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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Integration, Migration and Expulsion (Admission)
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing an EU Talent pool

Following the request for written contribution on the above-mentioned proposal at the Working Party IMEX (Admissions) meeting on 6 February 2024, delegations will find in Annex a compilation of the replies as received by the General Secretariat.

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DENMARK

Denmark would like to raise some general considerations on the relationship between the EU Talent Pool and the free movement of services within EU, that imply the right to post third country nationals to other Member States, as confirmed in the case C-43/93, Vander Elst.

The right to post workers imply that “talent pool-workers” as part of their job can be posted to other Member States. According to case law (see for instance point 57 of C-91/13, Essent), third country nationals can be posted, when

- their situation is lawful as regards matters such as residence, work permit and social coverage in the Member State in which a service providing undertaking employs them,

and

- they are carrying on their main activity in the Member State in which the service providing undertaking is established.

The second condition means that there in principle is a ban on “recruitment to be posted”. At the same time, the ECJ has not given specific guidance on what constitutes “main activity”.

Due to the growing number of posted third country nationals, the European Labour Authority (ELA) has selected it as a specific priority area. A report made for ELA¹ has pointed out a range of challenges such as “CJEU caselaw is subject to different interpretations in the Member States” and “Abusive practices exist in relation to posting, such as, social fraud, fake posting, letterbox companies, undeclared work or posting, complex contracting lines resorting to intermediaries”.

Denmark considers that since fair recruitment is a main objective of the Talent Pool, measures on prevention of non-genuine postings could be reflected in the regulation. In order to reflect the case law mentioned above, it could be underlined in article 13 that workers can only be posted, if they have their main activity in the Member State of their employer, main activity being understood on the basis of the criteria set out by the relevant CJEU case law. It could be said to be included in “relevant Union law”, but to our knowledge the criterion on main activity is only used by receiving Member States to contest postings. If posted Talent Pool workers normally will be considered to be genuinely posted, the Talent Pool can contribute to combat fake postings and exploitation of workers.

¹ <https://www.ela.europa.eu/sites/default/files/2023-04/ela-report-posting-third-country-nationals.pdf>

ESTONIA

1. Article 3: participation

In our opinion, the proposed regulation should also include a provision for withdrawing from the talent pool. We should not presume that once a Member State joins the talent pool, it will never want to withdraw from it. For example, in case it turns out that the pool is not so actively used by the employers of a Member State or there is not that many interested candidates for the offers from a Member State's employers as anticipated. Clear understanding of the conditions and consequences of withdrawal may influence Member States' decision to join the talent pool to begin with. Therefore, clear provisions on withdrawal are important.

2. Article 4 (1) (3) definition of "employer"

We suggest the following wording in article 4 (1) (3):

*"1. For the **specific** purposes of this Regulation, the following definitions shall apply:*

*(3) 'employer' means any natural person, or any legal entity, **including temporary work agency**, 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;~~"*

Covering private employment agencies and labour market intermediaries should be done separately from the definition of employer, because in general they are not considered to be employers.

Rationale:

We are hesitant about the definition of "employer" in article 4 (1) (3). Definition of employer is a matter of labour law and currently there is no definition of employer in EU labour law.

However, we understand that in migration law, specifically in employer sanctions directive 2009/52/EC, the definition of employer is stated in article 2 (e):

"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;"

In addition, recital 6 states the following:

"For the specific purposes of this Directive, certain terms should be defined and such definitions should be used only for the purposes of this Directive."

Firstly, in referred wording, it is stated that the definition applies "for the specific purposes of this directive". Therefore, if there is a need to define an employer in EU Talent Pool regulation, we find it important to explicitly state that this definition applies only for this specific purpose. Secondly, we suggest adding a similar recital to current text for it to be clear that the definition of employer is specific to only this concrete legal act. Lastly, we believe the definition to be too broad in EU Talent Pool regulation. We could agree with the same definition as in employer sanctions directive.

3. Article 11 (1) creating a profile via the Europass

We suggest the following wording in article 11 (1):

*„Jobseekers from third countries ~~may~~ **shall** create their profiles via the Europass profile builder in order to register on the EU Talent Pool IT platform.“*

Rationale:

We think it is important that the provisions of the proposed regulation make it clear that existing EU tools and instruments are used to their fullest in the context of the EU Talent Pool. Implying otherwise „may“ means additional administrative burden to the Member States, also additional costs if new tools are developed that require interoperability with national systems. In addition, it is not clear, why here is used „may“, but in other context, for example article 11 (2) it is used „shall“.

4. Article 15 (1) subparagraph 4

We suggest the following wording in article 15 (1) subparagraph 4:

„The EU Talent Pool National Contact Points may notify to the EU Talent Pool Secretariat further additions to and removals from the ~~EU-wide~~ list of shortage occupations maximum twice ~~once~~ a year.“

Rationale:

We suggest deleting “EU wide” from this paragraph, as this addresses further adjustments not initial adjustments upon joining the talent pool. In this case, Member States may want to remove not just occupations which are in the EU-wide list, but also ones previously added by themselves. We find that possibility to adjust the list only once a year is too rigid and would not allow enough flexibility to react possible changes in the labour markets, especially in the light of several unexpected events within last four years also affecting the functioning of the labour markets.

FINLAND

The comments cover the whole proposal and are still to be considered preliminary.

Finland thanks the Commission for the proposal to establish EU Talent Pool and the possibility to send written comments. Finland is still reviewing the proposal and maintains a scrutiny reserve on the whole text. Therefore following comments are still preliminary. We consider it particularly important that Member States participation on the EU Talent Pool is **voluntary**. The voluntary participation enables national assessment of 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 it will be important to assess and ensure the interoperability between EU Talent Pool and our national matching platform.

In relation to governance, it is important that the Talent Pool **would not cause an unreasonable administrative burden**. In further negotiations it will be necessary to study more closely the ratio of the costs of establishing and maintaining the Talent Pool to the benefits of matching jobseekers and employers. Also the functionality of the search and matching tools is essential in order to ensure that the Talent Pool produces added value for companies.

The added value of the Talent Pool depends heavily on its ability to attract third countries jobseekers who meet the talent needs of the Member States. We consider it important that the proposal enables participating Member States to use the Talent Pool in accordance with nationally recognised labour force needs. Therefore **making national adjustments to the EU-level list of occupations should be as flexible as possible**. Making adjustments once a year does not necessarily enable the full utilisation of the Talent Pool in responding to rapidly changing labour market needs.

We point out that very extensive tasks that fall within the **competence of several different authorities are proposed for the national contact points**. The scope of the tasks should be considered from the perspective of both the use of resources and strategic choices.

