



Council of the European Union  
General Secretariat

Brussels, 29 January 2024

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**Interinstitutional files:  
2023/0404 (COD)**

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## WORKING DOCUMENT

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From:	General Secretariat of the Council
To:	Working Party on Integration, Migration and Expulsion (Admission)
N° Cion doc.:	15550/23 + ADD 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing an EU Talent pool

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Following the request for written contribution on the above-mentioned proposal at the Working Party IMEX (Admissions) meeting on 10 January 2024, delegations will find in Annex a compilation of the replies as received by the General Secretariat.

**Written replies submitted by the Member States**

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## **CROATIA**

### **Article 2 SCOPE**

As regards the scope, and in connection with recital 27 and the persons in need of international protection who are in third countries, the question that arises is that of regulating the status of the said category of persons later in the migration procedure, and whether special procedural or other guarantees are required in the migration procedure.

We also ask about the definition of “persons in need of international protection”, and should we have more defined definition, meaning persons who are beneficiaries of international protection in third countries.

Why is this category specifically addressed in recitals and how will this category be provided with support via National contact point within EU Talent pool, if at the time they enter their data into EU Talent Pool, there is no specific reference to that category?

Will this category apply for single permit in migration procedure, or they can also apply for international protection once on the territory?

Also, as regards the scope, third country nationals being „from third countries residing outside the Union“, we are also interested in whether the platform will have mechanisms that will prevent the entry of profiles of third country nationals residing within the territory of Union; and how will this be checked.

### **Article 4 DEFINITIONS**

#### **Point 3) Definition of employer**

Given that the legal text now introduces the definition of employer, we believe that we should not explicitly define what employer means, but for the purposes of this Regulation, categories that would have access to this platform could be defined, without defining the definition of employer.

## **Article 9 EU Talent Pool Steering Group (point d)**

Since the establishment and functioning of the EU Talent Pool should not affect immigration procedures or conditions of entry, stay or issuance of residence and work permits to third country nationals, it remains unclear why the possible implementation of accelerated immigration procedures in accordance with Article 19 of the proposed Regulation (as a may clause) would specifically be responsibility of the Steering Group and as such mentioned in the legal text.

We believe point d) should be deleted.

The exchange of experiences of other Member States on ways of introducing accelerated immigration procedures is certainly welcome and desirable, however, we believe that there are currently other forums where Member States can exchange experiences on the above topic.

## THE CZECH REPUBLIC

1. Will the data of employers and jobseekers be duplicated on IT platform of EU Talent Pool and also on EURES portal? (Art. 16)

Currently a jobseeker from third country can register on the EURES portal. What other options will they have within the EU Talent Pool?

1. How will the data be sent to the Talent Pool - through the same stream/API as the EURES vacancy data? We assume that the same solution will be used to transmit vacancies via API as in the case of EURES, i.e. only the flag will regulate in which system (EURES x Talent pool) the vacancies will be displayed.
2. The Czech Republic does not consider it appropriate to allow agencies to join the EU Talent Pool. (Art.4)
3. How will it be secured that agencies and other actors involved in EU Talent Pool, who demand financial compensation for their services will provide their services for free in the Talent Pool? (Art. 13)
4. What all is included in the Accelerated immigration procedures - will there be no need for labour market tests? (Art.19)
5. We consider important that the information and solutions applicable to the shortage professions identified by the EC for the EU are always presented in an equivalent way to the shortage professions identified by the individual Member States.

## **FINLAND**

Finland thanks the Commission for the proposal to establish EU Talent Pool and the possibility to send written comments on articles 1-10. Finland is reviewing the proposal and has entered scrutiny reserve on the whole text. Therefore our comments are preliminary.

We consider it particularly important that participation on the EU Talent Pool is voluntary and also that the proposal does not include binding provisions on the conditions for entry into the country. The voluntary participation enables member states to assess the added value of EU Talent Pool in relation to existing international recruitment activities.

Concerning IT system architecture, from our perspective the cost-effective interoperability with our national matching platform (Työmarkkinatori) is a prerequisite for potential benefit of Talent Pool to Finnish international recruitment architecture. Therefore there's a need to further assess and to ensure the interoperability between EU Talent Pool and national matching platform. The Talent Pool's added value also depends on it's ability to respond to the skills needs of national labor market.

In relation to governance, Talent Pool should not cause an unreasonable administrative burden. In further negotiations it would be necessary to weigh more closely the ratio of the costs of establishing and maintaining the Talent Pool to the benefits of matching jobseekers and employers.

## FRANCE

### Eléments d'appréciation généraux

- La France pose une réserve d'examen sur l'ensemble du texte dans la mesure où le détail de cette nouvelle initiative est en cours d'expertise.
- Elle note d'ores et déjà avec satisfaction le caractère non-contraignant du recours à la plateforme talents, mais s'inquiète de l'absence de toute disposition prévoyant qu'un Etat membre suspende temporairement sa participation ou se retire de la plateforme.
- La France prend note des indications fournies lors des précédents groupes IMEX s'agissant de la base légale de ce projet de règlement. Elle réitère toutefois ses interrogations à ce titre. En effet, cette proposition de règlement semble emprunter aux politiques migratoires et de l'emploi. Le règlement, selon l'article 1<sup>er</sup>, éclairé par le considérant 33, renvoie à la politique de l'emploi, avec un volet externe, tandis que le considérant 16 s'inscrit davantage dans la politique migratoire. Quant au contenu de l'acte, il emprunte davantage aux textes relatifs à la politique de l'emploi puisqu'il consiste essentiellement à créer une plateforme afin de permettre l'appariement de l'offre et de la demande d'emploi et à prévoir la gouvernance du dispositif.
- France estime que ce projet de règlement devrait prévoir des dispositions permettant de contrôler la probité des employeurs accédant à la plateforme et d'écarter ceux qui auraient été condamnés à la suite d'abus perpétrés contre des travailleurs.
- France s'interroge sur l'élaboration de la liste des métiers en tension au niveau européen ainsi que sur son articulation avec les listes nationales ou régionales établies par les Etats membres.
- Enfin, la France sera attentive à l'articulation opérationnelle entre l'usage de cette plateforme et les partenariats de talents. Elle émet des réserves quant à la création d'un « pass partenariats de talents », prévu à l'article 12, qui créerait des droits pour un individu alors que les partenariats de talents sont à ce stade envisagés comme un outil de coopération souple entre Etats membres et pays tiers.

## **Examen des articles 1 à 10**

### **Articles 1 à 3**

A l'article 3, qui fixe des règles concernant la participation des Etats membres, la France note avec satisfaction le caractère non-contraignant du recours à la plateforme talents. Toutefois, lors du groupe IMEX du 10 janvier 2024, plusieurs Etats membres ont souligné l'absence de toute disposition prévoyant qu'un Etat membre suspende temporairement ou interrompe définitivement sa participation à la plateforme, ce que la Commission a confirmé. Il nous semble important qu'une telle possibilité figure de manière explicite dans le projet de règlement, soit à l'article 3, soit dans un article dédié. Ces questions doivent par ailleurs être encadrées par des dispositions spécifiques, du fait des conséquences à la fois financières, juridiques et en matière de protection des données.

### **Article 4**

A l'article 4, la France souhaite relayer les inquiétudes de plusieurs Etats membres quant à la définition proposée pour l'employeur, qui inclut entre autres les agences d'emploi privées, les agences de travail temporaire et les intermédiaires du marché du travail. Ces derniers sont généralement rémunérés et ne peuvent pas être assimilés à des employeurs car ils n'interviennent que pour présenter des offres.

La France a pris bonne note du rappel par la Commission de l'existence de cette notion d'employeur dans d'autres textes européens (par exemple : la directive sanctions employeurs) mais relève que si les agences de travail temporaire sont bien mentionnées, il n'en est pas de même des « agences d'emploi privées » et des « intermédiaires du marché du travail ».

La France souhaiterait davantage de précisions sur la capacité des Etats membres à contrôler le type d'employeurs pouvant être présents sur la plateforme : l'article 13 attribue un rôle en la matière au point de contact national, mais sans en préciser les modalités. En particulier ce rôle inclut-il un pouvoir décisionnaire et le cas échéant sur quel périmètre ?

