



Council of the European Union  
General Secretariat

Brussels, 19 March 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° prev. doc.:	6937/24 INIT
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 - Presidency compromise text

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Following the request for written contribution on the above-mentioned document at the Working Party IMEX (Admissions) meeting on 8 March 2024, delegations will find in Annex a compilation of the replies as received by the General Secretariat.

**Written replies submitted by the Member States**

<b>CROATIA</b> .....	2
<b>CYPRUS</b> .....	9
<b>THE CZECH REPUBLIC</b> .....	12
<b>ESTONIA</b> .....	13
<b>FINLAND</b> .....	16
<b>FRANCE</b> .....	18
<b>GERMANY</b> .....	25
<b>GREECE</b> .....	30
<b>HUNGARY</b> .....	34
<b>IRELAND</b> .....	35
<b>LATVIA</b> .....	37
<b>LITHUANIA</b> .....	39
<b>PORTUGAL</b> .....	45
<b>THE NETHERLANDS</b> .....	50
<b>SPAIN</b> .....	65
<b>SWEDEN</b> .....	67

## CROATIA

In general, we would like to emphasize that it is extremely important to maintain the voluntary basis of participation of Member States in this complementary tool.

Also, we would like to reiterate the fact that, EU Talent Pool, as a complementary tool that does not constitute a new legal migration pathway, does not and should not in any way influence migration procedures and legislation, as well as procedures and legislation regarding the recognition of qualifications.

### Articles 1-6, recital 6

#### Article 2- Scope

Having in mind **the scope** of this Regulation in Article 2 and the definition of “jobseeker” in Article 4, we would like more clarification whether the platform will have mechanisms that will prevent the entry of profiles of third country nationals residing within the territory of the EU, especially if persons are residing illegally. How will this be done?

Our concern is that this may cause entry of profiles that are outside of the scope of this Regulation (or may not be able to apply for the territory for residence and work permits, due to their illegal residence), thus overburdening the platform and leading to overburdening national authorities who will be part of National Contact Point (especially in terms of giving specific information).

As regards the persons **in need of international protection**, and the **revised recital 30**, it is still unclear how will National contact point have the information that person is in need of international protection, thus providing all information as requested under recital 30. How is this information to be given if MS has not yet established any programs/projects of complementary labour pathway.

Also, new recital 30, provides for support and tailored information, including (but not limited to) as regards obtaining travel document and integration support for:

- registered jobseekers who have been selected for job vacancy in the Talent Pool **and**
- would be eligible for participation in a complementary labour pathways for those in need of international protection (cumulative).

In our understanding of recital 30 and the explanation given during the meeting, the support and tailored information (including on obtaining travel document and integration support), would be given if MS have established programs/projects for complementary labour pathways for those in need of international protection. Is our understanding correct?

We propose then to have minor adjustment in the Recital 3 replacing the words „would be eligible“ with „are eligible“, as it better reflects the situation of MS having such complementary labour pathways.

### **Article 3**

We can support the introduction of cases of withdrawal from Talent Pool. However, the timelines (notification 9 months before; and the actual effect as of January 1 the following year), are somehow not aligned (especially in cases if notification takes place e.g. in June, can a MS exit the Talent Pool on January 1 following year, or it has to wait for January 1 the following year-because the nine month rule was not complied with).

As regards the recovery of funding, it should be noted and taken into account that during participation of MS in EU Talent Pool, **its National Contact Points effectively carried out all responsibilities (guaranteeing the function of EU Talent Pool IT platform at national level, transferring job vacancies, keeping a registry, providing wide set of information to third country national as well as to employer... )** and that during this time **actual costs occurred** (staff costs, equipment costs... ). This should be taken into account when talking about financial recovery of MS resulting from withdrawal and the recovery mechanism should be further explained.

### **ARTICLES 7-10**

#### **Article 9-EU Talent Pool Steering Group**

As regards Article 9, Paragraph 1 point d):

Even though the new proposed text in point b) now only refers to “exchanging practices”, rather than “discussing”, we believe that there is no need for Steering Group to discuss on accelerated immigration procedures, because the establishment and functioning of the EU Talent Pool should not interfere with immigration procedures or the conditions of entry, residence or issuance of residence and work permits to third country nationals.

en though the exchange of experiences of other MS as regards immigration procedures, improvement and acceleration is certainly very welcome and desirable, however, we believe that there are currently other forums where MS can exchange experiences in relation to the above topic.

#### **Article 10. paragraph 1 (National contact point)**

The National Contact Point is expected to provide various information, that lies within the competences of various national stakeholders, such as information related to the working conditions, social benefits and health assistance, recognition of qualifications....

As regards the role of immigration authorities in National Contact Point, the referent articles are Article 10 para 1 points f) an g) that refer to Article 17 para 1 and 2 (inform on immigration procedures and specific information on national immigration procedures to obtain visas and residence permit for work purposes; as well as specific guidance and information on family reunification).

Having this in mind, Article 10 obliges MS to establish (one) National contact point and to ensure that it is composed of relevant authority for employment and relevant authority for immigration, even though the relevant tasks of NCP would include also information on access to recognition of qualification, health, education, housing....

It seems there is little or no flexibility for MS in arranging the composition of NCP.

It is now explicitly stated in Article 10 para 1 that NCP can rely on other national competent authorities for this purpose, but it remains unclear should other authorities also be nominated as part of NCP; or not? Or could they only provide information as per Art 17.

In addition, having in mind the two different authorities that must be part of NCP (labour and immigration authorities), it is unclear which authority remains responsible within the NCP to refer third country national to other sources of information or to other competent authorities on e.g. education or housing questions.

As regards para 2 point e) –it would seem that there is no automatic access of the employers to Eu Talent Pool, but only if NCP allows entry, and under certain condition?

## **Articles 11-16, Recital 24, 24a**

### **Article 11 (registration and access of third country national)**

Regarding Article 11 point 2) and Recital 16, we are still concerned on administrative burden of having large number of profiles of third country nationals that might not fulfill the conditions for entry into EU.

If there will only be a declaratory statement form third country national that he/she does not have a measure of refusal to refuse entry or stay in the EU; how would this administrative burden be addressed (NCP still needs to provide various information on various aspects, and on some points also some specific support and information).

What is the consequence if a person has an entry ban (and falsely presents that he does not have one), which in practice will be revealed only during the immigration procedure. Could this profiles be removed from Eu Talent Pool?

### **Article 13 (registration of employer)**

We are interested in the connection between paragraph 3 and recital 23, that is, at what time and in what way do employers provide third-country nationals with the information prescribed in recital 23 (information in written form), because at the moment of matching in Eu Talent Pool, third country national is still outside the territory of EU.

In relation to paragraph 2 point b), we would like an explanation whether the term "are open to recruitment of jobseekers from third countries" includes the possibility of introducing the implementation of a previous labor market test for the employer, as a precondition to allow participation in EU Talent Pool?

Furthermore, as regards paragraph 3, it is our understanding that access of the employers to Eu Talent Pool is not automatic, but rather sought through NCP that can establish additional conditions under which employers would participate in EU Talent Pool (so it is not only about subsequent checks, but the employer is checked earlier before entering the Talent Pool). Is our understanding correct (this would be the interpretation of Article 10, para 1 point e))?

What additional conditions may MS introduce?

Also, as regards paragraph 4 and the suspension of job vacancies, we believe that **Article 13, as it describes the participation of employer in EU Talent Pool, also a paragraph on conditions of refusing, suspending or withdrawing the access of employer form Eu Talent Pool.**

Para 4 only refers to removing job vacancies, and in point d) there is a reference to suspension of employer, but again, it only relates to removing job vacancies.

#### **Article 17-19, recital 27, 28, 30, 30a, 31, 31a**

##### **Article 17. (information and assistance)**

We welcome the recital 30a, that gives more clarification as to what level of support and assistance is envisaged, **especially in relation to Article 17 para 2.**

However, there is still need to clarify the difference between „**specific information**“ as refer to in para 2. point a) and “**specific guidance and information**“ in point b. **What does guidance entail?**

**As regards point c) there is a need to clarify the difference between „redress“ and „complaint mechanism“? Are they two different mechanism and what do they refer to?**

In recital 30, the term „redress“ refers to „cases of labour exploitation and unfair recruitment“, while Article 18 refers to „facilitation of complaints“ in case of breach of Article 13(3) that refers to „unfair recruitment“, „inadequate working conditions“ and „non discrimination“. We would appreciate explanation in this regard.

##### **Article 18 (facilitation of complaints)**

Article 18 refers to breach of obligations and conditions of Article 13(3).

However, the reach of Article 13(3) is quite wide, namely it refers to

**a) the obligation of employer to comply with the relevant national and EU law in order to ensure the protection of third-country nationals from:**

- unfair employment

- inappropriate working conditions
- discrimination
- any additional conditions for the participation of employers in the EU Talent Pool.

Recital 23 seems to be relevant in this regard, and it refers to the legislation and rules that **apply after the person enters the territory** (eg the Directive on the single permit, seasonal workers...), then on the written information that the employer is obliged to provide to the worker.

b) additionally, Article 13(3) also **prohibits employers to charge fees to registered jobseekers for the purpose of the recruitment.**

Since Article 18 refers to **jobseekers**, i.e. citizens of third countries who do not yet reside in the territory of the Member State, nor are they in the immigration process, it is unclear whether and in what way this complaint mechanism is connected with introductory statement 23 and the employer's obligation to providing certain information to job seekers.

