

Systemic breach of Directive (EU) 2021/1883 by Poland — request for priority handling of complaint filed 10 August 2026 (SG-THEMIS confirmation received) and for EU Pilot / Article 258 TFEU steps

Dear Commissioner Brunner,
Dear Members of the Cabinet,

On 10 August 2026 I filed a formal complaint with the European Commission concerning Poland's systemic breach of Directive (EU) 2021/1883; the SG-THEMIS confirmation of receipt has arrived, with the registration number still pending. I respectfully ask your cabinet to ensure that DG HOME treats this complaint with priority, including the opening of an EU Pilot dialogue and, should Poland not correct course, infringement proceedings under Article 258 TFEU.

The facts are stark:

1. Article 11(1) of the Directive requires a decision on a Blue Card application within 90 days. Poland's national average for residence permits stood at 341 days in the Interior Ministry's own data of October 2025; at the Silesian Voivodeship Office in Katowice the average reached 637 days in 2025 and 658 days as of 6 July 2026 — the Ministry's own table, annexed to its reply to Sejm interpellation no. 18089. This is not a recent crisis: Poland's Supreme Audit Office found already in its 2019 audit (covering 2014–2018) that average legalisation times had grown from 64 days (2014) to 206 days (2018), with extremes over three years, naming the same causes — understaffing and underfunding — that it named again in audit P/23/069 (2024); the Ombudsman has intervened since 2018. A problem diagnosed a decade ago has not been fixed but deepened, from 64 days to 658.
2. The special act on assistance to citizens of Ukraine suspends procedural time limits in residence proceedings, now extended to 4 March 2027. For Ukrainian applicants this means, in practice, no deadline at all. The same act also statutorily disappplies the only national remedies against administrative inaction (ponaglenie and the complaint for bezczynność — introduced as art. 100c–100d of the special act on 15 April 2022 and continued today through art. 100d): no Polish court may be asked to enforce the 90-day deadline, an effective-judicial-protection problem under Article 47 of the Charter of Fundamental Rights, now before the Court of Justice in Case C-254/25, Wojewoda Śląski (reference from the WSA w Gliwicach; Opinion of AG Spielmann of 16 April 2026, ECLI:EU:C:2026:320, proposing that such legislation is precluded absent force majeure; judgment pending).
3. Draft law UD408 (Ministry of the Interior, July 2026) proposes tacit approval — a positive decision after 60 days of administrative silence — but only for citizens of Australia, Japan, South Korea, the United Kingdom and the United States. A US engineer would receive certainty in 60 days; his Ukrainian colleague at the next desk waits up to two years for the same card.
4. While waiting, applicants cannot travel for work: the Polish confirmation of a pending application is not recognised by border guards of other Schengen states.
5. Since 27 April 2026 applications are accepted only electronically via MOS 2.0. Filing itself is now electronic and available — the old appointment-booking system, in which intermediaries resold slots for PLN 200–500 with “packages” up to PLN 1,500 (press reports of 2023–2024: Forsal, Interia, Bankier), is gone. But e-filing has not produced decisions. Should the authorities point to digitisation as the remedy, the Ministry's own record refutes them: its table of 6 July 2026 (reply to interpellation no. 18089) shows average processing times WORSENERD versus 2023 in 15 of 16 voivodeships after MOS became mandatory — Mazowieckie from 153 to 394 days — with only Dolnośląskie improving; the two-year paper backlog was never migrated into the system. The reason is on the record: the impact assessment of the law mandating MOS (Sejm print no. 1630) contains a ten-year financial table consisting entirely of dashes and the clause that its costs 'will not constitute grounds for requesting additional funds', and the voivodes' written requests for caseworker posts were formally rejected ('Uwaga nie została uwzględniona'; staffing lies 'outside the scope of the draft law'). The state funded the portal and refused, in writing, to fund a single caseworker — the bottleneck is unstaffed caseworking, nationwide, not Silesian. The Polish Ombudsman has pressed the Interior Ministry on these failures for years, most recently by letter of 1 June 2026, without result.

6. Poland transposed Directive (EU) 2021/1883 itself 18.5 months late: the transposition deadline under Article 31 expired on 18 November 2023, while the implementing act (Act of 24 April 2025, Dz.U. 2025 poz. 619) entered into force only on 1 June 2025. Its transitional Article 20(4) expressly keeps every foreigner whose Blue Card decision predates 1 June 2025 under the repealed employer-lock regime of the former Article 135 of the Act on Foreigners — a full permit-amendment proceeding before the voivode for any change of employer — although Article 15 of the Directive (after 12 months of employment, at most a notification) has been directly effective since 18 November 2023. The entire existing Polish Blue Card population is thereby excluded from the Directive's core mobility right.

The system's outcome is fully predictable: Blue Card and work-permit holders are standing in that queue today.

One further feature of the file deserves the cabinet's attention. The decade-old administrative failure documented by Poland's Supreme Audit Office in 2019 affected all foreigners alike; the burdens added since 2022 are concentrated on one national group — citizens of Ukraine: suspended deadlines in their residence cases (art. 100d of the special act, until 4 March 2027), exclusion from the tacit approval drafted in UD408, the longest statutory clock reserved for their only exit path (180 days for the CUKR permit under art. 42l of the special act, against 60 days in the ordinary procedure), a child benefit conditioned on a month-by-month activity test waived when the child holds Polish citizenship (Dz.U. 2025 poz. 1301), retrospective Border Guard photo verification and border-crossing data feeds applied to those who held UKR status, and a presidential criminal bill aimed at symbols of their national identity (in committee since 17 July 2026). This concentration of burdens along the line of one nationality is a pattern, not an accident — and it belongs in the Commission's assessment alongside the deadline breach.

Commissioner, this is precisely the case in which the Commission can show, visibly and concretely, that EU law protects people in practice. Those affected include roughly 1.5 million Ukrainians who fled a war and now help carry the Polish economy. On the official record they are net contributors: Poland's state development bank BGK (11 March 2025) found Ukrainian migrants paid roughly PLN 15.2 billion into the 2024 budget against about PLN 2.8 billion of 800+ for refugee children, and a Deloitte/UNHCR report of 10 June 2025 put their contribution at 2.7% of GDP and PLN 47 billion of public revenue. The cost is already visible on the Union's own scoreboard: Eurostat records 56,252 EU Blue Cards issued by Germany in 2024 against Poland's 5,853 — and the Polish count fell about 16% year-on-year exactly as its procedures seized up. Firm enforcement of the 90-day deadline, an end to the open-ended suspension of residence proceedings, repeal of the transitional Article 20(4) lock-in so that existing Blue Card holders enjoy Article 15 of the Directive, and extension of the proposed 60-day tacit approval to all third-country nationals — including Ukrainians and Blue Card holders — would be exactly such proof, and a visible enforcement win for the Commission.

I remain at the disposal of your cabinet and of DG HOME for any further information or documentation.

Yours sincerely,

[imię i nazwisko usunięte]

[adres usunięty], [adres usunięty], Poland

[e-mail usunięty] | tel. [telefon usunięty]