

For LIBE's scrutiny of Directive (EU) 2021/1883 implementation: documented systemic non-compliance in Poland (90-day Blue Card deadline; draft law UD408 nationality carve-out) — request to circulate briefing to members

Dear Members of the LIBE Secretariat,

I write to ask that you bring the matter below to the attention of the Committee on Civil Liberties, Justice and Home Affairs in the context of its scrutiny of the implementation of Directive (EU) 2021/1883 (EU Blue Card), and that you circulate this briefing to committee members.

In parallel to this letter, a formal complaint was filed with the European Commission on 10 August 2026 (SG-THEMIS confirmation of receipt obtained; registration number pending); submissions on the same matter have also been made to the Polish Commissioner for Human Rights (RPO) and to the business associations ABSL and Konfederacja Lewiatan.

Key findings for the committee:

1. Article 11(1) of the Directive requires a Blue Card decision 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 — per the Ministry's own table annexed to its reply to Sejm interpellation no. 18089.
2. The special act on assistance to citizens of Ukraine suspends procedural time limits in residence proceedings — extended to 4 March 2027 — leaving Ukrainian applicants with effectively no deadline at all.
3. Draft law UD408 (Ministry of the Interior, July 2026) would introduce tacit approval after 60 days of administrative silence only for citizens of Australia, Japan, South Korea, the United Kingdom and the United States. Ukrainians are excluded: a US citizen would wait 60 days, a Ukrainian up to two years, for the same document.
4. During the wait, the Polish confirmation of a pending application is not recognised by border guards of other Schengen states, making lawful work travel impossible.
5. Since 27 April 2026 applications are accepted only electronically via MOS 2.0. Filing itself now works — 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: the Interior Ministry's own 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, and the two-year paper backlog was never migrated into the system. The reason is documented in the legislative file itself: the impact assessment of the law mandating MOS (Sejm print no. 1630) contains a ten-year financial table of dashes and the clause that its costs 'will not constitute grounds for requesting additional funds', while the voivodes' written requests for caseworker posts were rejected ('Uwaga nie została uwzględniona'; staffing lies 'outside the scope of the draft law') — the state refused, in writing, to fund a single new caseworker in its digitisation law. The bottleneck is understaffed caseworking, nationwide, not Silesian. The Polish Ombudsman has raised these failures with the Interior Ministry for years, most recently by letter of 1 June 2026.
6. The transposition itself was 18.5 months late: Article 31 of the Directive set the deadline at 18 November 2023, while Poland's implementing act (Act of 24 April 2025, Dz.U. 2025 poz. 619) entered into force only on 1 June 2025 — and 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, despite Article 15 of the Directive (after 12 months of employment, at most a notification to change employer) being directly effective since 18 November 2023. The entire pre-June-2025 Blue Card population is excluded from the Directive's core mobility right.
7. Equal treatment under Article 16(1)(e) of the Directive is breached as well: from 1 February 2026 the Act of 12 September 2025 (Dz.U. 2025 poz. 1301) makes the Polish child benefit for families of Blue Card holders

conditional on a month-by-month employment test — waived whenever the child holds Polish citizenship — contrary to the equal treatment for family benefits confirmed by the Court of Justice in Case C-302/19 INPS.

Taken together, these findings disclose a nationality-shaped pattern. The decade-old administrative failure documented by Poland's Supreme Audit Office in 2019 hit 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, art. 42l of the special act, against 60 days in the ordinary procedure), the child-benefit 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.

The system's outcome is fully predictable: Blue Card and ordinary work-permit holders are in that queue now. The wider pattern affects, among others, some 1.5 million Ukrainians who fled the war.

The remedies sought are: (1) a 60-day tacit-approval rule for all third-country nationals, including Ukrainians and Blue Card holders; (2) an end to the open-ended suspension of residence proceedings under the special act; (3) enforcement of the 90-day deadline of Directive (EU) 2021/1883; (4) repeal of transitional Article 20(4) of the Act of 24 April 2025 (Dz.U. 2025 poz. 619), so that Blue Cards issued before 1 June 2025 enjoy the employer-change rights of Article 15 of the Directive.

Parliament's assessment of how this Directive works in practice would be materially incomplete without this case. I remain available for any further information or documentation the committee may require.

Yours sincerely,

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