During the meeting, the Commission gave an explanation that third country national could complain because employer charged fee to registered jobseeker for the purpose of recruitment (Article 13(3) second subpara).

Since the third country national has not yet started working, nor is he at this moment in the immigration procedure, he is still a jobseeker in EU Talent Pool, and having in mind the scope of Article 13(3) and having in mind the above said wide reference of Article 13 (3), **it remains unclear breach of which rules (except charging fee for recruitment) would third country national report to NCP at this stage (third country national still residing in third country)?**

**What exactly does a third country national could report at this stage and to whom (if he has not yet been issued a residence and work permit and has not started work)?**

We believe that this should be further explained and we would like to have more practical explanations, in order to have a clear picture of all obligations arising from this proposal.

## **Article 19**

Having in mind that it is emphasized that the EU Talent Pool does not affect immigration procedures, we consider this article redundant, even as a may provision. Member States may, without this being stated in this article, establish such procedures in their national law anyway.

## **CYPRUS**

### **Recital 18:**

Cyprus believes that more information could be provided as regards the phrase “Specific information and support” that was added in recital 18. It is not clear exactly as to what information and what type of support this phrase refers to.

### **Recital 21:**

Cyprus is of the opinion that more explanations are required as regards the link of Talent Pool and EU Talent Partnerships. It is not clear for us whether jobseekers who declare their talent partnership pass, they would be entitled to vacancies by employers in the MS where there is an EU Talent Partnership with their country of origin? Is it correct to assume that only when the Partnership pass is not declared the jobseeker can apply for jobs in any MS part of the EU Talent Pool, otherwise they are restricted to the MS with Talent Partnership agreements?

### **Recital 23:**

“...nor prohibit a worker from taking up employment with other employers, outside the work schedule established with that employer,...” Cyprus would like to raise two important points as regards this particular part of the recital:

1. Working for more than one employer might not be compatible with national legislation and/or practice in certain member states (i.e. Cyprus) ;
2. what if the second employment is outside the list provided within the EU Talent Pool framework? What if the third country national quits or is ceased from their first employment (via EU Talent Pool) and continues working for their second employer outside of the EU Talent Pool list? What happens in cases like this? Are there any rules /guidelines to be followed or is it up to the member state to decide course of action?

**Recital 24(a)**

Cyprus welcomes the addition of this recital as it offers clarification as regards the verification of jobseekers profiles and qualifications.

**Recital 30:**

Concerns remain that the wide role covered by the National Contact Point will create additional budgetary costs.

**Article 3(1a):**

Cyprus welcomes the additional par(1a) regarding withdrawal. Cyprus believes that the nine (9) month period mentioned in the paragraph does not align with the date of January 1<sup>st</sup> mentioned in the same paragraph. Additionally, Cyprus would like some more information regarding the recovery of funding according to the provisions of the Financial Regulation.

**Recital 6 and Article 4:**

Cyprus welcomes the deletion of the phrase “including private employment agencies, temporary work agencies and” and the addition “may also be included in the EU Talent Pool” in recital 16. The new wording better accommodates for the differences in national systems and legislations of the member states.

On article 4(3), we welcome the removal of private employment agencies, temporary work agencies and labour market intermediaries from the definition of the employer. Cyprus also welcomes new par(3c) regarding the definition of the “participating employer”.

**Article 6:**

Regarding Article 6(3) Cyprus believes that job vacancies of employers participating in the EU Talent Pool should not only include the name, surname and contact details of the employer but also important information such as description of the job, qualifications required, terms and conditions of employment, salary, other benefits.

**Article 9:**

Cyprus welcomes the addition in par.2

**Article 11:**

Article 11(1): Cyprus believes that the creation of profiles by the jobseekers via the Europass should not be optional (“may clause”) but should rather be obligatory, so that there will be uniformity in all the profiles uploaded to the system.

**Recital 16 and Article 11(2)**:

Concerning the declaration that the jobseeker will make that they are not subject to a judicial or administrative decision refusing the entry or stay in a member State in accordance with the national law or an entry ban to the territory of the Union in accordance with Directive 2008/115/EC. Cyprus is concerned about the high administrative costs that will be created in the cases where the self-declarations are false.

**Article 13:**

Cyprus welcomes the substitution of the “may clause” in par (1) with an obligatory clause “shall”.

Cyprus also welcomes the additions in par (4).

**Article 15:**

Cyprus welcomes the modification in the last paragraph of par (1) (deletion of “maximum once a year” and substitution with “every six months”)

**Article 17:**

As regards par (1) , Cyprus is of the opinion that since the information already exists in the EURES portal it could be retrieved from or linked to the EURES portal.

## THE CZECH REPUBLIC

The Czech Republic sends the following written comments:

- 1) How will the data be sent to the European portal - through the same stream/API as the EURES vacancy data?
- 2) Will an employer from a Member State be able to submit their vacancy to either the EU Talent Pool or the EURES database within the national systems or will all vacancies that are in the Member State's database be automatically duplicated in both databases?

We would like to know the process by which the EU Talent Pool will ensure that agencies do not collect financial contributions from their candidates? Will national procedures only be used?

## ESTONIA

### 1. Recital 30 and 30a

During the last IMEX meeting EE supported FR proposal to delete “support” and use term “information” instead. In addition, we also ask to delete the word “tailored”.

We are in a position that the wording of the recital 30 is highly prescriptive with extensive obligations to MS-s and increase administrative burden. “Tailored” would indicate an approach resembling the case management which we do not find justified nor necessary. We are in a position that such open-ended obligations are vague and could lead to a situation where the obligations are so extensive that it may inhibit MS-s to join with a Talent Pool. In addition, such differentiation between participants in the Talent Pool and other foreigners who apply for residence permit directly, without using Talent Pool, could lead to discrimination. There is no obvious reason why jobseekers listed in the Talent Pool should be treated more favourably than other jobseekers in a similar situation. We would appreciate amendments to the text along the lines of FR proposals.

### 2. Recital 31

We kindly ask to use same wording as in other legal migration directives and use only the reference to Article 79 (5) and delete “...coming from third countries to their territory in order to seek work...”. The TFEU applies notwithstanding the existence of this recital or provision and therefore there is no need to repeat it.

### 3. Article 3 (1a) Participation and withdrawal

We very much appreciate that the regulation on withdrawal has been added to the text. But we find added wording, especially regarding financial consequences of withdrawal, a bit vague and uncertain. There is a wide reference to the provisions of the Financial Regulation, but it is not clear what this would entail. Perhaps it could be elaborated in the paragraph or recitals what is meant under the Financial Regulations, what does it entail and that the Union funding is **partial**, subject to negotiations as it was explained at the previous IMEX meeting.

#### 4. Article 4.1 (3b) definition of labour market intermediaries

We welcome amendments of the PRES regarding the definition of employer, TAW and intermediaries. We support separating the three concepts and leaving it up to the Member States to decide whether to include TAW and intermediaries or not.

However, point 3b defining labour market intermediaries raises some questions for us. Firstly, modified ILO 181 C definition is used, including natural or legal persons, which provide other services relating to job-seeking, such as the provision of information, **that do not aim to match specific employment offers and applications** (point c). For us it is somewhat unclear why the Member States would have the possibility to apply the provisions of the regulation referring to employers to the bodies who in fact do not have any employment offers. As it is stated in article 4 (3c) that ‘participating employer’ means an employer **whose job vacancies have been transferred** to the EU Talent Pool IT Platform.

It does not seem to make a lot of sense to apply the provisions of the regulation to a body who cannot effectively participate in the Talent Pool. We would propose that point c should be left out of the text or amended as follows: “*which provides **at least two** ~~one or more~~ of the following labour market functions*”.

Secondly, it is also somewhat confusing that point b of the definition refers to services for employing workers with a view to making them available to the employer. In our legal system that would correspond to TAW defined in point 3a. Having two different definitions for the same type of entity could be legally challenging.

## 5. 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 reiterate our earlier written proposal as we still have not quite understood why „shall“ cannot be used then the intention clearly is to use one channel for creation of job-seekers profiles. As stated before, 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“.

## **FINLAND**

Finland welcomes the compromise proposal from the Presidency. The text has developed in the right direction. It is particularly important that Member States' participation remains voluntary. Furthermore, we consider it important that the proposal does not include any binding provisions on the conditions for entry into the Member State. Finland also emphasises that this proposal should not foresee the funding for the next financial framework.

As a general remark Finland brings up that ensuring interoperability between Talent Pool and national matching platforms is extremely important. However, currently available information does not make it possible to assess what the interoperability would require and how it would work nationally.

Finland is still reviewing the proposal and maintains a scrutiny reserve on the whole text. Therefore following comments are still preliminary.

### **Article 10:**

Finland emphasises that the proposal should not create unreasonable administrative burden to Member States. Therefore, services for jobseekers should 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 supports aspirations to prevent and combat exploitation of foreign labour in the use of Talent Pool. Concerning article 10(e) Finland points out that the referred article 13(3) covers wide variety of situations. In order to guarantee efficient implementation and equal treatment of employers, it should be defined nationally in what kind of situations employers' entry to the Talent Pool could be refused.