## **Articles 5 et 6**

A l'article 5, la France souhaite obtenir des précisions de la part de la Commission sur les aspects techniques de l'interopérabilité entre les systèmes nationaux et la plateforme informatique du réservoir européen de talents, en particulier s'agissant du calendrier de mise en œuvre.

La France s'interroge également sur le financement et les modalités de mise en œuvre de la plateforme, puisque cette question ne semble pas être évoquée par la proposition de règlement.

Enfin, la France s'interroge sur l'articulation de cette plateforme avec les dispositifs existants à l'échelle européenne, dont notamment le dispositif EURES. En effet, la description de la plateforme informatique est un exact parallèle de ce qui a été mis en place pour le portail EURES, ce qui risque de créer une confusion pour les usagers.

## **Articles 7 à 10**

A l'article 10, la France pense qu'il est important de désigner plusieurs points de contact afin de disposer de plusieurs acteurs pertinents, entre, d'une part, ceux qui pourront opérationnellement alimenter la plateforme (comme c'est le cas pour EURES), et d'autre part les acteurs institutionnels qui pourront éventuellement amender la liste européenne des métiers (comme les autorités administratives compétentes en matière d'emploi et d'immigration).

## **GREECE**

### **Regulation proposal establishing an EU Talent Pool**

#### **Article 4-Definitions**

- par.1 (3): the definition of ‘employer’ could be more general in order to cover the different practices of MSs or it the agreed relevant definition in the Employers Sanctions Directive 2009/52 could be used (“...means any natural person, or any legal entity, including temporary work agencies, established in a participating MS, under the direction or supervision of whom the employment is undertaken”).
- EL proposes that a definition for ‘EU Talent Partnerships pass’ is included.
- EL proposes par.3 of article 6 on “profiles” to be transferred to the “profile” definition.

#### **Article 5-EU Talent Pool IT platform**

- par. 2e and 4: EL would like the following to be clarified: a) the functioning of the automated matching tool and b) interoperability between national systems and EU Talent pool (in particular, which national systems does the specific provision concern and to which extent is interoperability foreseen), as a major obligation for the participating MSs is created.

#### **Article 6-Processing of personal data**

- par. 5: The last sentence (“*Registered jobseekers from third countries shall have the right to choose from a number of technical options to restrict access to their personal data*”) needs to be further explained, as it may create difficulties in the implementation of the platform (employers will not be able to have access to applicant’s full details).

#### **Article 9-EU Talent Pool Steering Group (SG)**

**General comments:** it would be useful to further explain who will participate in the SG (taking into consideration that the distribution of competences varies between MS), as well as the interconnection and cooperation between the Steering Group and the NCPs.

- par. 1d: it should be clear that “accelerated immigration procedures” are established and implemented according to the provisions of national legislation of the participating MS.

- Par. 4: EL considers it necessary that the status of representatives of trade unions and of employers organisations in the SG is clearly defined and proposes for them to have the status of observers, considering that issues of national legislation implementation will be discussed within the framework of the Steering Group.

#### **Article 10-EU Talent Pool National Contact Points (NCPs)**

- par.2f: it should be clear what is to be “uploaded” in the platform regarding recognition procedures, given that this issue may fall under the competence of yet another Ministry (the Ministry of Education, in the case of Greece); e.g. will it concern only general procedures on recognition procedures?

#### **Article 11-Registration and access of jobseekers from third countries**

- par.1: In all cases, the jobseeker profile needs to be in a uniform format in order to facilitate the platform’s implementation (e.g. development of an online platform with required fields to be filled-in, for the Secretariat to be able to conduct the necessary checks). The proposed use of Europass could be further examined.
- par. 2: EL would like the implementation of the provision to be clarified, in order to avoid situations such as for example false declarations.
- par. 3: EL would like the connection of the provision with that of par.5 of art. 6 (jobseeker’s right to restrict employer’s access to his/her personal data) to be explained.

#### **Article 13-Participation of employers in the EU Talent Pool**

- par. 2b: it needs to be further explained and EL proposes to be amended as follows:

*“are open to the recruitment of jobseekers from third countries without prejudice to the implementation of the principle of preference for Union citizens, where applicable under national law”.*

In addition, EL would like that it is clarified why the provision refers only to the preference of Union citizens and not also to third country nationals legally residing in the MSs, as relevant wording is included in various directives on legal migration.

### **Article 17-Information provision and support services**

- par. 2e: EL would like that the organisations that offer “post-recruitment assistance” are clarified (and if, for instance, these organisations are those mentioned in the definition of ‘employer’).
- par.3: EL expresses reservation on the provision, as it will create significant administrative burden for national authorities.

## GERMANY

### Regulation proposal establishing an EU Talent Pool

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- par.3: EL expresses reservation on the provision, as it will create significant administrative burden for national authorities.

#### **After WP IMEX Admission on 10.01.24**

**GER is still in the process of reviewing the draft and will continue to play a constructive role in the negotiations.**

#### **Art. 4**

Private employment agencies play a significantly different role than employers.

Employment agencies act as intermediaries between employers and job seekers, similar to brokers. These intermediaries charge a fee for their brokerage work. Private employment agencies do not become employers as part of their placement activities. Using the same term (“employer”) for both employers and employment agencies is therefore not appropriate and could be misleading.

Temporary employment agencies, on the other hand, can be considered regular employers because - unlike private employment agencies - they conclude employment contracts with employees. The legal employment relationship between the employee and the temporary employment agency exists solely with the agency as the contract employer, regardless of work assignments at other companies.

Article 13 regulates employers’ participation in the EU Talent Pool, so one could also define who has access instead of redefining the term employer in Article 4.

#### **Art. 5-6**

Besides interoperability with national employment platforms, we should keep an eye on the potential synergy with the ERA Talent Platform aimed at the European labour market for researchers. The DG RTD is developing this platform due to be launched in spring - summer 2024. In good time before the launch of the EU Talent Pool, DG Home (in charge of the EU Talent Pool) and DG RTD should explore possible synergies between their respective platforms since in the current draft no references to the ERA Talent Platform are found. In addition, the EU Talent Pool requires financial contributions from participating MS whereas the ERA Talent Platform should not require any additional contributions from participating MS.

**Art. 7-10**

**Art. 8 (2) (e):**

It should be clarified which data are considered relevant and how they are determined.

**Art. 10 (1):**

Every participating Member State shall designate a National Contact Point. At the same time, participating Member States shall ensure that relevant authorities from the field of employment and immigration are appointed as the National Contact Points. We ask for further clarification of the composition of the National Contact Point.

In principle, we support the idea of National Contact Points but in the field of immigration law it could pose a practical problem: Depending on the status of the procedure this might be the diplomatic missions or the local foreigners' authorities. Should the National Contact Point also be responsible for questions regarding migration law, what kind of questions should be answered? Residence law with regard to labour migration depends on the existence of a concrete job offer according to German immigration law.

**Art. 10 (2):**

The service portfolio of the National Contact Points is comprehensive and includes services that are outside the competences of the immigration or employment authorities, for example advice on the recognition of qualifications. Therefore, opportunities to refer to competent authorities should be created. If a referral is not possible, the three planned FTEs are not a realistic number of staff required.

If an employer registration or activation takes place using the technical infrastructure of the EU Talent Pool IT platform (Art. 5 para. 2 lit. d), the obligation contained in Art. 10 para. 2 lit. d that the National Contact Points keep a registry of employers participating in the EU Talent Pool is obsolete.

Art. 10 (2), especially b, d, and e: The responsibilities of other partners connected through any interfaces (e.g. with the ERA Talent Platform) should be defined well in advance of the implementation of any interfaces. We should avoid these checks being outsourced to the platforms connected to ERA Talent Pool via interface.

Comprehension questions:

- Who is editorially responsible for the texts on the requirements/procedures in the participating member states (cf. Art. 10 para. 2 lit f) as well as Art. 8 para. 2 lit c) and Art. 17 para. 1)?
- Does the principle of preferential treatment of Union citizens mentioned in Article 10(2)(f) relate to labour market tests?

## HUNGARY

First of all, we would like to indicate that Hungary maintains its **scrutiny reservation** on the whole proposal.

