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Following the request for written contribution on the Presidency compromise text (doc. 8841/24) at the Working Party IMEX (Admissions) meeting on 2 May 2024, delegations will find in Annex a compilation of the replies as received by the General Secretariat.

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AUSTRIA

Ad Article 1 para 2 lit. d: We suggest to replace the passage „or a national framework on skills development and validation in a third country“ by the following:

„or national or bilateral frameworks of the Member States on development and validation of skills acquired in a third country“.

Reasoning: The wording used in the Presidency compromise could give the wrong impression that the national framework of skills development and validation of the third country is the one to be applied and targeted in this passage. But indeed it is the national framework of the respective european member state, based on a partnership between an european member state and a third country, which needs to be applied for the validation/recognition of skills acquired in the third country. For the sake of clarification the suggested passage should be used in Article 1 para 2 lit. d and all relevant parts of the Draft text including recitals (e.g. Article 12 and its headline).

CROATIA

Articles 7-10

Article 10, paragraph 1 (National contact point)

Article 10 now (as a shall) provision puts an obligation to have an *entity* act as National Contact Point. We believe that this is a good approach, as it would guarantee that there is one single entity that would be responsible for all actions as in paragraph 2.

However, the situation could get complicated because of the obligation to name two experts from national authorities coming from the field of employment and immigration to the composition of National Contact Point.

In practice, there would be several different competent bodies responsible for providing information from Article 17.

Because of wording of Article 10 as regards the obligatory composition of National Contact Point for which two different state bodies will be responsible (e.g. Ministries or other competent bodies), we could imagine situation if e.g. Public employment service (because of similarities to functioning of EURES) would be the entity acting as National contact point, it is unclear does immigration expert needs only to be appointed in addition to this entity (usually immigration experts will not be employees of PES) and does not need to be employed in entity serving as NCP?

From this example, it is not clear how would **NCP be composed** of two experts from immigration and employment (working within two different public bodies) and also an **entity should be appointed as NCP?**

As we stated before, we are concerned that this may also raises concern as regards the possibility of funding and the division of tasks as from Article 17.

As we see the text, the only provisions concerning the immigration experts are the one in Article 17 Paragraph 2 Points a) and b).

Articles 11-16

Article 11 (registration of third country national in EU Talent Pool)

Regarding Article 11 point 2) 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.

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

Article 17-19

Article 17

As regards the obligation to provide certain information to third country nationals who wish to move to Member State, if they have been selected for a job vacancy, we can agree that certain information should be provided to third country nationals.

However, **it would be important to avoid any excessive administrative burden**, especially in providing information on national immigration procedures and family reunification and to **avoid for the competent authorities to be obliged to give specific personalised information for each individual that will be selected for job vacancy.**

We are concerned about the term in Art 17, para 2- „in writing“, because it implies personalised written information. Proposal is to delete „in writing“ and only to keep the term „by electronic means“-this would better reflect the Recital 30a.

If the wording „in writing“ is kept, that we would appreciate explanation would an obligation to provide specific information on immigration procedures would be fulfilled by referring the registered jobseeker only to web page of competent authority, e.g. MoI where there is information on procedures for issuing single permit (in our opinion this would be possible because of Recital 30a).

FRANCE

Elle souhaite faire part des éléments suivants :

- **Champ d'application (article 2), participation et retrait (article 3) et définitions (article 4)**

La participation des « autres entités participantes » à la plateforme EU Talent Pool (article 2) constitue **un point d'attention majeur** pour la France, du fait du recours abusif au détachement des travailleurs ressortissants de pays tiers et des risques accrus d'exploitation par le travail.

La France souhaiterait que les agences de travail temporaires, les agences d'emploi privées et les intermédiaires du marché du travail **soient exclus du champ d'application** du règlement EU Talent Pool, au regard de la finalité du texte consistant à répondre en priorité voire exclusivement aux besoins en main d'œuvre de **l'Etat d'accueil**.

En effet, le recrutement par ce type d'acteur conduit fréquemment à des situations d'exploitation et d'abus à l'encontre des travailleurs migrants, notamment lors du détachement des travailleurs. Le recours abusif au détachement de ressortissants de pays tiers place ces derniers dans une position vulnérable conduisant à l'exploitation par le travail. Cela crée également une concurrence déloyale et un nivellement par le bas en matière de conditions de travail et contourne les politiques nationales de migration ainsi que les dispositions européennes et nationales en matière de droit du travail. Nous devons prévenir ces risques autant que possible et veiller à ce que la plateforme EU Talent Pool ne soit pas un instrument facilitant ces situations abusives.

