

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

**573RD PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,
26.10.2022-27.10.2022****Opinion of the European Economic and Social Committee on Proposal for a directive of the European Parliament and of the Council concerning the status of third-country nationals who are long-term residents***(COM(2022) 650 – final)***Proposal for a directive of the European Parliament and of the Council on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State***(COM(2022) 655 – final)***Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Attracting skills and talent to the EU***(COM(2022) 657 – final)**(2023/C 75/19)*Rapporteur: **José Antonio MORENO DÍAZ**Co-rapporteur: **Milena ANGELOVA**

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Section responsible	Employment, Social Affairs and Citizenship
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(for/against/abstentions)	179/0/6

1. Introduction

1.1. In April 2022, the European Commission presented the Skills and Talent package following the work agenda of the new Pact on Migration and Asylum adopted in September 2020. The aim of the new package is to promote orderly migration to the Union, encouraging the attraction of talent and skills in a way that benefits countries of both origin and destination. The revisions also aim to promote a more efficient and coherent system of rights and employment opportunities for non-EU nationals residing in the Union, while helping to improve the attractiveness of the Union as a destination for skilled third-country nationals.

1.2. The EESC welcomes this package which takes a constructive and coherent approach to migration and responds to the need to improve the Union's instruments for regular migration. With the digital and green transitions gathering pace and at a time when labour and skills shortages are evident across all sectors of economic activity, the EESC emphasises the role that legal migration can play in helping to address labour and skills shortages in areas where there is a proven need.

1.3. The EESC has already expressed its concern at the fact that the New Pact on Migration and Asylum focuses on border management and migration control, and therefore considers the progress made in the governance of organised and regular immigration to be positive.

1.4. The EESC appreciates the Commission's recognition of the crucial role that migrants already play in the European economy and society, as they help to meet the needs of the evolving labour market and — where necessary — overcome labour and skills shortages: a change of perspective with a normalising and positive discourse is very important.

1.5. The EESC therefore welcomes the fact that the inflow of talent from third countries is being facilitated in order to help meet these growing needs, particularly in sectors with structural shortages.

1.6. Without undermining its importance, the EESC suggests that the narrative linking the arrival of non-EU workers to the needs of the Member States' labour markets should be examined in order to prevent under-employment of and poor working conditions for newly arrived non-EU workers.

1.7. The EESC considers it necessary to make progress on new channels for attracting talent to the Union, but also points out that there are other needs in the Member States' labour markets; these needs require measures to be designed to meet them alongside those envisaged in the proposed package. In particular, it is important to strengthen efforts to support the labour market integration of the unemployed and inactive through targeted support measures.

1.8. The EESC believes that the Commission should be more ambitious in seeking legal and organised labour migration channels that also take account of people in need of international protection.

1.9. The EESC welcomes the communication on attracting skills and talent to the EU, as it sees this as a step forward in the field of labour migration, which requires appropriate, realistic and effective instruments in the new contexts.

1.10. The EESC considers it necessary to make progress on the Talent Pool ⁽¹⁾, starting with the initial pilot and the full version to be launched next year, and points out that the success and outreach of the Talent Pool will depend on the deployment of adequate resources to make the tool accessible and operational. It also welcomes the Talent Partnerships and considers that they need to be developed in cooperation with third countries. The EESC calls for adequate evaluation mechanisms to be put in place, ensuring visibility and transparency in the implementation of the Talent Partnerships, not only for the instruments themselves, but also for identifying the countries with which to cooperate: respect for the rule of law and human rights must always be present in the external relations of the Union's immigration and asylum policy.

1.11. While women make up a significant part of some crucial sectors, mobile and migrant women can be subject to insecure jobs and the informal economy and are often particularly vulnerable to discrimination, social exclusion and lack of job and training opportunities, as well as being exposed to abuse, violence and harassment. The EESC believes that the protection of women's rights and the gender perspective need to be more strongly mainstreamed.

