

## Establishing an EU talent pool

Impact assessment (SWD(2023) 717, SWD(2023) 718 (summary)) accompanying a Commission proposal for a regulation of the European Parliament and of the Council establishing an EU talent pool, COM(2023) 716

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above-mentioned [proposal](#), submitted on 15 November 2023 and referred to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE).

The proposed initiative is part of the skills and talent mobility package envisioned for adoption under the Commission's [2023 work programme](#). It aims to address existing and future skills shortages, including those linked to the green and digital transition. By attracting talent and skills from outside the EU, it would also contribute to the decrease of irregular migration.

### Problem definition

The IA starts by describing the political and legal context of the initiative. EU Member States are dealing with significant and growing labour and skills shortages in many professions (see Annex 7) in sectors such as healthcare and long-term care, hospitality, construction, and information and communication technology. There are sectoral differences between Member States and a variety of causes of the labour shortages across the sectors affected, as noted by the European Commission's 2023 Employment and Social Developments in Europe [report](#). The prospect of an ageing population and a decline in the working-age population only intensify the problem. At the same time, the exponential development of the digital world and the transition towards a green economy are creating high demand for specific skills in certain sectors and reinforcing the importance of attracting talent and skills from outside the EU. Another challenge that the EU needs to address relates to the global supply of and demand for skilled workers who are third-country nationals (TCNs), and more specifically to the EU's difficulty in attracting such workers for various reasons (IA, pp. 8-10, in particular OECD, Index of Attractiveness, 2023 [Talent Attractiveness 2023 – OECD](#)). Finally, the EU and the Member States have to deal with challenges relating to migration management. According to the IA, the main steps in achieving this are to reduce the incentives for irregular migration by creating safe and effective migration pathways, and to strategically engage with third countries on migration management.

For a long time, the EU has been calling for measures to attract talented and skilled workers from third countries. In April 2022, the Commission adopted a skills and talent package to improve the attractiveness of the EU and the overall migration management. As part of this package, the legislative proposal for an EU talent pool seeks to establish the first EU-wide platform to facilitate international recruitment and provide job opportunities for workers who are TCNs at all skills levels. In addition, in October 2022, the Commission launched the [EU Talent Pool Pilot](#) to facilitate the integration of people fleeing Ukraine into the EU labour market.

The idea of establishing an EU talent pool received strong support from the European Parliament, voiced in its two resolutions on the legal migration policy of 2021.<sup>1</sup> The [European Economic and Social Committee](#) and the [European Committee of the Regions](#), in their opinions on the skills and talent package, were equally supportive of the initiative. The importance of improving migrants'



access to the EU labour market through matching tools was also mentioned during the [Conference on the Future of Europe](#).

The IA defines the **main problem** to be tackled by the present initiative, namely the insufficient recruitment of third-country nationals (TCNs) through legal migration pathways; tackling this problem would address labour and skills shortages in the European Union. It further defines and explains the **specific problem drivers and sub-drivers** (IA, pp. 13-23), dividing them into two groups. The first one, **drivers related to the employment aspects**, consists of two parts: a) cumbersome and ineffective international job matching; and b) difficulties in understanding how skills and qualifications obtained in third countries correspond to those required at the national level. The second one, **drivers related to the migration aspects**, also has two parts: a) non-transparent and cumbersome immigration procedures; and b) inconsistent and fragmented cooperation with third countries on legal migration/migration management.

The IA sufficiently substantiates its findings with data from several sources and references, including the Commission's consultation activities in the preparation of the IA, desk research, a [study in support the IA, the OECD feasibility study on the Talent Pool](#), and the stakeholder consultation. The IA provides a well-structured analysis of the existing situation and of the likelihood for the problem to persist (IA, pp. 23-25). The IA uses a visual presentation to illustrate the drivers behind the problem and the consequences to which they lead (IA, p. 13). It comprehensively describes the views of different groups of stakeholders on the problem drivers.

Annex 3 (pp. 121-125) of the IA duly identifies the stakeholders affected by the problem: i) EU employers and business, including SMEs; ii) EU citizens; iii) Member States' national, regional and local authorities; iv) TCNs; and v) third countries. It then goes on to describe the practical implications of the initiative on them. The IA explains that without EU action, the problems would persist, negatively affecting 'employers from filling the shortages through international recruitment of TCNs and preventing talents the EU needs from applying for a job in the EU' (IA, p. 25).

## Subsidiarity / proportionality

The IA states that the legislative proposal is based on [Article 79\(2\)\(a\)](#) (under Chapter 2: Policies on border checks, asylum and immigration) of the Treaty on the Functioning of the European Union (TFEU).

The IA includes a section on **subsidiarity** (IA, pp. 25-27), where it describes the legal basis and sufficiently explains the need for and added value of EU action. It refers to the insufficient recruitment of TCNs through existing labour migration channels to address EU labour and skills shortages, and considers that without EU action, national initiatives and policies will continue to be fragmented and disparate. Action at EU level would improve the overall efficiency of labour migration management at EU level and promote the EU as a destination for jobseekers from third countries with potential to fill skills gaps. It would also complement and reinforce national initiatives to attract talent from abroad and improve Member States' ability to achieve economies at scale (proportionate cost savings gained through increased production levels).

