. 63 of the Constitution). The subject of the petition can be a demand to change the law, to take a



a new section to Article 27 of the Constitution, reading: “Poland protects Polish Sign Language as part of Polish culture” (petition 1)<sup>37</sup>. Additionally, the Deaf community advocates for an amendment to the Polish Sign Language Act of 2011 by expanding the scope of the right to a sign language interpreter, to cover all public institutions, including healthcare facilities and educational institutions. They also demand the right to have documents concerning their legal and factual interests translated into PJM. According to the petition, that right is correlated with the state's obligation to provide a free PJM interpreter service. The authors of the petition call for the introduction of criminal provisions against those who infringe the language rights of the Deaf (petition 2). Furthermore, the deaf community points to the need to amend the Act of 6 September 2001 on access to public information (Journal of Laws of 2019, item 1429, as amended) by granting the Deaf the right to submit requests for access to public information in PJM and recorded in video form. The petitioners justify the petition by stating that the Polish (spoken and written) language is difficult, foreign, and incomprehensible to Deaf people. Writing a request for access to public information is impossible without the assistance of a hearing person (petition 3). For the same reason, they appeal for the right to submit petitions in PJM and recorded in video form (petition 4). Moreover, the overwhelming majority of petitions concern the right to a sign language interpreter, which removes barriers to access to: cultural goods (museums) (No. BKSP-144-IX-215/20); archival records (No. BKSP-144-IX-201/20); proceedings of parliamentary committees (no. BKSP-144-IX-213/20); parliamentary and senatorial offices (No. BKSP-144-IX-290/21). Other petitions submitted to the Sejm concern social rights, e.g., reduced rates (No. BKSP-144-IX-740/23, BKSP-144-IX-368/21, No. BKSP-144-IX-291/21); employment (No. BKSP-144-IX-369/21), social assistance pension (No. BKSP-145-IX-27/19). Those petitions have failed to resonate, as the Sejm has not made any legislative changes that would expand the scope of language rights for the Deaf in Poland.

It is worth mentioning the activities of the Institute of Deaf Affairs (a foundation) and its Council of the Deaf. The Institute is also actively involved in changing the law by formulating proposals to public authorities. The Council works to recognize PSL as an official language in Poland and demands to amend Article 27 of the Constitution. It also cares about the image of the Deaf in the media. It asserts to liberalise of Polish language requirement for Deaf people applying for Polish citizenship. It opposes the use of the word “deaf-mute” in Poland. It also fights for bilingualism in the education of Deaf children<sup>38</sup>.

Finally, petitions, demands and requests above described without the support of state bodies will remain only aspirations of Deaf people in Poland. The full realization of Deaf language rights should become a constitutional priority. “These priorities are undoubtedly determined primarily by the political organs of the state, i.e., the Council of Ministers, the Parliament and the President. The Council of Ministers conducts the state’s domestic and foreign policy (Article 146 of the Constitution). Parliament also plays an important role, enacting laws that implement the provisions of the Constitution (Articles 118–121 of the Constitution). Parliament, as a body representing diverse political views, has the tools to set constitutional priorities in the manner most consistent with the will of the people or through political consensus. Finally, the President, who has the right of legislative initiative and the right to sign laws, may, respectively, either submit a bill to the Sejm for a specific law, or terminate

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decision or other action on a matter concerning the subject of the petitioner, community life or values that require protection in the name of the common good. In turn, the obligation of the authorities is to consider petitions.

<sup>37</sup> D. LIS-STARANOWICZ, *Metoda regulacji i potrzeba konstytucjonalizacji polskiego języka migowego – prolegomena*, in *Zeszyty Biura Analiz Sejmowych*, 4, 2022, pp. 17-18.

<sup>38</sup> Resolutions of the Council of the Deaf, <https://gao.isg.org.pl/prace-rady/>.

the proceedings in a manner he deems just (by signing the law, vetoing it or referring it to the Constitutional Tribunal; Articles 118 and 122 of the Constitution)”<sup>39</sup>.

## 6. Conclusion

The examination of legal provisions and initiatives undertaken by the Deaf community in Poland seeking legal reforms leads to several observations. Firstly, the current status of the Deaf in Poland is still far from satisfactory with respect to their access to goods, services, and the full exercise of civil rights due to challenges in accessing information in the Polish language. Secondly, there is a growing awareness within the Deaf community regarding their rights as citizens, prompting diverse initiatives aimed at achieving parity for Polish Sign Language with the Polish language. These endeavours draw inspiration from transformations occurring in other states and initiatives of international organizations uniting the Deaf. Thirdly, the linguistic minority of the Deaf, both globally and in Poland, has encountered discrimination based on their language. The fundamental human right to sign language, arising from the dignity of the Deaf, has failed to be acknowledged. Presently, Deaf communities advocate for their language rights, seeking legal acknowledgment of natural sign languages as official, their legal protection, and the assurance of the right to interpretation free of charge. Lastly, the Convention on the Rights of Persons with Disabilities is the first and only international legal instrument addressing sign language and equating it with spoken language. In Poland, however, initial legislation is represented by the Act of 2011, which fails to confer official status on Polish Sign Language and does not treat it as equivalent to spoken Polish. Both legal instruments fall short of meeting the expectations of the Deaf community, as evidenced by the documents drawn up by the World Federation of the Deaf (Charter and Convention) and petitions submitted to the Polish parliament by Deaf Poles.

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<sup>39</sup> K. DOKTÓR-BINDAS, *The Right to a Clean Environment or the Right to Energy Security – the Change of Constitutional Priorities*, in *Studi Polacco-Italiani di Toruń/Toruńskie Studia Polsko-Włoskie*, XVIII, 2022, p. 104.

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