

Information submission — Poland: open-ended suspension of residence-decision deadlines, 2-year waits and nationality-based tacit approval affecting approx. 1.5 million Ukrainian war refugees

TO: Mr. Gehad Madi, United Nations Special Rapporteur on the human rights of migrants

INFORMATION SUBMISSION — ALLEGATION OF A SYSTEMIC PATTERN — POLAND

1. SUBMITTING PERSON

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2. CAPACITY AND AFFECTED POPULATION

I submit this in a personal capacity and proactively: under the rules described below the course of renewal proceedings is fully predictable, and EU Blue Card holders and ordinary work-permit holders are in the queue right now. The pattern affects approximately 1.5 million Ukrainian citizens in Poland, most of them refugees from Russia's war against Ukraine.

3. THE ALLEGED SYSTEMIC PATTERN

(a) No deadline at all. The Act of 12 March 2022 on assistance to citizens of Ukraine (the "specustawa") suspends processing deadlines in residence proceedings for Ukrainian citizens; the suspension has been extended to 4 March 2027. In practice, no deadline for a residence decision exists for Ukrainians.

(b) Extreme delays. The national average wait stood at 341 days in the Interior Ministry's October 2025 data; the Silesian Voivodeship Office in Katowice averaged 637 days per residence case in 2025 and 658 days as of 6 July 2026 — the Ministry's own table, annexed to its reply to Sejm interpellation no. 18089. Directive (EU) 2021/1883 (Article 11(1)) requires an EU Blue Card decision within 90 days. The trajectory spans a decade: Poland's Supreme Audit Office already found 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, and the problem diagnosed a decade ago has not been fixed but deepened.

(c) Restricted freedom of movement. While waiting, the applicant's only proof of a pending application is a confirmation generated by the governmental MOS system, which border guards of other Schengen states do not recognise. Lawful work-related travel is impossible for the entire waiting period.

(d) Tacit approval by nationality. Draft law UD408 (Ministry of the Interior and Administration, July 2026) would grant a positive decision after 60 days of administrative silence — but only to citizens of Australia, Japan, South Korea, the United States and the United Kingdom. Ukrainians are excluded: a US citizen would wait 60 days; a Ukrainian, up to 2 years.

(e) Digitisation without decisions. Since 27 April 2026 applications may be lodged only electronically via MOS 2.0. E-filing itself now works (the resale of appointment slots by intermediaries for PLN 200–500, with 'packages' up to PLN 1,500 — Forsal, Interia, Bankier — concerned the previous booking system, per 2023–2024 reporting) — but decisions do not follow: the Ministry's own table of 6 July 2026 (interpellation no. 18089) shows average times worsened versus 2023 in 15 of 16 voivodeships after mandatory MOS (Mazowieckie 153→394 days), the two-year paper backlog was never migrated into the system, and the law mandating MOS (Sejm print no. 1630) allocated zero funds and zero posts, its impact assessment stating costs 'will not constitute grounds for requesting additional funds' — the voivodes' written staffing requests were rejected: 'Uwaga nie została uwzględniona'.

(f) Nationality-tiered statutory clocks. The CUKR card — the sole exit from temporary protection — wound down under the Polish special act by 4 March 2027, although EU-level temporary protection now runs until 4 March 2028 (Council Implementing Decision (EU) 2026/1912 of 30 July 2026) — carries a statutory 180-day decision deadline (Article 42l of the specustawa, as amended by the Act of 23 January 2026, Dz.U. 2026 item 203, art. 17 pkt 27), against 60 days for ordinary temporary-residence decisions (Article 112a of the Act on Foreigners of 12 December 2013): three different clocks in the same offices, differentiated by nationality.

(g) Benefit conditionality by nationality. The Act of 12 September 2025 (Dz.U. 2025 item 1301, art. 9), in force 1 February 2026, makes the child benefit for foreign parents — including EU Blue Card holders — conditional on month-by-month economic activity, expressly waived when the child holds Polish citizenship; the same Act

removed eleven categories of healthcare (reimbursed medicines, dental care, rehabilitation, drug programmes including oncology/chemotherapy) from uninsured adult refugees with one day's *vacatio legis* (art. 10 pkt 16). Since 5 March 2026, once the *specustawa* provisions expired, publicly funded care without an insurance title remains only for the narrow art. 112c groups (minors, pregnancy/childbirth/postpartum, victims of torture or sexual violence, residents of collective centres), so a jobless adult loses cover entirely; the RPO wrote to the Health Ministry and the Patients' Ombudsman on 10–16 March 2026 (V.7013.120.2026, V.7013.122.2026), reporting 'dozens of reports a day' and flagging dialysis and chemo-/radiotherapy, and the Ministry's reply of 24 March 2026 confirmed access only for the art. 112c groups. An appeal by 55 organisations of 30 March 2026 (SIP, Polish Migration Forum, HFPC, Fundacja Humanitarni) documented interrupted chemo-/radiotherapy (cervical cancer, melanoma, lung), refusal of clotting factors in haemophilia, denial of anastrozole after mastectomy and lost dialysis, arguing a breach of Directive 2001/55/EC.