A l'article 4, la France salue de nouveau l'introduction de la définition d'« employeur participant » et remercie la Présidence d'avoir pris en compte sa remarque visant à supprimer la notion de « *successful applicant* » afin de la remplacer par « *jobseeker who has been selected* » dans la définition d'« offre d'emploi ».

- **Mise en avant des profils de candidats ayant participé à une activité menée au titre d'un Partenariat de talents ou à un autre cadre de coopération (article 12)**

Comme indiqué lors du groupe IMEX du 2 mai, la France soutient la reformulation de la Présidence dans la mesure où elle ne se limite pas aux Partenariats de talents de l'Union européenne, mais élargit le dispositif aux cadres nationaux de développement et de validation des compétences dans un pays tiers.

S'agissant des Partenariats de talents, la France remercie la Présidence pour ses propositions qui lui semblent aller dans le bon sens, notamment avec la suppression du terme « pass » qui pouvait prêter à confusion, et avec l'instauration d'un signalement spécifique pour identifier ces profils.

Néanmoins, nous avons encore quelques interrogations :

- Sur le plan juridique, il nous semble nécessaire de préciser que la mise en avant des profils doit concerner les candidats qui ont participé à des activités menées dans le cadre des partenariats de talents, et non aux partenariats de talents eux même. En effet, ces partenariats sont des entendements politiques ne disposant pas d'existence juridique particulière, et qui sont menés entre l'UE d'une part, et les autorités des pays partenaires, d'autre part. Les personnes physiques n'y sont pas à proprement parler, participante. Des propositions pour clarifier ce point sont proposées ci-après.
- Sur le plan opérationnel, il sera donc nécessaire de pouvoir distinguer clairement les initiatives relevant des partenariats de talents ou « d'un autre cadre de coopération ». Il sera aussi nécessaire que les Etats membres participant aux Partenariats de talents puissent préciser quels types d'actions peuvent donner lieu à la remise d'un certificat permettant un signalement sur la plateforme.
- Enfin, des situations concrètes doivent être envisagées comme, à titre d'exemple, celle d'un ressortissant de pays tiers ayant participé à un partenariat de talent avec un Etat membre qui n'adhérerait pas à la plateforme EU Talent Pool.

Proposition d'amendement

Article 12

Profile registration and access of jobseekers from third countries in the context of Talent Partnerships and national frameworks on skills development and validation in a third country

1. Participating Member States taking part in a Talent Partnership or implementing national frameworks on skills development and validation in a third country may decide to rely on the EU Talent Pool to facilitate the recruitment of jobseekers from that third.
2. Jobseekers from third countries who benefitted from **a registered activity implemented within the framework of a** Talent Partnership may link their profile to the Talent Partnership and indicate the skills developed and validated in that context. These profiles shall be flagged accordingly on the EU Talent Pool IT platform.
3. Jobseekers from third countries who benefitted from national frameworks on skills development and validation in a third country may link their profile to these frameworks and indicate the skills developed and validated in that context. These profiles shall be flagged accordingly on the EU Talent Pool IT platform.
7. The list of third countries and participating Member States taking part in a Talent Partnership shall be published on the EU Talent Pool IT platform by the EU Talent Pool Secretariat. The EU Talent Pool Secretariat shall also publish **a list of registered activities within each Talent Partnership as well as** a list of national frameworks on skills development and validation in a third country, including the third countries taking part in these frameworks, which participating Member States chose to link to the Talent Pool, on the EU Talent Pool IT platform

- **Sur la liste des métiers en tension (article 15)**

La France sollicite à nouveau des précisions sur la procédure et les règles relatives aux adaptations de la liste des professions en pénurie, notamment pour s'assurer que le test du marché du travail soit réalisé avant le dépôt d'une offre sur la plateforme EU Talent Pool (voir nos précédentes contributions écrites).

- **Missions des points de contacts nationaux (article 17) et contrôles sécuritaires (considérant 16)**

Au point 1 de l'article 17, la France salue l'ajout de précisions claires sur le fait que l'enregistrement sur la plateforme n'implique pas que les contrôles de sécurité ont été faits ni que la procédure d'immigration aboutira et remercie la Présidence d'avoir pris en compte nos préoccupations. Ces précisions nous semblent essentielles pour que les employeurs soient pleinement informés des procédures du recrutement et des risques associés.