In relation to [Article 2](#), we are concerned that any country outside the EU is allowed to register to the Talent Pool or to apply for any job advertised on the platform. The volume of abusive enquiries from countries with a high migration outflow could overwhelm Member State administrations.

As regards [Article 3](#), we welcome the voluntary nature of joining the initiative. The current version of the proposal is insufficient in the sense that there is no provision for suspension or withdrawal of use.

In [Article 4](#), we are concerned about that the proposal establishes the definition of *employer*. The proposal (Article 4(1)(3)) also includes labour market actors that are not employers according to both national and EU law terminologies. Private employment agencies and labour market intermediaries are not employers and are not parts of the employment relationship. We are not against their participation in the Talent Pool, but they cannot be included in the definition of employer, however we propose to delete the definition of employer.

While we understand the Commission's explanation that the Sanctions Directive<sup>1</sup> includes the concept of employer (Directive 2009/52/EC Article 2 (e))<sup>2</sup>, we interpret that the definitions in the Directive apply only in the context of that Directive. We are concerned that the definition of employer in a regulation, which is essentially based on a migration legal basis and has direct effect, should be codified in such a way. The EU legal concept of the employment has been analysed in detail by the Court in several judgments<sup>3</sup>, but the EU definition of employer has not yet been included in the labour law acquis, specifically because of the political opposition expressed by Member States during the negotiation of several labour law dossiers.

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<sup>1</sup> Directive 2009/52/EC of the European Parliament and of the Council on providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

<sup>2</sup> Article 2 – Definitions: For the specific purposes of this Directive, the following definitions shall apply: (e) ‘employer’ means any natural person or any legal entity, including temporary work agencies, for or under the direction and/or supervision of whom the employment is undertaken

<sup>3</sup> Case 66/85. Deborah Lawrie-Blum v Land Baden-Württemberg; Case 344/87. I. Bettray v Staatssecretaris van Justitie; Case 196/87. do Steymann v Staatssecretaris van Justitie; Case 53/81. D.M. Levin v Staatssecretaris van Justitie.; Case 139/85. R. H. Kempf v Staatssecretaris van Justitie

We propose to replace the definition of *employer* by a definition of labour market actors eligible to register in the Talent Pool (e.g. "Recruiters" instead of "Employer"), which could include recruitment agencies.

In addition, we propose to consider introducing the definition of National Contact Point in Article 4, as substantive provisions (Articles 5-8) already refer to the National Contact Points, even before Article 10 clarifies its responsibilities.

## **IRELAND**

### **General Comments:**

- 1) Ireland is positively disposed to the EU's Skills and Talent Mobility Package, including the Talent Pool regulation, and supports an ambitious and sustainable EU legal migration policy, attracting talent to our labour markets and creating safe channels to reach Europe.
- 2) Ireland has a parliamentary scrutiny in place and are currently laying motions before our Houses to scrutinise opt-in pre-adoption. Recital 38 will need to be amended to reflect opt-in under Article 3. We will follow up with clarification in due course.
- 3) We anticipate that the Talent Pool will streamline international recruitment processes for Irish enterprise and contribute to the smooth functioning of the Irish labour market, ensuring that skills shortages are filled as efficiently as possible. The exact magnitude of this benefit will depend on take-up rates of Irish enterprise. The Talent Pool should be widely advertised to ensure high levels of take-up from EU enterprises, and non-EU job seekers.
- 4) It is important that the recruitment of non-EEA nationals, both via the Talent Pool and through other means, complements, rather than substitutes, efforts to upskill Ireland's resident workforce and maximise the potential of EEA nationals to fill our skills deficits. With this in mind, Ireland particularly welcomes the flexibility offered to Member States in determining which occupations and vacancies can be advertised on the Talent Pool.

### **On Individual Articles (1-10)**

#### **Article 6(3):**

We would like to clarify why precise details of what information should be included in jobseekers' profiles is included here, but the same is not specified for job vacancies of employers. In order to ensure effective matching, will job vacancies also have to meet minimum standards in terms of the information they provide? For example, will information on salary, skills required, experience level, working hours, be required by employers?

**Article 10(2)(b):**

As expressed by other MS, we have some concerns regarding the workload of the National Contact Points. We would like to clarify what “facilitating the matching” means in the context of the National Contact Points, and the exact duties National Contact Points will be required to undertake. Is there any mechanism for job vacancies to be automatically uploaded to the Talent Pool from national job matching websites, similar to EURES?

## **MALTA**

### **Article 3**

Malta suggests that a sub-article or a new article vis-à-vis the possible opt-out and/or temporary suspension of participation should be included. This may have implications on financing, in particular in the eventuality that a Member State would have obtained EU funds for implementation. Thus, a clarification is required regarding the financial implications if a Member State opts out of the Talent Pool.

### **Article 6(3)**

Malta calls for flexibility for Member States with discretion to request additional information in the jobseekers' profile and job vacancies of employers, as deemed necessary, by the national authorities. Suggested amendment as follows:

*Profiles of registered jobseekers from third countries shall include the name, surname, contact details, date of birth and nationality, information on academic and professional qualifications, work experience, other skills and language knowledge. Job vacancies of employers participating in the EU Talent Pool shall include the name, surname, contact details and other relevant recruitment details as per national law and practices.*

### **Article 9**

Malta supports the deletion of sub-article 1(d). Member States should maintain flexibility on the implementation of accelerated immigration procedures, in line with national procedures.

### **Article 10**

Malta requests a clarification on whether employers who have been found in breach and blacklisted at national level, would be allowed to share vacancies in other Member States despite being blacklisted in their country of origin. Moreover, it is to be clarified whether a list of employers who have been blacklisted would be shared with all Member States involved in the talent pool.

## Article 12

Malta would like to seek clarification on how recruitment in point 1 will be facilitated.

Malta reiterates that Member States should maintain their right to due diligence processes as established by national laws/ practices before recruitment.

## Article 13(3)

Malta calls for clarity on the enforcement of the requirement posed in Article 13(3).

## Article 13(4)

In Recital 23 it is mentioned that “employers participating in the EU Talent Pool should provide to registered jobseekers from third countries information in writing [...] this information should at least include the place and type of work, the duration of employment, the remuneration, the working hours, the amount of any paid leave, and where applicable other relevant working conditions.”

Malta calls for a reference to these categories of information in Article 13(4) to ensure that these are provided for by the employer. Thus, it is proposing an addition in 13(4) as follows:

“Job vacancies of employers participating in the EU Talent Pool shall be visible to registered jobseekers from third countries in the EU Talent Pool IT platform. ***The job vacancy shall include any other information considered relevant for the purpose of recruitment.***”

Alternatively, Malta proposes that it is left to the Member State to add any other information considered relevant for the purpose of recruitment.

## Article 17(1)

The EU Immigration portal already includes information on immigration procedures, therefore Article 17(1) should be deleted to avoid duplication of efforts and increased administrative burden.

**Article 19(2)(a)**

Malta can accept the fast-tracking of such applications, provided that there is no obligation imposed on Member States to adopt such procedures.

**Article 19(2)(b)**

Malta strongly advocates that such provision remains a “may” clause. Member States should still be allowed to adopt the principle of preference for Union citizens for job vacancies.

**Article 20**

This Article states that the EU Talent Pool shall be regularly monitored, and data shall be gathered. Malta calls for clarifications on the envisaged frequency of such data collection.

## THE NETHERLANDS

### General Remarks

- The Netherlands is committed to making the EU Talent Pool a well functioning tool (for those Member States that will decide to participate), with extensive attention to the prevention of abuse and exploitation of migrant workers. We believe that our specific comments and suggestions all contribute to this goal.
- We would like to make the suggestion to move the following recitals upwards as they include general principles on taking care of the well-being of people: 22, 23, 36, 37. They can, for example, be placed under or around our newly suggested recital 3a.

### Specific comments/ suggestions Recitals

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- (2) Addressing labour shortages requires a comprehensive approach at Union and national level which includes, as a priority, better realising the full potential of groups with lower labour market participation, reskilling and upskilling the existing workforce, facilitating intra-EU labour mobility **including by making full use of the potential of the EURES-network, improving the EU Immigration Portal,** as well as improving **productivity by better use of technology and process innovation, improving** working conditions and the attractiveness of certain occupations. Due to the current scale of the labour market shortages and the demographic trends, measures targeting the domestic and Union workforce alone are likely to be insufficient to address existing and future labour and skills shortages. Therefore, legal migration is key to complement those actions and must be part of the solution to fully support the twin transition.

