Dear Sir or Madam,

I refer to complaint CPLT(2026)02766 and to my supplements of 11 September, 9 October and 22 October 2026, sent in this thread. Below are only documents I received after 22 October. My request not to disclose my identity or my documents to the Polish authorities remains unchanged. Please note that my postal address has changed; it is now [redacted] Poland. My e-mail address is unchanged.

In short: (1) the answers of 15 of the 16 regional administrative courts show how cassation appeals by voivodes keep judgments on inaction from becoming final, and that such appeals are concentrated in a few offices; (2) letters of the Office for Foreigners released on 27 October show that since 2022 the central authority has advised the voivodes in writing how to conduct these cases in court, and in November 2025 wrote to the President of the Supreme Administrative Court asking that its data be used in pending proceedings; (3) on 30 October the Ministry of the Interior confirmed that no legislative work on Directive (EU) 2021/1883 has started. Point 4 explains why this matters for INFR(2026)0467.

1. Cassation appeals by the voivodes: the full picture

On 16 October 2026 I asked all sixteen regional administrative courts the same questions. My supplement of 22 October gave five answers. Fifteen courts have now answered; the court in Gliwice (Silesian Voivode) has extended its time limit to 16 December 2026. Cassation appeals lodged by each voivode against judgments in inaction or excessive-length cases concerning foreigners:

Court (voivode)	**2024**	**2025**	**2026, to the date of the reply**	**Outcome before the Supreme Administrative Court (NSA); judgments not final**
Gdańsk (Pomorskie)	31	61	185	the Voivode keeps no register of its own appeals (see below)
Warsaw (Mazowieckie)	0	7	110	85 of the 2026 appeals not yet sent to the NSA; the NSA has decided 4 (2025), all dismissed; 113 judgments not final because of an appeal, the oldest of 21 October 2025
Wrocław (Dolnośląskie)	7	3	11	the NSA has decided 8: in 3 it set the judgment aside and dismissed the complaint, in 5 it set it aside in part; 13 judgments not final, the oldest of 13 March 2026
Białystok (Podlaskie)	0	1	12	12 judgments not final, the oldest of 24 March 2026
Bydgoszcz (Kujawsko-Pomorskie)	2	2	1	reported on 22 October
Opole (Opolskie)	1	1	1	reported on 22 October
Łódź (Łódzkie)	0	0	1	appeal dismissed by the NSA
Kraków (Małopolskie)	0	0	1	file not yet sent to the NSA
Szczecin (Zachodniopomorskie)	1	0	0	appeal rejected by the regional court
Rzeszów (Podkarpackie)	0	0	0	-
Gorzów Wielkopolski (Lubuskie)	0	0	0	-
Kielce (Świętokrzyskie)	0	0	0	-
Lublin (Lubelskie)	0	0	0	-
Olsztyn (Warmińsko-Mazurskie)	0	0	0	-
Poznań (Wielkopolskie)	46	11	8	lists of appeals by year of filing, with handwritten NSA outcomes: in 39 of the 46 appeals of 2024 the NSA set the judgment aside in part; 5 appeals of 2026 still before the NSA

Court (voivode)	2024	2025	2026, to the date of the reply	Outcome before the Supreme Administrative Court (NSA); judgments not final
Gliwice (Śląskie)	-	-	-	reply due by 16 December 2026

Most courts answered for subject code 6272 (residence of foreigners); Warsaw, Białystok, Kielce and Kraków counted the wider group 627 (codes 6270-6279), so the figures are not perfectly uniform.

Three observations. First, the total grows (88 appeals in 2024, 86 in 2025, 330 in 2026 to date), and 295 of the 330 appeals of 2026 come from two voivodes (Pomorskie 185, Mazowieckie 110), while five voivodes have lodged none since 1 January 2024. Article 100d applies in all sixteen regions in the same terms; the number of complaints also differs between regions, which this table does not show, but whether to appeal is a choice of each office. Second, a cassation appeal postpones the applicant's remedy: under Article 286 § 2 of the Law on Proceedings before Administrative Courts, the time limit set by the court for the authority to decide runs from the delivery of the final judgment. In Warsaw 113 judgments against the voivode are in that position, the oldest for more than a year. Third, the outcome before the NSA varies: in Warsaw all four appeals decided were dismissed; in Wrocław all eight decided succeeded at least in part. Where judgments became final, applicants sometimes had to go back to court: the Wrocław court registered 41 complaints for non-execution of judgment since 2024 (32 of them in 2024), with 6 fines imposed and 5 sums of money awarded.

