

## ETUC Position on the European Commission 'Skills and Talent Package'

Adopted at the ETUC Executive Committee of 27-28 October 2022

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### Background

On 27 April 2022, the European Commission presented its [Communication Attracting skills and talent to the EU](#), as a follow up to the Commission's [Pact on Migration and Asylum](#), adopted on 23 September 2020. The ETUC is of the view that the Pact included a very limited number of proposals on labour migration, which have been over-shadowed by a significant focus on deportations and border controls. It is a great disappointment that labour migration has been framed around the EU's need for 'attracting the talents'.

The Communication includes legal, operational and policy initiatives in the area of labour migration. As part of the legislative framework, the Commission proposes the recast of the [Single Permit Directive](#) and the [Long-Term Residents Directive](#). The Commission is also proposing to step-up operational cooperation at EU level between Member States as well as with partner countries through the so called 'Talent Partnerships', and the development of an 'EU Talent Pool'. A specific action to support Ukraine refugees has been developed under the so called 'EU Talent Pool Pilot'.

### The ETUC Assessment on the recast of the Long-Term Residents Directive (LTR)

The recast of the LTRs Directive was intended to create a more effective, coherent and fair system to acquire EU LTR status, in particular by strengthening the right of LTR to move and work in other MS. The ETUC welcomes and supports the revision of the LTR as an opportunity to strengthen the status granted to residents.

While keeping the required residence period of five years as a general rule, the proposal introduces two changes that would facilitate the acquisition of the LTR status in situations of mobility between MS. First, the Commission proposes to allow cumulating residence periods in different Member States to reach the five-year threshold. Second, that persons who already acquired LTR status in one MS should only need three years to acquire the status in a second MS.

- **Scope and duration of residence (Art.3 & 4)**

The personal scope of the directive is clarified but it remains restricted and unclear. For example, Ukrainians refugees who have obtained temporary protection in the EU remain outside of the LTR status.

The ETUC demands to reduce the five-year limit to three is not part of proposal. However, the inclusion of any period of residence as holder of long-stay visa or residence permit under Union or national law including study, training, national or temporary protection, or other temporary status is counted in the five years waiting period is welcomed. Nonetheless, residence under short-term visas do not count – seasonal workers and au pairs are excluded – and the holder should have

accumulated *two years of legal and continuous* residence in the MS applying (residence in different MS is accepted).

### **Intra-EU mobility rights**

The ETUC was of the view that mobility within the EU should be made easier and more convenient for those in possession of this permit and ensure greater harmonisation in the treatment of people who move from one MS to another; as well as in the services and rights made available to the LTR and their families, such as: tax treatment, social security, social protection.

- **Equal treatment (Art.12)**

The proposal extends the LTRs' equal access to social protection and social assistance, by removing the possibility for MS to limit such access to core benefits. It is clarified that LTRs should have the same right as nationals with regard to the acquisition of private housing.

It aligns the definition of social security and the right to the export of pensions and family benefits to the provisions of the most recent legal migration Directives. In particular, reference is made to Regulation (EC) No 883/2004 with regard to the definition of social security (point d of paragraph 1); EU long-term residents or their survivors moving to a third country should receive statutory pensions under the same conditions and at the same rates as the nationals of the MS concerned, where such nationals move to a third country, in line with other legal migration Directives (paragraph 6).

- **Family rights (Art.15)**

The ETUC welcomes the new provision for MS's obligation not to apply *conditions relating to integration for the purpose of family reunification* and not to apply any time limit in respect of access to the labour market for family members. As well as the automatic acquisition of the LRT status for children of LTR residents born or adopted in the territory of the MS that issued the permit. It also welcomes the obligation for LTRs to enjoy equal treatment with regards to recognition of professional qualifications.

- **Access to information (Art.27)**

Another important aspect that ETUC highlighted, was that during the application procedure for LTR status information needs to be given about the existence of the permit, the rights and safeguards attached to it. The new proposed article on the obligation to make 'easily accessible' information to applicants on documents for application, status acquisition, conditions (rights, obligations, procedural safeguards) is welcomed. It could be expanded for people who acquire LRT status the obligation to 'provide' and must include information on living and working conditions in other MS, including labour and trade union rights in the relevant language.

To sum up, the ETUC believes that both legislative proposals are a positive step forward. Many of the ETUC demands have been considered. There are some elements that could be strengthened, particularly, in the recast of the SPF for the rights and protection of the migrant worker (change of employer, in-country applications, access to information) and in the LTR on measures to improve access to settled status and avoid irregularity. In the latter case that the scope is also clarified

and does not exclude certain categories of migrants and refugees. It should be improved in a way that allows TCNs to have a long-term perspective on their integration and social inclusion in Europe.

### **The ETUC's Assessment on the Talent Partnerships and the EU Talent Pool**

The Commission proposes a number of steps to operationalise the Talent Partnerships, with the aim of agreeing on the first **Talent Partnerships (Egypt, Morocco and Tunisia)** by the end of 2022. The work of the Talent Partnerships will build upon pilot projects developed with these partners, expanding their scope and level of ambition, and mobilising all relevant stakeholders in the process. According to the Commission they will target all skills levels in various economic sectors including ICT, science, engineering and health care.