### *Justification for suggested changes and comments*

Making better/full use of the potential of the EURES-network seems logical as the Commission mentioned to further increase the potential of intra-EU labour mobility and its evaluation of the EURES Regulation has shown there is room for improvement. This also goes for the EU Immigration Portal. We have added a suggestion on improving productivity as this can reduce the overall need for labour and therefore the need to attract talent from outside the EU.

**(3a) Facilitating legal migration through EU-initiatives such as the EU Talent Pool should take into account general welfare and major socio-economic issues, including integration and social cohesion. Increased legal migration may aggravate pressure on public facilities such as education, housing, healthcare and public order and security. With regard to demographic challenges often faced in countries of origin, due attention should be paid to the risk of brain drain.**

*Justification for suggested new recital*

We have added this paragraph as we believe it is important that due attention is paid to the effects of legal migration on other policy areas and to major social and socio-economic issues. So far NL is of the opinion that this notion is missing in the Regulation, hence our text suggestion. We also believe it is important to promote brain circulation and prevent brain drain in the countries of origin.

(5) The EU Talent Pool should aim at supporting participating Member States to address existing and future skills and labour shortages via the recruitment of third country nationals to the extent the activation of the domestic workforce and intra-EU mobility are not sufficient to achieve this objective. As a voluntary tool to facilitate international recruitment, the EU Talent Pool **could** ~~should~~ offer additional support at Union level to interested Member States. To this end, complementarity and interoperability with existing national initiatives and platforms should be ensured. Member States' specific needs should be taken into account in the development of the EU Talent Pool in order to ensure the widest participation possible. Hence, 'Talent' is an encompassing term referring to the entire range of skills that might be needed by the Member States' labour markets.

*Justification for suggested changes and comments*

Suggestion to do justice to the voluntary nature of the proposal.

(6) The EU Talent Pool aims at providing services to employers that are established in the participating Member States, ~~including private employment agencies, temporary work agencies and labour market intermediaries as defined by the International Labour Organisation Convention 181 from 1997.~~ **Private employment agencies, temporary work agencies and labour market intermediaries as defined by the International Labour Organisation Convention 181 from 1997 are excluded from the EU talent pool and therefore cannot place vacancies or search for personnel on the platform.**

### *Justification for suggested changes and comments*

The aim of the proposal is to address labour market shortages in the EU. An employer knows best what kind of personnel is needed for his or her own business. The Talent Pool provides employers with a practical tool to find staff themselves. We believe it is important to prevent risks of exploitation and abuse of migrant workers as much as possible. In practice, it has become apparent that recruitment by intermediaries and employment agencies has regularly led to situations of exploitation and abuse of migrant workers. Moreover, through intermediaries and employment agencies it is more likely that, because of free movement of services, people from outside the EU can end up on the labour markets of Member States that do not participate in the Talent Pool. We therefore propose to exclude these parties from participating in the Talent Pool.

- (11) The format of jobseekers' profiles and job vacancies should be established using the existing European classification of occupations, skills, competencies and qualifications (ESCO) as foreseen in Regulation (EU) 2016/589<sup>4</sup> which provides for a standardised terminology for occupations, skills and competences and facilitates the transparency of skills and qualifications. The ESCO classification should support jobseekers from third countries, employers, and the EU Talent Pool National Contact Points in providing comparable information on work experiences, occupations covered by a vacancy, as well as the skills offered by the jobseekers and required by the employers, thereby enabling a high-quality matching process. Where applicable, the EU Talent Pool National Contact Points should use the ESCO format for the transfer of job vacancies to the EU Talent Pool IT platform. Member States not adopting the ESCO classification for national job vacancies, should produce mapping tables **on the level of occupations and on a voluntary basis on the level of skills** comparing the classification used in the national systems and the ESCO classification to allow interoperability. The mapping tables should be made available to the Commission and should be used for automatic transcoding of information on job vacancies or jobseekers' profiles for the purpose of automated matching through the common IT platform.

### *Justification for suggested changes and comments*

Since not all Member States have adopted the ESCO system on all levels, we have suggested to have them only mandatorily produce mapping on the level of 'occupations' and a voluntary mapping on the level of skills.

- (16) The EU Talent Pool should contribute to the objective of discouraging irregular migration including by facilitating access to existing legal pathways. Jobseekers from third countries who are subject to a judicial or administrative decision refusing the entry or stay in a Member State or an entry ban in accordance with Directive 2008/115/EC of the European Parliament and of the Council<sup>5</sup>, should not be allowed to register their profiles in the EU Talent Pool IT platform, given that they will not be permitted to enter and stay in the Union. To this end, jobseekers from third countries should be required, before registering their profiles in the EU Talent Pool, to declare that they are not currently subject to a refusal of entry or stay in a Member State or an entry ban to the territory of the Union. Information should also be provided on the consequences for making a false declaration in this respect. **Technology security and preventing leakage of critical and emerging technologies in the EU, as addressed in the Joint Communication of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy on European economic security strategy<sup>6</sup>, should also be taken into account.**

#### *Justification for suggested changes and comments*

We think it is important to add this notion on technology security and preventing leakage of critical and emerging technologies.

- (18) Where necessary, the recognition of qualifications and validation of skills of registered jobseekers from third countries should be conducted in the participating Member States upon request of the jobseeker or the employer in accordance with the national law and practices, and with any relevant international agreements, including Mutual Recognition Arrangements for professional qualifications. Personalised assistance and online information on existing recognition and validation procedures at national level should be available in the EU Talent Pool IT platform and it should be provided by the EU Talent Pool National Contact Points. **Employers remain responsible for thorough, non-discriminatory selection of candidates and verification of CV and qualifications and/or verifying if the jobseeker is indeed a suitable candidate for the job vacancy, as well as fulfilling the entry requirements for work and residence in the relevant Member State.**

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<sup>5</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

<sup>6</sup> **Joint Communication to the European Parliament, the European Council and the Council on “European economic security strategy”, JOIN(2023) 20 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023JC0020>)**

### *Justification for suggested changes and comments*

We added this text suggestion to indicate that the responsibility for verification/making sure a candidate is suitable and that the entry requirements for work and residence are fulfilled lies with the employer.

- (19) In the context of Talent Partnerships, nationals of selected third countries receive support for the development and validation of skills in a framework endorsed by Member States taking part in a Talent Partnership and partner countries. ~~Therefore,~~ the skills developed or validated in the framework of a Talent Partnership may ~~should~~ be certified by the 'EU Talent Partnership pass' which is visible in the context of the EU Talent Pool. Employers participating in the EU Talent Pool should be able to filter the profiles of registered jobseekers from third countries as to visualise those having obtained an 'EU Talent Partnership pass'. This could encourage employers to offer a job placement in the Union. Member States, in the framework of a Talent Partnership, should determine the conditions for the issuing of the 'EU Talent Partnership pass' ~~for the purpose of the EU Talent Pool~~, including whether a partner country's national authority, an international organisation or other stakeholder should support its deliver. The issuing of a 'EU Talent Partnership pass' is without prejudice to European and national rules on access to regulated professions.

### *Justification for suggested changes and comments*

NL has many questions about the added value of the Talent Partnership pass, as the instrument seems to add administrative burden and financial costs with limited added value. Member States that have participated in a Talent Partnership should be completely free to determine whether or not to grant third-country nationals a pass after the end, partly in light of limiting administrative burden as much as possible.

- (22) The principles of the European Pillar of Social Rights should apply for all activities conducted in the context of the EU Talent Pool, in particular with regard to the right to fair and equal treatment with respect to working conditions, minimum wages, access to social protection, training, and protection of youth people at work. In accordance with those principles, the EU Talent Pool should ensure quality employment and fair competition.