The Pomorski Voivode, who lodged 185 such appeals in 2026, answered my questions on its own appeals on 28 October 2026 (WSC-IV.1331.37.2026.KB): „Organ nie prowadzi ewidencji umożliwiającej udzielenie odpowiedzi na pytania wskazane w pkt 1–4 oraz 6 wniosku." ("The authority keeps no record enabling it to answer the questions in points 1-4 and 6 of the request.") and „Nie został wytworzony dokument określający, kto oraz na podstawie jakich kryteriów podejmuje decyzję o wniesieniu skargi kasacyjnej od wyroku stwierdzającego bezczynność lub przewlekłe prowadzenie postępowania w sprawie dotyczącej udzielenia zezwolenia na pobyt." ("No document has been produced specifying who decides, and on what criteria, to lodge a cassation appeal against a judgment finding inaction or excessive length in a residence permit case.") For fairness, it added: „Zasadność wniesienia skargi kasacyjnej jest oceniana każdorazowo, po zapoznaniu się z uzasadnieniem wyroku, z uwzględnieniem okoliczności konkretnej sprawy." ("Whether to lodge a cassation appeal is assessed each time, after reading the reasons for the judgment, taking into account the circumstances of the case.")

2. Central guidance on how to conduct these cases in court

On 27 October 2026 the Warmińsko-Mazurski Voivode released to me seven letters of the Office for Foreigners on Articles 100c and 100d (SC-I.1331.16.2026). One of them (DPM.07037.23.2024, recommending cassation appeals against judgments of the court in Poznań) was described in my supplement of 11 September. Four are new to the Commission:

(a) Circular DPM.0738.49.2022 of 15 June 2022 to the foreigners' departments of all voivodeship offices (written under Article 100c, the predecessor of Article 100d), p. 6: „Urząd do Spraw Cudzoziemców sugeruje, aby pełnomocnicy procesowi wojewodów w postępowaniach sądowych, w odpowiedziach na skargi na bezczynność lub przewlekłe prowadzenie postępowania wnosili w pierwszej kolejności o odrzucenie tych skarg (...), a w dalszej kolejności wnosili o oddalenie tych skarg (...), a w razie konieczności wnosili również o to, aby w przypadku uznania dopuszczalności i zasadności skarg, nie były wymierzane grzywny ani zasądzane sumy pieniężne na rzecz skarżących" ("The Office for Foreigners suggests that the voivodes' representatives in court proceedings, in their replies to complaints against inaction or excessive length of proceedings, should ask first for the rejection of those complaints (...), then for their dismissal (...), and where necessary also ask that, if the complaints are found admissible and well founded, no fines be imposed and no sums of money be awarded to the applicants").

(b) Letter DPM.0737.43.2023 of 31 July 2023 to the Opole office, copied to the foreigners' departments of all voivodeship offices, pp. 3-4: „zachęcam do wnoszenia przez wojewodów skarg kasacyjnych od wyroków wojewódzkich sądów administracyjnych, opierających się na wadliwym w ocenie Szefa Urzędu do Spraw Cudzoziemców poglądzie prawnym dotyczącym zakresu zastosowania przepisów art. 100c i art. 100d ustawy

specjalnej" ("I encourage the voivodes to lodge cassation appeals against judgments of the regional administrative courts based on a legal view, erroneous in the opinion of the Head of the Office for Foreigners, on the scope of Articles 100c and 100d of the Special Act").

(c) Letter BSZ.WKSI.0705.1.2025/ED of 28 November 2025 from the Head of the Office for Foreigners to the President of the Supreme Administrative Court, concerning the case-law of the administrative courts on Article 100d. After figures on applications and decisions for 2020-2025 it states (p. 7): „Zakładać należy, że wszczętych zostanie ok. 800 tys. nowych, dodatkowych postepowań, co będzie stanowić kolejne poważne obciążenie systemu. W związku z powyższym, w mojej ocenie, stosowanie ww. artykułu w obecnej sytuacji nadal jest zasadne." ("It must be assumed that about 800,000 new, additional proceedings will be opened, which will be a further serious burden on the system. In view of the above, in my assessment, the application of that article in the present situation is still justified.") The next sentence invokes the Commission: „Pozostawanie Polski pod zwiększoną presją migracyjną potwierdza również Komisja Europejska w informacji dotyczącej możliwości wyłączenia Polski z mechanizmu solidarnościowego Paktu o Azylu i Migracji" ("That Poland remains under increased migratory pressure is also confirmed by the European Commission in its information on the possibility of exempting Poland from the solidarity mechanism of the Pact on Asylum and Migration"), with a link to press release IP/25/2655. The letter ends (p. 8): „Mając na uwadze zapewnienie Sądowi dostępu do pełnej i aktualnej informacji uprzejmie proszę o przekazanie wskazanych wyżej informacji do wykorzystania w toczących się postępowaniach sądowoadministracyjnych." ("With a view to ensuring that the Court has access to full and up-to-date information, I kindly ask that the above information be passed on for use in pending administrative court proceedings.")