The ETUC remains critical about these Partnerships and is concerned about the trend towards the use of bilateral labour migration agreements and partnerships with third countries as a means of labour migration governance. Those that are in place and that will be developed need enhanced **safeguards, protection and rights for migrant workers**.

They should build on lessons learnt from the pilot projects and have an adequate regulatory framework addressing areas of potential improvement identified by stakeholders, including trade unions. It should address the need for **transparency, information and involvement of trade unions** both in the countries of origin and destination at relevant levels, coverage of recruitment fees and travel costs by employers, as well as access to information for workers, including labour and trade union rights, complaints and redress mechanisms.

In this sense, the ETUC reiterates its calls on the Commission and MS to promote **fair recruitment standards**, including bans on abusive practices and recruitment fees. This should build on the extensive work of ethical recruitment policies and principles of the [ILO](#) and the [WHO](#) Global Code on the International Recruitment of Healthcare workers, including social partner initiatives such as the [EPSU-HOSPEEM Code of Conduct](#). In addition, the [ITUC Migrant Recruitment Advisor](#) tool allows migrant workers to: review the performance of recruiters against the ILO Fair Recruitment Principles, address grievances and inform evidence-driven fair recruitment.

In relation to the **EU Talent Pool**, the Commission is proposing to establish the **first EU-wide platform and matching tool**, to 'make the EU more attractive for non-EU nationals looking for opportunities and help employers find the talent they need'. To address the urgent need to facilitate access to the labour market for Ukraine refugees, the Commission is proposing a **pilot initiative**. The launch of the EU Talent Pool Pilot is foreseen sometime in October 2022.

The ETUC remains highly critical on the development of such a matching pool, which seems to take us back to earlier models of labour migration designed for, and driven by, employers, which the ETUC clearly rejects. There are several aspects that the Tool should consider, such as the fact that there is no legal basis for the set-up of such instrument, its governance and accountability, including the involvement of trade unions in both origin and EU countries at all relevant levels.

Furthermore, the EU Talent Pool Pilot will now be implemented using the EURES IT platform, through a dedicated landing page, which will contain information and instructions on how to use the Pilot and the underlying EURES functionalities. The

participation of Member States in the Talent Pool Pilot initiative remains on a voluntary basis.

A key aspect is who and how the working and employment conditions will be checked, not only on the EU Talent Pool platform but also within the Pilot. So far this responsibility lays with the National Contact Points, so there will be different levels of protection in different member states. If the national contact points are to retain this key role, a formal legal basis will be required to make any criteria mandatory for Member States.

It is not only about 'matching' the skills but about the possibility to access decent and good quality jobs based on the principle of equal treatment. In particular, in the Talent Pool pilot, there should be no discrimination and/or unequal treatment. It should be noted that all beneficiaries of temporary protection and/or adequate protection under national law with access to the labour market would be able to access the Pilot Tool. In some countries, like in Spain, this includes TCNs or stateless persons who were regularly residing in Ukraine before 24 February (and their family members) and UA nationals who were in an irregular situation in Spain before 24 February and who, as a result of the conflict, cannot return to Ukraine<sup>1</sup>.

There is also another aspect to be considered regarding the validation and recognition of skills and qualifications, which is a practical barrier that migrant workers experience. Ukraine refugees have shed further light on this basic and critical aspect. Beneficiaries of temporary protection have the right to access the EU labour market, vocational education and training and adult learning. In this sense, the Commission rightly suggested that MS, when taking measures regarding mapping and recognition of skills and qualifications, ensure that people's skills and qualifications can be valued, assessed and swiftly recognised, as necessary, whether or not documentation is available. However, proper implementation is lacking. It needs to be noted that these measures should be extended to other refugees who are victims of wars, such as in Yemen, Afghanistan, Syria, Ethiopia, Gaza, and Myanmar.

Data protection considerations, such as how the data will be collected and processed, should be part of the public portal. There should be strict safeguards for the migrant workers concerned.

Lastly, the Commission will launch a **new platform** that will enable discussions on practical issues of **labour migration**, in particular on the external dimension of migration policy, labour shortages and issues linked to the labour market processes. The operationalisation of Talent Partnerships and the EU Talent Pool would be supported by the work of the platform.

The ETUC urges caution on labour shortages resulting from poor working conditions, unfair wages, lack of active labour market policies or under-investment in education and training. It is up to companies to improve working conditions and wages, to governments to ensure effective ALMP and education and training policies, and not up to migrant workers to assume the cost of their inaction. The ETUC recalls the words of the founding Declaration of Philadelphia for the ILO that "labour is not a commodity".

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<sup>1</sup> Countries such as Germany, Spain, the Netherlands and Luxembourg have chosen to extend the scope of the TPD, whereas countries including Hungary and Poland decided on a limited scope. See ECRE's Info Sheet.

## **Next steps**

With regards to the legislative initiatives, the ETUC set up a Working Group in order to assess the possible amendments to push forward with the European Parliament. The ETUC will engage throughout the legislative process, so that trade unions' demands are taken into account. As for the Talent Partnerships and Talent Pool, the ETUC will critically engage with the European Partnership on Integration and the Talent Pool group set up by the Commission and under the coordination of the EMN. The ETUC will also request, and engage, in the new platform on labour migration once set up.