

Systemic briefing: Poland's indefinite suspension of residence-permit deadlines for Ukrainians and the nationality carve-out in draft law UD408

11 August 2026

Office of the Council of Europe Commissioner for Human Rights
Strasbourg

Dear Commissioner,

I write to bring to your attention a systemic human-rights issue in Poland. This is explicitly not an individual complaint — I am not asking your office to intervene in any individual case. It is a briefing on a structural practice affecting displaced Ukrainians across Poland, and I believe few voices carry in Warsaw as yours does. This is precisely the kind of clean, fully documentable equal-treatment issue on which the Commissioner's engagement can make a visible difference.

Who I am. [author's personal details removed] I write proactively, because the outcome of the current system is entirely predictable: Blue Card holders and ordinary work-permit holders alike are in the queue right now.

The structural facts.

1. Under the special act on assistance to citizens of Ukraine, Poland has suspended the running of procedural deadlines in residence proceedings, and the suspension has been extended to 4 March 2027. For Ukrainian applicants there is, in effect, no deadline at all.

2. In practice, the Silesian Voivode's office in Katowice averaged 637 days per residence case in 2025 and 658 days as of 6 July 2026 — the Interior Ministry's own figures, from the table annexed to its reply to Sejm interpellation no. 18089; the national average stood at 341 days in the Ministry's October 2025 data. Directive (EU) 2021/1883 (Article 11(1)) requires a Blue Card decision within 90 days. 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; the Ombudsman has intervened since 2018. A problem diagnosed a decade ago has not been fixed but deepened.

3. In July 2026 the Ministry of the Interior (MSWiA) published draft law UD408, introducing tacit approval after 60 days of administrative silence — but only for citizens of Australia, Japan, South Korea, the United States and the United Kingdom. Ukrainians are excluded. A US citizen would obtain a positive decision in 60 days by operation of law; a Ukrainian war refugee and taxpayer waits up to two years.

4. During the wait, the domestic confirmation of a pending application is not recognised by other Schengen states' border guards, so applicants cannot travel for work with legal certainty. Since 27 April 2026 applications are accepted exclusively through the electronic MOS 2.0 system. E-filing itself now works (the resale of appointment slots for PLN 200–500, with “packages” up to PLN 1,500, reported by Forsal, Interia and Bankier, belongs to the previous booking system, per 2023–2024 press) — but decisions do not follow: the Interior Ministry's own table of 6 July 2026 (reply to Sejm interpellation no. 18089) records average processing times worsened versus 2023 in 15 of 16 voivodeships after MOS became mandatory, while the state refused in writing, in the legislative file of the very law mandating MOS (Sejm print no. 1630, an impact assessment whose ten-year financial table contains only dashes), to fund a single new caseworker post — the voivodes' staffing requests were dismissed with 'Uwaga nie została uwzględniona'.

5. The Polish Ombudsman (RPO) has pressed MSWiA on this protractedness for years, most recently by letter of 1 June 2026 (ref. XI.541.22.2025.DB). I have myself lodged complaints with the RPO and with the European Commission (receipt confirmed by SG-THEMIS on 10 August 2026; registration number pending).

6. The clocks themselves are tiered by nationality, and the remedies are switched off. The CUKR card — a Ukrainian's only exit from temporary protection — which Polish law winds down by 4 March 2027, even

though the EU has extended temporary protection to 4 March 2028 (Council Implementing Decision (EU) 2026/1912) — carries a statutory 180-day deadline (Article 42l of the special act, as amended by Dz.U. 2026 item 203), against 60 days for ordinary residence decisions (Article 112a of the Act on Foreigners). Meanwhile the special act has stripped foreigners — and only foreigners — of the ordinary remedies against administrative inaction since April 2022 (art. 100c–100d, continued today through art. 100d until 4 March 2027); Article 100da (Dz.U. 2025 item 1301, in force from 30 September 2025 until the act's March 2026 overhaul) went so far as to provide that delay 'may not be the basis of any legal remedy'. The scheme is now before the CJEU 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) — and Poland's own Supreme Administrative Court has twice held (II OSK 2940/24; II OSK 1087/25) that the administration wasted the years in which it 'should have adapted its organisational and staffing resources', and that the further extension 'may have occurred in breach of the principle of proportionality'.