### **Article 12:**

Finland suggests that commission would explore possibilities to utilize all Talent Pool's functionalities also in Member States' bilateral partnerships with third countries.

**Articles 14 and 15:**

The relation between EU-wide list and national list remains to be unclear and it should somehow be clarified. Furthermore, Finland emphasizes that it should be the sole right of the Member States to decide which professions to add or remove from the EU-level list.

Finland welcomes Presidency's amendment to article 15(2) regarding the possibility to notify national additions and removals every 6 months. However, Finland thinks that there is a need to specify the process of approving and publishing national adjustments.

**Article 17:**

With reference to our comments on article 10, we suggest that the wording of article 17(2) should be amended to minimize the administrative burden. For example the words "upon request" could be deleted.

**Article 18:**

Finland points out that the article refers to "jobseekers", persons who do not yet reside in a country which means that many obligations and conditions laid down in Article 13(3) do not apply. Therefore, we think that the scope of application of this article is unclear.

## FRANCE

La France remercie la Présidence pour ce premier texte de compromis, qui prend en compte plusieurs remarques formulées lors de la dernière réunion du groupe IMEX admission et par voie écrite.

Elle salue des avancées très positives, dont des clarifications répondent à nos préoccupations sur plusieurs enjeux, comme la possibilité de retrait de la plateforme (article 3) ou encore l'inclusion des agences d'emploi privées et des intermédiaires du marché du travail dans le règlement est laissée à l'appréciation des Etats membres (article 2) et la mise à jour de la liste nationales des métiers en tension.

Afin de compléter ces évolutions, nous souhaiterions faire part des positions et des propositions d'amendements sur plusieurs points :

### 1. Procédure de retrait : délai de notification

Nous avons pris bonne note des informations communiquées par la Présidence, mais nous nous interrogeons toujours sur les conséquences d'un tel délai pour la procédure de retrait (notification 9 mois avant, puis prise d'effet au 1<sup>er</sup> janvier de l'année suivante). Cela nous semble de nature à susciter une éventuelle lourdeur dans la procédure administrative de retrait compte tenu des critères cumulatifs prévus dans la proposition de compromis. Dans certain cas, la décision prendrait effet jusqu'à 20 mois plus tard.

Nous proposons de réduire à 6 mois la durée de notification

#### Proposition d'amendement :

*“A participating Member State may withdraw its participation from the EU Talent Pool at any time. It shall notify its decision to the Commission ~~at the latest 9 6 months before the date it intends to withdraw~~. The withdrawal shall take effect **on 1 January of the following year at the latest 6 months after notification**. The withdrawal shall result in the recovery of the union funding according to the provisions of the Financial Regulation.*

## 2. Définition des employeurs

Nous accueillons favorablement les modifications de l'article 4 et du considérant 6 associé sur la définition des employeurs, qui répondent à nos préoccupations en excluant les intermédiaires du marché du travail et en particulier des agences privées de placement. Cela pourrait toutefois être davantage explicité dans le texte et au considérant 6.

### Propositions d'amendements :

Considérant 6: **“Each member state may decide to include in the EU Talent Pool labour market intermediaries including private employment agencies as defined by the International Labour Organisation Convention 181 from 1997 and temporary work agencies ~~may also be included in the EU Talent Pool.~~**

## 3. Définition des chercheurs d'emplois sélectionnés

Afin de clarifier le terme de « *registered jobseeker who has been selected* », introduit dans de nombreux passages du texte, nous proposons d'ajouter une définition de cette expression. Nous nous montrons ouverts à tout autre proposition remplissant les mêmes objectifs. Le maintien de la mention d'un document justificatif nous semble toutefois important.

Nous souhaiterions en outre, au considérant 18, que le terme « selected » soit précisé, par exemple en y ajoutant une condition de fourniture d'un document attestant cette sélection.

### Propositions d'amendements :

Considérant 18 :

*Online information on existing recognition and validation procedures at national level should be available in the EU Talent Pool IT platform and –specific information ~~and support~~ should be provided by the EU Talent Pool National Contact Points to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool and can provide so by a specific document signed by the employer.*

*Article 4: ‘jobseeker from a third country’ means a person residing outside the Union who is not a citizen of the Union within the meaning of Article 20(1) TFEU and to seek employment in the Union; **a jobseeker “selected” is a jobseeker having received a hiring promise from an employer registered on the EU Talent pool for a specific offer. In order to benefit from services provided to “jobseekers who have been selected” described in the EU Talent Pool regulation, the jobseeker shall be able to provide a document signed by the employer and referring to the offer published on the EU Talent Pool.**”*

#### **4. Missions des points de contacts nationaux**

Nous apprécions également les précisions apportées sur les missions des points de contact nationaux, comme la restriction de certaines obligations des points de contact nationaux au périmètre des demandeurs d’emploi des pays tiers qui ont été sélectionnés par un employeur pour un poste ainsi que le caractère général de l’information attendue. Toutefois, ces missions telles que décrites dans cette nouvelle version du texte continuent d’être problématiques, en vue de notre éventuelle participation à la plateforme. Il s’agit notamment du fait que les services publics de l’emploi en France ne peuvent pas fournir de services d’accompagnement aux demandeurs d’emploi n’étant pas encore autorisés à venir sur le territoire français et n’ayant pas encore de permis de travail. Nous souhaiterions donc les termes « support » et « assistance » soient supprimés, afin de privilégier les missions d’« information » (considérant 18, article 10, paragraphe 2g).

En outre, la formule « sur demande » (« upon request ») présente à l’article 17(2) est ambiguë car elle ne traduit pas de manière suffisamment claire le caractère général de l’aide apportée et pourrait laisser entendre que le point de contact national est tenu de répondre à des sollicitations individuelles.

#### **Propositions d’amendements :**

*Considérant 18 :*

*Online information on existing recognition and validation procedures at national level should be available in the EU Talent Pool IT platform and –specific information ~~and support~~ should be provided by the EU Talent Pool National Contact Points to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool*

Article 10, paragraphe 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

Considérants 30 et 30a :

The EU Talent Pool National Contact Points ~~could~~ should provide additional ~~support~~ **information** upon request to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool and employers participating in the Talent Pool. Additional ~~support~~ **information** 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. Registered jobseekers who have been selected for a job vacancy in the Talent Pool and would be eligible for participation in a complementary labour pathways for those in need of international protection in a MS, should benefit from ~~support and tailored~~ information from the EU Talent Pool National Contact Points including as regards obtaining a travel document and integration support upon arrival.

Considérant 30a :

~~Support and assistance~~ **Information** by member States should, where possible, be standardised [...]

Article 17(2)

« The EU Talent Pool National Contact Points shall provide **specific information** ~~additional support and post selection assistance—upon request—~~ to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool 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 working conditions, access to social benefits, health assistance, education, housing, recognition of qualifications and the available redress complaint mechanisms 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, and in accordance with national practice, the contact details of other national competent organisations which offer post-recruitment assistance for third country nationals

## 5. Composition des points de contacts nationaux

Nous avons bien pris note de l'intention de la Présidence de favoriser un « point de contact unique », mais nous semble souhaitable de lever l'ambiguïté sur la possibilité pour ce point de contact d'être constitué de plusieurs personnes réunies au sein d'une structure, à l'article 10, paragraphe 1.

### Proposition d'amendement :

*Article 10.1 "Each participating Member State shall designate an EU Talent Pool National Contact Point, **which may be represented by a single person or a group of persons gathered under a structure to be determined at national level.** Participating Member States shall ensure that the EU Talent Pool National Contact Point is composed of relevant authorities from the field of employment and immigration.*

## **6. Nature du « pass partenariats de talents »**

Nous avons entendu la réponse de la Commission qui propose de remettre à l'acte d'exécution la détermination exacte du « pass partenariats de talents », à l'article 12. Nous estimons toutefois que l'articulation opérationnelle entre la réserve de talents de l'UE et les partenariats de talent doit être clarifiée car la création d'un tel « pass partenariats de talents UE » créera des droits d'accès facilité à la plateforme pour un individu, alors que les partenariats de talents sont envisagés comme un outil de coopération souple, politique et non contraignant entre Etats membres et pays tiers : il doit être clairement précisé quelles activités seront de nature à permettre à leur bénéficiaires de disposer d'un tel pass.

**Nous n'avons pas, à ce stade, de proposition rédactionnelle, mais sommes ouverts à un échange avec la Présidence et les services de la Commission afin de clarifier ce point.**

## **7. Liste de métiers en tension**

A l'article 15, nous insistons fermement sur la nécessité de pouvoir articuler de manière cohérente la liste des métiers en tension élaborée au niveau européen et les listes nationales ou régionales établies par les Etats membres, car ces dernières sont nécessairement plus précises et plus représentatives des réalités locales du marché du travail. Nous nous interrogeons en particulier sur la conduite à tenir dans le cas où un métier prévu au niveau national ne figurerait pas dans la liste européenne.

