

The Language Rights of Ukrainian Minors Enjoying Temporary Protection in Poland in the Field of Education

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This article addresses the issue of the language rights of Ukrainian school-aged children who arrived in Poland – mostly with their mothers – as refugees fleeing the full-scale Russian invasion of Ukraine, launched on 24 February 2022 as an escalation of the war started in 2014. The paper attempts to systematise the existing knowledge on language rights in the field of education conferred on Ukrainian children enjoying temporary protection in Poland against the background of Polish language policy. The paper relies mostly on the legal-dogmatic method and document analysis. In order to achieve this goal, the article draws on a literature review in the field, the existing estimates, as well as the relevant data on the implementation of the Polish language policy in the area of education. The study identifies key linguistic aspects of the right to education by Ukrainian children attending Polish schools, including provisions for learning Polish as the official language of a host state. This involves preparatory classes and the right to learn foreign languages on the same basis as Polish schoolchildren. Finally, the paper tentatively assesses the actual implementation of the above rights and indicates the need for further empirical research in this area.

Keywords: language rights, Ukrainian minors, language policy, education policy, minority language, rights and obligations of children with temporary protection in Polish education

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Introduction

Europe has become a destination for significant migratory flows in recent decades. The European Union Member States institutions have been forced to cope with the consequences of growing multiculturalism and multilingualism. Progressively diverse societies in Europe have posed a number of significant challenges for the different levels of public-administration authorities of destination states. Undoubtedly, language-related matters are one of the main tasks aimed at migrant integration, where education should certainly be an area of special attention. As more and more children of different national, ethnic and linguistic groups attend the same schools, language competence plays a key role in the official handling of migrants. Language skills are crucial for school achievement and a lack of command of the host state's language may cause social functioning disorders and prevent the successful integration of third-country minors. Migrant children struggling with language deficits usually experience adaptation and educational problems. In this context, the question arises as to what kind of language policy in the field of education should be pursued by the state authorities in order to assure fundamental language rights for migrant children in schools and thereby to facilitate their integration with their host-state peers. This general issue needs an in-depth analysis of the existing language policies in the field of education run by each EU Member State.

The need for a detailed scrutiny of language policies in the area of education also appeared to be a burning issue with reference to Poland. The outbreak of full-scale war in Ukraine on 24 February 2022 drastically changed the migratory situation in Central and Eastern Europe. The war triggered a huge influx of Ukrainian refugees to Poland – mainly women with children. In total, the number of people who crossed the Polish border from war-stricken Ukraine between 24 February 2022 and 31 December 2023 amounted to 18.1 million (Sas 2024). As of 11 June 2024, there were almost 1 million refugees from Ukraine in Poland (Statista Research Department 2024). This unprecedented inflow of war refugees revived the issue of future developments and challenges related to the presence of Ukrainian citizens in Poland. At this juncture, it must be noted that Ukrainians staying in Poland constitute the sum of 2 major sub-populations of those who were residing in Poland before the war began (estimated at 1.35 million) and those who arrived after 24 February 2022 (around 1.55 million) (Duszczyk and Kaczmarczyk 2022: 8).

The influx of Ukrainian citizens to Poland strongly increased the number of Ukrainian children attending Polish schools. Ukrainian minors constitute the largest group of non-native students in the Polish education system. Before the war, there were 60,000 Ukrainian students in Polish schools (Związek Nauczycielstwa Polskiego 2022). The outbreak of the war caused a sudden surge. According to data released by UNICEF and the UN Refugee Agency (UNHCR) in September 2023, around 134,000 children from Ukraine were enrolled in Polish primary and secondary schools, while data published by the Union of Polish Metropolises indicated that the number at the beginning of the 2023/2024 school year amounted to 161,111 (Centre for Analysis and Research of the Union of Polish Metropolises 2024: 9).

Attempts to tackle the changing language reality in Poland have been made by linguists, philologists and lawyers. The issue of the implementation of language policy in the Polish education system was already vividly discussed by researchers, both prior to and following Poland's accession to the European Union. At that time, scholars focused on the European aspects of the policy, in particular the EU's respect for the linguistic diversity of its Member States and the actions taken to follow the EU's multilingualism policy (Komorowska 2004; Pawłowski 2008; Pisarek 2007; Poszytek 2011). The research was continued, along with the increased movement of EU citizens and constantly growing number of both EU and third-country migrants. The research done thus far has exposed the following language-related issues and problems in the field of education: the complicated nature of minority languages protection and the issue of collective identities (Gajda 2019), the challenges related to the inclusion of migrant children into the education system (European Commission,

European Education and Culture Executive Agency 2022; Ostafińska-Molik and Olszewska-Gniadek 2020; Wąskiewicz-Firlej 2021), the actual access of migrant children to Polish schools and the challenges related to the inclusion of a large number of Ukrainian children into the Polish education system (Kurzyna-Chmiel 2020).