Our experience shows that the number of inquiries among job seekers from abroad may grow very high. For this reason, in Finland a personal service at the recruitment stage has been prioritised only for companies. Information and advisory services for jobseekers should therefore be designed so that they can be scaled to a large number of jobseekers and the **main emphasis should thus be on services other than personal services** (f.e. digital services).

Finland does not currently participate in EU Talent Partnerships. Finland's international recruitment efforts with third countries target India, Vietnam, the Philippines and Brazil, as stated in the Government Programme. To make most of the Talent Pool as a part of our international recruitment measures, **all elements of the Talent Pool should be comprehensively usable in Member States' all bilateral partnerships** with third countries.

Furthermore, we consider it important that the proposal does **not include any binding provisions on the conditions for entry** into the Member State.

FRANCE

Eléments d'appréciation généraux

- A titre liminaire, la France maintient une réserve d'examen sur l'ensemble du texte dans la mesure où le détail de cette nouvelle initiative est en cours d'expertise.
- La France réitère ses interrogations à propos de la base juridique retenue. Cette proposition de règlement semble emprunter aux politiques migratoires et de l'emploi. Le règlement, selon l'article 1^{er}, éclairé par le considérant n°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 la demande d'emploi et à prévoir sa gouvernance.
- A l'instar de plusieurs Etats membres, la France note avec satisfaction, à l'article 3, le caractère non-contraignant du recours à la plateforme talents mais est favorable à ce que soit explicitement ajoutée au règlement la possibilité qu'un Etat membre suspende temporairement ou interrompe définitivement sa participation à la plateforme (cf. proposition d'amendement infra).
- De même, elle n'est pas favorable à l'inclusion des agences d'emploi privées et des intermédiaires du marché du travail dans la définition du terme « employeur » (article 4 au regard du considérant 6) : cf. propositions d'amendement infra.
- Concernant la présentation du réseau EURES, la France note que celui-ci possède un module de concordance automatique entre l'offre d'emploi et les compétences des candidats et semble plus fourni en services que ce que propose le règlement « EU Talent Pool », qui énumère surtout des services d'information déjà disponibles au sein des Etats membres. L'interconnexion avec la plateforme talents permettra, pour les ressortissants de pays tiers, d'éviter une double saisine. Pour autant, à l'article 5, la France souhaite obtenir des précisions de la part de la Commission sur le calendrier de mise en œuvre et s'interroge sur l'algorithme utilisé d'EURES qui n'est pas en source ouverte.

- La France s'interroge sur l'unicité du point de contact national et sur l'articulation entre ce point de contact et le ou les représentants des Etats membres dans le comité de pilotage. En effet : le considérant 8 recommande la nomination de deux représentants au sein du comité de pilotage, un représentant des autorités chargées de l'emploi et un représentant des autorités chargées de l'immigration ; le paragraphe 1 de l'article 10 suggère un point de contact national unique, tout en demandant aux Etats membres de veiller à la représentation des autorités compétentes en matière d'emploi et d'immigration ; l'article 9 ne donne pas de précision sur les représentants nationaux attendus au sein du groupe de pilotage. Enfin, dans le considérant 30, les missions attribuées aux points de contact nationaux en matière d'informations à fournir relèvent de nombreuses administrations. Par ailleurs la France émet des réserves sur certaines missions attribuées aux points de contact nationaux, en particulier les services d'appui aux demandeurs d'emploi candidats des pays tiers. En France, ces missions ne peuvent pas être assurées par le service public de l'emploi.

Par conséquent :

- La France considère que la possibilité de nommer deux points de contact permettrait de remplir les missions dédiées de façon plus opérationnelle (cf. propositions d'amendement infra).
- La France propose de supprimer le paragraphe 2g de l'article 10 ainsi que le paragraphe 2 de l'article 17.
- La France réitère son souhait de 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. En ce sens, elle estime nécessaire de définir plus précisément la notion d'employeurs (article 13).
- La France souhaite que la possibilité pour les Etats membres d'ajuster éventuellement au contexte national la liste européenne des métiers en tension soit inscrite de façon plus précise dans le projet de texte.

- La France s'interroge sur l'articulation opérationnelle entre l'usage de cette plateforme et les partenariats de talents. A l'instar de plusieurs Etats membres, elle émet des réserves quant à la création d'un « *pass partenariats de talents* », 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 (article 12).
- La France accueille favorablement la confirmation des conditions cumulatives requises pour le transfert des offres sur la plateforme, particulièrement en ce qui concerne la prise en compte du principe de préférence des citoyens de l'Union (article 13).
- La France s'interroge sur le manque de clarté de l'article 19 qui permet aux Etats membres de mettre en œuvre des procédures d'immigration accélérées, posant ainsi des questions quant à son autonomie en matière de politique migratoire. Elle insiste sur la nécessité de veiller à ne pas accroître les contraintes et les tâches administratives sur les services qui seraient en charge de l'application du dispositif issu du projet.
- La France souhaite obtenir des clarifications sur le considérant 4 car elle s'interroge sur la manière dont la plateforme talents pourrait faciliter l'opérationnalisation des voies d'accès complémentaires grâce au travail pour les personnes ayant besoin d'une protection internationale.
- La France suggère de rendre plus prescriptives les formulations portant sur le respect du droit de l'Union européenne pour les employeurs, en remplaçant à plusieurs reprises « should » par « shall » dans le considérant 23.
- Enfin, la France note avec intérêt la proposition relative à la mise en œuvre d'une interopérabilité entre la plateforme talents et le SIS mais, au regard de sa complexité, souhaiterait la réalisation préalable d'une étude technique approfondie à ce sujet.

Propositions d'amendements :

Considérant 23 et considérant 37 :

La France suggère de rendre plus prescriptives les formulations portant sur le respect du droit de l'Union européenne pour les employeurs en amendant le texte comme suit :

Considérant 23 :

Employers ~~should~~ **shall** comply with applicable Union law and practice. [...] Equal treatment of jobseekers from third countries with respect to nationals of the participating Member States ~~should~~ **shall** also be ensured by the employers. [...] In accordance with Directive 2019/1152/EU41, employers participating in the EU Talent Pool ~~should~~ **shall** provide to registered jobseekers [...] An employer ~~should~~ **shall** neither charge any recruitment fee nor prohibit a worker from taking up employment with other employers [...]. Employers participating in the EU Talent Pool ~~should~~ **shall** comply with Directive 96/71/EC42 [...]

Considérant 37 :

Participating Member States ~~should~~ **shall** implement this Regulation in full compliance with all EU Charter of Fundamental Rights obligations [...].