Nous n'avons pas, à ce stade, de proposition rédactionnelle, mais sommes ouverts à un échange avec la Présidence et les services de la Commission afin de clarifier ce point également. Il nous semble en tout état de cause nécessaire de consacrer une discussion approfondie sur la question de l'article 15 et sur l'annexe proposée par la Commission.

Sans préjudice de ces réflexions à venir, il nous paraît *a minima* nécessaire d'amender le texte de l'article 15 afin de clarifier la procédure et les règles que doivent suivre les Etats membres pour procéder aux adaptations de la liste des métiers en tension à l'échelle de l'UE, et de prévoir 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.

Proposition d'amendement :

Article 15 (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.*

## GERMANY

We thank the BEL Presidency for this first compromise proposal and appreciate that several of our remarks have been considered. However, with regard to some Articles/Recitals we still have concerns.

### I. Recitals

#### Recital 10

We recommend to consider synergies between the EU Talent Pool and the ERA Talent Platform aimed specifically at researchers.

#### Recital 18 and Art. 17 para. 2

We appreciate the new wording insofar as it leaves enough freedom of action on the national level.

We would like to point out that in-depth counselling in the MS can only take place in existing processes for the counselling, placement and recognition of professional qualifications of third country nationals. In Germany, duplicate structures with possibly more comprehensive information and counselling requirements for registered jobseekers in the EU Talent Pool would not be feasible from the perspective of the national public employment service.

#### Recital 19

*(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,~~ Where suitable, the skills developed or validated in the framework of a Talent Partnership 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 ~~delivery~~ deliver. The issuing of a 'EU Talent Partnership pass' is without prejudice to European and national rules on access to regulated professions.*

We kindly ask for a change of wording and inclusion of „where suitable“ as found above.

### **Recital 23**

In principle, GER believes also that there is a general need for discussion regarding the specific protection of third-country nationals posted within the union. On the other hand, GER has concerns that inconsistencies and practical difficulties may arise if the conditions for this depend on whether a third-country national has been recruited via the Talent Pool or outside of it.

The last part of the last sentence „such as the obligation that third country workers can only be posted to a Member State if they are legally and habitually employed in another Member State.” regarding the posting obligations does not correspond to the scope (labour law) and the wording of the Directive 96/71/EC as amended by Directive 2018/957. It might be rather a question of the applicable legislation under Rome I Regulation and the migration / residence laws. Therefore, we suggest to put the formulation cited above in a separate sentence not directly linked to directive 96/71/EC.

### **Recital 24a**

*“Verification of the jobseekers’ profiles and qualifications”*: From our point of view, this might be misleading. The passage should be deleted if it is only about non-discriminatory selection and checking suitability for the advertised position. We suggest a corresponding positioning in the directive.

### **Recital 27 and 30a**

We support the possibility to refer to existing sources of information at national level or at Union level.

### **Recital 30, Art. 17 and Art. 18 (also Recital 18)**

Due to the expansion of the National Contact Points’ responsibilities (“should” instead of “could”) in Art. 17 and Art. 18, we would like an explanation of how the National Contact Points are to provide individual (“tailored”) support and counselling services with a small number of staff. We do not share the COM assessment that tailored information or individual support will not be the rule once the possibility is open for jobseekers.

Art 17 para. 2 also includes “post-selection assistance”. Here we would like an explanation as to whether this should cover the period after a selection up to the start of employment or whether services are also expected beyond this.

Art. 17 para. 2 lit. (a) to (c) contain the requirement for "specific" information or guidance. Here we request an explanation as to whether this requires individual information/guidance or whether requests can also be answered using standardised information.

Recital 30 describes services in the context of "guidance and information on family reunification procedures" as "may". Art 17 para. 2 lit. (c) takes this up as "shall". We also ask for clarification here.

The referral counselling made possible by Art. 10 para. 1 (Recital 27 and 30a) is expressly welcomed, but in our opinion not sufficient for this purpose. We see the risk that the new wording could be a deterrent for MS when deciding whether to join the EU Talent Pool or not.

## **II. Articles**

### **Art. 2**

In principle, we welcome the option for Member States to decide whether private employment agencies and temporary work should be included in the EU Talent Pool.

### **Art. 3 para. 1 lit. a**

We welcome the inclusion of a withdrawal clause.

### **Art. 8**

We kindly ask COM for an assessment and evaluation of a possible “placement” of the Secretariat at the European Labour Authority (ELA).

### **Art. 10 para. 1**

We welcome the possibility to rely on other national competent authorities, as the national public employment services and immigration authorities are not responsible for all of the National Contact Point’s tasks.

## **Art. 11**

### **Para. 4**

It is specified that only registered users can search for jobs. On comparable job platforms at the national or EU level (e.g. EURES or EURAXESS), however, it is possible to search for jobs without logging in. An account should only be required if you want to apply for a job you have found. This also applies to Art. 16, para 4.

## **Art. 12**

### **Para. 1**

*“Participating Member States taking part in a Talent Partnership may decide to rely on the EU Talent Pool to facilitate the recruitment of jobseekers from that third country whose skills were developed or validated in the framework of that Talent Partnership and **potentially** certified by an ‘EU Talent Partnership pass’.”*

In our view, a facilitated recruitment via the EU Talent Pool should also apply for people without an EU Talent Partnership Pass, wherefore we would like to include the word „potentially“.

### **Para. 2**

The limits of the "EU Talent Partnership pass" and its use in the EU Talent Pool must be made clear to users in order to avoid frustration in case further equivalence checks are necessary in the context of labor migration at the national level.

## **Art. 13**

### **Para. 4**

As already noted in Art. 11 para. 4, a simple job search should also be possible for users without a personal account, which is in line with the 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 and Art. 18**

See comments on Recital 18 and 30.

**Art. 19**

We appreciate the inclusion as well as the deletion.



## **GREECE**

**EL Comments on Proposal for the Regulation proposal establishing an EU Talent Pool, following IMEX meeting on 08.03.2024 (Articles 1-6 including recital 6, Articles 7-10, Articles 11-16 including recital 24a, Articles 17-19 including recital 27, 28, 30, 30a, 31, 31a, Articles 20-24 and the annex to the Regulation)**

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

EL, initially, reiterates its previous comments, sent, following the meeting of IMEX (Admission) Working Party on 10 January 2024.

#### **Article 2- Scope**

-par.1a: EL proposes, in relation to the addition of the new par.1a (may clause) and the possible implementation of the provisions of the Regulation to temporary work agencies and labour market intermediaries, the addition of the following wording: *“Member States may decide and in accordance to the provisions of their national legislation”*.

#### **Article 3- Participation and withdrawal**

-par.1a: regarding the addition of the new par.1a that regulates the issue of withdrawal of a MS from the Talent Pool, it is proposed the wording of the provision to be in line with par.1 on the participation in the platform. Thus, the issue of the recovery of the EU funding could be mentioned in relevant other article of the Regulation that addresses financial matters.

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

-par.3a: EL would like to be clarified the source of the definition of ‘temporary work agency’.

-par3c: EL would like to be explained the feasibility of the addition of a separate definition of ‘participating employer’.

In addition, EL proposes the addition of a definition on ‘EU Talent Partnership pass’ under art. 4.

### **Article 9- EU Talent Pool Steering Group**

-par.1, sub.par. ab: EL would like to be clarified the issue of “facilitation of exchange”.  
Does it refer to the list mentioned in par. 1a?

-par. 1, sub par.d: EL proposes to be maintained the previous wording (“discussing”), as the new wording (exchange of practices) may have an obligatory character for a procedure (art. 19 accelerated immigration procedures) that it is of national competence if it will be implemented or not.

-par.2: regarding the members of the EU Talent Pool Steering Group, it is proposed to be followed the same wording as of art. 10 par.1 regarding NSPs.

### **Article 10- EU Talent Pool National Contact Points**

-par. 10e and 10f: EL agrees with amendments.

### **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).

-par. 2: EL would like the implementation of the provision to be clarified, in order to avoid situations such as for example false declarations.

### **Article 12-Profile registration and access of jobseekers from third countries in the context of Talent Partnerships**

EL proposes that a definition for “EU Talent partnerships pass” is included in article 4.

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

EL emphasizes the issue of interoperability, especially in terms of restricting access to profile registration in the Repository of persons against whom a judicial/administrative decision has been issued. We would like to be clarified the issue of limitation of applicant's data to which employers will have access. Also, EL would like to point out that Greece implements volumes for admission for reasons of employment and thus third-country nationals who will participate in the Talent Pool and the relevant "matching" procedure, will be under the prejudice of the volumes admission determined by the country.

Moreover, as a general comment, in case of finding serious arbitrariness on the part of employers, in addition to the withdrawal of their participation, a time penalty should be set (e.g. a penalty of 3 months of no right to register job vacancies). Also, it could be further examined which mechanism would ensure the legal status of the jobseeker in case of lack of agreement or early termination of the employment relationship with a particular employer and which Service/body will be responsible for resolving labor disputes.

- par. 2b: EL agrees with the amendment. however, we would like to expand the provision to include also third country nationals legally residing in the MSs, as relevant wording is included in various directives on legal migration.