1.12. The EESC welcomes the proposed revision of the Directive on long-term residence in the European Union. The EESC is pleased that the proposal facilitates the process of attaining this status through the accumulation of qualifying years from periods of stay in different Member States, fosters intra-EU mobility and aims to extend equal access to social protection for EU nationals who are long-term residents in another Member State.

⁽¹⁾ The EU Talent Pool will be an EU-wide pool of candidates from non-EU countries, who will be selected on the basis of specific skills levels, criteria and migration requirements, following screening of candidates' credentials. It will be the first EU-wide platform and matching tool for this purpose (COM(2022) 657 final).

1.13. The EESC welcomes the revision of the Single Permit Directive, including the aim to facilitate and simplify the application process and to ensure that the single permit is not tied to one specific employer, although it considers that an attempt could have been made to extend the set of rights, in line with the content of the first proposal for a directive presented in 2011.

1.14. The EESC considers it essential that the revision emphasises the need to strengthen equal treatment of workers who are third-country nationals, particularly with regard to working conditions, freedom of association and affiliation and social security benefits.

1.15. The EESC also underlines the importance of involving the social partners and other relevant stakeholders in discussion on improving the governance of labour migration at EU level. To this effect we welcome the creation of the proposed platform for dialogue at EU level.

2. General comments

2.1. In April 2022, the European Commission presented the Skills and Talent Package following the work agenda of the New Pact on Migration and Asylum adopted in September 2020. The package includes the revision of Directive 2003/109/EC on long-term residence ⁽²⁾, the revision of Directive 2011/98/EU on the single permit ⁽³⁾ and Communication on attracting skills and talent to the Union ⁽⁴⁾.

2.2. The aim of the new package is to promote orderly migration to the Union, encouraging the attraction of talent and skills in a way that benefits countries of both origin and destination. The revisions also aim to foster a more efficient and coherent system of rights and employment opportunities for non-EU nationals residing in the Union, while helping to improve the attractiveness of the Union as a destination for skilled third-country nationals.

2.3. The Communication on attracting talent and skills aims to put in order the principles governing legal migration for economic reasons to the Union. It reflects the will to improve the legislative pillar with the two revision proposals, to develop Talent Partnerships and the Union Talent Pool, and to advance legal migration policy in the areas of care, youth and innovation.

2.4. The EESC points out that there is no analysis and evaluation exercise in the proposal exploring why the current directives on single permit or long-term authorisations have not worked properly. The Commission should analyse and share the causes of these dysfunctions, identifying whether it is a lack of will to implement them on the part of the Member States or excessive red tape, among other causes, in order to prevent the same problems recurring in the future.

2.5. The proposal for the revision of the Directive on the single permit offers an opportunity to broaden access to this instrument and facilitate labour market participation of non-EU workers, while consolidating the rights inherent in it, making progress on harmonising its application between Member States.

2.6. The proposed revision of the EU Long-Term Residence Directive also aims to improve its application in the different Member States, while facilitating intra-EU mobility by simplifying the process and reducing the time requirements for acquiring long-term residence permits.

2.7. In general terms, the EESC welcomes this package which takes a constructive and coherent approach to migration, responds to the need to improve the Union's instruments for regular migration and emphasises the role that legal migration can play in helping to address labour shortages — in areas where there is a proven need — and skills shortages. The EESC has already expressed its concern that the focus of the New Pact on Migration and Asylum is on border management and migration control, and therefore welcomes the progress made in the governance of organised and regular migration.

2.8. The EESC appreciates the crucial role that migrants already play in the European economy and society, helping to meet labour market needs and to overcome — where necessary — labour and skills shortages. The EESC therefore welcomes the facilitation of the inflow of talent from third countries to help meet these growing needs, particularly in sectors with structural shortages. The EESC also welcomes moves to attract innovative and scalable businesses that bring

⁽²⁾ COM(2022) 650 final.

⁽³⁾ COM(2022) 655 final.