Article 3 :

La France suggère l'ajout d'un article dédié pour le retrait ou la suspension de la participation d'un Etat membre à la plateforme. A défaut, il s'agirait d'amender le titre de l'article 3 et d'y insérer un alinéa 2 comme suit :

Article 3: Participation and withdrawal

2. Any Member State may decide, at any time, to temporarily suspend or permanently withdraw its participation in the platform. It shall notify its decision to the Commission at the latest [XX] months before the date from which it intends to withdraw. From the first day of the withdrawal, job vacancies of employers established in that Member State cease to be transferred to the EU Talent Pool IT platform.

L'ajout de dispositions spécifiques, du fait des conséquences à la fois financières, juridiques et en matière de protection des données, doivent être discutées.

Article 4 (et considérant 6) :

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 ».

En ce sens, aux vues des inquiétudes que suscitent l'inclusion d'agences d'emploi privées et les intermédiaires du marché du travail comme employeur, tant en ce qui concerne leur statut qu'aux potentiels abus au regard des travailleurs, nous suggérons de les supprimer de la définition d'employeur dans le paragraphe 3 de l'article 3 et dans le considérant 6, en amendant le texte comme suit :

Article 4, paragraphe 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 **including** as well as ~~private employment agencies, temporary work agencies and labour market intermediaries.~~*

Considérant 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.~~

Article 10 :

La France s'interroge sur la cohérence du point 1 qui demande de nommer un point de contact mais d'assurer à la fois la représentation des autorités compétentes en matière d'emploi et des autorités compétentes en matière d'immigration. Il serait plus opérationnel de donner aux Etats membres la possibilité de nommer deux points de contact.

La France suggère en conséquence de modifier les points 1 et 2 comme suit :

*1. Each participating Member State shall designate one **or two** EU Talent Pool National Contact Points. Participating Member States shall ensure that relevant authorities from the field of employment and immigration are appointed as the EU Talent Pool National Contact Points.”*

2. The EU Talent Pool National Contact points [...]

La France suggère de supprimer le point g de l’alinéa 2 :

~~*(g) providing information and support services to registered jobseekers from third countries and employers participating in the EU Talent Pool in accordance with Article 17.*~~

Article 13 :

Afin de renforcer le filtrage possible des employeurs par les points de contacts nationaux, nous proposons d’amender le texte comme suit :

*1. Employers interested in participating in the EU Talent Pool ~~may~~ **shall** request the EU Talent Pool National Contact Points in the Member State where they are established to transfer their job vacancies to the EU Talent Pool IT platform.”*

Article 15 :

La France propose des amendements pour clarifier la procédure et les règles que doivent suivre les Etats membres pour procéder aux adaptations de la liste des professions en pénurie à l’échelle de l’UE, ainsi qu’une obligation pour le secrétariat de la plateforme de mettre en œuvre les ajustements demandés dans un délai de 3 mois à compter de la notification. Nous suggérons de supprimer le paragraphe 3 de l’article 15 (1) car il ajoute une complexité inutile à notre sens :

1. The participating Member States may decide to add shortage occupations at the ISCO-08 4-digit level, in order to satisfy their specific labour market needs. They may also decide to remove shortage occupations from the EU-wide list where those do not correspond to their specific labour market needs. The country-specific adjustments shall only affect the matching of job vacancies in the Member State concerned.

~~The EU Talent Pool National Contact Points of the Member States notifying their participation in the EU Talent Pool pursuant to Article 3 shall notify any additions to or removals from the EU-wide list of shortage occupations to the EU Talent Pool secretariat at the latest 3 months before joining the EU Talent Pool. The EU Talent Pool secretariat shall make the changes effective within 3 months of notification.~~

~~The EU Talent Pool National Contact Points of the participating Member States shall notify any additions to or removals from the EU-wide list of shortage occupations within 3 months following the amendments to the Annex.~~

The EU Talent Pool National Contact Points may notify to the EU Talent Pool Secretariat further additions to and removals from the EU-wide list of shortage occupations maximum once a year.

Article 17 :

Afin de tenir compte des spécificités nationales, la France suggère de supprimer l'alinéa 2 de l'article 17 concernant la fourniture d'informations et les services d'appui par les points de contacts nationaux.

~~2. Upon request from 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:~~

~~(a) specific information on national immigration procedures to obtain visas and residence permits for work purposes following the selection process;~~

~~(b) specific guidance and information on family reunification procedures and family members' rights;~~

~~(c) specific information on third country nationals' rights and obligations including access to social benefits, health assistance, education, housing, recognition of qualifications and the complaint mechanism pursuant to Article 18;~~

~~(d) information available at national level to facilitate third country nationals' integration in the host Member State such as language courses, vocational training and education as well as other integration measures;~~

~~(e) where available, the contact details of organisations which offer post-recruitment assistance for third country nationals.~~

GERMANY

On financing: In its proposal, COM already describes costs for the period after 2027 and how these are to be paid from the EU budget from 2028 onwards. We emphasize that such costs are purely indicative and depend on the negotiations for the MFF from 2028 onwards. The negotiations for the MFF from 2028 onwards are not to be prejudged.

Art. 11:

Interlinking the Talent Pool with the existing platforms should be considered in order to avoid duplication in the interests of jobseekers, employers and national employment agencies in the event of implementation. At national level in DEU, this applies in particular to services of the Federal Employment Agency as well as the "Make it in Germany" portal.

Art. 11 (4):

It is specified that only registered users can search for jobs. On job boards (e.g. "Make it in Germany" at national level or on EU platforms such as EURES and EURAXESS), however, it is possible to search for jobs without logging in. An account should only be required if, for example, you want to apply for a job you have found. It should also be possible for employers to have a simple and automated process for obtaining access data, e.g. as part of the publication of the job vacancy.

Article 12

The Federal Government prepares people for immigration to Germany as skilled workers or trainees (in accordance with the required language and professional qualifications) with its state training and migration projects within the framework of the EU Skilled Workers Partnerships. The Federal Government will discuss to what extent - and under what conditions - it could make sense to issue an "EU Talent Partnership Pass" to prepared individuals who are not placed directly with German employers, but are supported in their own (self-steered) migration (e.g. via the Centers for Migration and Development).

The limits of the "EU Talent Partnership Pass" and its use in the EU Talent Pool must be made clear to users. Further proof/steps are often required for labor migration processes (e.g. in DE when issuing an EU Blue Card for a foreign university degree and for regulated professions a determination of equivalence or proof of foreign vocational training). The exact meaning and use of the "EU Talent Partnership pass" must be clear in order to avoid frustration when further documents are required for labor migration at national level.

[The Federal Government also expressly welcomes the talent pool insofar as it is intended to create a supplementary means of making better use of existing access routes, which also opens up prospects in EU MS for refugees (displaced people) in accordance with their qualifications].

Article 13:

It is still unclear how employers and individual job vacancies that meet the requirements of paragraphs 2 and 3 will be approved. What role does the National Contact Point play here and can this be an automated process, for example in the IT systems of the public employment services?