- (27) The EU Talent Pool Secretariat should ensure that easily accessible information on immigration procedures, recognition of qualifications and validation of skills, third country nationals' rights **and obligations**, living and working conditions as well as available redress mechanisms for cases of labour exploitation and unfair recruitment practices in the participating Member States is available on the EU Talent Pool IT platform. The EU Talent Pool National Contact Points should provide the relevant information with the EU Talent Pool Secretariat in order to allow its publication on the EU Talent Pool IT platform. Online information on support available to jobseekers in need of international protection who are in third countries should also be available on the EU Talent Pool IT platform. Support measures put in place by the Member States could include specific information campaigns, support to obtain a travel document, and integration support upon arrival.

***Justification for suggested changes and comments***

Suggestion to add 'and obligations' to be consistent with the language in recitals 23 and 30, and article 17 (2-c). Moreover, we believe it important to also mention obligations to make clear what exactly is expected of someone when he/she comes to work in EU Member States.

For example: in the Netherlands, having health insurance is mandatory. You also need a Dutch bank account for salary payments.

- (28) Information provided on the EU Talent Pool IT platform should be made available at least in the official languages of the participating Member States **and where possible in-English and/or other languages**.

***Justification for suggested changes and comments***

To accommodate jobseekers as much as possible.

- (30) ~~Upon request from~~ Registered jobseekers from third countries and employers participating in the EU Talent Pool **should receive additional support from** the EU Talent Pool National Contact Points, ~~could provide additional support~~. Additional support should include tailored information on relevant visas and residence permits for work purposes in the participating Member State including with regard to third country nationals' rights and obligations such as access to social benefits, health assistance, education, and housing. Specific guidance and information may also be provided on family reunification procedures and family members' rights, and existing measures to facilitate integration in the host

Member State such as language courses and vocational training. Such information should also include available redress mechanisms for cases of labour exploitation and unfair recruitment practices in the participating Member States. The EU Talent Pool National Contact Points should provide information to employers participating in the EU Talent Pool on their rights and obligations relating to social security, active labour market measures, taxation, issues relating to work contracts, pension entitlements and health insurance.

#### ***Justification for suggested changes and comments***

We believe it is important that jobseekers from third countries are required to receive this information. People often travel abroad on the basis of false promises or wrong information and expectations. It is therefore important that a realistic picture is given about working and living abroad before departure, and not only on the basis of a request.

- (31) To achieve the objective of this Regulation, the effective implementation of the EU legal migration *acquis* should be ensured. ~~In addition, to~~ **To** make the recruitment of jobseekers from third countries residing outside the Union easier and faster for employers, participating Member States may put in place accelerated immigration procedures in particular as regards the obtention of visas and residence permits for work purposes and the exemption from the principle of preference for Union citizens. ~~The implementation of accelerated immigration procedures could be discussed in the context of the EU Talent Pool Steering Group, notably in view of supporting the exchange of best practices among Member States.~~

#### ***Justification for suggested changes and comments***

Member States can already put in place accelerated procedures, so in our view “in addition” seems like there is a clear link with the implementation of the migration *acquis*. We therefore suggest to remove this link.

- (33) In order to fulfil the objectives of this Regulation of facilitating **fair** international recruitment, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend this Regulation with regard to the Annex providing the list of EU-wide shortages occupations. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>7</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

### **Specific comments/ suggestions Articles**

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#### *Article 3*

#### **Participation and withdrawal**

##### *Justification for suggested changes and comments*

We are in favour of introducing a provision on withdrawal. We hope that the Council's legal service can help with a concrete text suggestion.

#### *Article 4*

#### **Definitions**

1. For the purposes of this Regulation, the following definitions shall apply:
  - (3) 'employer' means any natural person, or any legal entity, established in a participating Member State under the direction or supervision of whom the employment is undertaken, ~~as well as private employment agencies, temporary work agencies and labour market intermediaries;~~

##### *Justification for suggested changes and comments*

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<sup>7</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1, ELI: [http://data.europa.eu/eli/agree\\_interinstit/2016/512/oj](http://data.europa.eu/eli/agree_interinstit/2016/512/oj)).

The aim of the proposal is to address labour market shortages in the EU. An employer knows best what kind of personnel is needed for his or her own business. The Talent Pool provides employers with a practical tool to find staff themselves. We believe it is important to prevent risks of exploitation and abuse of migrant workers as much as possible. In practice, it has become apparent that recruitment by intermediaries and employment agencies has regularly led to situations of exploitation and abuse of migrant workers. Moreover, through intermediaries and employment agencies it is more likely that, because of free movement of services, people from outside the EU can end up on the labour markets of Member States that do not participate in the Talent Pool. We therefore propose to exclude these parties from participating in the Talent Pool.

#### *Article 6*

#### **Processing of personal data**

8. The data of registered jobseekers from third countries shall be accessible only to employers participating in the EU Talent Pool, and to the EU Talent Pool National Contact Points. The data of employers participating in the EU Talent Pool shall be accessible to registered jobseekers from third countries, and to the EU Talent Pool National Contact Points.

**Employers remain responsible for thorough, non-discriminatory selection of candidates and verification of CV and qualifications and/or verifying if the jobseeker is indeed a suitable candidate for the job vacancy, as well as fulfilling the entry requirements for work and residence in the relevant Member State.**

#### *Justification for suggested changes and comments*

The Commission has previously indicated that screening job seekers is not possible. Therefore we added this text suggestion to indicate that the responsibility for verification/making sure a candidate is suitable and that the entry requirements for work and residence are fulfilled lies with the employer.

#### *Article 9*

#### **EU Talent Pool Steering Group**

1. The EU Talent Pool Steering Group is established. The EU Talent Pool Steering Group is responsible for:

~~(d) discussing the implementation of accelerated immigration procedures to facilitate the recruitment of registered jobseekers from third countries pursuant to Article 19.~~

*Justification for suggested changes and comments*

This is strictly a competence of the Member States and should have no place in the responsibilities of the steering group on the EU Talent Pool.

*Article 10*

**EU Talent Pool National Contact Points**

2. The EU Talent Pool National Contact Point shall be responsible for:
- (d) keeping a registry of employers participating in the EU Talent Pool. **Each participating Member State shall set up an admission system for employers who want to participate in the EU talent pool.**
  - (e) **refusing, suspending or withdrawing** the access of employers participating in the EU Talent Pool and removing their job vacancies from the EU Talent Pool IT platform in case of a breach of the relevant law and practice pursuant to Article 13(3) is notified to the EU Talent Pool National Contact Points by the relevant national authorities responsible for enforcing the relevant law and practice;

*Justification for suggested changes and comments*

It is desirable that participating MSs should also check and if necessary be able to refuse participation of employers beforehand. It is an option to include the following in the recitals (for example recital 9 or a new recital after recital 12): **The EURES admission system can be used to design this admission system with criteria in the field of fair mobility, transparency, equality, non-discrimination and sustainability.**

Furthermore, it is desirable that participating MSs should also check and if necessary be able to refuse participation of employers before their participation in the Talent Pool.

### *Article 13*

#### **Participation of employers in the EU Talent Pool**

2. The EU Talent Pool National Contact Points shall transfer to the EU Talent Pool IT platform job vacancies that:

**(c) are aimed at specific positions in the Member State in which the employer is established.**

3. Employers participating in the EU Talent Pool shall comply **and have complied** with the relevant Union and national law and practice, **in particular** to ensure third-country nationals' protection against unfair recruitment and inadequate working conditions as well as non-discrimination. Participating Member States may introduce additional conditions for the employers' participation in the EU Talent Pool to ensure compliance with other relevant national practices, collective agreements and the principles and guidelines set out by the International Labour Organisation, in compliance with Union law.

Employers participating in the EU Talent Pool shall not charge fees to registered jobseekers from third countries for the purpose of the recruitment.

#### ***Justification for suggested changes and comments***

It is in our view undesirable if the EU talent pool offers employers the opportunity to recruit jobseekers to perform work on a secondment basis in an EU Member State other than the one in which the employer is established. Therefore added text.

### *Article 16*

#### **Search and matching**

- 5. Employers are responsible for proper, non-discriminatory selection of candidates and verification of CVs and qualifications, as well as the requirements for work, admission and residence in the country concerned, all in accordance with national law.**

### *Justification for suggested changes and comments*

With this suggestion we want to indicate that the responsibility for ensuring that a particular candidate is a good match and meets the national criteria lies with the employers, even if a match has already been made by the tool.