-par. 4c: in case where a MS notifies Cion on the withdrawal of participation of an employer from the EU Talent Pool, EL proposes for reasons of legal certainty, to be added the following: "*Member State withdraws the participation of an employer from EU Talent Pool in accordance with relevant provisions in its national legislation*".

-par.5: it could be further examined possible duplication with par. 4b.

### **Article 15-National adjustments to the list of EU-wide shortage occupations**

Vacancies are proposed to be registered in EU Talent Pool after a shortage in certain occupations at national level has been found and also after a comprehensive relevant research at European level.

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

-par. 2c: the reference to “working conditions” may not be possible, as the working conditions differ among various professions. In any case, the relevant provisions of labour and insurance legislation are in force/implemented.

-par. 2e: EL would like that the organisations that offer “post-recruitment assistance” are clarified. Also EL proposes instead of the term “national practice” to be used the term “national legislation”. Moreover, the provision creates an obligation and administrative burden for provision of information to organisations which offer post recruitment assistance and proposes its deletion.

### **Article 18- Facilitation of complaints**

-EL considers that the proposed amendment needs to be clarified, in order to be clear on what stage of the procedure the person concerned may lodge a complaint (e.g. it could be in the stage where the person has been selected as an employee (and not when the person is only a registered jobseeker, except if the provision concerns the charge of fees foreseen in art 13 par. 3) and has started to work, therefore, in case the legislation is infringed, to be able to lodge a complaint. Furthermore, EL proposes the NCPs to refer, in any case, the complaints to the competent national authority for evaluation, thus, the wording “where appropriate” may be redundant.

### **Article 19-Accelerated immigration procedures**

EL agrees with the amendments.

#### **Recitals:**

-**24a**: EL would like to be clarified which options of the employer could be considered as discrimination.

-**30**: EL suggests to be aligned the wording of the third sentence of this recital with recital 4, thus becoming a ‘may’ clause (“could benefit instead of should benefit”).

-**30a**: EL would like to be clarified the term “automatically”.

-**31**: EL agrees on the reference to volumes of admission.

-**31a**: EL proposes the wording of this recital (which has a “may” character: could) to be included in art. 9 par. 1d (which has an obligatory character).

## **HUNGARY**

In general, we remain concerned about the expected increase in administrative burdens and stress the importance of working with precise definitions. The increase in administrative burden is not a theoretical problem, most of the Member States are already facing challenges in this area and this could have a major impact on the willingness to join the Talent Pool in the future. Thanks to the Belgian efforts, we can see progress in this area.

We will continue to examine the relationship between the national and EU lists of shortage occupations, and we believe that the text could use clarification. We do not yet see the exact procedure in practice and have a scrutiny reservation.

## **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. As noted at the meeting, Ireland is engaging actively in legal migration measures and is reviewing the other legal migration measures to consider possibilities to opt-in to those measures under Article 4.
- 2) Ireland held parliamentary scrutiny in late February and early March and communicated its intention to opt-in to the Talent Pool Regulation pre-adoption in advance of the deadline of 6<sup>th</sup> March. Recital 38 can be amended to reflect Ireland's opt-in under Article 3.

### **On Individual Recitals and Articles:**

#### **Recital 24(a):**

Will an individual from a third country be allowed to raise a case of discrimination against an Irish employer if they are unsuccessful in their application for a job and feel they were discriminated against? Article 18 on page 37 mentions a process for raising grievances within the Talent Pool mechanism itself, but seek more clarity on rights an individual from a third country would have here.

#### **Recital 27 and Recital 30:**

We support the addition of text to retain some acknowledgement that this pathway is open to those who may otherwise avail of irregular pathways. The relevant text has now been included in Recital 30.

#### **Article 10(1):**

We welcome the flexibility conferred on the National Contact Point to rely on other national competent authorities given the disparate organisational structures among Member States. We would like some more clarity on the way information provision is connected between the NCP and immigration authorities.

**Recital 18 and Article 18(1):**

We agree with the facilitation of jobseekers' complaints in Article 18(1) but seek clarity on the referrals. Is this a single action of directing the complainant to the competent national authority or is there an obligation on the National Contact Point to then act as a liaison for the jobseeker?

This is also reflected in Recital 18 'specific information and support'. Can we clarify that the amendment seeks to note that information will be available on the website and that the TP NCP could provide signposting/information support if they have queries beyond what is available on the platform

**Article 19:**

We support the changes to Article 19.

## LATVIA

### **Recital 6 (also Article 4)**

*The EU Talent Pool aims at providing services to employers that are established in the participating Member States. For the specific purpose of this Regulation, the concept of employer should be defined and such definition should be used only for the purposes of this Regulation. ~~including private employment agencies, temporary work agencies and~~ Labour market intermediaries including private employment agencies as defined by the International Labour Organisation Convention 181 from 1997 and temporary work agencies may also be included in the EU Talent Pool.*

Latvia would like to have further explanation on why a new definition of an employer is introduced with specifically mentioning intermediaries. In general, the concept of the employer should not extend to labour market intermediaries including private employment agencies and temporary work agencies, as they represent new categories of employers and can create confusion for employees and supervisory authorities as to who the real employer is. It might be better to attribute the specific obligations also to those two categories of employers rather than to put in place a new definition of what an employer is.

A temporary employment agency, according to Article 3.1b of the Temporary Agency Work Directive 2008/104/EC, means any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction. Therefore, temporary employment agencies are full-fledged employers that have all the obligations of an employer. On the other hand, private employment agencies and labor market intermediaries only provide information and job search services, they are not employers and do not conclude employment contracts with employees.

The rules must be clear that each vacancy must be linked to a specific employer (not employment agencies and labour market intermediaries providing information and job-matching services) and that this employer must also be registered in the system.

### **Article 3, para 1a**

*A participating Member State may withdraw its participation from the EU Talent Pool at any time. It shall notify its decision to the Commission at the latest 9 months before the date it intends to withdraw. The withdrawal shall take effect on 1 January of the following year. The withdrawal shall result in the recovery of the Union funding according to the provisions of the Financial Regulation.*

Latvia agrees that there should be a provision allowing Member States to withdraw their participation from the EU Talent Pool, however, the provision on the recovery of the Union funding might make the procedure of the withdrawal rather cumbersome. Therefore, we would like to clarify what this would entail.

### **Recital 24a**

*Employers are responsible for thorough, non-discriminatory selection of candidates and verification of the jobseekers' profiles and qualifications and the assessment of the suitability of the jobseeker vis-à-vis the job vacancy.*

The provision that employers are responsible for verification and validation of the jobseekers' profiles and how it will be implemented in practice should still be further clarified, perhaps, considering the experience from other EU portals where personal identity is verified already upon registration.

## LITHUANIA

(30) The EU Talent Pool National Contact Points should provide additional support upon request to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool and employers participating in the Talent Pool. 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. Registered jobseekers who have been selected for a job vacancy in the Talent Pool and would be eligible for participation in a complementary labour pathways for those in need of international protection in a MS, should benefit from support and tailored information from the EU Talent Pool National Contact Points including as regards obtaining a travel document and integration support upon arrival. 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.

**Question:** Usually, integration support upon arrival contains of providing information, which is already noted in the paragraph. Are there any additional functions intended to be implemented?

(31) To achieve the objective of this Regulation, the effective application of the EU legal migration *acquis* should be ensured, in particular the legislation and procedures, in accordance with national law, in view of obtaining **a work permit and a residence permit** in a Member State. This Regulation should furthermore not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work in accordance with Article 79(5) of the Treaty on the Functioning of the European Union (TFEU).

**Suggestion:** (31) To achieve the objective of this Regulation, the effective application of the EU legal migration *acquis* should be ensured, in particular the legislation and procedures, in accordance with national law, in view of obtaining a work permit **or a temporary** ~~and a~~ residence permit in a Member State. <...>

**Rationale:** Person which intends to work in Lithuania according to migration procedures would be provided with a temporary residence permit. Therefore, to keep legal consistency it is needed here and further in the document to use proper terms.

### *Article 3*

#### **Participation and withdrawal**

1a. A participating Member State may withdraw its participation from the EU Talent Pool at any time. It shall notify its decision to the Commission at the latest 9 months before the date it intends to withdraw. The withdrawal shall take effect on 1 January of the following year. The withdrawal shall result in the recovery of the Union funding according to the provisions of the Financial Regulation.

**Suggestion:**”<...> It shall notify its decision to the Commission at the latest ~~9~~ 6 months before the date it intends to withdraw. <...>”

**Rationale and questions:** We appreciate the inclusion of conditions of the withdrawal from the EU Talent Pool. However, aiming for effective use of human and financial resources we would like to suggest limiting notification term from 9 to 6 months. Additionally, while permission to withdraw from the program is very much welcomed and provides member states with clarity of their possible actions, we suggest listing the rules and criterias for return of financial contributions.

*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) exchanging practices regarding the implementation of accelerated immigration procedures to facilitate the recruitment of registered jobseekers from third countries pursuant to Article 19.

**Suggestion:** we suggest rephrasing article 1 part d so it would be misinterpreted as an obligation of member state to introduce accelerated immigration procedures.