While appreciating the above studies, there is a well-grounded reason to study the language rights of Ukrainian school-age minors against the background of Polish language policy in the area of education. The literature in the field still remains scarce and significant gaps can be identified, including that on the legal aspects of the Polish language policy in education. This relatively new reality in Polish schools requires a comprehensive study. This article attempts to systematise the existing knowledge; the analysis will focus on Poland's legal framework of language and education policies, paying special attention to Ukrainian minors' right to learn Polish as the official language of a host state; this includes the provision of preparatory classes, the right to learn foreign languages on the same basis as Polish schoolchildren as well as their duty to attend school (compulsory education). I claim that Ukrainian children attending Polish schools enjoy specific language rights in the field of education resulting from both Polish language policy as well as EU law. Moreover, I maintain that the implementation of children's language rights strongly affects the inclusion of Ukrainian children into the school environment and Polish society and that its lack may cause a sequence of educational and adaptation problems. Finally, in a broader sense, the article attempts to contribute to a better understanding of migrant children's integration through the realisation of the state's legal obligations resulting from language-related laws. Due to space limitations, the legal-dogmatic analysis of instruments is narrowed down to the relevant national law – such as the Constitution of the Republic of Poland and Acts of Parliament – as well as the relevant EU law on its language policy, where I analyse the extent to which this affects Polish language policy. As far as the research data are concerned, the article draws on a literature review of the field, the analysis of statistical data and of data on the actual implementation of the Polish language policy in the area of education.

The article is structured as follows. Firstly, the theoretical background to the notion of language policy will be presented. Secondly, the major actors, goals and legal grounds of the Polish language policy, in particular with reference to its educational aspects, will be examined. Thirdly, the impact of the European Union's language policy on the Polish language policy will be scrutinised and conclusions drawn. Fourthly, the article will analyse the scope of language rights conferred on Ukrainian children enjoying temporary protection, based on Polish language policy in the field of education and applicable EU laws. The following key aspects will be analysed: the rights and, at the same time, the obligation of Ukrainian school-aged children to learn Polish as the official language of the host state and the right for them to attend additional classes for Polish language-learning, as well as the impact of the EU law on the children's right to learn foreign languages. Finally, the conclusions from the analysis will be drawn and suggestions for further studies put forward.

Language policy and its components

The notion of language policy had already been broadly analysed by linguists and sociolinguists four decades earlier. The concept of language policy was defined *inter alia* by Lubaś (1975, 1977), Cooper (1989), Kaplan and Baldauf (1997), Gajda (1999), Bochmann, Szépe and Derényi (1999), Pisarek (1999), Ricento (2000) and Pawłowski (2006). Lubaś defined language policy as a deliberate activity of institutions and individuals (scientists, artists, politicians) which is planned in advance in order to bring positive social effects in all areas in which human speech plays a significant communicative role (Lubaś 2009: 35–39). For Cooper (1989), language policy meant as much as traditional language planning, aimed at correct and smooth communication in a community or society. The same view was later shared by Pawłowski (2006). Kaplan and Baldauf (1997) underlined that language planning was a practical realisation of any language policy. Bochmann *et al.* (1999) introduced a broad definition by stating that language policy was a politically motivated interference into the

language issues of a community. Such a definition included a wide range of issues related to language planning, language acquisition and language-related legislation. Although Bochmann *et al.*'s definition did not clarify the scope of language policy, notice should be taken of the fact that it stressed the key role of language in establishing individuals' identity and determining their roles in society (Bochmann *et al.* 1999). Gajda stated that the concept of language policy referred to all activities undertaken in a given community which were aimed at shaping its language situation. According to him, a comprehensive presentation of the concept of language policy required consideration of a number of its elements, including the context in which the language policy is implemented, the policy actors and performers, its objectives, its subject as well as the means and methods of its implementation (Gajda 1999: 11). Pisarek also stressed that language policy should be understood as all deliberate activities aimed at the formation of desired individual and collective language behaviours. He classified language policy as part of the cultural policy of the state and other entities representing national values, including certain components of information policy of the state and fulfilling an integrating function (Pisarek 2008: 42). The definitions of language policy introduced by linguists were not fully consistent and exposed different aspects of the notion. However, they had a common denominator which amounted to the deliberate and motivated nature of activities undertaken by institutions and individuals and aimed at shaping and influencing the language situation of a community.

Accordingly, language policy is a multi-faceted discipline and the achievement of its objectives entails three main aspects – legal, cultural linguistic and educational (Pisarek 2008: 42). For this purpose, the competent state authorities are obliged to adopt the relevant statutes to enable the carrying out of the appropriate information, educational and cultural policies and to undertake appropriate measures and actions. The legal aspects of language policy relate to all relevant regulations imposed by the state in the scope of the language (languages) and its (their) use. Cultural and linguistic aspects include the totality of ideas, values, beliefs, attitudes, prejudices, myths, religious structures and all other cultural 'baggage' that speakers contribute to the language from their culture. Educational aspects of language policy aim at language acquisition and teaching. These three aspects – cultural, linguistic and educational – are interrelated and affect one another. Pisarek noticed that the legal aspects of language policy should be brought to the forefront in all decisions concerning the privileging of a particular language. In fact, the legal and regulatory aspects of a language determine the shape of the policy and form the grounds for any implementation activities.