Employers remain responsible for proper, non-discriminatory selection of candidates and verification of CV and qualifications as well as the entry requirements for work and residence in the relevant country.

#### *Article 17*

### **Information provision and support services**

2. ~~Upon request from~~ **The EU Talent Pool National Contact Points shall provide additional support to** registered jobseekers from third countries and employers participating in the EU Talent Pool, ~~the EU Talent Pool National Contact Points shall provide additional support,~~ and post-selection assistance to registered jobseekers from third countries and employers participating in the EU Talent Pool, in particular with regard to:

### *Justification for suggested changes and comments*

We believe it is important that job seekers from third countries are required to mandatorily receive this information. People often travel abroad with false promises or on the basis of wrong information and expectations. It is therefore important that a realistic picture is given about working and living abroad, and not just when someone asks for it.

#### *Article 19*

### **~~Accelerated immigration procedures~~**

1. ~~Participating Member States may decide to put in place accelerated immigration procedures to allow for a faster recruitment of registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool.~~
2. ~~The procedure referred to paragraph 1 may cover:~~
  - (a) ~~the obtention of visas and residence permits for work purposes;~~
  - (b) ~~the exemption from the principle of preference for Union citizens for job vacancies transferred to the EU Talent Pool IT platform.~~

### *Justification for suggested changes and comments*

This article does not fit with what the Talent Pool is about. In any case, Member States have the full competence to make decisions in this field, so we see no added value in including this text in the articles of the Regulation.

#### *Article 20*

#### **Monitoring activities**

- 4. The performance of the EU Talent Pool shall also be regularly monitored by the EU Talent Pool Secretariat with regard to feedback and experiences gathered among job seekers and employers in order to further improve the functioning of the EU Talent Pool.**

### *Justification for suggested changes and comments*

Added this text as quantitative data only will not paint a full picture of experiences of job seekers and employers using the tool.

#### *Article 23*

#### **Reporting and review**

1. By 31.12.2031 and every five years thereafter, the Commission shall submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of this Regulation. **The report shall examine, inter alia, the operation and effects of this Regulation. The Commission shall, if appropriate, propose any legislative amendments that it considers to be necessary on the basis of that report.**

### *Justification for suggested changes and comments*

In line with previous legislation we suggest to include an extensive evaluation clause.

## POLAND

**Recital 6** with following content (remark to the underlined part):

*The EU Talent Pool aims at providing services to employers that are established in the participating Member States, including private employment agencies, temporary work agencies and labour market intermediaries as defined by the International Labour Organisation Convention 181 from 1997.*

**Remark:**

Member States should be free to decide whether private employment agencies or other labour market intermediaries should have right to provide job vacancies to EU Talent Pool. We propose to adjust recital 6 in order to give Member States opportunity to decide whether EU talent pool is to provide services to private employment agencies or other labour market intermediaries.

**Recital 11** with following content (remark to the underlined part):

*The format of jobseekers' profiles and job vacancies should be established using the existing European classification of occupations, skills, competencies and qualifications (ESCO) as foreseen in Regulation (EU) 2016/58932 which provides for a standardised terminology for occupations, skills and competences and facilitates the transparency of skills and qualifications. The ESCO classification should support jobseekers from third countries, employers, and the EU Talent Pool National Contact Points in providing comparable information on work experiences, occupations covered by a vacancy, as well as the skills offered by the jobseekers and required by the employers, thereby enabling a high-quality matching process. Where applicable, the EU Talent Pool National Contact Points should use the ESCO format for the transfer of job vacancies to the EU Talent Pool IT platform. Member States not adopting the ESCO classification for national job vacancies, should produce mapping tables comparing the classification used in the national systems and the ESCO classification to allow interoperability. The mapping tables should be made available to the Commission and should be used for automatic transcoding of information on job vacancies or jobseekers' profiles for the purpose of automated matching through the common IT platform.*

**Remark:**

It is important to be more specific and describe what kind of „national systems“ recital 11 is talking about.

**Recital 18** with following content (remark to the underlined part):

*Where necessary, the recognition of qualifications and validation of skills of registered jobseekers from third countries should be conducted in the participating Member States upon request of the jobseeker or the employer in accordance with the national law and practices, and with any relevant international agreements, including Mutual Recognition Arrangements for professional qualifications. Personalised assistance and online information on existing recognition and validation procedures at national level should be available in the EU Talent Pool IT platform and it should be provided by the EU Talent Pool National Contact Points.*

**Remark:**

National Contact Points should provide online information on existing procedures for the recognition and validation of professional qualifications. On the other hand, these Contact Points should not provide personalised assistance in this regard, as they are not competent for the recognition of qualifications. The possible large number of applications from third-country nationals for recognition or validation of qualifications submitted to the National Contact Points will paralyse the work of these points.

It is proposed to delete from recital 18 the words: „Personalised assistance and“.

## **Chapter 1: General provisions**

### **Art. 1-3, in relations with art. 4 para 1 item 2 – reservation**

Poland raise reservations in regard to both the subject (art. 2 para 1) and object (art. 1 para 1) scope of regulation, stemming from the lack of clarity of a „job seeker from a third country” definition.

In accordance to this definition, in our opinion, it is unclear who is entitled to be registered in the Talent Pool as a job seeker, who can use this tool to be recruited through this channel. We consider that definition as too vague (too broad) and, in addition, we have some doubts (which is why we are raising a language reservation at the same time) as to the accuracy of its translation into Polish.

While the definition of "employer" makes it clear that he or she is based in an EU MS, the definition of a " job seeker from a third-country " leaves some room for interpretation as to whether only those residing (i.e., physically present outside the EU) or also those who have already entered the EU fall within the scope of the regulation. The second, broader interpretation, in our view, is potentially contradictory to the purposes of the regulation, some of its provisions and the legal basis on which the proposal was based. Therefore, in our view, it makes sense to remove these doubts by clarifying that the access to the TP platform cannot be granted to the persons who have already been admitted to the EU territory.

It is worth adding that the population of third-country nationals interested in migrating to the EU is large. Profiles of third-country nationals may therefore be uploaded to the EU Talent Pool platform en masse, which, in our opinion, may cause ICT and other technical and organizational problems related to the maintenance of the platform. It may also lead to discouragement of employers - if the available filters do not provide the needed level of narrowing, and if candidates pass negative selection only at the stage of contact with the consul.

The provisions of article 3 should be supplemented by conditions for a Member State participating in the EU Talent Pool to withdraw from being a member of the EU Talent Pool.

**Article 4, paragraph 1, point 3** with following content (remark to the underlined part):

*'employer' means any natural person, or any legal entity, established in a participating Member State under the direction or supervision of whom the employment is undertaken as well as private employment agencies, temporary work agencies and labour market intermediaries;*

**Remark:**

Member States should be free to determine whether private employment agencies or other labour market intermediaries services should be treated as an 'employer'.

## **Chapter II – IT System Architecture**

### **Art. 5-6 - reservation**

We would like to highlight, in the context of the wording of Article 20 and the prevention of abuse, the legitimacy of possibly expanding the list of entities authorized to process the personal data of job seekers and employers participating in the EU talent pool to include consuls and migration authorities competent for entry and residence.

**Article 6, paragraph 3** with following content (remark to the underlined part):

*Profiles of registered jobseekers from third countries shall include the name, surname, contact details, date of birth and nationality, information on academic and professional qualifications, work experience, other skills and language knowledge. Job vacancies of employers participating in the EU Talent Pool shall include the name, surname and contact details.*

**Remark:**

It is advisable to be more specific in art. 6 (3) and say whose name and surname - in case of employer - article 6 (3) is talking about.

## **Chapter III - Governance**

### **Art. 9 ust. 1 lit. d (in relations with art. 19) – reservation**

Poland shares some concerns expressed by MS in regard to the obligation to discuss the implementation of fast-track migration procedures at the Steering Group - we consider this as a form of interference in the competence of MSs to regulate the influx of foreigners from third countries for labour purposes. In our view, the provision of Article 9(1)(d) is undesirable - we read it as a way of putting pressure on the MS as to the implementation of fast-track procedures.