(d) Letter BSZ.WKSI.0705.1.2025/KS of 8 December 2025 to the foreigners' departments of all voivodeship offices: „przekazuję do wiadomości i służbowego wykorzystania pismo do pana Jacka Chlebnego, Prezesa Naczelnego Sądu Administracyjnego, w sprawie orzecznictwa dotyczącego art. 100d" ("I forward for information and official use the letter to Mr Jacek Chlebny, President of the Supreme Administrative Court, on the case-law concerning Article 100d").

Taken together with the 2024 letter, these documents show the central authority, which is the higher-level authority for reminders against the voivodes, advising them in writing to seek rejection of inaction complaints and no fines (2022), encouraging cassation appeals (2023), recommending them (2024), and addressing the President of the Supreme Administrative Court with its own data and assessment for use in pending cases (2025), then sending that letter to the voivodes for official use. In fairness, the 2024 letter states that it is only the opinion of another authority and that the Office has no hierarchical relationship with a voivode acting as a party in court. I make no assessment of what the Supreme Administrative Court did with the 2025 letter.

3. The Ministry of the Interior, 30 October 2026 (DBiSO-WODO.06770.2.103.2026.EJ)

In its report on the public consultation of draft law UD408, sent to the Standing Committee of the Council of Ministers in October 2026, the Ministry summarised remarks asking, among other things, for compliance with the 90-day time limit of Directive (EU) 2021/1883, and replied that such remarks, „ew. uwzględnienie powinno odbyć się w ramach oddzielnych prac legislacyjnych" ("any possible inclusion of [them] should take place in separate legislative work") (p. 2). Asked whether that separate work had started, the Ministry answered (p. 1): „Na dzień dzisiejszy nie rozpoczęto takich prac." ("As of today, no such work has been started.")

Asked for its analyses of staffing in the voivodes' foreigners' departments in 2025-2026, the Ministry answered (p. 2): „MSWiA nie gromadzi takich dokumentów w sposób systemowy. Jednocześnie należy wskazać, że długi okres oczekiwania na załatwienie spraw wynika z trudnej sytuacji kadrowej wydziałów spraw cudzoziemców, która jest faktem powszechnie znanym." ("The Ministry does not collect such documents systematically. At the same time, it should be pointed out that the long waiting time for cases to be decided results from the difficult staffing situation of the foreigners' departments, which is a matter of common knowledge.") The same consultation report stated: „Bardzo trudna sytuacja kadrowa wydziałów cudzoziemskich pozostaje poza dyskusją." ("The very difficult staffing situation of the foreigners' departments is beyond dispute.") (p. 9).

Asked whether it was working on, or had decided on, the application of Article 100d after 4 March 2027, the Ministry answered (p. 2): „MSWiA nie prowadzi takich prac." ("The Ministry is not conducting such work.") No document on what follows after that date was released to me.

4. Why transposition alone will not resolve this (INFR(2026)0467)

The Ministry confirmed on 2 September 2026 that it had received the Commission's letter of 14 July 2026 referenced INFR(2026)0466>INFR(2026)0474 (my supplement of 11 September); the Commission's infringement database lists for Poland case INFR(2026)0467 of that date, for lack of transposition of Directive (EU) 2024/1233. Transposing the 90-day time limit will not by itself change what this complaint concerns. Polish law already sets a shorter time limit: „Decyzję w sprawie udzielenia cudzoziemcowi zezwolenia na pobyt czasowy wydaje się w terminie 60 dni." ("A decision on granting a foreigner a temporary residence permit shall be issued within 60 days.") (Article 112a(1) of the Act on Foreigners). It is not observed (803,223 pending cases on 1 July 2026 and the durations in my supplement of 9 October). Article 5(2) of Directive 2024/1233 leaves the consequences of a failure to decide to national law. Polish law provides them (reminder, complaint against inaction, fine), but Article 100d suspends them; where courts grant them nonetheless, the cassation appeals in point 1 postpone their effect by many months, and the documents in point 2 show that the authorities' line in these court cases has been advised centrally since 2022. The Ministry attributes the delays to staffing, does not systematically collect analyses of it, and has not started the separate legislative work to which it referred the remarks on Directive 2021/1883. The Commission's own letter of 26 October 2026 (Ares(2026)10038762, p. 2) adds: "No documents or discussions have been held so far in the current programming period in terms of indicators on the duration of residence procedures, following Article 33(5) of Regulation (EU) 2021/1147."

In my submission the question under Article 47 of the Charter is therefore one of practice, which a check of the transposing text would not capture. I respectfully ask the Commission, in INFR(2026)0467 and in this complaint, to look at the practical availability of the remedy and, if it requests information from Poland, to include: the number of applications pending beyond the statutory time limit; the number of judgments on inaction not yet final because of the authority's cassation appeal; and the guidance given to the voivodes on conducting these cases in court.

5. Still to come

The answer of the court in Gliwice (by 16 December 2026) and the judgment in C-254/25, announced for 12 November 2026. I will write again only if they add something new.

All documents cited above are available on request, as originals.

Yours faithfully,

[redacted]Poland