

Poland's systemic breach of the 90-day decision deadline for EU Blue Cards (Article 11(1) of Directive (EU) 2021/1883) and nationality-based discrimination in draft law UD408

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I am a citizen of Ukraine residing in Poland. [Personal details of the petitioner removed for publication.] I pay Polish personal income tax at the top rate. I petition the European Parliament on a matter of Union law that affects me directly as a resident of the European Union.

1. The facts. Article 11(1) of Directive (EU) 2021/1883 obliges Member States to decide on an EU Blue Card application within 90 days. In Poland, the national average for residence proceedings stood at 341 days in the Interior Ministry's October 2025 data; at the Silesian Voivodeship Office in Katowice, competent for my place of residence, the average reached 637 days in 2025 and 658 days as of 6 July 2026 — the Ministry's own table, annexed to its reply to Sejm interpellation no. 18089. Poland's special act on assistance to citizens of Ukraine suspends procedural time limits in these proceedings and has been extended until 4 March 2027 — for Ukrainian applicants, no effective deadline exists at all. Since 27 April 2026, applications may be lodged exclusively electronically via the MOS 2.0 system. Filing is now electronic and available — but decisions still do not come: the same 6 July 2026 ministerial table shows average processing times worsened versus 2023 in 15 of 16 voivodeships after MOS became mandatory (Mazowieckie from 153 to 394 days), the two-year paper backlog was never migrated into the system, and the impact assessment of the law mandating MOS (Sejm print no. 1630) contains a ten-year financial table of dashes, the clause that its costs 'will not constitute grounds for requesting additional funds', and the written rejection of the voivodes' requests for caseworker posts ('Uwaga nie została uwzględniona'). During the wait, the national confirmation of a pending application is not recognised by border guards of other Schengen states, so highly qualified workers cannot travel for business with legal certainty. [Sentence on the petitioner's personal circumstances removed for publication.]

2. The discrimination. Draft law UD408 (Ministry of the Interior, July 2026) would introduce a positive decision by tacit approval after 60 days of administrative silence — but only for citizens of Australia, Japan, South Korea, the United States and the United Kingdom. A US citizen would obtain legal certainty in 60 days; a Ukrainian Blue Card holder, whose deadline is fixed by an EU directive, would continue to wait up to two years. This exclusion is not an isolated feature: the decade-old failure documented by Poland's Supreme Audit Office in 2019 hit all foreigners, but the burdens added since 2022 are concentrated on citizens of Ukraine — suspended deadlines in their residence cases (art. 100d of the special act, until 4 March 2027), exclusion from the drafted tacit approval, the longest statutory clock for their only exit path (180 days for the CUKR permit, art. 42l, against 60 days ordinary), a 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 for 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.

3. The transposition failure and the remedies blackout. Poland transposed Directive (EU) 2021/1883 itself 18.5 months late: the deadline under Article 31 expired on 18 November 2023, while the implementing act (Act of 24 April 2025, Dz.U. 2025 poz. 619) entered into force only on 1 June 2025. 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, although Article 15 of the Directive (after 12 months of employment, at most a notification to change employer) has been directly effective since 18 November 2023. At the same time, Article 100d of the special act (a mechanism in operation since 15 April 2022, currently until 4 March 2027; Article 100c was repealed on 5 March 2026) statutorily disapplies the only Polish remedies against administrative inaction (ponaglenie and the complaint for bezczynność) in foreigners' cases — no national court can be asked to enforce the 90-day deadline, an effective-judicial-protection problem under Article 47 of the Charter, now pending before the Court of Justice 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).

4. Union law engaged. Article 11(1) of Directive (EU) 2021/1883 (mandatory 90-day deadline); the right to good administration reflected in Article 41 of the Charter of Fundamental Rights and recognised as a general principle of Union law binding on Member States acting within its scope; and the EU principle of non-discrimination and equal treatment, with which a nationality-based fast track inside the scope of the legal migration *acquis* appears incompatible. The Polish Ombudsman has pressed the Interior Ministry on these delays for years (most recently by letter of 1 June 2026); my complaint to the European Commission was filed on 10 August 2026 (SG-THEMIS confirmation of receipt; registration number pending).

5. Request. I respectfully ask the Committee on Petitions to declare this petition admissible; to request the European Commission's opinion on Poland's compliance with Article 11(1) of Directive (EU) 2021/1883 and on the compatibility of draft law UD408 with the principle of non-discrimination; to refer the petition to the LIBE Committee for information; and to keep it open until Poland (i) extends 60-day tacit approval to all third-country nationals, including Ukrainians and EU Blue Card holders, (ii) ends the open-ended suspension of time limits in residence proceedings, (iii) enforces the 90-day Blue Card deadline, and (iv) repeals 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.

[Petitioner - personal data removed for publication]