(h) Surveillance of one nationality group. The same Act orders retrospective photo verification, via the Border Guard, of everyone who ever held UKR protection status (art. 17), adds fingerprints to the UKR register, and feeds families' border-crossing records into child-benefit decisions, with power to suspend payment on mere 'doubts' (new art. 1 ust. 2f–2g of the family-benefits act) — checks no Polish claimant faces.

(i) Remedies disabled. Articles 100c–100d of the *specustawa* have stripped foreigners of the ordinary remedies against administrative inaction since 15 April 2022 (continued through art. 100d until 4 March 2027 by Dz.U. 2026 item 203, art. 17 pkt 50), and Article 100da (Dz.U. 2025 item 1301, in force 30 September 2025 until repealed by the same 2026 Act) provided 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 Supreme Administrative Court has 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'.

(j) Chilling effect. A presidential bill would criminalise 'public propagation of the ideology of OUN-B/UPA' with up to 3 years' imprisonment — a vaguely defined offence capable of covering Ukrainian symbols and commemorations; it passed first reading and has been in committee since 17 July 2026.

(k) Compounding vulnerability: documented rise in hostility. Police (KGP) data published in July 2026 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 267 in all of 2024 and 275 in 2025 (*Rzeczpospolita*, 17.07.2026; *Euronews*, 20.07.2026; figures are police-recorded notifications, not convictions); the police's own statement of 23 August 2025 recorded 543 confirmed bias-motivated crimes in January–July 2025 against 384 a year earlier, a 41% rise (*policja.pl*); prosecutors themselves qualified the 26 July 2026 beating of a Ukrainian couple in Wrocław as violence motivated by the victims' national origin, with pre-trial detention ordered; and on 6 August 2026 the largest opposition party announced, on record, plans to deport unemployed Ukrainian men of conscription age (*Rzeczpospolita*, 6.08.2026). A joint study by the Polish Ombudsman and OSCE/ODIHR (published 2019, fieldwork 2016–2017) found that only about 5% of hate crimes against the studied communities were reported to police — and people left for years without a residence card, with deadlines suspended and remedies disabled, are precisely those least able to report attacks or seek protection. I cite this strictly as documented context, not as a separate grievance: it is the coincidence of rising, officially recorded hostility with state-imposed status limbo that makes the remedies requested below urgent. Notably, when asked in July 2026 how the government responds to this wave, the Interior Ministry's written reply foregrounded deportation statistics (+30% year-on-year) rather than any victim-protection measure (*OKO.press*, 5.08.2026), and the National Prosecutor's Office refused in writing (17 June 2026) to publish hate-crime prosecution statistics.

Synthesis. The administrative failure at the root of items (b) and (e) is a documented decade old and originally affected all foreigners; but the burdens added since 2022 — the suspended deadlines, the exclusion from tacit approval, the longest statutory clock, benefits conditioned on an activity test waived 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. The group bearing these burdens is, on the official record, a net fiscal contributor: the

state development bank BGK (report of 11 March 2025) found Ukrainian migrants paid roughly PLN 15.2 billion in taxes and contributions into the 2024 budget, against roughly 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 — a group that funds the public system rather than draws on it.

4. DOMESTIC AND EU AVENUES PURSUED

Poland's Commissioner for Human Rights (RPO) has pressed the Interior Ministry on these delays for years, most recently by letter of 1 June 2026 (ref. XI.541.22.2025.DB). On 10 August 2026 I filed submissions with the RPO (including a supplement to its Warsaw central office), an infringement complaint with the European Commission (SG-THEMIS confirmation received; registration number pending), and information to the business associations ABSL and Konfederacja Lewiatan.

5. REQUEST

I respectfully ask the Special Rapporteur to raise this systemic pattern with the Government of Poland and to recommend: (1) 60-day tacit approval for ALL third-country nationals, including Ukrainians and EU Blue Card holders; (2) ending the open-ended specustawa suspension of deadlines in residence proceedings; (3) enforcement of the 90-day deadline of Directive (EU) 2021/1883; (4) restoration of equal treatment in family benefits and healthcare for lawfully resident foreigners by repeal of the nationality-conditioned provisions of the Act of 12 September 2025 (Dz.U. 2025 item 1301).

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10 August 2026

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