*Article 10*

**EU Talent Pool National Contact Points**

1. Each participating Member State shall designate an EU Talent Pool National Contact Point. Participating Member States shall ensure that the EU Talent Pool National Contact Point is composed of relevant authorities from the field of employment and immigration. Where relevant, the EU Talent Pool National Contact Point may rely on other national competent authorities for the purpose of fulfilling the tasks set out in paragraph 2.

**Suggestion:** As provided in Article 17, Part 2 of the regulation, the National Contact Point will possibly also provide information on the recognition of qualifications, which means the need for higher competences and the involvement of representatives from the field of education and science. The NCP, which unites several areas of competence, can be quite a challenge for member states in terms of setting clear limits of responsibility, as well as ensuring high quality customer service. An excessive burden of responsibility should not become a test that discourages the desire to participate in the activities of the Talent Reserve.

2. The EU Talent Pool National Contact Point shall be responsible for:

- (d) keeping a registry of employers participating in the EU Talent Pool;

**Question:** How will employers have to express their will take part in the EU Talent Pool program? Could it be provided additional information in the article for the procedures of expression of interest for the employers.

#### *Article 11*

#### **Registration and access of jobseekers from third countries**

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

**Question:** Should it be understood that job seekers will not be subject to any restrictions related to professional qualifications or experience when registering on the platform?

**Rationale:** Article 13, point 2, part a) of the Regulation indicates that the NCP transfers to the EU Talent Reserve platform only those jobs that are on the list of missing professions. Regarding the registration of jobseekers, there is no mention of the connection of their qualifications or experience with the list of missing professions.

#### *Article 13*

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

4. 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.

**Question:** According to article 13 part 4 and information provided by the Commission in the working party job vacancies are no longer displayed when it is occupied. However, it is possible that job vacancy will be open for a long term because of a lack of interest from the job seekers. Will there be an expiration date of job posting?

**Rationale:** This paragraph indicates that jobs are no longer displayed in certain circumstances, but we would suggest a normal practice regarding the expiration date of a job posting, i.e. indicating the expiry date of the advertisement. Otherwise, irrelevant jobs or those for which an employee has not been found for a long time will simply load the database.

## *Article 15*

### **National adjustments to the list of EU-wide shortage occupations**

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.

**Question:** What will be alternative options for member states that do not have the list of shortage occupations?

**Rationale:** Member states may not have a list or have only fragmented list for specific region. Not using a list or using lists from fragmented areas wouldn't be efficient and accurate resolution.

## *Article 17*

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

2. The EU Talent Pool National Contact Points shall provide additional support, and post-selection assistance – upon request - to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool 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 working conditions, access to social benefits, health assistance, education, housing, recognition of qualifications and available redress mechanisms 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, and in accordance with national practice, the contact details of other national competent organisations which offer post-recruitment assistance for third country nationals.

**Suggestion:** We suggest using the same terms in the recitals and main body, as in the recital 31 the same thing is identified as “work permit” while in this article it is identified as visa. Additionally, as noted in suggestion at recital 31 we suggest to use same terms in this article part a. We proposed to narrow the specified scope of provided information by deleting points b), d), e) of Article 17 as it is redundant and clarify point c). Providing such consultations would duplicate functions set in national system.

## PORTUGAL

From the analysis of the first compromise text presented by PRES BE, discussed at the WG meeting on 08.03.2024, the following comments are offered by PT:

### **Article 2, 1a (added)**

From our point of view, the article added is harmonised consistently with Recital 6 and Art. 4. We can support it.

Article 2,1a, read in conjunction with the final part of recital 6 (also amended), adds that Member States may decide to apply the provisions of this Regulation relating to employers and also to temporary-work agencies and labour market intermediaries established in the participating Member States. According to recital 6, the concept of employer should be defined for the specific purposes of the Regulation and that definition should be used only for the purposes of the Regulation.

The PT national legislation already includes temporary work agencies, private employment agencies and temporary work agencies, as well as private placement agencies, and the respective exercise and legal regimes are regulated in PT. Similarly to the provisions of recital 6 of the proposed Regulation, the PT legislation also alludes to ILO Convention No. 181 of 19 June 1997, which adopted a new regulatory framework for private employment agencies. PT has nothing to prevent temporary employment agencies and labour market intermediaries from falling within the scope of Article 2(1a).

### **Article 3, 1a**

For PT this provision adds consistency to the criteria and procedures for entering and exiting the platform. However, and in view of the last meeting discussions, we would suggest to shorten the period of anticipation to communicate the intention to participate or withdraw to 6 months, and/or eliminate “The withdrawal shall take effect on 1 January of the following year.”

### **Article 4, 3**

We have no objection to the inclusion, in the concept of employer, of temporary employment agencies and private placement agencies, provided that they respect the framework provided for these entities in their respective national legislation – as is the case, moreover, in the context of the EURES Regulation.

### **Article 4, 3 (c)**

Having into account that the model for implementation of interoperability schemes will have differences regarding the EURES Portal implementation scheme, we would like to better understand how different it will be – as this will mean additional work in the implementation of the (new) Interoperability Single Coordinated Channels. We welcome this new model, which we believe will allow for better analysis by NCPs and a more integrated service for employers. However, usually the employer data required for the creation of access credentials on the platform is autonomous and is not usually associated with the job vacancy data schema. We therefore believe that this may raise some questions, also regarding the interoperability of “employers’ personal data” and GDPR issues.

### **Article 4, 1 (5)**

The reference to “transferring” job vacancies, in this and other articles, are referring to making these job vacancies available for search in a certain interface (similarly to what we have in the EURES Portal), or to the real migration of data and creation of a new database? Just to make sure, we would appreciate some clarification, as it has completely different implementation schemes.

### **Article 6**

We emphasize compliance with EU and PT legislation on data protection. We can support.

## **Article 8, 2**

We agree with MT regarding the inclusion of a training facility for National Contact Points' staff, like what is foreseen under the EURES Regulation. Even though was mentioned that it is implicitly referred in Recitals, we could not find any clear reference – eventually maybe in Recital (10), but only focusing on interoperability schemes. In view of the fact that specific responsibilities for personalised assistance services are being created for the National Contact Points, a Training Programme would be important and/or synergies could possibly be created with existing programmes (e.g. under EURES and ELA).

## **Article 9**

PT has nothing to oppose most of the proposed amendments to this article, which we can support. However, we have the following comments:

### **Article 9, 1**

In order to maintain the generic possibilities for the exchange of relevant practices (for the purposes of this platform) between the participating Member States, we would suggest merging (ab) and (d) into a single point: "facilitate the exchange between the participating Member States with regard to the practices and procedures relevant for the purposes of this Regulation, including the methodologies used in national adjustments to the needy lists; The implementation of ACEL migratory procedures.

### **Article 9, 2**

We agree with BG's suggestion of an alternate from each of the effective representatives. We think that where it says 'Each participating Member **States**', would like to say 'Each participating Member **State**'.

### **Article 9, 4**

We think that the original wording would perhaps be preferable, while also maintaining 'cross industry', as we think It could be useful in the context of the assessment of labour needs, particularly with regard to the match vacancies/skills/worker to provide it.

## **Articles 10**

We consider these amendments made to be positive and that they bring greater clarity to the text. However, we have the following comments:

### **Articles 10, 2**

To maintain consistency with the wording of Article 15(1), we suggest adding "at least": "notifying (...) the list (...) **at least** once a year." Also, we would suggest simpler writing. For example: "“notifying to the EU Talent Pool Secretariat the national list of shortage occupations, resulting from national adjustments to the list of EU-wide shortage occupations pursuant to Article 15, at least once a year”".

### **Articles 10, 3**

We think perhaps it would be useful to clarify whether we are referring to meetings and, eventually, to suggest some minimum frequency of these meetings (e.g., twice a year, or more).

## **Article 12**

For us this Pass still needs further clarification on its concept.

In our understanding, it will only make sense if associated to identified with specific Talent Partnerships – otherwise the “return on investment” purpose will get lost. And this has significant consequences in terms of implementation (technical infrastructure), as only employers from the Member States involved in that Talent Partnership should be able to search for it, for a maximum period of one year. Also, the conditions for the issuance of this Pass, as well as the bodies responsible for it, should be clearly associated to the stakeholders involved in each project – who should have a specific type of access to the platform. Finally, this possibility that the jobseekers’ profiles visibility will be limited to employers from certain countries for 1 year has clear advantages for those employers, but not necessarily for the jobseekers – who may eventually have less interest to use this Pass. Alternatively, maybe this Pass could be used in the matching algorithm, for a better finding, or prioritization in the profile lists, and not considering the possibility to hide their profiles to other countries? It’s just a technical suggestion, eventually more feasible and effective.

### **Articles 13 and 15**

We consider the amendments made to be positive and that they bring greater clarity to the text. We can support it.

### **Article 16, 2**

Please check the above comments on Article 12, namely regarding the specificity of the Pass to a certain Talent Partnership project. How will these be made compatible to a single filter?

### **Article 17, 1a)**

We think this article might benefit from a more systematized presentation – with an enumeration by information categories, e.g.:

- i) immigration procedures;
- ii) rights of third country nationals (including redress mechanisms);
- iii) recognition of qualifications and validation of skills;
- iv) living and working conditions;
- v) ...

### **Article 18**

We support the clearer wording brought about by the amendment.