Article 14:

To what extent are the shortage occupations of the individual member states comparable with each other in terms of the calculation? What national specificities need to be taken into account and how are these taken into account? How are the occupations that contribute directly to the green/digital transition defined? How are different definitions taken into account?

Article 16

We would like to point out that, in view of the competence regulations at national and federal level, it must be the sole decision of voluntarily participating member states as to which occupational groups they wish to integrate into the talent pool. For the regulated profession of teacher, this is excluded for DE.

Are there also considerations as to whether and how the requirements of regulated professions should be reflected in the matching process?

Art. 16 (4):

If a search does not return any results, the question arises as to whether job seekers should be informed of further offers, including advice and support, and if so, which ones. A reference to any existing national service offers, ideally automatically, is desirable.

As already noted in Art. 11 para. 4, it does not make sense for only registered users to be able to search for jobs. A simple job search should also be possible for users without a personal profile, which is in line with current practice at both national and European level. Registration should only be required if the automatic "matching tool" is to be used on the basis of the personal profile.

Art.17:

Does the information have to be kept on the EU Talent Pool by the NCP? It would be easier to link to existing information portals, such as "Make it in Germany" in DE, where all information on immigration law issues is already available in several languages.

We continue to understand the proposal in such a way that it does not imply any changes to national migration law and that any acceleration of immigration procedures, as standardized in **Art. 19** of the draft, is left solely to the member states.

HUNGARY

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

Generally, we are concerned about the expected increase in administrative burdens and we stress the importance of working with precise definitions. In this context, it is necessary to clarify who we mean by referring to jobseekers in need of international protection who are in third countries. Does the concept include only those entitled to international protection under the Geneva Convention or also those whose status is granted according to national law? We do not see that the meaning is sufficiently defined and this is not even mentioned in the operative part, therefore we propose to delete the relevant sentence in recital 27. If this is not possible, please explain what exactly this means in practice.

Concerning **Article 11(3)**, we believe that the nature of the profile that can be viewed by employers needs to be clarified in relation to Article 6(5). Registered jobseekers from third countries have the right to choose between several technical options to restrict access to their personal data. In this respect, we have security concerns and see a need for clarification in order to provide employers with the necessary information. We have noted the Commission's information on compliance with the GDPR, but the scope of the data should be clarified, as employers may need to carry out some profiling.

In **Article 14**, we see the need to clarify the relationship between the list of national and EU-wide shortage occupations.

Regarding **Article 17**, the wide range of information to be provided places a considerable administrative burden on the Member States joining the Talent Pool. The national and EU immigration portals provide a wealth of information on immigration and admission procedures. In this regard, we recommend to have only links to these sites.

IRELAND

General Comments:

- 1) Ireland has a parliamentary scrutiny in place and is currently laying motions before our Houses to scrutinise opt-in pre-adoption, allocated for the 27th February in advance of the March 6th deadline. Recital 38 will need to be amended to reflect opt-in under Article 3. We will follow up with clarification in due course.
- 2) 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.
- 3) 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 (11 – 24)

Articles 13 and 19: We seek clarity on these Articles. Article 19(2)b relates to a possible exemption from the principle of preference for Union citizens for job vacancies. How does this connect to the reference under Article 13(2)b? We note that Article 19(2) uses the language 'may cover' but we are unclear about in what circumstances this may arise:

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.

Article 13 Participation of employers in the EU Talent Pool

1. Employers interested in participating in the EU Talent Pool may request the EU Talent Pool National Contact Point in the Member State where they are established to transfer their job vacancies to the EU Talent Pool IT platform.
2. The EU Talent Pool National Contact Points shall transfer to the EU Talent Pool IT platform job vacancies that:
 - a. fall within the list of EU-wide shortage occupations set in Article 14 and the national adjustments to the list pursuant to Article 15(1) or those job vacancies which are relevant for a Talent Partnership;
 - b. are open to the recruitment of jobseekers from third countries in accordance with the principle of preference for Union citizens, where applicable under national law.

LATVIA

General comments

Migration authorities, employment services, as well as labour inspectorates would play an important role in attracting qualified third-country workers through the EU Talent Pool. It should be noted that posting of third-country workers, bypassing national migration procedures, is on the rise, especially in the construction sector. Posting of workers from third countries puts pressure on Latvia's labour migration system. Therefore, it should be avoided that the EU talent fund becomes an instrument that would further promote this phenomenon, as it could mean that, for example, Latvia should assess whether it has sufficient administrative resources to participate in the EU talent fund. A centralized pre-screening system that assesses the validity of applications could be needed.

Article 3

At the same time, it is important that this regulation also stipulates the conditions for withdrawing from the EU Talent Pool,

Article 14 and Article 15

Latvia believes that a pilot project approach with clusters of third countries and specific sectors or professions where there is a shortage of labour would be useful at the beginning, so that the process is transparent and conclusions can be drawn before this approach is expanded more widely.

Article 17,

An important question is which institutions would be responsible for evaluating the candidates, including matching and recognizing the skills and qualifications of the candidates, also agreeing on the skills that would need to be evaluated. It should also be taken into account that the institutions of the member states, which currently perform the academic recognition of educational documents obtained in foreign countries, have limited capacity and financial resources. Perhaps, within the framework of the initiative, it is also necessary to create partnerships for this purpose between the public employment services of EU countries and partner countries.

LITHUANIA

Please note that LT may have further comments on the text as we are still scrutinizing proposal.

Lithuania thanks the Commission for the proposal to establish EU Talent Pool and the possibility to send written comments on articles 9–20. Lithuania is reviewing the proposal and has entered scrutiny reserve on the whole text. Therefore, our comments are preliminary.

Art. 9 (1) EU Talent Pool Steering Group

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

We consider that the Regulation does not oblige member states to apply accelerated procedures, therefore Art. 9(1) point d shouldn't be a Steering group question and we suggest to delete it.

Art. 10(1) EU Talent Pool National Contact Points

Considering national contact points, we think it is important to ensure effective and efficient use of national resources. From the draft regulations it is not clear what are the functions of multiple national contact points. Therefore, we suggest to specify the functions of the national contacts points or optimizing it to single national contact point.

Art. 11(2) Registration and access of jobseekers from third countries

The opportunity to register on the platform is granted to a jobseeker from third countries based on the declaration. We propose to create an interface of the platform with the Schengen Information System (SIS) so that jobseekers who want to register on the platform are immediately checked through the SIS. In addition, we propose to determine that if a jobseeker is already registered in the Talent Pool, and later the MS decides not to permit the entry, the profile of such a foreigner would be automatically deleted from the platform.

