

Re: [Re] Email from citizen of Ukraine - Systemic breach of Directive (EU) 2021/1883 by Poland — request for priority handling of complaint filed 10 August 2026 (SG-THEMIS confirmat... - Ares(2026)8234938

Dear Sir or Madam,

I refer to complaint CPLT(2026)02766 and to my supplements of 11 September and 9 October 2026, sent in this thread. On 17 October I also wrote, through the Europe Direct Contact Centre, to the unit responsible for labour mobility; Europe Direct replied on 22 October that it does not forward complaint material and that it should be sent to the department handling the complaint. I therefore send here, briefly, only the elements that are new compared with my earlier supplements. My request not to disclose my identity or my documents to the Polish authorities remains unchanged.

1. The Member State does not intend to change the suspension. In its reply of 19 October 2026 to my petition asking to restore the running of time limits, the effectiveness of the reminder (ponaglenie) and of the complaint against inaction, the Ministry of the Interior and Administration wrote (DK-S.0511.1.126.2026): "aktualny stan prawny jest zgodny z wolą ustawodawcy. Ministerstwo Spraw Wewnętrznych i Administracji nie planuje inicjowania nowego procesu legislacyjnego ukierunkowanego na zmianę przepisów w tym zakresie." ("the current legal state is consistent with the will of the legislator. The Ministry does not plan to initiate a new legislative process aimed at changing the provisions in this respect.") The Ministry added: "obecne rozwiązania prawne mają charakter czasowy i obowiązują jedynie do 4 marca 2027 r." ("the current legal solutions are temporary and apply only until 4 March 2027"). The end date of this mechanism has been moved six times since 2022 (once under Article 100c, five times under Article 100d, which replaced it).

2. The national supreme administrative court on the same provision. The Supreme Administrative Court held in judgment II OSK 2940/24 of 13 June 2025 that the extension of Article 100d beyond 30 June 2024 "nastąpiło z oczywistym naruszeniem zasady proporcjonalności, a tym samym z oczywistym naruszeniem m.in. art. 45 ust. 1 w zw. z art. 31 ust. 3 Konstytucji RP oraz art. 47 w zw. z art. 52 ust. 1 Karty Praw Podstawowych" ("took place in manifest breach of the principle of proportionality, and thus in manifest breach of, inter alia, Article 45(1) in conjunction with Article 31(3) of the Polish Constitution and Article 47 in conjunction with Article 52(1) of the Charter of Fundamental Rights"). The administration continues to apply the provision.

3. Effective judicial protection in practice. Where a foreigner wins a complaint against inaction, the authority may file a cassation appeal, and until the Supreme Administrative Court rules the judgment is not final. According to the Regional Administrative Court in Gdańsk (IV 050/76/26, 20 October 2026), the Pomeranian Voivode filed such cassation appeals in residence-permit inaction cases 31 times in 2024, 61 times in 2025 and 185 times in 2026 (to 20 October). For comparison, in the same categories: Łódź Voivode 0, 0 and 1; Podkarpackie 0, 0 and 0; Kujawsko-Pomorskie 2, 2 and 1; Opole 1, 1 and 1 (answers of the respective courts of 20-22 October 2026). In five judgments of 6 August 2026 (II OSK 332/26, 349/26, 422/26, 493/26, 602/26) the Supreme Administrative Court did not overturn the finding of inaction in any case; it set aside only the finding that the delay amounted to a flagrant breach of law and, in four cases, dismissed the claim for a sum of money for the applicant.

4. Mobility. During the whole procedure the applicant holds only a certificate of having lodged the application, which makes the stay legal in Poland alone: it does not allow travel to another Member State or return to Poland without a visa. For EU Blue Card holders and applicants this blocks the intra-EU mobility that Directive (EU) 2021/1883 is meant to secure.

5. Labour market. Foreigners were 8.0% of all persons insured with the Polish Social Insurance Institution (ZUS) in March 2026. ABSL and EY wrote on 5 May 2026: "dla wielu organizacji system migracyjny stał się dziś jednym z kluczowych ograniczeń rozwojowych" ("for many organisations the migration system has today become one of the key constraints on development").

Documents (original letters, applicant's data removed):

- Regional Administrative Court in Gdańsk, IV 050/76/26: <https://glos-migranta.eu/dokumenty/wsa-gdansk-iv-050-76-26-2026-10-20.pdf>
- Regional Administrative Courts in Łódź and Rzeszów: <https://glos-migranta.eu/dokumenty/wsa-lodz-inf-iv-0144-38-2026-2026-10-20.pdf> ; <https://glos-migranta.eu/dokumenty/wsa-rzeszow-wis-70-35-26-2026-10-20.pdf>
- The Ministry's letter of 19 October 2026 and the answers of the courts in Bydgoszcz and Opole are not yet published; I will send them on request.

Yours faithfully,

[imię i nazwisko usunięte]

[e-mail usunięty]