7. The differential treatment has spread to benefits, healthcare and surveillance. The Act of 12 September 2025 (Dz.U. 2025 item 1301) conditions the child benefit for foreign parents — EU Blue Card holders included — on month-by-month economic activity, expressly waived when the child holds Polish citizenship; it stripped uninsured adult war refugees of reimbursed medicines, dental care, rehabilitation and drug programmes including oncology with one day's *vacatio legis*, and since 5 March 2026 — once the special-act provisions expired — publicly funded care without an insurance title remains only for the narrow art. 112c groups; the RPO flagged interrupted dialysis and chemo-/radiotherapy to the Health Ministry on 10–16 March 2026 (V.7013.120.2026, V.7013.122.2026), which confirmed on 24 March 2026 access only for those groups, and an appeal by 55 organisations of 30 March 2026 documented interrupted oncology treatment and lost dialysis, arguing a breach of Directive 2001/55/EC; and it orders retrospective Border Guard photo verification of everyone who ever held protection status, feeding families' border-crossing records into benefit decisions. In parallel, a presidential bill criminalising a vaguely defined 'OUN-B/UPA ideology' with up to three years' imprisonment passed first reading and has been in committee since 17 July 2026 — a chilling signal to the same community.

8. This limbo now coincides with a documented rise in hostility. Police (KGP) data show notifications of hate crimes filed by Ukrainian citizens running over 30% above last year's pace — 180 in the first half of 2026, against 275 in all of 2025 and 267 in 2024 (*Rzeczpospolita*, 17.07.2026; these are police-recorded notifications, not convictions); the police's own statement of 23 August 2025 recorded a 41% year-on-year rise in confirmed bias-motivated crimes (543 vs 384, *policja.pl*); prosecutors qualified the 26 July 2026 beating of a Ukrainian couple in Wrocław as violence motivated by national origin, ordering pre-trial detention; and on 6 August 2026 the largest opposition party announced plans to deport unemployed Ukrainian men of conscription age (*Rzeczpospolita*, 6.08.2026). I raise this strictly as context, not as a separate complaint: a joint study by the Polish Ombudsman and OSCE/ODIHR (published 2019, fieldwork 2016–2017) found that only about 5% of hate crimes are reported to police, and people kept for years without a residence card — deadlines suspended, remedies disabled — are exactly those least able to seek protection. Secure, promptly issued residence status is itself a protective measure in this climate. Two further documented facts complete the picture: the National Prosecutor's Office refused in writing (letter to the Ombudsman, 17 June 2026) to publish hate-crime prosecution statistics, and when the Interior Ministry was asked in July 2026 how it responds to the wave of anti-Ukrainian violence, its written answer foregrounded deportation figures rather than any protection programme (*OKO.press*, 5.08.2026).

All of these burdens — the suspended deadlines, the exclusion from tacit approval, the longest statutory clock, benefits conditioned on an activity test with an exemption for children holding Polish citizenship, the retrospective verification, and the criminal bill aimed at symbols of national identity — fall on one and the same national group. This concentration of burdens along the line of one nationality is a pattern, not an accident. On the official record the group bearing these burdens is a net fiscal contributor: the state development bank BGK (11 March 2025) found Ukrainian migrants paid roughly PLN 15.2 billion in taxes and contributions 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.

Why your office. This is differential treatment on the ground of nationality alone, engaging the prohibition of discrimination under Article 14 ECHR taken together with Article 8, and broader Council of Europe standards on equal treatment and good administration. I respectfully invite you to raise it with the Polish government in your dialogue and country monitoring: specifically, whether Poland will (i) extend the 60-day tacit-approval rule to all third-country nationals, including Ukrainians and Blue Card holders, (ii) end the open-ended suspension of deadlines in residence proceedings, (iii) comply with the 90-day deadline of Directive (EU) 2021/1883, and (iv) restore equal treatment in family benefits and healthcare by repealing the nationality-conditioned provisions of the Act of 12 September 2025 (Dz.U. 2025 item 1301).

I remain at your office's disposal for full documentation.

Yours respectfully,

[imię i nazwisko usunięte]

[adres usunięty], [adres usunięty], Poland

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