Art. 13 Participation of employers in the EU Talent Pool

Art. 13(1): Aiming to ensure fair and competitive environment between MS, we suggest to clarify, that job offer information should be provided based on uniform submission criteria and ensure that the content of the job offer is correct (for example, the content of advertised job vacancies enter the platform according to the ESCO).

Art. 13(2)b: Lithuania supports an aim to invite third countries talents to national labour market, however we must ensure competitive and efficient labour market for the citizens of the EU MS. Therefore, we have doubts whether it is reasonable to favour third countries nationals, instead of the citizens of other EU MS. Taking in account this doubt we suggest to revise this article and Art.19.

Art. 13(3) the second sentence: As noted in the working party, it is common practice of Employment agencies to have fees for their service, including employing. The draft regulation states that Talent Pool is free of charges. How it will be ensured that Employment agencies, which are named as employer in the draft regulation, won't apply charges for the use of the platform?

Art. 13(5): The duration of issuing a temporary residence permit in Lithuania is up to 3 months. While the application is being processed, the vacancy will be visible and may appear to be vacant. When and at what conditions does a vacancy in the platform become invisible for applicants? In addition, we propose to move Art.13 (5) transfer to Art.16.

Art. 14 List of EU-wide shortage occupations

We would like to get clarification, is the EU list of shortage occupations mandatory for the MS participating in the Talent Pool? Can a MS only apply its own list? Additionally, will this EU common list be mandatory?

Art. 15 National adjustments to the list of EU-wide shortage occupations

Art. 15(1): Art.15(1) third paragraph states 3 months period to make changes to the list of shortage occupations. Same article last paragraph limits MS changes of the same list to once a year. We would like to get clarification whether such terms do not contradict each other? Also, we would suggest to revise the terms and provide more flexibility to MS based on possible changes in labour market or MS national challenges in labour market.

“<...> The EU Talent Pool National Contact Points of the participating Member States shall notify any additions to or removals from the EU-wide list of shortage occupations within 3 months following the amendments to the Annex. <...>

<...> The EU Talent Pool National Contact Points may notify to the EU Talent Pool Secretariat further additions to and removals from the EU-wide list of shortage occupations maximum once a year."

Art. 15(3): Will only those employees who are on the shortage occupations list be able to register on the platform? Lithuania proposes that the limitation of possible candidates (people allowed to register) of the platform should be defined in the scope of the draft regulation, i.e., Art. 1.

Art. 12 Profile registration and access of jobseekers from third countries in the context of Talent Partnerships

Art. 12(4): Lithuania would like to get extensive information on the Partnership pass, when will the EU Talent Partnership pass be approved?

Art. 16 Search and matching

We suggest transposition of Art. 13(5) to Art. 16.

Art. 17 Information provision and support services

Both large and smaller EU MS will participate in the Talent Pool platform, so in our opinion they should be assured equal competitive opportunities. We would suggest that MS provide uniform information on migration, work and living conditions. It is also not clear whether the Talent Pool portal will expand the current EU Immigration portal: https://immigration-portal.ec.europa.eu/index_en or whether it will be a new tool? The development of a new tool increases the financial burden. We would also like to draw attention to the fact that the applicable immigration procedures are constantly changing, i.e., updating information about the applicable procedures both on the national website of the MS and on the portal creates an additional financial and administrative burden for the MS.

Art. 17(1): Aiming to avoid duplicating the functions and inefficient use of the national resources, we suggest narrowing the scope and determine that only a reference to immigration procedures is published on the portal; accordingly, delete par. 1(a) and par. 1(b).

1. Participating Member States shall make information concerning the EU Talent Pool and its functioning easily accessible.

The EU Talent Pool Secretariat, with the support of the EU Talent Pool National Contact Points, shall make available, on the EU Talent Pool IT platform, the following information **of immigration procedures.**

~~information concerning recruitment and immigration procedures, recognition of qualifications and validation of skills, rights of third country nationals, including with regard to available redress mechanisms as well as information on living and working conditions in the participating Member States;~~

~~clear explanation to jobseekers from third countries that if they 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, their entry into and stay on the territory of all the Member States shall be prohibited.~~

Art. 17(2): We propose to narrow the specified scope of provided information by deleting part 2(b), (d), (e) as redundant, also clarify part 2 (c) as this information would duplicate national mechanisms. Additionally aiming to ensure correct terminology we suggest adding word *temporary* to part 2(a):

2. Upon request from 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:
 - (a) specific information on national immigration procedures to obtain visas and **temporary** residence permits for work purposes following the selection process;

- ~~(b) specific guidance and information on family reunification procedures and family members' rights;~~
- (c) specific information on third-country nationals' rights and obligations including access to social benefits, health assistance, education, housing, recognition of qualifications and the complaint mechanism pursuant to Article 18;
- ~~(d) information available at national level to facilitate third-country nationals' integration in the host Member State such as language courses, vocational training and education as well as other integration measures;~~
- ~~(e) where available, the contact details of organisations which offer post-recruitment assistance for third-country nationals.~~

Art. 17(3): We suggest delete all part 3 as a surplus. Such a consultation mechanism is too broad and duplicates the national system for informing individuals. The matter of MS competence is how the provision of consultations is organized. Additionally, we propose to determine that the information is provided in the language of the MS, but not in another language (more acceptable to the foreigner).

Art. 18 Facilitation of complaints

Concerning facilitation of complaints, we think that National mechanisms are sufficient and therefore we suggest deleting Art. 18. as a surplus.

Art. 19 Accelerated immigration procedures

Art. 19(1): Lithuanian procedure for issuing a temporary residence permit for third country nationals is already efficient and usually is issued within 3 months. Taking that in consideration and aiming to ensure qualitative procedures, we do not support additional acceleration of immigration procedures.

Art. 19(2)a: It is important to use correct terminology, therefore we suggest adding word *temporary* to part 2 (a):

2. The procedure referred to paragraph 1 may cover:
 - (a) the obtention of visas and **temporary** 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.

Art. 19(2)b: As mentioned in previous article 13, Lithuania has doubts about giving preference to citizens of TCN over citizens of EU MS. Priority should be given to the labour force already in the EU (be it EU citizens or foreigners legally residing in MS) and only if there is a labour shortage would immigrant workers be employed. As a result, the EURES portal should be used more effectively.

Art. 20 Monitoring activities

The implementation of this Article must not create an additional burden for MS to collect and provide additional statistics. Lithuania would suggest to provide exact list of the statistical data that is collected from the platform data.

LUXEMBOURG

In general, Luxembourg understands the concerns of certain Member States which have raised the idea of linking the EU talent pool to the Schengen Information System in order to prevent third country nationals banned from entering the territory from applying on the platform. Nevertheless, Luxembourg can accept the absence of a link between these two systems.