All the three major aspects of a language policy are reflected in language planning, which constitutes its actual phase of implementation. Language planning is carried out by competent authorities in order to sort out language issues within a community and to influence the behaviour of the community members with respect to the acquisition, structure or functional allocation of their language codes (Cooper 1989: 45). Language planning is broken up into three components: status planning, acquisition planning and corpus planning. The terms were coined and defined by Haugen (1959). In principle, status planning within language policy constitutes the major level of language planning which affects the social and legal position which will be assigned to a language. As status planning remains within the competence of the state, the result of this process is the publication of all relevant regulations imposed by the state. In the course of status planning, the variety(ies) of a language or languages that become official in a state and serve as a medium for its institutions, are established; by way of this, the means for interaction between the state and citizens are determined. Acquisition planning is a derivative of status planning, as relevant regulations adopted in the area of language acquisition must be compliant with the superior legislation specifying the status of languages. Although language acquisition is strictly related to education, it is a powerful tool affecting the shape of any language policy (Łuczak 2010: 10). Corpus planning remains beyond the scope of this article.

Polish language policy in the field of education – actors, goals and legal grounds

Language policy in Poland is conducted by a number of major actors. Firstly, it is state authorities, in particular the Polish parliament, which enact the relevant national law – and the competent ministries which then adopt the implementation of the acts. Secondly, an important role is played by the Council of the Polish Language, which sets the rules of orthography and interpunctuation of the Polish language. Moreover, at the request of the empowered authorities, the Council analyses and critically evaluates all important issues relating to the use and development of the contemporary Polish language. By 2018, the Council had provided about 5,000 expert opinions. Thirdly, educational institutions, including state, regional and local ones, may shape language policy. Their impact seems to be lower than in the case of the central authorities; nevertheless, they often take actions aimed to protect the interests of local communities which may run counter to the national interests. One example is the lack of consent for the closure of the Lithuanian school in Widugiery, where 9 Lithuanian students were taught, although the Act on the Education System allowed the communes' authorities to close schools without the necessity to take into account the opinion of the school superintendent (Wiertelwski 2011: 105). Next, the impact on Polish language policy is also exerted by the actions of quasi-state and non-governmental organisations, such as the Polish Organisations Pooled Fund, which gathers together 19 organisations acting for the inclusion of migrant children into Polish schools.

The most important goals of Polish language policy have not changed since 1999. First and foremost, they include the preservation of the vitality of the Polish language, its presence and conditions for development in all areas of social life, thus ensuring its status as the first official language in Poland, the modification of the Polish language curriculum and teaching methods in school and the popularisation of the knowledge of other languages in Poland, as well as providing the conditions for the preservation and development of national and ethnic-minority languages in the state (Mazur 1999). In order to satisfy the policy objectives, the Polish state should help foreigners legally residing in Poland both to learn Polish as a foreign language and to teach them in their native language (Pisarek 2007). At the same time, all foreign school-aged children residing in Poland, including the children of irregular migrants, are obliged to attend school. Since 2009, knowledge of the Polish language at a minimum level of B1, confirmed with an official certificate, has become necessary to obtain Polish citizenship (Article 30(2) of the Act of 2 April 2009 on Polish Citizenship) and to obtain the status of anok EU long-term resident (Article 211(3) of the Act of 12 December 2013 on Foreigners).

The legal grounds for Polish language policy are dispersed in a multitude of legal acts, the primary legal basis being the Constitution of the Republic of Poland of 1997 (Journal of Laws of 2009, no. 114, item 946). The Constitution mentions the language-related matters in three places. Firstly, Article 27 of the Constitution states that 'Polish shall be the official language of the state in the Republic of Poland. This provision shall not infringe upon national minority rights resulting from ratified international agreements'. Next, Article 35 (1–2) of the Constitution provides that

1. The Republic of Poland shall ensure for Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions and to develop their own culture; 2. National and ethnic minorities shall have the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity.

Finally, Article 233(2) sets forth that the '[l]imitation of the freedoms and rights of persons and citizens only by reason of race, gender, language, faith or lack of it, social origin, ancestry and property shall be prohibited'.

The issues related to the use of the Polish language are specified in the Polish Language Act of 7 October 1999 (consolidated text, Journal of Laws of 2021, item 672). The Act, which was drafted in view of Poland's potential accession to the European Union, sanctions the protection and correct use of the Polish language, its implementation in the public sphere and its popularisation abroad. The Act defines the rules of using the Polish language in relation to foreign languages in education, legal transactions and culture as well as the principles for certifying proficiency in Polish as a foreign language. The Act regulates in detail the issue of the official attesting to the knowledge of the Polish language as a foreign language by obtaining a certificate issued following the positive result of the exam passed in front of the State Commission. The Act enables the person who graduated from a higher, secondary or supranational secondary school operating in the Polish educational system – and who holds a certificate of maturity – to obtain the certificate without the need to pass the examination. Finally, the Act provides for the legal grounds of the operation of the Council of the Polish Language – established in 1996 at the presidium of the Polish Academy of Sciences – to serve as a consultative and advisory body obliged to report to the Polish parliament on a biennial basis. Another legislative act referring to the language policy of Poland is the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language (consolidated text, Journal of Laws of 2017, item 823). The Act recognises 9 national minorities living in Poland, such as Belarusians, Czechs, Lithuanians, Germans, Armenians, Russians, Slovaks, Ukrainians and Jews, 4 ethnic minorities – the Karaites, the Lemkos, the Roma and the Lipka Tatars, as well as 1 regional language of Kashubians. Article 8 of the Act expressly provides that persons belonging to a minority have the right to learn their minority language or to be instructed in this language. Article 17 specifies that the exercise of the right of persons belonging to the minority to learn or to be instructed in the minority language shall be performed in accordance with the principles and procedures specified in the Act of 16 September 2021 on Education System (consolidated text, Journal of Laws of 2024, item 750). In this context, it should be noted that Poland has entered into bilateral agreements/treaties with the respective states regulating the issue of protecting the language rights of national minorities residing on its territory. For instance, the Treaty between the Polish Republic and Ukraine on Good-Neighbourliness, Friendly Relations and Cooperation was concluded in 1992 (Journal of Laws of 1993, no. 125, item 573). In Article 11 of the Treaty, the Parties mutually agree that international norms for the protection of national minorities shall apply, including the right to learn the mother tongue or to be instructed in this language.