De même, au considérant 16, la France remercie la Présidence pour ces propositions de précisions et estime que la référence aux contrôles opérés dans les bases de données nationales est importante car cette compétence relève des Etats membres.

Néanmoins, au point 2 de l'article 17, l'ajout proposé ne répond pas à nos préoccupations quant aux tâches des points de contact nationaux : nous maintenons notre demande que l'information à fournir aux demandeurs d'emploi sélectionnés ne soit pas personnalisée mais se fasse sous la forme d'une communication collective.

Proposition d'amendement

~~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 in writing, including by electronic means, specific information, which may take the form of collective communication, additional support, and post-selection assistance to registered jobseekers from third countries who have been selected for a job vacancy in the EU Talent Pool, participating employers and other participating entities participating in the EU Talent Pool, in particular with regard to

La France remercie par avance la Présidence pour la prise en compte de ces éléments et se tient à sa disposition pour échanger plus avant.

GREECE

Recital 16

EL proposes that public order and security check are compulsory during the migration process.

Recital 23a

EL proposes that the wording “*as allowed by national legislation*” is added after “*participating entities*” (see below).

Art. 2 – scope

EL proposes that a paragraph 2 is added in Art. 2, so as to incorporate a “may” provision for the inclusion of other participating entities in the scope of the Regulation, provided this is provided for in the migration legislation of each participating state.

As a general comment: EL would like to note that national legislation in Greece does not allow for private employment agency or intermediaries to act as employers in the context of migration, that is they cannot be the ones to place the “invitation” for a third country national to be admitted in the country for work. Actual employers must be the ones to place the “invitation for work”. This is the reason why EL aims for legal clarity in Art.2 and elsewhere in this proposal, so as to be clear that in other participating entities can take part in the EU Talent Pool only in those member states that allow for it. It is therefore proposed that when “other participating entities” are mentioned therein, the phrase “*if provided so by national migration law of the participating Member State*” is added.

Art. 3 – participation and withdrawal

- EL proposes the addition of a reference to Art.2 so information is provided by member states that allow for the participation of other entities according to national migration law.
- As for par.1a, it should be clearly mentioned which funding recovery mechanism applies (for instance, AMIF Regulation).

Art.4 – definitions

EL raises **reservation** for the deletion of “*as allowed by national legislation*” for the reasons explained above. Private employment agencies and/or intermediaries are not allowed in national legislation to act as direct employers and place the necessary invitation for a third country national to be admitted in the country for work.

The inclusion of “*as allowed by national legislation*” is necessary to ensure the practice of those Member States with similar restrictions.

Art. 9 – Steering group

- on 1d. EL prefers keeping the wording “*discussing*” in place of the “*exchange practices regarding*” as it does not pre-empt that such practices exist, as the new wording suggests. These practices may refer to fast track procedures (art. 19) which are at the discretion of each member state to introduce and apply and should be remain so.

- on 2, EL prefers also the previous wording, that is without clear mention to the two experts, one in the field of employment and one in the field of immigration, as this is a national competence that falls under the remit of the Steering Group.

Art.10 – National Contact Points

- on 1. as above art. 9.2

- on 2c. EL takes note of the explanation by the Presidency during the WP IMEX on 2.5.2024 that the deletion of “*the national list of shortage occupations one a year*” is covered by the formulation of Art. 15, and will reexamine any possible concerns under this light.

- on 2f. EL is cautious on the specificity of information to be provided, as it may bring administrative burden for the delivery of information to initial queries by interested parties.

Art. 12

- on 1. It is not clear for EL how the link between the profile of the job seeker-third country national who benefited from a talent partnership and the talent partnership itself, is to be effectuated.

- on 2. as in 1 but for those who benefitted from national framework on skills development and validation in a third country.

Would it be a field to be filled in or a drop down menu or any other technical option or some completely different method.

Art. 13

On 4.a. EL deems necessary to add a clarification that removing job vacancies from the talent pool IT platform upon request of the employer should be adequately justified.

Art. 17 – Provision of information and support

On 1. On the grounds explained above on other entities allowed or not to act as employers, EL deems necessary a clarification to be included here as well, “*as allowed by national legislation*”.