Article 10 – EU Talent Pool National Contact Points : As regards applications for residence permits from third country nationals who have been matched on the EU Talent Pool platform, Luxembourg does not currently have electronic files. Our immigration authority therefore wants to raise the question of whether applications will be available exclusively by electronic means or whether the procedure remains the same and applications can still be submitted in accordance with the procedures in force in the various Member States.

Article 18 – Facilitation of complaints : Luxembourg proposes to specify that the complaints referred to in this article and that the information concerning available redress mechanisms concern labour law.

Article 19 – Accelerated immigration procedures : Luxembourg is in favour of retaining this article in the regulation if it remains a "*may clause*". Member States should not be obliged to introduce accelerated immigration procedures but should remain free to introduce them.

THE NETHERLANDS

Recital 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. **In addition, access to labour migration may reduce incentives for employers to activate domestic potential, by improving terms and conditions of employment, and to invest in innovation, including automation and robotization.** 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 change

NL suggested earlier to add a new paragraph 3a, 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. Now we suggest to add some text in this paragraph. There are more shortages in low quality jobs. It is important to emphasize that access to labour migration can reduce the incentive for employers to activate the domestic potential of the workforce and to be a good employer. This is something that should be taken into account in the context of the talent pool.

Recital 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 and assistance by member States should, where possible, be standardised and automatically**

distributed to the recipients in case there is a match between the jobseeker and the employer, also with a view to reduce the administrative burden for the National Contact Points. 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

With a view to reduce the administrative burden for National Contact Points and other authorities involved in providing information, we suggest to standardise and automate the distribution of the information provided as much as possible. In this regard, the best practices that have been shared in the Working Group on Information of the European Labour Authority could be taken into account.

ANNEX List of EU-wide shortage occupations

~~9112 Cleaners and helpers in offices, hotels and other establishments~~

Justification for suggested changes and comments

Based on the 2022 analysis, there were still 6 countries with a surplus for hotel or office cleaners (AT, DK, DE, HU, LU, NO). In addition, this is a profession that in principle anyone could perform. Moreover, the profession does not contribute to the sustainable or digital transition. We therefore propose to delete this profession from the list.

POLAND

Please find below the written comments of Polish government to the Proposal for a Regulation of the European Parliament and of the Council establishing an EU Talent pool (Art. 11 – 24 + ADD 1).

Article 17 (1) and (2) - reservation to paragraph 2.

Poland welcome the EC's clarification that Article 17(1) was not intended to impose additional burdens on member states to provide information regarding immigration procedures, including duplication of existing communication channels. However, we still keep some reservations on the extended support and assistance that shall be provided by MSs to individuals who have passed the recruitment proces via Talent Pool. As for several years, PL has remained in the group of MSs issuing the biggest number of first residence permits for the purpose of work, the implementation of art. 17 (2), as proposed, would mean to us un obligation to provide individualized, multitargeted and direct assistance, including consultations on immigration procedures, to a significant group of people, which would require not only a huge financial outlay, but also the involvement of human resources both at home and abroad.

Article 19 - flexibility, provided that the "may" clause would be maintained. In our opinion, the provision of Article 19 is unnecessary, but if the EC considers important to emphasize the already existing opportunities for MMs then we won't rise reservations, as long as the the optionality of applying fast-track procedures under may clause is maintained.

In addition to the above Polish government has no other objections or comments to Art. 11 - 24.

PORTUGAL

- With regard to the wording of Articles 11 to 24, should be noted that the provisions have a direct impact on the recognition of professional qualifications and the regime for access to and exercise of regulated professions and professional activities within the scope of Directives 2005/36/EC and 2018/958, based on the decisions of the Court of Justice of the European Union (CJEU), as it also clarifies and ensures compliance with Directive 2008/115/EC, Regulation 2018/1724 and other applicable EU legislation;
- With regard to Articles 14 and 15, they identify a list of professions, some of which are regulated, with EU-wide labour shortages, such as engineering, health, electricity and transport, as well as the procedures for adjusting the list according to the specific needs of the national labour market, with the Commission being empowered to adopt delegated acts in accordance with the procedure set out in Article 21, in line with EU principles, in particular those set out in the Interinstitutional Agreement Between The European Parliament, The Council Of The European Union And The European Commission On Better Law-Making Interinstitutional Agreement Of 13 April 2016;
- With regard to Article 17, we believe that access to online information and procedures will be ensured, in accordance with Regulation 2018/1724, through interoperability between the various national systems provided for in this Proposal, thus avoiding the proliferation of information systems. These systems should enable and safeguard the rights of third-country nationals, as well as the redress mechanisms available for their integration and easy access to the labour market;
- The following should also be emphasised:
- In Article 13(3) it seems pertinent to ask for clarification on what is meant by "unfair recruitment" and " inadequate working conditions", concepts which due to their latitude and imprecision may generate difficulties in terms of implementation;
- Article 17(2)(c) makes no reference to information on working conditions or workers' rights and duties in force in the country.

Additional comments:

- With regard to the wording of Articles 11 to 24, should be noted that the provisions have a direct impact on the recognition of professional qualifications and the regime for access to and exercise of regulated professions and professional activities within the scope of Directives 2005/36/EC and 2018/958, based on the decisions of the Court of Justice of the European Union (CJEU), as it also clarifies and ensures compliance with Directive 2008/115/EC, Regulation 2018/1724 and other applicable EU legislation;
- With regard to Articles 14 and 15, they identify a list of professions, some of which are regulated, with EU-wide labour shortages, such as engineering, health, electricity and transport, as well as the procedures for adjusting the list according to the specific needs of the national labour market, with the Commission being empowered to adopt delegated acts in accordance with the procedure set out in Article 21, in line with EU principles, in particular those set out in the Interinstitutional Agreement Between The European Parliament, The Council Of The European Union And The European Commission On Better Law-Making Interinstitutional Agreement Of 13 April 2016;
- With regard to Article 17, we believe that access to online information and procedures will be ensured, in accordance with Regulation 2018/1724, through interoperability between the various national systems provided for in this Proposal, thus avoiding the proliferation of information systems. These systems should enable and safeguard the rights of third-country nationals, as well as the redress mechanisms available for their integration and easy access to the labour market;
- The following should also be emphasised:
- In Article 13(3) it seems pertinent to ask for clarification on what is meant by "unfair recruitment" and " inadequate working conditions", concepts which due to their latitude and imprecision may generate difficulties in terms of implementation;
- Article 17(2)(c) makes no reference to information on working conditions or workers' rights and duties in force in the country.
- Also highlight paragraphs a) and e) of Article 17, which are especially important to overcome difficulties in international recruitment, particularly with regard to legal migration, support and guidance.

ROMANIA

(Art. 11 – 24 + ADD 1)

- **Art.11 – Registration and access of jobseekers from third countries**

We believe that the decision not to verify the sole responsibility declaration regarding the lack of judicial record could lead to populating the database with ineligible profiles, blocking the system, as well as unjustifiably burdening the work of the National Contact Point staff (mainly Immigration General Inspectorate).