Language issues are an important component of the laws concerning the state's education system and have a special dimension in the context of educating foreigners in Polish schools. The Polish Constitution expressly states in Article 70 that everyone has the right to education, education up to 18 years of age shall be compulsory and education in public schools is guaranteed without payment. On the one hand, the right to education obliges minors under the age of 18 to attend school in Poland and, on the other, it obliges public authorities to organise education in such a way that a sufficient capacity of schools for the entitled persons is assured. Such formulation of the provision confirms the universal nature of the right.

The legal basis for the education of non-Polish citizens in Polish schools is entrenched in the Act of 14 December 2016 – Education Law (consolidated text, Journal of Laws of 2024, item 737) and further specified in the Regulation of the Minister of National Education of 23 August 2017 on the Education of Persons Who Are Not Polish Citizens and Persons Who are Polish Citizens Who Have Received Education in Schools Operating in the Educational Systems of Other Countries (Journal of Laws of 2022, item 645). As stated in Article 165(2) of the Act, non-Polish nationals who are subject to compulsory education enjoy the right to be educated in public primary schools, art schools and public institutions under the conditions applicable to Polish citizens. The responsibility for the fulfilment of children's compulsory education falls on their parents. The equality of access to the Polish education system is understood mainly through the same rules for the fulfilment of schooling obligation, 1-year compulsory preschool education and compulsory education (Kurzydina-Chmiel

2020: 88). Article 165(11)-(13) of the Act establishes the legal grounds for opening preparatory branches for non-Polish citizens with the aim of facilitating their adaptation to Polish schools. Article 16 of the Regulation further specifies that preparatory branches may consist of a maximum of 25 students. According to Article 16(9) of the Regulation, the Polish language may be taught in accordance with the curriculum developed on the basis of the framework programme of Polish language courses for foreigners at a minimum scope of 6 classes per week. Moreover, Article 165(7) of the Act creates an opportunity for non-Polish nationals – who do not know the Polish language or who only know it at a level insufficient to benefit from education in Polish schools – to attend additional free-of-charge classes of Polish language for a period no longer than 24 months. In turn, Article 17 of the Regulation specifies the manner of class organisation and the scope of the language classes at a minimum of 2 classes per week. Such additional classes must be organised by the communal/municipal authorities having jurisdiction over the place of residence of a given person (Kurzyńska-Chmiel 2020: 95).

Impact of EU language policy on the Polish language policy in the field of education

At the beginning of European integration, the right to education was perceived to be exclusively a national value. For this reason, the Community was not conferred any powers to carry out education policy. Yet, the evolution of the EU legal order resulted in the linking of education matters with the free movement of Union citizens. As a result, the right to education at the supranational level was limited by residence restrictions and by the secondary legislation, in particular Directive 2004/38/EC (OJ L 158/77). The inclusion of Article 14 into the Charter of Fundamental Rights, which became binding law upon the ratification of the Treaty of Lisbon in 2009 (OJ 2016 C 202/2), expressly providing every individual with the right to education, reaffirmed the fundamental nature of the right guaranteed in the constitutional constitutions of the Member States and in Article 2 of the Protocol to European Convention on Human Rights (2007 C 303/02). As a result of the EU legal developments, the substantive scope of the EU right to education includes: 1) the right to access education and vocational training, including the right to study, train and research in another country of the EU under the same conditions as the nationals of the host state; 2) the right of residence in that state for the length of the education; and 3) ancillary social rights, such as social-security cover and social benefits, maintenance aid or grants (Peers, Hervey, Kenner and Ward 2021: 419). Nevertheless, given the fact that the competence to provide education is the domain of the Member States, Article 14 became relevant mainly in litigation concerning freedom of movement and equal treatment, most probably in combination with Article 45 of the Charter on the freedom of movement and residence, which is confirmed by the ‘post-Lisbon’ case law of the Court of Justice of the European Union. Hence, it is still the state that must establish an education system, make it accessible and ensure the enforceability of an individual’s right to education. Article 14 of the Charter seems to add no substance to the right itself but it solely stands witness through the principle of equal treatment of EU citizens. In this sense, it constitutes an additional legal benchmark in the area of education (Peers *et al.* 2021: 420–421). Such a legal framing of the right exposes the importance of the status of the right to education under international-law instruments binding upon the EU Member States. Therefore, any solutions to the problematic aspects of the right to education in a particular language must be searched in the general principles of Union law, in particular in the ECHR and other relevant international law instruments.

