



24.7.2019

NOTICE TO MEMBERS

Subject: Petition No 1128/2018 by Mykhailo Ohienko (Ukrainian), on the allegedly incorrect transposition of Council Directive 2003/109/EC in respect of the Act on Foreigners in Poland

1. Summary of petition

The petitioner points out that the provisions of the Polish Act on Foreigners of 12 December 2013 are allegedly incompatible with Council Directive 2003/109/EC, and in particular with recitals 5, 6, 10 and 11 concerning the status of third-country nationals who are long-term residents, and with Article 5(2). According to the petitioner, it is too difficult or even impossible, for organisational reasons, to meet the requirements for official certification of knowledge of the Polish language in order to obtain a long-term residence permit in the EU: examination dates are too rare and are only held in a small number of centres in Poland with a limited number of places. Moreover, in his opinion, the issue of obligatory and officially certified knowledge of the Polish language seems to contradict the provision of Article 5(2) of the Directive concerning the fulfilment of integration conditions.

2. Admissibility

Declared admissible on 5 March 2019. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 24 July 2019

According to the petitioner, it is too difficult for a third-country national to meet the requirements for official certification of knowledge of the Polish language in order to obtain an EU long-term residence permit under Council Directive 2003/109/EC¹. The Directive

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, *OJL 16, 23.1.2004, p. 44–53*.

allows Member States to require third-country nationals who want to become long-term residents to comply with integration conditions, including the knowledge of the national language. However, as established by the case law of the Court of Justice of the European Union, those conditions must be proportionate and not constitute an obstacle for the acquisition of the permit.

To assess whether or not the organisation and level of the Polish language examinations are proportionate, on 27 June 2019 the Commission submitted a request to the Polish authorities to provide the necessary data and information, through the EU Pilot system (reference EUP(2019)9442). The reply of the Polish authorities is expected by 5 September 2019.

Conclusion

The Commission will provide a reply or an updated communication following the assessment of the Polish authorities' reply.