- **Art. 12 – Profile registration and access of jobseekers from third countries in the context of Talent Partnerships**

We appreciate that the issuance of the EU Talent Partnership pass within a talent attraction partnership, established by the decision to apply the Regulation, could lead to the additional burden of the activity of the various institutions involved in the recognition of diplomas/qualifications/skills.

- **Art. 13 – Participation of employers in the EU Talent Pool**

In the case of Romania's participation in this program, it must be seen to what extent and at what cost to ensure human resources (especially IT experts) and other associated financial resources can be interconnected with the Job Vacancies database (LMV) at the national level, managed by the National Employment Agency. At the same time, we consider it opportune and necessary to clarify the access to the Talent Pool platform of workers from third countries in the fields of regulated professions (for instance occupations in the health/medical field).

- **Art.17 - Information provision and support services**

In Romania the information regarding the procedure for obtaining the residence permit for the purpose of employment, family reunification, rights and obligations of foreigners are already published on the website of the authorities for immigrants, in Romanian and English language, therefore we consider that a link to the website of the respective institutions would be sufficient

In our opinion, the information that might be provided within post-recruitment assistance can be only the base one, general and not specific, offering guidance at the request of third country nationals toward responsible institutions (for medical assistance, educational services etc.).

In addition, we can agree with the concerns expressed by the other colleagues, regarding the duplication of information in various platforms as well as a possible additional administrative burden that could be created by the provisions of art. 17, especially regarding the additional support and post-selection assistance for jobseekers;

- **Art.18 - Facilitation of complaints**

We consider that more info are needed where as is not very clear in what moment in time the third nationals registered jobseekers can make complaints in the case of breaching the legislation or EU and national relevant practices by the employers participants to Talent Pool in order to protect the third nationals against unfair recruitment and inadequate labor conditions as well as discrimination.

- **Art. 19 – Accelerated immigration procedures**

First of all, we point out the existence of a difference between the two versions of the proposal in Romanian and English ("obtaining visas and residence permits for *professional purposes*", the version in Romanian, "the obtention of visas and residence permits for *work purposes*" - the version in English) Thus, we request the alignment of the text in the Romanian language with *work purposes*, considering that the phrase *professional purposes* generates another type of visa.

Also, we appreciate that establishing an accelerated immigration procedure to allow for a faster recruitment of the foreigners registered in the platform could create additional administrative pressure.

With regard to the content of paragraph 2, letter b), we consider that the exemption from the principle of preference for Union citizens for job vacancies transferred to the EU Talent Pool IT platform, can only be done through the labor market test. At the same time, we appreciate that the efforts of the Member States must be focused on stimulating internal mobility at national level, respectively within the borders of the European Union and the European Economic Area and Switzerland in order to activate the potential and available workforce.

Also, we consider that the text is not explicit as regard the persons exempted from applying the procedure provided by paragraph 1.

In addition, with respect to the articles proposed for analysis, we believe that, at least at this moment, Romania maintains its position of having observer status regarding this initiative.

We also mention that, given that the wage level practiced in Western European countries is, in many cases, higher than in Romania, there is a risk that Romanian employers will not be able to recruit candidates through this platform, which we consider to be more appropriate concluding bilateral agreements to cover the deficit on the labor market.

Art. 17 – in Romania the information regarding the procedure for obtaining the residence permit for the purpose of employment, family reunification, rights and obligations of foreigners are already published on the website of the authorities for immigrants, in Romanian and English language, therefore we consider that a link to the website of the respective institutions would be sufficient

In addition, we can agree with the concerns expressed by the other colleagues, regarding the duplication of information in various platforms as well as a possible additional administrative burden that could be created by the provisions of art. 17, especially regarding the additional support and post-selection assistance for jobseekers;

Art. 19 – first of all, we point out the existence of a difference between the two versions of the proposal in Romanian and English ("obtaining visas and residence permits for *professional purposes*", the version in Romanian, "the obtention of visas and residence permits for *work purposes*" - the version in English) Thus, we request the alignment of the text in the Romanian language with *work purposes*, considering that the phrase *professional purposes* generates another type of visa.

Also, we appreciate that establishing an accelerated immigration procedure to allow for a faster recruitment of the foreigners registered in the platform could create additional administrative pressure. More than that, in relation to the exemption from the principle of preference for Union citizens for job vacancies uploaded to the platform, we do not consider appropriate to eliminate the labor market test.

Regarding other observations, we mention that for now the experts from the Ministry of Labor and Social Solidarity are still in the process of analyzing the text and we will come back with their written comments as soon as possible.

SLOVAKIA

General remarks:

- Slovakia welcomes the Commission's proposal aimed at establishing the IT platform, which could facilitate international recruitment to the EU and help addressing labour shortages.
- Slovakia currently does not have any bilateral agreements concluded with third countries to regulate the flow of workers or their recruitment, however a labour shortage of skills and talents become a pressing issue.
- We can see a merit in creating a complementary tool at EU level to attract third country nationals with required skills allowing employers including SMEs / micro-businesses to find and hire individuals efficiently and in a timely manner.
- We appreciate the voluntary nature of the tool and that no fees will be charged to registered jobseekers from third countries.
- Moreover, we view positively that the new IT tool will partially reuse existing components of the EURES infrastructure.
- In upcoming negotiations, Slovakia considers important to ensure:
 1. **interoperability** of the EU Talent Pool and national IT systems in place
 2. **availability of financial resources for setting up** additional IT components, technical adjustments (since additional investments by MS are foreseen) **as well as for the promotion** of this tool and **developing a translation system**
 3. **minimising the administrative burden on MS**

Specific comments:

- Art. 4 par. (1)(3) Definition of “employer”

We tend to share concerns of some MS regarding the risk of exploitation through intermediaries and employment agencies and possible negative consequences even for MS that don't participate in the EU Talent Pool platform. In addition, due to the nature of the legal act, we remain cautious to include the proposed definition of employer in the operative text.

- Art. 6 (4) Processing of personal data

From the point of view of personal data protection, we would appreciate more clarity and precision in the text, when it comes to the specific categories of data that can be processed by the different entities involved in the processing operations within the framework of the IT platform.

Namely, clarification of the obligations of actors under Article 6(4) concerning information on the processing of personal data, on the rights of data subjects, as well as on the rights of data subjects under Article 6(6) and (7).

Moreover, we would support the arguments put forward by the EDPS (EU Data Protection Supervisor) which calls for strengthening the prohibition on the processing of specific categories of personal data.