Like the education policy, the competence to conduct language policy within the EU is granted to Member States. Hence, every Member State, including Poland, runs its own language policy. Nevertheless, one cannot oversee the impact of Poland’s accession to the European Union in terms of Polish language policy. On the one hand, the accession contributed to a greater care for the proper protection of the Polish language and its intensive promotion in the Community. On the other hand, the EU language policy has exerted a noticeable impact on the shape of the Polish language policy in respect to foreign-language-learning policy. The EU

multilingual language policy has two strong components of status planning and acquisition planning. The former is realised based on 24 official languages, the aim of which is to express the EU's respect for the linguistic diversity of its Member States, as entrenched in the core values on which the Union is founded (Article 3 of the Treaty on European Union) and incorporated into the Charter of Fundamental Rights (Article 22), having the status of a fundamental right in the EU (OJ 2016 C 202/2). The latter is implemented through the Union's multilingualism strategy aimed at promoting foreign-language learning and encouraging the European dimension of education (Van Parijs 2008: 21). Under its multilingualism policy, the Union aims to maintain and protect the linguistic diversity of its Member States by both preventing the domination of 1 or more languages which would lead to linguistic discrimination and by the strong promotion of conditions favourable to foreign-language learning. The component of acquisition planning is also described as an EU language-learning policy or multilingualism strategy. This component of the policy is based purely on soft law having no binding force upon the Member States and their residents. In this context, it is clear that this part of the EU language policy seems to have social and economic implications rather than legal ones. Nevertheless, the strategy is worth discussing as it is the part of the EU language policy the most recognised by the EU Member-State citizens, who associate it mostly with student exchange programmes such as Erasmus +. The EU also stresses the social benefits of knowing foreign languages and cultures – such as better understanding, intercultural communication, social inclusion, tolerance and enhanced mobility. The Union promotes knowledge of languages as an asset for acquiring cross-sectoral key skills, for the improvement of performance in thinking, learning, problem-solving and communicating and as a resource for creative and innovative thinking (COM(2005) 596). Actions initiated within the strategy by the Union institutions create an opportunity for a wide range of beneficiaries to participate in exchange and mobility programmes aimed at foreign-language learning. The EU maintains its multilingualism strategy in order to raise citizens' level of individual multilingualism and to foster communication between them according to the scheme '1+2', meaning that every citizen of the EU should know a native language plus 2 foreign languages, out of which 1 is a *lingua franca* and the other is the language of a neighbouring country.

Owing to the EU language policy, a significant progress in learning foreign languages within the Polish education system can be noticed. Firstly, the obligatory education of 1 foreign language from the age of 7 was introduced in Poland in 2007. Secondly, the teaching of 2 foreign languages in the 7th and 8th grades (in some schools from the 4th grade) has become standard in Polish primary schools. Thirdly, Poland adheres to the unified European Indicator of Language Competence system based on the Council of Europe Common European Framework of Reference recommended by the European Commission to specify levels of foreign-language knowledge. Next, the Content and Language Integrated Learning (CLIL) method¹ highly recommended in the European Commission's Multilingualism Strategy (COM(2005) 596) has been widely applied in the Polish foreign language education system. Notwithstanding the above, the unsatisfactory quality of teaching modern languages in Polish schools still remains a problem, as stated by experts. Additionally, although most Poles declare that they can speak at least 1 foreign language, this is not always owed to formal school education but other factors, such as attending private classes or acquiring language skills while working abroad (Śpiwak and Zaród 2015).

The implementation of Polish language policy for Ukrainian school-aged children under temporary protection

The Ukrainian population staying in Poland may be divided into 2 major sub-populations – economic migrants who came before the outbreak of the full-scale war and those subject to temporary protection who arrived after 24 February 2022. Whereas the former are, in particular, subject to the Act of 12 December 2013 on Foreigners

(Journal of Laws of 2024, item 769), the latter are subject to provisional rights entrenched in special acts of law. The very fact of the temporary nature of the law implies the possibility of the beneficiaries' return to their country of origin or their submission to other national applicable laws if they decide to stay. The foreigners' legal status affects some of their language rights, in particular the right to learn the Polish language. At this juncture, note should be taken of the fact that, already before the huge influx of Ukrainian refugees to Poland, Polish schools did not always comply with existing legal regulations on the provision of Polish language education and the Ministry of Education was neither supportive nor truly interested in this matter, as evidenced in the Supreme Audit Office's (NIK) reports (NIK 2015, 2020). Moreover, Poles' attitudes – filled with fears and prejudices against migrants – showed that the society was not sufficiently prepared for migrants' inclusion into social life (Wąsikiewicz-Firlej 2021: 127). Thousands of refugees fleeing Ukraine who came to Poland forced the Polish authorities to intervene in the area of the education system and Polish society to adjust to the new reality. One of the major challenges faced by the Polish authorities was the inclusion of Ukrainian minors into public schools with the aim of guaranteeing them the right to education. The insufficient capacity of schools, educational institutions and branches, the lack of teachers who speak the Ukrainian language, the shortage of funds for the implementation of educational tasks by local government units and the need to reorganise teaching in the local-government schools and institutions receiving the majority of Ukrainian students appeared to be the significant challenges posed to the Polish education system by the sudden immense increase in foreign schoolchildren (Kurzyńska-Chmiel 2022). To face the challenges, the Polish authorities took a number of measures to promote the integration of Ukrainian children in Polish schools and to monitor the trajectories of Ukrainian learners. A representative example is the broad cooperation of the Ministry of Science and Education, the UNICEF Refugee Response Office in Poland, 12 municipalities and civil-society partners with the aim of increasing children's access to quality learning and provide multiple learning pathways for children not enrolled. Actions were taken to equip teachers and school staff with training on how to integrate all vulnerable children into classrooms and how to provide language classes as well as mental health and psychosocial support (UNHCR 2023).