### **Article 19**

PT supports the new wording, which we consider to be more objective and with greater legal certainty.

### **Article 20, 4**

We support the proposed amendment, which we consider useful and important. We would suggest that the results of this monitoring should be made available to the Member States through the National Contact Points and that the regularity of the monitoring should be provided for more objectively, i.e. with an indication of its frequency (e.g. annually/semi-annually).

### **Article 23**

We have nothing to oppose to this, we can support it.

## THE NETHERLANDS

### General remarks

- We would like to thank the Belgian Presidency for the compromise proposal and adopting a significant number of our text proposals. We believe the compromise proposal is moving in the right direction.
- In the context of creating a well-functioning instrument for Member States that choose to participate, with extensive attention to fair recruitment and the prevention of abuse and exploitation of migrant workers and better protection of posted third-country nationals, we will make a number of additional proposals on this first compromise proposal.
- Our input is divided in a section where we deal with recitals and articles related to the posting of third country nationals and a section where we deal with other recitals and articles.
- We remain available to think constructively about solutions.

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### Posting of third country nationals

#### Specific comments/ suggestions Articles

##### *Article 2*

##### **Scope**

1. This Regulation applies to jobseekers from third countries residing outside the Union and employers established in the participating Member States.

~~**1a. Member States may decide to apply the provisions of this Regulation referring to employers also to temporary work agencies and labour market intermediaries established in the participating Member States.**~~

### *Justification for suggested changes and comments*

As previously stated, the Netherlands is committed to making the EU Talent Pool a well-functioning tool for those Member States that will decide to participate. We are strongly in favour of the voluntary nature of the Talent Pool. Member States must retain responsibility for their own labour markets. Since all Member States face similar challenges concerning shortages on their labour markets, the proposed EU matching tool can facilitate the national processes of finding qualified third country nationals where there is no national or European workforce available.

We welcome the change the Presidency made to the definition of ‘employer’ in article 4. Private employment agencies, temporary work agencies and labour market intermediaries should indeed not be included in this definition. However, allowing Member States to apply the provisions of this Regulation referring to employers also to these parties (article 2.1a), does not, in our opinion, contribute to reducing the risks of exploitation and abuse of migrant workers. When introducing this new facilitating tool, we should prevent those risks as much as possible. An employer knows best what kind of personnel is needed for their own business. The Talent Pool provides employers with a practical tool to find staff themselves. 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, it is more likely that, because of the 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 when intermediaries and employment agencies are allowed access to recruitment through the Talent Pool. We therefore propose to delete article 2(1a) and add text to recital 5 (see below)

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- (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. **Recruitment with the aim of posting third-country nationals in the framework of the provision of services of Directive 96/71/EC as amended by Directive 2018/957, and Directive 2020/1057 is contrary to the purpose of the EU Talent Pool.** As a voluntary tool to facilitate international recruitment, the EU Talent Pool 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*

The EU Talent Pool aims at providing services to employers that are established in the participating Member States. These employers are only allowed to recruit third-country nationals through the Talent Pool when they have an actual job vacancy in the Member State where they are established (article 13.1). So there cannot be any recruitment through the Talent Pool that is destined to another Member State than where the employer is established. Recruitment with the aim of posting third-country nationals in the framework of the provision of services of Directive 96/71/EC as amended by Directive 2018/957, and Directive 2020/1057 is therefore contrary to the purpose of the EU Talent Pool Regulation. We propose to clarify this in recital 5.

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- (6) The EU Talent Pool aims at providing services to employers that are established in the participating Member States. **For the specific purpose of this Regulation, the concept of employer should be defined and such definition should be used only for the purposes of this Regulation.** ~~including private employment agencies, temporary work agencies and~~ Labour market intermediaries **including private employment agencies** as defined by the International Labour Organisation Convention 181 from 1997 and temporary work agencies **may are not also be included-excluded from participating in the EU Talent Pool.**

*Justification for suggested changes and comments*

In our view, the step taken in the compromise proposal is insufficient to counteract situations of exploitation and abuse of migrant workers that regularly occur through recruitment by intermediaries and temporary employment agencies. After all, the free movement of services means that non-EU jobseekers can still end up on the labour markets of Member States that do not participate in the Talent Pool, thus negating the voluntary nature of the instrument. Also with a view to providing a level playing field in the Union, we therefore still advocate that all private intermediaries and employment agencies should be excluded from the EU Talent Pool at the front end.

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(23) The International Labour Organisation (ILO) in its ‘General principles and operational guidelines for fair recruitment’ sets out a number of standards on adequate protection of jobseekers from third countries against unfair recruitment. Employers should comply with applicable Union law and practice. Equal treatment of jobseekers from third countries with respect to nationals of the participating Member States should also be ensured by the employers in accordance with Directive 2011/98 , Directive 2014/36/EU , Directive 2021/1883/EU , and Directive 2016/801/EU . In accordance with Directive 2019/1152/EU , employers participating in the EU Talent Pool should provide to registered jobseekers from third countries information in writing and in an understandable language on their rights and obligations resulting from the employment relationship at the start of the employment. This information should at least include the place and the 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. An employer should neither charge any recruitment fee nor prohibit a worker from taking up employment with other employers, outside the work schedule established with that employer, nor subject a worker to adverse treatment for doing so. Employers participating in the EU Talent Pool should comply with Directive 96/71/EC as amended by Directive 2018/957 when posting workers in the framework of the provision of services, in particular with regard to the terms and conditions of employment thereby established such as the obligation that third country workers can only be posted to a Member State if they are legally and habitually employed in another Member State. **Employers participating in the EU Talent Pool should comply with Directive 96/71/EC<sup>1</sup> as amended by Directive 2018/957 when posting workers in the framework of the provision of services, in particular with regard to the terms and conditions of employment thereby established such as the obligation that third country workers can only be posted to a Member State if they are legally and habitually employed in another Member State.**

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<sup>1</sup> **Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1, ELI: <http://data.europa.eu/eli/dir/1996/71/oj>).**

- (23a) Employers participating in the EU Talent Pool should not post recruited third country nationals to non-participating Member States. As these third country nationals are recruited to address existing and future skills and labour shortages in participating Member States, it would be contrary to the purpose of this Regulation if these third country nationals are posted to non-participating Member States. Besides, it would circumvent migration policies of these Member States.**
- (23b) Employers participating in the EU Talent Pool should only post recruited third country nationals to another participating Member State in a sector where there is a labour shortage in the receiving Member State. They should comply with Directive 96/71/EC as amended by Directive 2018/957, and Directive 2020/1057 when posting recruited third country nationals in the framework of the provision of services, in particular with regard to the terms and conditions of employment thereby established such as the obligation that third country workers can only be posted to a Member State if they are legally and habitually employed in the Member State of entrance. These third country nationals must be legally employed for a minimum period of one year in the Member State of entrance before they can be posted to another participating Member State.**

*Justification for suggested changes and comments*

We propose to move the last part of recital 23 to a new recital 23a and 23b with further clarification on third-country nationals. When third-country nationals have been successfully matched with an employer and can legally reside in a participating Member State, they should not be posted in the framework of the provision of services of Directive 96/71/EC as amended by Directive 2018/957, and Directive 2020/1057.

In order to prevent brain drain and protect participating Member States from losing freshly recruited talent to Member States through posting of workers in the framework of the provision of services, we suggest to create a new recital 23b containing safeguards to prevent this from happening.

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*Article 4*

**Definitions**

1. For the purposes of this Regulation, the following definitions shall apply:
  - (1) ‘participating Member States’ means Member States participating in the EU Talent Pool;
  - (2) ‘jobseeker from a third country’ means a person residing outside the Union who is not a citizen of the Union within the meaning of Article 20(1) TFEU and to seek employment in the Union;
  - (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, **excluding private employment agencies, temporary work agencies and labour market intermediaries;** ~~as well as private employment agencies, temporary work agencies and labour market intermediaries;~~

*Justification for suggested changes and comments*

We specifically added that we would like to exclude private employment agencies, temporary work agencies and labour market intermediaries for reasons we explained earlier.

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*Article 13*

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

**4.**

- a. Employers participating in the EU Talent Pool must not recruit registered jobseekers from third countries with the aim of posting them to another Member State.**
- b. Employers participating in the EU Talent Pool must not post recruited third country nationals to non-participating Member States.**
- c. Employers participating in the EU Talent Pool are only allowed to post recruited third country nationals to another participating Member State on the condition that there is a labour shortage in the sector in the receiving Member State where the third country national will be posted. Employers must comply with Directive 96/71/EC as amended by Directive 2018/957, and Directive 2020/1057 when posting recruited third country nationals in the framework of the provision of services, in particular with regard to the terms and conditions of employment thereby established such as the obligation that third country workers can only be posted to a Member State if they are legally and habitually employed in another Member State. These third country nationals must be legally employed for a minimum period of one year before they can be posted to another participating Member State.**

*Justification for suggested changes and comments*

We suggest to add a new paragraph 4 in line with our argument for recitals 23, 23a and 23b.

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## Other recitals and articles

### Specific comments/ suggestions Articles

**(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 changes and comments*

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. There are more shortages in low quality jobs. Therefore we believe 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. We also believe it is important to promote brain circulation and prevent brain drain in the countries of origin.