⁽⁴⁾ COM(2022) 657 final.

significant added value to the EU economy and society. International research projects remain another effective way of promoting, attracting and retaining world-class talent. To this end, it is necessary to speed up and simplify access to the EU labour market for professionals from third countries who are in demand, in order to make Europe more attractive to other parts of the world. The EESC also encourages and welcomes the development and implementation of practical tools to connect and match talent from third countries more easily with potential employers in the Member States.

2.9. There is a need to reflect on the narrative linking the inflow of foreign labour to the needs of Member States' labour markets. In some EU countries, there is structural unemployment in certain employment sectors and occupations that can arise from skill mismatches, a lack of attractiveness of certain sectors/occupations and concerns about working conditions. In those countries, it is important to try to improve the attractiveness of such sectors and occupations to workers in the domestic markets (nationals of that country, EU and third-country workers with work permits) in order to prevent under-employment of and poor working conditions for newly arrived non-EU workers. In parallel, the EU Talent Pool can help to facilitate targeted matching of non-EU workers with jobs in the EU so as to avoid the underemployment of these workers.

2.10. Although the EESC considers it necessary to make progress on new channels for attracting talent to the EU, it also points out that there are other needs in the Member States' labour markets; these needs require measures to be designed to meet them alongside those envisaged in the proposed package.

2.11. In this regard, the EESC hopes that progress can be made (as planned with the follow-up reports) on improving the Seasonal Workers Directive and the Intra-corporate Transferee Directive, scheduled for 2023. In this regard, it stresses the need, in line with the European Parliament's and its own resolutions, to work to ensure the protection of seasonal workers and, in particular, to combat labour exploitation where it is detected, reinforcing and increasing labour inspections for this purpose, in line with the work of the European Labour Authority.

2.12. Considering the adoption of the **European Skills Agenda** ⁽⁵⁾ on 1 July 2020, the EESC believes that migrants, refugees and international protection seekers should be treated equally, irrespective of their skills and qualifications level. Therefore, all workers should be able to validate their skills and competences and take part in good quality and effective apprenticeships, reskilling and upskilling, so that they can be integrated into the labour market based on flexible learning pathways matching their specific needs and with due regard for their different age-cohorts.

2.13. The EESC believes that the Commission should be more ambitious in seeking legal and organised labour migration channels that also take account of people in need of international protection.

2.14. With regard to students from third countries who come to the EU for study purposes, due consideration should be given to their smooth incorporation into the EU labour market while at the same time mitigating the brain drain: it would be positive to incorporate preventive measures such as ethical recruitment clauses ⁽⁶⁾, assisted return mechanisms to and reintegration into their countries of origin or introduce specific clauses in this regard in bilateral labour migration agreements.

3. On the communication on attracting skills and talent to the EU

3.1. The communication presented in April 2022 takes up the recommendations of the 2020 Pact on Migration and Asylum on legal migration, with the aim of promoting legislative and operational initiatives in this area.

3.2. The EESC welcomes this communication, which it sees as a step forward in the area of labour migration which requires appropriate instruments in the new contexts. In this regard, the EESC considers the inclusion of a series of specific actions for Ukrainian refugees to be timely, and also regrets that these actions were not implemented earlier for people in need of international protection in general, especially during the crisis generated by the war in Syria in 2015. The EESC is convinced that the action and initiative taken with people fleeing Ukraine is a turning point and should be the standard for EU action in similar cases in the future.

⁽⁵⁾ <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&furtherNews=yes&newsId=9723>

⁽⁶⁾ General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs

3.3. The EESC considers it necessary to make progress on Talent Partnerships in cooperation with third countries. However, it calls for adequate evaluation mechanisms to be put in place, not only for the instruments themselves, but also for identifying the countries with which to cooperate. Respect for the rule of law and human rights must always be present in the external relations of the Union's immigration and asylum policy. The EESC also finds it necessary to check and evaluate the procedures and results of the already finalised pilot projects, to be considered and made use of when launching new projects.