Interestingly, the majority of Ukrainians fleeing the war after 24 February 2022 are not deemed to be refugees in Polish law. In Poland, they became a new category of beneficiaries of an *ad hoc* temporary protection resulting from the Law of 12 March 2022 on Assistance to Citizens of Ukraine in Connection with Armed Conflict on the Territory of that Country (Journal of Laws of 2022, item 583). The Law constitutes the transposition of the Temporary Protection Directive (OJ L 212) activated by the EU to offer protection for people fleeing the war in Ukraine. The Law on Assistance is *lex specialis* in particular to the other binding Acts of parliament, such as the Act on Foreigners, the Act on Granting Protection to Foreigners on the Territory of the Republic of Poland (Journal of Laws of 2023, item 1504), the Act – Education Law and the Act on Education System. The Law on Assistance includes specific legal provisions aimed at meeting the needs (including educational ones) of a new, very broad category of addressees. Based on it, other *ad hoc* solutions have been created and ministerial regulations adopted for the organisation of education for school-aged children arriving in Poland after 24 February 2022 (Kurzyńska-Chmiel 2022: 361). In view of the shortage of places for Ukrainian students in schools and educational institutions, the Law establishes the legal basis for the possibility of creating so-called 'other locations for teaching, upbringing and caring activities organisationally subordinated to schools or kindergartens' (Article 51(1) of the Law on Assistance). The Law has been accordingly amended and remains in force until 30 September 2025.

A number of ministerial regulations were adopted as implementing acts to the Law in the area of the education of Ukrainian minors under temporary protection, the key one being the Regulation of the Minister of Education and Science of 21 March 2022 on the Organisation of Education, Upbringing and Care of Children and Adolescents who are Citizens of Ukraine (Journal of Laws of 2022, item 645) and its following

amendments of 8 April 2022 (Journal of Laws of 2022, item 1711) and of 13 July 2023 (Journal of Laws of 2023, item 1367) adopted in order to assure the implementation of the rights in the period of the Law's operation. In terms of languages, the Regulation includes specific provisions granting Ukrainian minors additional educational facilities; in particular, it has increased the number of additional Polish language classes guaranteed for Ukrainian children – amounting to 6 classes per week in the form of individual or group classes consisting of a maximum of 15 students.

It is noteworthy that Ukrainian children under temporary protection were not automatically included in the Polish schools. Their inclusion into the Polish education system was left to the autonomous decision of their parents/guardians and the availability of places in the relevant classes. Under Polish law, they were supposed to either apply for a place in a Polish school or submit a declaration on continuing education in the Ukrainian system to the municipality having jurisdiction over the place of residence of a minor. Still, the Polish law has protected those students who have attended Polish schools and additionally benefited from online learning in the Ukrainian system. In such a situation, students have been included in the Polish education system under the conditions applicable to citizens of Poland (Kurzyna-Chmiel 2022: 357–359).

Unfortunately, as shown by the estimates released by UNICEF and the UN Refugee Agency (UNHCR), around half of Ukrainian refugee children have not been enrolled in Polish schools (UNHCR 2023). The significance of the problem was clearly pointed out by the Polish Commissioner for Human Rights in March 2023 in a letter addressed to the Minister of Science and Higher Education, which indicated that the problems identified at the beginning of the huge influx of refugees had not been solved yet. The Commissioner noted that a significant share of Ukrainian teenagers was assumed not to be covered by either the Polish or the Ukrainian education system. He claimed that the lack of reaction of the Polish authorities to this fact might constitute the infringement of obligations arising out of international law instruments, in particular the Convention of the Rights of the Child (Michałowski 2023). The results of the survey – carried out among school principals and teachers, cross-cultural assistants as well as Polish and Ukrainian parents and schoolchildren – requested by the Commissioner proved that a language barrier was the largest challenge for all the respondents. The Commissioner stressed in his letter that it is the state's duty to take care of every child residing on its territory. Above all, the state should ensure that all students learn the Polish language and have the opportunity to make contact with their peers and to maintain their cultural identity. In his view, the Ministry of Science and Higher Education could have given more support to the establishment of Ukrainian schools in Poland and international school branches to make learning Ukrainian more accessible (Michałowski 2023).