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- (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>2</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>3</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.

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<sup>2</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>3</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>)

(30) ~~Upon request from registered jobseekers from third countries and employers participating in the EU Talent Pool, The EU Talent Pool National Contact Points could should provide additional support upon request to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool and employers participating in the Talent Pool.~~ 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. ~~Registered jobseekers who have been selected for a job vacancy in the Talent Pool and would be eligible for participation in a complementary labour pathways for those in need of international protection in a MS, should benefit from support and tailored information from the EU Talent Pool National Contact Points including as regards obtaining a travel document and integration support upon arrival.~~ 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 are still of the opinion that provision of information should not only take place at the request of the jobseeker. The addition of recital 30a also leads to administrative burdens in this sense also being reduced as much as possible. Often, people 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 only when someone asks for it.

We have deleted 'tailored' as this goes against recital 30a. We have also deleted the part about registered job seekers as this part raises a few questions, since it is unclear how is eligibility to be determined and the necessity of mentioning a specific target group in a recital that deals with categories of information. NL considers that the link with complementary labour pathways is sufficiently made clear in recital 4. We therefore propose to delete these sentences.

*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.

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Article 17

**Information provision and support services**

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 ~~upon request~~ to registered jobseekers from third countries **who have been selected for a job vacancy in the EU Talent Pool** and employers participating in the EU Talent Pool, in particular with regard to:

*Justification for suggested changes and comments*

We are still of the opinion that provision of information should not only take place at the request of the jobseeker. The addition of recital 30a also leads to administrative burdens in this sense also being reduced as much as possible. Often, people 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 only when someone asks for it.

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.

Recital 30 differentiates between may- and shall clauses. NL is strongly in favour of applying the same distinctions here, in the operative part. Also, there some unaccounted differences in wording.

The content of provision 30a could perhaps also be reflected in a provision under this article.

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## *Article 19*

### **Accelerated immigration procedures**

1. Participating Member States may, ~~in accordance with national law,~~ 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*

The compromise proposal is indeed an improvement, however, NL still considers the article to be out of the scope of this Regulation. Also, it codifies a practice that should not be codified in union law as it already, and will remain, within the competence of Member States. At most, it could be reflected in the recitals.

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## **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.

## SPAIN

### **Articles 1-6 including recital 6**

#### **Article 3.**

*“The withdrawal shall result in the recovery of the Union funding according to the provisions of the Financial Regulation.”*

On withdrawal, we are concerned that all funds received since joining the platform will have to be returned. Especially when it is not known to what extent funds will be available to MS and to what extent they will have to be returned. In this sense, we miss that the legislative project includes specific references to the financing mechanism of the initiative.

We oppose the inclusion of this paragraph of the article until the financial mechanisms are included in the Regulation.

#### **Article 4.**

We have doubts about the definitions, we would like to know where the PRES BE has taken them from and whether there is a consensus on them. We are concerned that these terms are defined in this type of provision.

#### **Article 5(3).**

The wording does not clarify whether the use of the ESCO format will be mandatory. Recital 11 refers to it as optional, but it may be desirable to use it to ensure real interoperability.

#### **Article 6(6).**

It may be desirable that the profiles of jobseekers who have not been offered a job within one or two years are removed from the platform in order to avoid an excessive number of active profiles.

## **Articles 7-10**

### **Article 10(2)(g).**

The information and support that jobseekers may receive, which refers to Article 17(2), should be limited to ensure that the workload of the national contact points is not excessive.

## **Articles 11-16 including recital 24<sup>a</sup>**

### **Articles 11 and 12**

do not address the problem that a considerable number of jobseekers might register on the platform and, in case of a match with a job offer, might not comply with national immigration admission requirements for entering or staying in the Member States. This could hamper the functioning of the platform.

## **Articles 17-19 including recital 27, 28, 30, 30a, 31, 31<sup>a</sup>**

Article 17(2) indicates "upon request", but the new wording does not specify upon whose request and could create uncertainty and lead to more workload.

The deletion of Article 19(2) further reduces the migratory content of this proposal. We reiterate that the provisions of this article are already possible under national law.

## **Articles 20-24 and the annex to the Regulation**

We have no comments.

## SWEDEN

### General remarks

SE welcomes the compromise proposal from the Presidency. We believe that the changes that were made in this first compromise text is a step in the right direction and that many of the suggested changes are of a clarifying nature, which is appreciated. SE needs more time to review the proposal properly but would like to highlight some of our preliminary concerns and questions below.

### Recital 24a

Suggestion from our side to add a reference to fair recruitment in this recital. Suggestion:

*“Employers are responsible for thorough, non-discriminatory selection of candidates and verification of the jobseekers’ profiles and qualifications and the assessment of the suitability of the jobseeker vis-à-vis the job vacancy, with respect of fair recruitment”.*

### Recital 30

SE believes that to maintain a consistency within the proposal (for example as done in recital 30 and art. 17(2)) it would be preferable to add a reference to jobseekers who have been selected by the employer in the recital. Please see suggestion below:

*“Support and assistance by member States should, where possible, be standardised and automatically distributed to the recipients or consist of a referral to the appropriate sources of information and/or the competent authorities in case the jobseeker has been selected by the employer.”*

### Article 3

SE welcomes the provision of withdrawal that was added to the text by the Presidency.

SE understands the Commissions comments regarding consistency within participating MS regarding the participation in the Talent Pool. However, SE believes that the financial implications need to be further explained in the text and the sentence *“The withdrawal shall result in the recovery of the Union funding according to the provisions of the Financial Regulation”* needs to be further explained, as do the concrete financial consequences for a MS who wants do withdraw from the Talent Pool.

### Article 4 (3)

It is important for SE that the definition of employer is deleted from the definitions since the definition of the term “employer” varies within MS. SE therefore welcomes the suggestion from the Council’s Legal Service, to delete the definition and replace it with an article or paragraph explaining who is intended to use the tool.

### Article 4 (3b)

The definition of labour market intermediaries is not consistent with the definition of the ILO (as stated in recital 6). Suggestion to rephrase according to the ILO text (found below).

***private employment agency*** means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

- (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;
- (c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

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

SE suggests adding a reference to the fact that an employer needs to have an active job vacancy/has an available job vacancy on the platform to be a “participating employer”. See suggestion below:

*“‘participating employer’ means an employer whose job vacancies are available on the EU Talent Pool IT Platform by National Contact Point of the Member State where it is established”.*

Please note that this should also be applied to the temporary work agencies and intermediaries as well.

### **Article 8 and 13**

Our experts from the Swedish Public Employment Service believes that one of the articles needs to lay down provisions on how/when a participating employer is given access to the search function within the tool. After the transfer of a vacancy?

### **Article 9 (1d)**

SE is pleased that the Commission has explained that this is a “may” clause. However, we believe that the voluntariness/option to participate in such discussions should be reflected in the regulation text. See suggestion below:

*“facilitate the exchange optional discussions on the implementation of accelerated immigration procedures to facilitate the recruitment of registered jobseekers from third countries pursuant to Article 19”.*

### **Article 9 (2)**

SE believes that the reference to authorities needs to be deleted in this paragraph. It should at least be up to Member States to determine if such discussions should be handled by responsible authorities or at policy level. Therefore, we suggest deleting the reference to authorities, making it the MS choice if the authorities should represent the MS in the Steering Group or not.

#### **Article 13 (4)**

SE welcomes that recital 14 clarifies for how long a vacancy can be active before being automatically removed. However, we believe that this time period should also be specified in Article 13. To minimize possible abuse of the system, for instance that an employer post a false vacancy to be able to access the system and search for job profiles for other vacancies, we believe that a period of 9 months would be more suitable than the two-year period set out in recital 14. However, we are open to discuss the time period. Suggestion therefore to add:

*(e) if the job vacancy has not been used for a period of nine months.*

Please note that also recital 14 needs to be modified to reflect the article.

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

According to the proposal, the employer is responsible for removing the vacancy from the platform after a successful matching. SE has some questions on the implementation of this provision. How will it be ensured that these tasks have been 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)? Who is responsible for removing the jobseeker's profile? This needs more clarification in the regulation text.

#### **Article 15 (1)**

SE welcomes the changes in the regulation text made by the Presidency regarding how often an MS can add or remove occupations from the national occupations list. Twice a year is much better for the MS to meet their specific national labour market needs and to maintain a flexibility in the national labour market policy. SE is now looking into introducing a system where certain professional groups will be excluded from the possibility of receiving a permit to work in SE, due to extensive abuse in certain professions. Therefore, from our and a jobseeker's perspective, it would have no added value to match profiles to jobs in occupations where a work permit cannot be granted. We welcome that the Commission has made it clear that MS will be able to remove any occupation from the national list (even if these are in fact shortage occupations) and it is very important for us that this is reflected in the regulation text. Please see 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 occupation<sup>4</sup> from the EU-wide list where those do not correspond to their specific labour market needs or national migration policy objectives. The country-specific adjustments shall only affect the matching of job vacancies in the Member State concerned.”*

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<sup>4</sup> It is further important that ‘any shortage occupation’ includes the occupations which contribute directly to the EU green and digital transitions.