3.4. In presenting the proposal for the EU Talent Pool, it is important that the European Commission works with Member States and the social partners to develop the pool in a way that minimises bureaucracy and avoids unnecessary complexity, in order to get it up and running as quickly as possible. The aim of the Pool should be to help meet current and future skills needs; it should tap the opportunities offered by AI and other advanced technologies, in a way that makes full use of the skills and talents of third-country nationals and complements the role of Member State nationals and labour mobility within the Union.

3.5. Taking into account the acute labour and skills shortages felt by employers, which in many cases are structural in nature, a relevant starting point for the launch of the full version of the Pool would be to base a targeted approach to matching on shortage occupation lists. Given the importance of ensuring that national shortage occupation lists are up to date, the Commission should identify opportunities for mutual learning and peer review on this topic.

3.6. Hand in hand with developing the Talent Pool concept, it is necessary to further develop, with the involvement of employers and trade unions, real-time information on the labour market and skills which will enable the Pool to function successfully. At the same time, it is important to improve the Union's capacity to collect and interpret comparable and credible data on the need for migration from third countries.

3.7. The EESC welcomes the introduction of a matching tool to facilitate connections between supply and demand. It believes that these steps are necessary for the recruitment of talent, but reiterates the real need to address other sectors of Member States' labour markets in parallel.

3.8. The EESC agrees with the Commission that the success of these initiatives requires the cooperation and participation of the social and economic players, and considers it essential to make progress in creating opportunities for dialogue between them at European level. The EESC is a privileged forum for discussing operational and practical issues related to labour migration. In this respect, the EESC should participate in the high-level conference that the Commission has planned for the end of 2022 on the new labour migration platform. The EESC also underlines the importance of involving the social partners and other relevant stakeholders in discussion on improving the governance of labour migration at EU level. To this effect we welcome the creation of the proposed platform for dialogue at EU level.

3.9. The EESC considers that exploring future avenues for labour migration in a sector such as the care sector is a step forward, although it regrets that progress on these issues is structured around specific procedures that fragment the integrity of the common European immigration and asylum policy, thus preventing an integral vision. In any event, the EESC agrees that progress needs to be made in these areas by raising issues such as ethical recruitment and labour rights protection standards.

3.10. While women make up a significant part of most crucial sectors, mobile and migrant women can be subject to insecure jobs and the informal economy and are often particularly vulnerable to discrimination, social exclusion and lack of job and training opportunities, as well as being exposed to abuse, violence and harassment. The EESC believes that the protection of women's rights and the gender perspective need to be more strongly mainstreamed.

3.11. The EESC also welcomes the promotion of mobility schemes for young people, but would again point out the need to ensure mobility and labour market integration that protects the labour rights of younger workers, who sometimes face poorer working conditions (temporary employment, low wages, etc.). In the same vein, specific measures should be established for workers with disabilities to facilitate their proper integration.

3.12. The EESC welcomes the initiative to explore admission schemes for non-EU innovative entrepreneurship. In this regard, the EESC considers it positive that these admission schemes are being explored in the context of the digital and sustainable economy, but believes that, if properly structured, they can also have a wide scope for facilitating the entry of various other professional profiles into EU countries.

4. On the revision of the Directive on long-term residence in the Union

4.1. The EESC welcomes this proposal for a directive which aims to strengthen the status of long-term residence in the Union by improving the way in which long-term residence is acquired, especially in the case of residence in a second Member State. It also welcomes the fact that the proposal seeks to extend equal access to social protection for EU nationals who are long-term residents in another Member State. The EESC also welcomes the attempt to ensure equal treatment and to facilitate access to information on family reunification in relation to this directive.

4.2. Long-term residence in the Union is one of the main instruments of European immigration and asylum policy. The procedures for acquiring long-term residence in the Union, adopted in 2003, have developed unevenly across the Union, and the revision proposed by the Commission aims to create a more coherent system.

4.3. Union nationals can apply for long-term residence after five years' residence in a second Member State, a provision which is retained in the proposed revised Directive. The proposal aims to facilitate mobility within the Union for persons with this type of residence by reducing the residence period requirement to three years. In addition, the proposal includes cumulative periods of residence in different Member States.