On 1e.EL proposes to delete the mention to national practices as it is not applicable, and, expresses concerns on the obligation and administrative burden this provision of information is to create.

ITALY

Recital 14

Registered jobseekers from third countries should have the right ~~to choose from a number of technical options~~ to restrict the access to their personal data, for instance, by restricting access to their contact details. Profiles of registered jobseekers from third countries, **and participating** employers **and other participating entities** in the EU Talent Pool IT platform that have not been used for a period of two years should be automatically removed. When profiles are removed, a limited set of anonymised data could continue to be stored for research and statistical purposes including for the purpose of production and quality of European statistics.

Explanation: We suggest to align the text accordingly to the new wording of art. 6 para. 5.

Recital 23a.

Member States should ensure that all employers and other entities participating in the EU Talent Pool are in compliance with the relevant Union and national law and practice regarding third-country nationals' protection against unfair recruitment and inadequate working conditions as well as non-discrimination. Member States should provide that temporary work agencies, labour market intermediaries and private employment agencies that have fulfilled their due diligence obligations regarding those aspects, as defined by national law, should not be suspended or withdrawn from the EU Talent Pool as a consequence of a violation by an employer . Such measures should take into account the specific circumstances of the Member State concerned.

Explanation: The addition marked in red is proposed to further clarify the text.

Recital 27:

The EU Talent Pool Secretariat should ensure that easily accessible information on immigration procedures, recognition of qualifications and validation of skills, third country nationals' rights **and obligations**, living and working conditions, ~~as well as~~ available redress mechanisms for cases of labour exploitation and unfair recruitment practices, **as well as support measures available in the context of complementary labour pathways to jobseekers in need of international protection who reside outside the Union**, in the participating Member States is available on the EU Talent Pool IT platform. The EU Talent Pool National Contact Points should provide the relevant information with the EU Talent Pool Secretariat in order to allow its publication on the EU Talent Pool IT platform.

Member States in this context should be able to refer to existing sources of information at national level or at Union level. ~~Online information on support available to jobseekers in need of international protection who are in third countries should also be available on the EU Talent Pool IT platform.~~ Support measures put in place by the ~~Member States could include specific information campaigns, support to obtain a travel document, and integration support upon arrival.~~

Italy proposes to restore the provision on the "Online information on support available to jobseekers in need of international protection who are in third countries".

Article 13.4.c

4. Job vacancies of **participating** employers **and other participating entities participating** ~~in the EU Talent Pool~~ shall be visible to registered jobseekers from third countries in the EU Talent Pool IT platform.

Job vacancies shall immediately cease to be visible in the EU Talent Pool IT platform in the case of:

[...]:

c) Absence of a match with a registered jobseeker for a period of one year;

[...]

As indicated also in the IMEX (Admission) meeting held on 8 April, Italy proposes to check with the employer if the vacancy is still valid before proceeding to cancellation.

THE NETHERLANDS

NL comments EU Talent Pool – 3rd compromise text

We believe it is important that the aim of the Talent Pool, to address labour and skills shortages, can be realised for the Member States that want to participate. The Netherlands welcomes the changes made to address the improper use of the Talent Pool for the immediate posting of recruited third country nationals. We are, however, concerned that the safeguards are not sufficient to prevent this from happening. We remain concerned that this threatens the potential of the Talent Pool to address labour and skills shortages. It would also place third country nationals in a vulnerable position, promoting unfair competition and the circumvention of national migration policy. Therefore, we propose that in the report on the Talent Pool special attention should be paid to the question if the Talent Pool is achieving its aim of addressing labour shortages in participating Member States. We would like to propose to add a new article 23.2 to specify that in the report of the Commission, special attention shall be paid to this question. Should it be the case that the Talent Pool is used for the improper posting of third country nationals, the findings of the report could help address this issue as quickly and effectively as possible.

Article 23

Reporting

1. By 31.12.2031 and every five years thereafter, the Commission shall submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of this Regulation.
2. The report shall notably report on the extent to which the Talent Pool is achieving its aim of addressing labour and skills shortages in participating Member States, paying particular attention to the posting of recruited third country nationals and to the prevention of abuse and unfair competition.