There are many channels for communicating with the EC and the MSs - in our opinion, there is no need for creating an additional one, especially in the form specified in Article 9(1)(d). The EC states that the idea is to create a forum for discussion and exchange of best practices - what if MSs decide not to implement accelerated procedures? How then would this obligation be implemented?

Moreover, if the Steering Committee were to provide be a forum for frank, honest and open discussions - we assume that sensitive issues, such as reported abuses, would also be raised - so in this regard, shouldn't the exclusion of social partners from the Steering Group's meetings be adopted?

**Article 10, paragraph 2, letter f** with following content (remark to the underlined part):

*providing information to the EU Talent Pool Secretariat on immigration and **recognition procedures** at national level, including with regard to the implementation of the principle of preference for Union citizens and relevant data for the monitoring of the EU Talent Pool as set out in Article 20;*

#### **Remark:**

It is important to be more specific in article 10 (2) (f) and say what „recognition procedures“ this provision is talking about.

## PORTUGAL

### Articles 1 to 3 (Object, Scope and Participation)

PT agrees with the wording proposed for these 3 articles, namely on the object, scope of application and participation (voluntary) of Member States, highlighting the following as positive aspects:

- clarity regarding the geographic scope of job seekers and employers to be covered (**article 2, no. 1**);
- the voluntary nature and flexibility as regards MS decision to participate according to their options within their immigration policies (**article 3, no. 1**), which continue to be a national competence. Portugal will, from the outset, take the decision to participate;
- the importance of making available to the target audience information about participating MS (**article 3, no. 2**);

In this regard we suggest that, in the operational phase, and in order not to duplicate efforts to be taken into account the information already worked on and updated annually for the EURES portal, in its Living and Working section, including Information on Labour Markets, with the possibility of adding and/or adjusting the contents of some subsections which, due to the specificity of this target audience, may require adaptation, in particular, with regards to:

- immigration procedures (entry, stay and residence in MS) – information contained on the EU Immigration Portal;
- in particular, the services to be contacted for the purposes of obtaining visas – and, upon arrival in MS, for obtaining temporary stay | residence permits and, if applicable, for integration support;
- procedures for recognition (or equivalence) of academic and professional qualifications – formal and, possibly, through experience (validation of skills);
- language learning tools and/or programs (available free of charge or at reduced costs, in online or in-person format);

- the rights of third-country nationals and easily accessible channels and mechanisms for appeal in cases of labour exploitation and unfair recruitment practices in the destination MS;
- support for candidates in need of international protection (who may need to benefit from refugee status).

(in line with what is mentioned in Recitals 27 and 28 of this proposed Regulation)

In addition to the official EU languages, investment in reliable mechanisms for automatically translating content into at least some of the most spoken languages in the world (other than European), such as Hindi, Urdu, Arabic, Mandarin, among others, may be justified.

With regard to the right to withdrawal from the participation in the platform, PT would not oppose the provision of a mechanism that would allow MS to make this decision, as long as certain prior notice periods and technical requirements are met. In fact, the existence of barriers to exit can lead several MS to opt for the (easier) solution of not joining.

#### **Article 4 (definitions)**

We raise some concerns to include temporary work agencies, private employment agencies and labour market intermediaries in the definition of “employer”. At the very least, caution should be taken and it should be emphasized in the drafting of the definition that these entities can only be considered if legally established in one of the EU MS.

It should be noted that many third countries that could actively benefit from this platform are not signatories to some important ILO Conventions, namely [Convention No. 181, of 1997](#), on Private Employment Agencies, which provides free adjustment services for job seekers (article 7, paragraph 1). And, in fact, it appears in practice that for many private employment agencies operating in these countries, charging for services provided to job seekers is the rule and not the exception.

Therefore, MS will only be able to provide some guarantees of monitoring the quality and legality of the services provided by private employment agencies if these are subject to their legal supervision.

## **Article 5 (EU Talent Pool IT Platform)**

In this context, the question arises as to whether it would be necessary to create new databases or simply establish differentiated interfaces (taking advantage of the existing infrastructure) for different target audiences – making it possible for MS to introduce some differences in parameterization regarding the selection criteria of offers to be made available (given that labour shortages will not differ significantly for employers in a given MS).

We believe that (given their previous experience in operationalization) it would be advisable to involve the contact points for interoperability with the EURES portal in this discussion and to share with them more detailed information about the architecture of the platform to be “created”.

If Public Employment Services are the National Contact Points for this Platform, it is very likely that the people and/or technical teams involved will be the same.

Likewise, it seems important to us that a financial envelope is made available, through the Asylum, Migration and Integration Fund (AMIF), that allows MS (if there is a need for new developments or parameterizations) to bear the costs of this operationalization.

## **Article 6 (Processing of personal data)**

With regard to Article 6, PT generally agrees with its wording, which is in line with the personal data processing policy in force on the EURES portal.

However, there are 3 aspects for which we suggest some adjustments, namely:

- **Article 6, no. 3:** On the EURES portal, there is the possibility of mediation / filtering by EURES Members and the employer's contact details not appearing directly. This option is used by several MS to prevent employers from receiving a high number of applications that in no way correspond to the requirements of their offers.

This option should also exist on this platform – to be activated by the National Contact Points according to each MS options and in line with its immigration policy.

In this sense, we suggest the following alternative wording, to take into account this technical possibility: “*Job offers (...) must include contact details relevant to the application*”, leaving open the mandatory public identification of a contact person.

This aspect is also important so that unequal procedures are not created on both platforms, which could give rise to preference for using one or the other.

We understand that this option implies the existence of a human support network for the provision of services in MS, but this may be the option of some MS – so the possibility must be open. Otherwise, it can also act as an obstacle to joining the platform.

If there is an insistence on this formulation, then the policy used on the EURES portal should be revised, which could have other implications.

- **Article 6, no. 5, final part:** we do not see the need to be so specific in a Regulation. Technical specificity can be reserved to an Implementing Act or even to Technical Standards to be defined (as is, in fact, provided for in no. 9 of this Article). We therefore suggest, as an alternative, a simpler wording: “Candidates (...) must have the right to choose to restrict access to their personal data”.
- **Article 6, no. 6:** We suggest the following clarification, for the benefit of greater clarity: “The profiles of registered job seekers from third countries who have not been accessed by themselves during a period of two years following their registration must be removed or anonymised and personal data cannot be stored.”

#### **Articles 7 to 10 (Governance: Structure, Secretariat, Steering Group and National Contact Points)**

In general, PT agrees with the Governance model proposed by the Commission, according to the wording of Articles 7 to 10. This is, to a large extent, similar to the model used under EURES.

However, some precision issues remain, so we suggest some amendments:

- **Article 8, paragraph 1** (Secretariat): as regards the option of not identifying the General Directorate responsible for ensuring the Secretariat – could this be ensured by DG EMPL? By DG Migration & Home Affairs? By both General Directorates in collaboration? Or by an Executive Agency, like ELA?
- **Artigo 9º** (EU Talent Pool Steering Group): No comments
- **Article 10, no. 1** (National Contact Points): PT considers it important to have representatives in the SG and NCP from both employment and immigration to cover situations when they do not belong to the same entity. In Portugal, for example, some of the powers assigned to the NCP in no. 2 (in particular paragraphs f) and g) concern the powers of different entities.
- **Article 10, no. 2, paragraph d)**: specifically, what is the role assigned to the National Contact Point in this matter? Validation of entities that register on the platform, according to the legal criteria applicable in EM? Maintaining a separate register? For what purposes, in this case?

The same type of practical questions apply to **paragraph e)**: how will it be operationalized in practice? In the mechanisms currently operating on the EURES portal, the National Coordination Office signals to the European Coordination Office that a particular employer is not acting in accordance with the required minimum quality standards – and that employer may be banned from using the portal and, consequently, consulting candidate profiles there; Likewise, the NCO may inhibit the passage of offers from that employer to the Portal. Is that what is intended in this case?

- **Article 10, no. 3**: is there any possibility of making these meetings coincide with those of the Steering Group? Or will the National Contact Point Network meet autonomously?