In response to the Commissioner's letter, the competent Minister indicated a range of actions – addressed to Ukrainian citizens fleeing the war – to integrate Ukrainian children into Polish schools, in particular through establishing preparatory classes which included the intensive teaching of the Polish language and creating an Integrated Education Platform where materials and links to the Polish language-learning materials were placed (Czarnek 2023). The Minister noted that, under Article 2(2) of the Law on Assistance, Ukrainian children who remained in the Ukrainian education system were not subject to compulsory annual preschool preparation, compulsory schooling or compulsory education as enshrined in the Act – Education Law. The Minister also stressed that there were no legal grounds for monitoring whether or not these young Ukrainians who did not attend Polish schools learned online in Ukrainian schools. Despite the assurances of Minister Czarnek, the problems concerning language barriers and cultural differences as well as high dropout rates still remain unresolved. Language barriers and cultural differences constitute the major stumbling block in smooth integration. One of the measures taken to overcome a language barrier is preparatory language classes. According to the Center for Citizenship Education's (CEO) report of September 2023, the entitlement to attend 6 Polish language classes per week has been assessed as not fully exploited, which is caused mainly by unfavourable class times, the lack of properly qualified teachers and difficulties with combining learning

within both the Polish and the Ukrainian education systems. The report also reveals that conscious and structured actions for integration are quite rare at the school level, as a result of which Polish and Ukrainian children function one next to the other instead of together, which also triggers conflicts with nationality background. Another obstacle in the proper integration of Ukrainian children into Polish schools remains the shortage of cross-cultural assistants. Despite their numbers having grown, the quantity of vacancies granted to schools does not fulfil the real needs (Chorostowska 2023: 6–8). The UNHCR report published in September 2023 reiterates that the major factors for low enrolment rates are language barriers, the lack of capacity of schools to absorb new students and the hope of parents that they will soon return home to Ukraine. Only around 11 per cent of Ukrainian children attending Polish schools are able to take part in preparatory language classes, mostly due to the lack of teachers of Polish as a foreign language (UNHCR 2023: 12).

The data published on the website of the Centre for Citizenship Education, presenting the status quo as of October 2023, reveal 150,000 Ukrainian minors outside of the Polish education system, which constitutes 53 per cent of the total number of young Ukrainians staying in Poland (Chorostowska 2023: 6). The UNHCR report also showed in figures that Poland is one of the countries where the problem of Ukrainian minors' falling outside the system is of the largest scale. Moreover, the NIK's report of 2024 clearly indicates that the main reason for the lack of proper data on how many Ukrainian minors under temporary protection are outside of any education system is the fact that the competent Ministry of Science and Higher Education failed to collect any relevant data on how many Ukrainian minors who came to Poland after 24 February 2022 were taught remotely via Ukrainian online schools (NIK 2024). Similarly, no precise data have been gathered on the numbers of Ukrainian school-age children leaving to go to other countries or going back to Ukraine.

As a response to the burning problems related to the education of Ukrainian minors enjoying temporary protection, the amendment to the Act of 12 March 2022 on Assistance (Journal of Laws of 2024, item 167) was adopted. In order to reduce the high-school dropout rate, the amended Law obliges Ukrainian children residing in Poland to attend Polish schools, regardless of whether or not they also study remotely within the Ukrainian system. The new obligation entered into force from September 2024. As a result, as informed by the Deputy Minister of Education, Joanna Mucha, on 7 November 2024, 33,000 Ukrainian minors joined the Polish education system in the school year 2024/2025. In order to face the coming changes, the Ministry of National Education, in cooperation with school superintendent offices, enabled Ukrainian teachers to work in Polish schools. Before the amendment to the Law, this had not been possible due to the problems with their diploma nostrification. Ukrainian teachers could work at Polish schools as cross-cultural and teaching assistants but it was difficult (yet possible under Article 15 of the Act – Education Law) to obtain the position of full-time teachers. The Ministry saw here the potential to implement the right of Ukrainian minors to learn Ukrainian as a minority language. The lessons could be taught by teachers from Ukraine who stay in Poland. Secondly, the amended law created the legal grounds to employ cross-cultural assistants in schools whose role is to support non-Polish children subject to compulsory education who do not know the Polish language at a sufficient level to deal with the school environment and in contacts between teachers, parents and peers. Next, the amended law reduced the number of Polish language classes from 6 to 4 per week. The Ministry explained this reduction by stating that it was requested by teachers who noticed a child overload. At the same time, the entitlement period was extended from 14 to 36 months.

The final issue to note is that all schoolchildren of non-Polish origin who attend Polish schools are also obliged to comply with the rules of learning foreign languages imposed on Polish children. This results from the fact that Poland follows the EU multilingualism strategy according to which two foreign languages are taught in primary schools in the 7th and 8th grades. Most Polish schools typically provide English as the first foreign language and German or, less frequently, Spanish or French, as the second. As a consequence, children of non-Polish nationality are often exposed to three new languages – Polish, English and another foreign

language that rarely happens to be their mother tongue (e.g. Ukrainian). Much as the EU's multilingualism strategy is appreciated, in such a case, the simultaneous exposure to as many as three foreign languages, including two taught within the curriculum and in Polish, may pose additional challenges for children with a migrant background, especially during their initial adaptation to the new educational setting and the focus on mastering the language of the host state (Wąsikiewicz-Filrej 2021: 121). The research carried out by the CEO confirms that the simultaneous study of English and German as foreign languages appeared to be difficult for Ukrainian minors (Chorostowska 2023: 31).