PORTUGAL

PT welcomes the proposed amendments and offer the following additional comments:

Articles 3 and 4

We have no objections to the proposed changes, which try to clarify concepts regarding participating employers and other participating entities, namely bonding it with the availability of job vacancies on the platform, and to the modifications introduced in the definition of job vacancy, under article 4(5a) (in particular, adding the notion of a “jobseeker who has been selected”). We’re also comfortable with the PCY’s proposal for article 3, para. 1, which leaves flexibility to the MS to decide whether to make available job vacancies from certain categories of employers, and/or from temporary work agencies, private recruitment agencies and other labour market intermediaries – according to its own national policies.

We particularly welcome the additions aimed at addressing the concerns with the misuse of this platform to promote job vacancies specifically aimed at posting TCN workers to other EU countries, and highlighting the importance of complying to the EU legislation and case law in force, as well as the relevant legislation in the host MS.

Articles 12, 13 and 16(2)

We welcome the proposed changes, which give grater scope for flexibility, namely the deletion of the “Talent Partnership Pass” concept, as its implementation appeared to be quite complex – and the added value to both participating jobseekers and employers seemed to be limited. Its more generic writing leaves room to consider other skills certification, recognition, and validation tools – equally important in this platform’s future developments. They also cater for the alignment with equal opportunities and fair recruitment principles, and they highlight the need to invest in clearer procedures aimed at facilitating skills validation. This investment should follow its own course, not within the framework of this Regulation – and should as well be revisited as one of the most significant remaining obstacles to the free movement of workers within the EU (under the EURES scope for intervention).

However, we still see a room for clarifying on how the newly mentioned “national frameworks” would be included in the platform, in practice (with a reference to Articles 12(7) and 16(2)) – and mostly on how the jobseekers could refer to them in their own profiles. The same regarding the association of the jobseekers’ profiles to the participation in specific Talent Partnerships. We should not lose sight of the importance of having transparent and user-friendly information to the platforms’ users, both participating employers, other participating entities and TCN jobseekers.

Article 15

PT welcomes the changes proposed, allowing for MS to add or withdraw country-specific occupations relevant for their national and regional levels, as well as to their national immigration policy objectives, as well as the possibility to more regularly update this list and country-specific adjustments.

Article 17(1) ba) and bb) + Recitals 16 and 31a

We’re comfortable with the proposed changes, namely those highlighting, both to participating employers / other entities and jobseekers, that migration procedures are not conducted within this platform – and that registration of a TCN in this platform does not guarantee that the required security checks have been carried out.

Article 17(2)

We have no objections to the changes proposed by the PCY. The new wording still grants MS enough flexibility to define the level of service they can provide, according to the means and resources at their disposal. It still highlights the important role of specific information on rights (and duties) to jobseekers selected to concrete job vacancies, with a view to avoiding abuse situations in their labour market integration, as well as in their integration in the country of destination’s way of life.

Article 18

We welcome the new writing of this article and thank the PCY for having accommodated our proposals regarding the involvement of National Contact Points in the process, particularly when there are abuse reports directly by users of the platform. The National Contact Points are directly responsible for keeping the most relevant and up-to-date information in the platform, namely when it comes to which employers / other entities participate in the platform. The parallel with the procedures in the EURES Portal and Regulation are relevant here.

Article 20

We also welcome the changes made to this Article, as they better reflect the technical aspects of the interoperability procedures, regarding the availability of job vacancies in the platform.

Also the performance monitoring and the gathering of feedback among the final users, namely participating jobseekers, employers and other entities, is of the utmost importance to align the platform further developments to the users' needs.

ANNEX (list of EU-wide shortage occupations):

For better readability and understanding of the list's assumptions, we would suggest that:

1. either all occupations would be listed by increasing order of the ISCO code;
2. or there would be 2 sections in the list, with a view to highlighting occupations' correspondence to the 2 types foreseen under Article 14(1):
 - a) shortage occupations common to a significant number of Member States;
 - b) occupations contributing directly to the green and digital transitions, and which are likely to grow in importance;
3. alternatively, a column could be added where the corresponding types (a) or b)) would be identified for each occupation – since some of these occupations may be included under both criteria | types.

SWEDEN

On behalf of SE, I would like to thank you for the opportunity to leave written comments regarding the proposal to establish an EU Talent Pool.

SE is supportive of the changes made in the Presidency Compromise Text (Doc. 8841/24) and would like to thank the Presidency for your efforts to include our comments so far.

We do not have any specific comments to forward regarding the regulation text at the moment.