## SLOVENIA

In our written contribution we highlight the questions we already posed at the last Imex Admission working group meeting, however, we did not get (satisfactory) answers:

- We would like to know whether and under what conditions the talent pool could also be used for non-deficit occupations?
- Can you give additional explanations on which measures will be introduced to protect employers from economically weaker countries? Those employers will carry out all the necessary procedures for the employment of third-country nationals, who would then not stay in the country long-term. How could that be prevented?
- We would also like to ask for additional explanations regarding the recognition of qualifications of third country citizens as the draft regulation does not clearly define the recognition of which qualifications the text refers to – only academic, professional or both.
- According to the planned timeline, the Talent Pool will become operational in 2030. By that time the labour market's needs for workers from third countries may change significantly. We would like to know if a more ambitious timeline is possible?

## SPAIN

### LEGAL BASIS.

Although the Commission defends the legal basis of the proposal in Article 79(2)(a) TFEU, doubts remain and this poses a risk of challenge.

This is because, as raised since the presentation of the proposal, several articles relating to employment policy can be used as a basis:

- Art. 5.2 TFEU (coordination of employment policies).
- Art. 149 TFEU (promoting cooperation between Member States on employment measures).
- Art. 148 TFEU (guidelines to the Member States for their employment policies).

### Article 1(2)(c)

*"the conditions and procedures for the participation in the EU Talent Pool of jobseekers from third countries and employers in the EU Talent Pool"* - the wording should be aligned with the provisions of Article 2 (scope of application).

### Article 2.

Can it be ensured that "**jobseekers from third countries residing outside the Union**" are actually outside EU territory and not irregularly present within the EU?

Would the scope of application cover those third country nationals who have their official residence outside the Union, but are illegally present within EU territory? If not, how can it be ensured that this is not the case?

If not, the following wording could be proposed: *"This Regulation applies to third-country jobseekers residing **and staying** outside the Union and to employers established in the participating Member States"*.

### **Article 3.**

In view of the CGS's approach to add "*or to withdraw*", it is important that the text provides for what happens if a Member State decides to stop participating in the platform.

### **Article 4.**

**3) Temporary work agencies** are included in the definition of employer; as voiced by other delegations, we notice that it is important to prevent and avoid potential situations of labour exploitation. In this regard our experience in managing the EURES Network shows that one of the most critical aspects is to ensure the quality and working conditions that companies offer to workers. To this end, the EURES Network works with specific Cooperation Bridges with the host Member States of the workers, i.e. with EURES Advisers from the corresponding countries. In this sense, it could be useful to adopt this practice and reinforce the procedures that ensure these conditions throughout the National Employment System of each Member State, so that adequate guarantees are put in place throughout the territory, especially in relation to temporary employment agencies operating at regional level.

Moreover, we do not know how the legal relationship of temporary work agencies would fit in the Talent Pool platform.

### **Article 5.**

How will interoperability between this platform and the corresponding platforms in the Member States be achieved, given that in some Member States interoperability at national level is difficult due to the decentralised competences of the regions in this area? Will the system applied in EURES be reused?

**1. f)** Is the communication channel between employer and jobseeker within the platform not likely to lead to dealings that violate equality and transparency in recruitment? This communication may distort the purpose of the platform or its use, as it may be a channel for the exchange of applications/offers hidden behind the worker/vacancy offer.

## Article 6.

In case a MS ceases to participate in the talent pool, what would happen to its data, would it be deleted, within what period of time, would some of it be kept for statistical reasons, public utility, etc.?

In our opinion, data corresponding to a MS leaving the Talent Pool should not be kept for management purposes (brokering, matching, etc.), but should be kept for statistical purposes.

Regarding the data to be included in jobseeker profiles, apart from identification and contact details, will the rest of the data be entered via pre-defined options? The possibility of entering the same qualification, degree, etc., in different ways may lead to the collapse of the platform and make matching considerably more difficult. Will part of the EURES IT architecture be reused?

Perhaps it could be helpful to add the term "**only**" to ensure that only this information is entered and not other information such as personal situations (family data, etc.) that may discriminate against some candidates.

*“3. Profiles of registered jobseekers from third countries shall **only** include the name, surname, contact details, date of birth and nationality, information on academic and professional qualifications, work experience, other skills and language knowledge”.*

Alternatively (and to prevent the fact that in the future other field(s) are considered relevant, making time-consuming and laborious to introduce the necessary amendment), it may be more practical to state explicitly that ***the inclusion of "extra" data that may lead to discrimination should be avoided.***

That said, it should also be noted that discrimination is very difficult to monitor and limit. For example, the list of profile data includes "*date of birth*", which could lead to age discrimination.

## **Article 9.**

**1. d)** Accelerated immigration procedures fall within the competence of the MS, not the EU, so it is not appropriate for the Steering Group to study this area.

We propose to change the wording, instead of "*studying the implementation of accelerated immigration procedures*" it would be better to "*support participating Member States in studying the implementation of possible accelerated immigration procedures*".

## **Article 10.**

It should be made explicit here that the National Contact Point should have one representative from the migration field and one from the employment field.

Doubts are raised about the administrative burden of carrying out these functions: will the Member States be provided with resources to strengthen the workforce with this responsibility, or will the Member States themselves burden their human resources with more competences?

**2. f)** The involvement of migration and employment authorities would not be sufficient, the involvement of education/university authorities would be important.

Last, a final general remark; we draw attention to the complexity of articulating the national contact point. The national contact point for the talent pool should be responsible not only for the permanent updating of this new database and the intermediation platform, but also for the information, advice and dynamisation of the same, as well as the specific training of the technical staff who provide these services, which, in the case of employment, affects all the Autonomous Communities that have assumed this competence; in short, the administrative impact that this may have at national level should not be overlooked, as it may involve the dynamisation and support of a new National Employment System Network. We understand that this point is also important in terms of possible financial support.

## **SWEDEN**

### **General remarks**

SE appreciates the proposal to establish an EU-talent pool. Sweden also welcomes the use of already existing infrastructure within EURES and to avoid duplicating already existing tools and to create additional administrative burden for the Member States. However, several questions regarding interoperability and the scope and tasks for the national contact points is among a few questions which need further discussions within the Member States. SE therefore needs more time to review the proposal properly but would like to highlight some of our preliminary concerns and questions below.

### **Article 3**

This article lays down the general provisions to participate in the Talent Pool. Sweden wonders if this article also should cover the provisions of withdrawal of a Member State from the EU Talent Pool. Is it possible to withdraw from the Talent Pool as the proposal stands now?

### **Article 4 (3)**

Sweden thinks that the definition of employer should be deleted from the definitions, since the term “employer” varies within member states. As suggested by the Council’s Legal Service, this definition could be deleted and an article or paragraph laying down the provisions on who is intended to use the tool could instead be used.

### **Article 6 (2)**

Sweden would like to know more about which responsibilities that lies within the National Contact Points when it comes to handling personal data in relation to carrying out the tasks in article 10?

### **Article 6 (4)**

Sweden would also like to know more about the responsibility for the National Contact Points to inform the jobseekers and employers about the processing of their personal data.

#### **Article 10 (d)**

Sweden would like to know the purpose of keeping a registry of employers participating in the EU Talent Pool.

#### **Article 13 (5)**

In the proposal, the employer is responsible for removing the vacancy from the platform after a succeeded matching. Sweden would like to know how can we ensure that these tasks are completed? If this task is carried out by the employer, how will the National Contact Points receive this information so the national job vacancy database can be updated (when relevant)? Also, who is responsible for removing the jobseekers profile?

In addition, Sweden finds it unclear what is meant by employers **participating** in the EU Talent Pool. Can an employer participate in the EU Talent Pool without having transferred a vacancy to the platform?

#### **Article 16**

Again, it is unclear what is meant by employers **participating** in the EU Talent Pool. Does the definition include employers who publish vacancies/those looking for candidates/or both? It is also unclear what services a participating employer will have access to (solely profiles matching the job vacancy that the employer has posted on the IT-platform or all profiles)?

#### **Article 18 (1)**

As it is stated that 'participating Member States' shall ensure that there are effective mechanisms in place, it is unclear if this is in fact the responsibility of the National Contact Point?

#### **Article 22**

Sweden would like to know if all Member States will be allowed to participate in the committee, even if they do not participate in the EU Talent Pool?