- Art. 15 (1) National adjustments to the list of EU-wide shortage occupations

As for the possibility of the NCP to notify to the EU TP Secretariat changes in the EU-wide list, we would support to have more frequent updates. In Slovakia the national shortlist of occupations is published quarterly.

- Art. 19 Accelerated immigration processes

Slovakia is in favour of keeping the “may-clause” provision in the text to allow MS for facilitating the arrival of third country nationals selected for a job vacancy within the EU Talent Pool.

SPAIN

Article 11.

Although provision is made for a declaration of not having been refused entry or stay in a Member State, it is possible that some third-country nationals (TCNs) may submit this responsible declaration despite being subject to an entry ban.

It would be advisable for the Presidency to explore with the Commission the feasibility of this check being carried out automatically by cross-checking with existing databases.

Article 12.

The 'EU talent partnership pass' is intended to highlight those TCNs who have participated in a talent partnership, but not all TCNs have the opportunity to participate in these partnerships, so that, although the certification of certain skills developed or validated in this context is a good way of certifying qualifications, the filter referred to in Article 16 could lead to positive discrimination against the group participating in these partnerships, and therefore negative discrimination against other TCNs.

Paragraph 6 limits the visibility of those TCNs with an "EU talent partnership pass" to one year to the Member States participating in the partnership. It would be more appropriate to limit the visibility of the pass to one year, so that after that period the TCN would still appear, but not be highlighted with a pass. The value-added of this paragraph is however unclear for ES.

Article 13.

This article is concerned with the workload of the national contact points, especially in those states with devolved employment management.

Article 14.

Occupations that directly contribute to the EU's green and digital transitions and are likely to increase in importance should be listed if there is a shortage of workers in these occupations, otherwise it would undermine the talent pool proposal.

Article 15.

Given that the criteria used by Member States to make country-specific adjustments to the list of EU-wide shortage occupations are not harmonized, a mention to the exchange of national criteria could be added to this article or, alternatively, to the first paragraph of Article 9 if this exchange is done within the EU Talent Pool Steering Group.

Article 16.

We insist that more details should be given about the algorithm of the automatic matching tool and that it should be open source.

Regarding the specific filter for TCNs who have obtained an "EU talent partnership pass", we consider that this could discriminate against those who do not have such a pass.

Finally, we would like to know how many profiles/vacancies the automated matching tool will suggest.

Article 17.

We stress our concern about the workload of the National Contact Points.

Article 18.

We have a study reservation on what is regulated in this article concerning the facilitation of complaints and available redress mechanisms.

On the one hand, the possibility to lodge complaints and seek redress raises doubts as to the applicability of Member States' jurisdiction, given that the participants in the platform are still residing outside the territory of the EU and do not have the status of applicants for a residence and work permit.

In case there is a "match" on the platform, the TCN submits an application for a residence and work permit and eventually obtains it, the provisions of the Single Permit Directive, which in its new amended version already includes redress mechanisms, will apply. We therefore have doubts about the suitability of this article.

Article 19.

We stress the voluntary nature of establishing accelerated immigration procedures, but we are concerned about what would happen if any MS decided to do so, as this could distort competition for talent within the EU.

With regards to paragraph (b), we propose the following wording:

(b) the **exemption relaxation** from the principle of preference for Union citizens **and/or the requirements for checking the labour market situation** in the case of job vacancies transferred to the EU Talent Pool computer platform.

In addition, we recall that the possibility of speeding up migration procedures already exists under national law, so it would be sufficient to mention it in a recital of the directive.

Article 20

We are again concerned about the workload of the national contact points.

Article 21

We would like to have clarifications about the conditions to adopt delegated acts by the Commission referred to in this article, and particularly those spelled to in paragraph 3 and the consequences thereof.

Annex

We would like to know in detail the criteria used to draw up the list of occupations with labour shortages at EU level. These criteria and the criteria used to update it should be specified in the Regulation and should be flexible enough to incorporate further adaptations needed.

It would also be important to take into account the good practices of Member States in detecting labour shortages in certain sectors, with a view to implementing them for the operation of the Talent Pool.

SWEDEN

General remarks

SE appreciates the proposal to establish an EU-talent pool. SE supports the voluntary nature of the proposal and welcomes the use of existing infrastructure and tools such as EURES to create the automatic matching tool within the Talent Pool. We further believe that it is important to avoid duplicating these already existing tools and that it is important to avoid adding any additional administrative burden to the MS, when implementing the Talent Pool.

However, SE 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. SE believes that this article should cover the provisions of withdrawal of a Member State from the EU Talent Pool.

Article 4 (3)

SE believes that the definition of employer should be deleted from the definitions, since the term “employer” varies within member states. SE therefore welcomes the suggestion from the Council’s Legal Service, to delete the definition and that an article or paragraph laying down the provisions on who is intended to use the tool, instead.

Article 5 (and throughout)

SE finds it unclear what is meant by employers **participating** in the EU Talent Pool, in the proposal. We therefore welcome the clarification by the Commission, that employers participating in the EU Talent Pool are the employers with *active published vacancies*. SE however believes that this needs to be clarified in the regulation text.

Article 9 (4)

SE believes that the reference to 'cross-industry' in this paragraph should be deleted. This is due to harmonize with other legislative frameworks, for example the EURES regulation.

Please see below:

“Representatives of the ~~cross-industry~~ social partners organisations at Union level shall have the right to participate as observers, in the meetings of the EU Talent Pool Steering Group.”

Article 10 (d)

SE 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. SE 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 that the national job vacancy database can be updated (when relevant)? Also, who is responsible for removing the jobseekers profile? This needs more clarification in the regulation text.

Article 15 (1)

SE welcomes the Commissions approach to making national adjustments to the list of EU-wide shortage occupations and the possibility for the MS to remove *any* occupation from the list, regardless of whether this constitutes a shortage occupation or not. This flexibility is much welcomed from SE's side. We would therefore suggest that this flexibility to adjust the national list should be clarified in the regulation. This is important in order for the MS to meet their specific national labour market needs and to maintain a flexibility in the national labour market policy. Please see our suggestion below:

“The participating Member States may decide to add shortage occupations at the ISCO-08 4-digit level, in order to satisfy their specific labour market needs. They may also decide to remove any shortage occupation²s from the EU-wide list where those do not correspond to their specific labour market needs, **or based on national migration policy**. The country-specific adjustments shall only affect the matching of job vacancies in the Member State concerned.”

In addition, SE believes that the MS should be able (if relevant, however optional) to regulate national adjustments more often than once a year as stated in paragraph 1, to properly meet the shortages at the labour market, for example when it comes to seasonal workers. Once every three months would, in our view, be more efficient and preferable.

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? SE believes that this needs to be clarified in the regulation text.

² It is further important that ‘any shortage occupation’ includes the occupations which contribute directly to the EU green and digital transitions.