4.4. The EESC considers that allowing applicants to accumulate periods of residence in different Member States in order to meet the requirements for long-term residence in the Union is a step forward, although it believes that the mechanisms for monitoring and coordinating this provision in the different Member States need to be improved.

4.5. The EESC welcomes the inclusion of different residence models, such as residence for study purposes, international protection and temporary residence. Short-term visas are exempted, although they could be considered under the provision if the applicant can prove a regular employment relationship or similar.

4.6. The EESC also welcomes the strengthening of the rights attached to long-term residence in the Union and to family members, including the right to work and move to another Member State, or to change jobs and move to another Member State. The EESC finds it particularly interesting that, under the proposed new article, the national labour market situation need not be taken into account for applications for long-term residence in a second Member State (i.e. where long-term residence in the Union has already been obtained) for both employed and self-employed work.

4.7. The EESC welcomes the simplification of the possibility to work and study within 30 days of submitting an application for long-term residence in a second Member State. It also welcomes the recognition of the right to exercise a regular profession (of a long-term resident in a second Member State) under the same conditions as EU citizens.

4.8. The EESC recognises the importance of Member States guaranteeing the same freedoms and rights to long-term residents in the Union (and their family members) as to those with permanent national residence. Furthermore, it is positive that Member States also ensure that applicants for a long-term residence permit in the Union do not have to pay higher fees for the processing of their application than applicants for national residence permits.

4.9. The EESC considers the right to live as a family a fundamental issue that facilitates social integration: it therefore welcomes the removal of administrative and bureaucratic obstacles, in particular the conditions for integration in the case of long-term residents. It also welcomes the automatic acquisition of long-term residence for children born (or adopted) in the EU of long-term residents.

5. On the revision of the Single Permit Directive

5.1. The EESC welcomes the revision of the Single Permit Directive, which brings several improvements to the current one:

— the reduction of the period for the permitting procedure to four months;

— the fact that the procedure can be launched either from the country of origin or from a Member State of destination;

- the Directive also covers foreign nationals working through temporary employment agencies;
- the possibility to change employer during the permit's period of validity, although the possibility of refusal by the government is maintained;
- the fact that the single permit may not be withdrawn for at least three months after the permit holder's loss of employment, which provides stability and improves the quality of employment and working conditions of migrant workers;
- the extension of the Single Permit Directive to those under temporary protection;
- the fact that ways are being sought to provide information on the rights attached to the single permit.

5.2. Nevertheless, the EESC considers it is a missed opportunity not to extend the set of rights in line with the content of the first proposal for a directive presented in 2011. This applies to issues such as access to unemployment benefits, while the EESC still underlines the importance of allowing Member States to have some flexibility on this as provided for in the current Directive. Moreover, the EESC regrets that the possibility of extending the Directive to migrants in temporary work situations has not been explored.

5.3. The EESC considers it essential that the review emphasises the need to strengthen equal treatment of workers who are third-country nationals, particularly in relation to advice on social rights and working conditions, freedom of association and affiliation and social security benefits to facilitate labour integration under equal conditions.

5.4. The EESC supports the call for Member States to develop appropriate mechanisms for risk assessment, inspections and sanctions as well as for monitoring employers. However, it notes that since labour inspections are a national competence, the messages and monitoring tools that can be developed at EU level should be strengthened in line with the mandate of the European Labour Authority ⁽⁷⁾.

5.5. The EESC believes that further progress should be made in protecting migrant workers who make use of the labour inspectorate's complaints mechanisms. Without mechanisms to prevent labour complaints being used for migration control purposes, there is a risk that employers will punish those who report exploitative working conditions, with negative repercussions for their residency status. In this regard, measures to combat labour exploitation need to be further developed and better enforced.

Brussels, 26 October 2022.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽⁷⁾ <https://www.ela.europa.eu/en/what-we-do>