In order to cope with the above problem, the Ministry of National Education is analysing the introduction of the possibility for Ukrainian children at Polish schools to learn the Ukrainian language. According to Minister Mucha, Ukrainian minors could learn Ukrainian, Polish and English. The Minister's main argument for introducing such a solution is to redress the balance with Polish children who learn their mother tongue and two foreign languages (Garbicz 2024). Yet, there have been no particular steps taken to implement any of the above. It is, however, certain that, beginning with the school year 2025/2026, it will be possible to pass the Ukrainian language exam as part of the secondary-school final examinations.

Conclusions

Ukrainian school-age children enjoying temporary protection in Poland are entitled to an education while staying in the host country. Their right to education is a universal one which is enshrined in international, European and the national law of Poland. At the same time, Ukrainian minors below the age of 18 are subject to compulsory education in Poland. As a result, the Polish education system must be organised in such a way that Ukrainian minors can be guaranteed the right to attend Polish public schools under the conditions applicable to Polish citizens, hence on a non-discriminatory basis. The Polish state is in charge of preparing a proper infrastructure and conditions to assure such a right. The right to education vested in Ukrainian minors enjoying temporary protection in Poland entails the following language-related components (language rights): the right (and duty) to learn Polish as a language of the host state, the right to attend additional Polish language classes and the right to learn foreign languages.

The introduction of the obligation to attend school for Ukrainian school-age children enjoying temporary protection in Poland as from September 2024 made the situation clear in legal terms. The Polish state guarantees the right to education and the addressees (Ukrainian children) are obliged to fulfill their duty to attend school and learn Polish as the language of the host state. As for the right to additional Polish-language classes, Ukrainian children who do not speak Polish are entitled to learn it in the form of additional free-of-charge classes organised by the municipality/commune authorities. However, the scope of such classes differs depending on the legal status. Under the amended Law on Assistance, Ukrainian minors under temporary protection are entitled to 4 classes per week for a period of 36 months (before that, it was a minimum of 6 classes per week for 24 months) and those not having such a status being entitled to 2 classes per week for a maximum period of 24 months. Moreover, the entitlement has not been fully exploited, mainly due to unfavourable class times and other factors such as a lack of properly prepared teachers.

In the face of the sudden and large influx of Ukrainian schoolchildren, the assurance of the right appeared to be a problem and a challenge in Polish cultural and educational spaces. It clearly showed how challenging the implementation of an obligation resulting from the language policy in the field of education might be. On the one hand, the need for Poland to fulfil legal obligations required many positive actions to be taken in quick succession; on the other, the feasibility of the process due to its scale has been very hard to complete. Although a lot of steps were taken, the process is far from successfully completed. One of the major symptoms of the failed implementation of language policy in education, consisting in effective Polish language teaching and

care for the Ukrainian cultural identity, is the high dropout rate of Ukrainian minors under temporary protection. This is still an unresolved issue which persists, the negative social and educational consequences of which may be growing. The new provisions concerning the obligation for Ukrainian children to attend Polish schools from September 2024 have exposed the scale of the problem by showing how many Ukrainian families with school-age children intend to stay in Poland and leave the country of origin.

Based on the analysis, one can state that the application of children's language rights strongly affects the integration of Ukrainian children into the school environment and Polish society; its lack may cause a sequence of educational and adaptational problems. The existing language barriers, shortage of Ukrainian language teachers, capacity of schools to absorb foreign students or lack of international school branches to make the learning of Ukrainian more accessible are considered to be the main reasons for the high dropout rate among Ukrainian teenagers remaining outside any education system. The very fact that Ukrainian parents still hope to return to their home country before long and therefore do not show an interest in integrating in the host country is also a factor affecting the status quo. Moreover, this study helps to understand that states' failure to efficiently implement language policy in schools strongly contributes to the social disintegration of young migrants. Finally, it must be stressed that the assessment of the actual implementation of Polish language policy in the field of education towards school-aged Ukrainian children under temporary protection requires further empirical studies which will include but not be limited to case studies on the real-life situations accounting for the amended Law on Assistance, the analysis of access to post-school education and bilingual education.

Next, the EU language policy exerts an impact on the language policy of Poland in two aspects. Firstly, it reaffirms the status of Polish as the official language of Poland the EU Member State. Secondly, it affects the acquisition planning component in the area of foreign-language learning. In fact, the EU multilingualism policy of '1+2' has contributed to the increase in foreign-language classes in Polish schools. This, as a natural consequence, also affects foreign school-aged children attending Polish schools who are treated on the same footing as Polish students.

One more conclusion that can be drawn from the above analysis is that migration flows significantly affect the ways in which public tasks, including those in the field of education, are carried out. The need to create new, adequate regulations and the broader burden on entities implementing public tasks – especially local government units, which carry out the majority of educational public tasks – is a real problem and challenge, perhaps for many years to come. The adoption of *ad hoc* legal solutions, as in the case of Ukrainians fleeing the war in their home country, may be necessary to look ahead and be prepared for different developmental scenarios. Another potential solution in the face of changing needs in the field of education due to the increasing numbers of newcomers would be to draw up a document that comprehensively and coherently addresses the issue of the coordination of state actions towards migration processes/non-nationals of Poland through education and language policies.

Notes

1. The method is based on teaching a new subject in a language foreign to students. Through CLIL, students not only learn a second language but also learn about a topic which is new to them.

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