As recommended by the [Task Force on subsidiarity, proportionality and 'doing less more efficiently'](#), the IA is accompanied by a separate [subsidiarity grid](#),<sup>2</sup> which also covers **proportionality**. The proportionality principle seems to be respected, and the proposal does not go beyond what is necessary to achieve the initiative's objectives (see section below). The deadline for the [subsidiarity check](#) by national parliaments is 22 February 2024. The Maltese House of Representatives found the proposal to be in keeping with the principles of subsidiarity and proportionality, and the Swedish Committee on Social Insurance found the proposal to be in compliance with the principle of subsidiarity. The Irish Houses of the Oireachtas considered that the proposal does not warrant further scrutiny and that it does not raise any subsidiarity concerns. No other opinions were submitted by 1 February 2024.

## Objectives of the initiative

The IA identifies the initiative's general and specific objectives (IA, pp. 28-29). The **general objective** of the EU talent pool initiative is to support international recruitment of third-country nationals through legal pathways to address EU labour and skills shortages.

The IA defines four **specific objectives (SOs)**, which aim to contribute to the achievement of the general objective and are linked to the problem identified. The first two are related to employment and the remaining two to migration:

- ensuring more effective international job matching (SO1);
- improving comparability of skills and qualifications obtained in third countries with those required at national level (SO2);
- improving understanding and access to the immigration procedures (SO3);
- incentivising cooperation on migration with third countries as part of a talent partnership<sup>34</sup> (SO4).

The objectives correspond to both the problem and the problem drivers identified in the IA. The IA uses an 'objectives tree' to depict the relationship between the objectives (IA, p. 29). The defined objectives appear to be specific, achievable, relevant and time-bound. However, they are not measurable, which is in contrast with what is recommended by the Commission's Better Regulation Toolbox (BRT) 'S.M.A.R.T.' criteria (see [Tool#15](#), 'Objectives should define a desired future state in measurable terms, to allow verification of their achievement. Such objectives are either quantified or based on a combination of description and scoring scales'). The initiative is consistent with other EU policies (e.g. existing legal migration framework, [Talent Partnerships, European Year of Skills](#)), with the [Charter of Fundamental Rights](#) of the European Union, and with international law (e.g. the UN Global Compact and the UN Sustainable Development Goals (SDGs)).

However, the IA does not define more detailed operational objectives as recommended by the Better Regulation Guidelines (BRG); instead, in the monitoring and evaluation section, after having identified the preferred option, the IA provides a list of performance monitoring indicators directly linked to the specific objectives (see the Section on 'Monitoring and evaluation' below).

## Range of options considered

The IA explains, in an adequate manner, what would happen under the baseline scenario ('no policy change', IA, pp. 31-33), and mentions the existing or envisaged policy instruments (e.g. the EU legal migration directives, talent partnerships, existing profile-building tools, etc.). The IA presents **three policy options (one non-legislative and two legislative options) to achieve the four specific objectives**. These policy options are organised in building blocks (e.g. scope of application, governance, IT platform and user journey), taking into account two criteria: the scale of the intervention and the intensity of the intervention.

The IA provides an assessment of options and presents the intervention logic in a clear and transparent manner, linking the options to the problem drivers and to the specific objectives and their drivers (IA, pp. 43-44, see also the detailed description of the policy options in Annex 9). The IA also provides information about the options that were discarded (IA, p. 34 and Annex 9, pp. 282- 283). These included the following ideas:

- to develop an EU talent pool by fully extending the [EURES network](#) for internal recruitment purposes;
- to develop an EU talent pool open to TCNs already residing in the Member States;
- to develop a mandatory EU talent pool for all Member States.

Overall, the presentation of the policy options appears balanced and sufficiently detailed (pp. 35- 43).

Table 1 – Overview of the policy options laid out in the IA

<b>Baseline</b>	<b>No policy change:</b> There is no EU-wide matching platform that facilitates international recruitment of TCNs residing abroad.
<b>Option 1</b>	<b>Non-legislative option – Soft measures aiming at improving information provision and facilitating identification and matching:</b> This would focus on i) improving the <a href="#">EU immigration Portal</a> ; ii) organising job-matching events; and iii) setting up an online portal with a catalogue of profiles.
<b>Option 2 (Preferred option)</b>	<b>Developing an EU talent pool targeted at addressing labour market needs in key occupations:</b> Such an EU talent pool would i) re-use certain components of the EURES IT solution; ii) support job placements in the context of the talent partnerships by offering specific advantages; iii) provide information and support on recognition of qualification procedures; iv) validate TCNs' profiles; and v) provide information and tailored guidance on immigration procedures.
<b>Option 3</b>	<b>Developing an EU talent pool as a fully demand-driven tool:</b> Under this option, i) an EU wide job-matching platform would be developed with accompanying support services for both employers and TCNs; ii) the job-matching system would be fully reliant on AI-based algorithms inspired by existing private sector platforms; iii) no validation of TCNs' profiles; and iv) the talent pool would be open to talent partnerships without specific advantages.

Data source: IA, pp. 35-44 and executive summary of the IA, p. 2.

## Assessment of impacts

The IA analyses in a comprehensive and balanced manner, qualitatively and, where possible, also quantitatively, the main expected impacts. In particular, these would affect economic, social and fundamental rights, but also the environment, covering specifically effectiveness, efficiency and coherence. Each option considers its potential results with regard to the initiative's specific objectives. The analysis takes into account the impacts on EU citizens, business (incl. SMEs) and employers, third-country nationals and third countries. The IA also provides a summary of costs and benefits specific to the development and implementation of the EU talent pool (IA, pp. 50-51, 55- 57, 62-65, 67-68. A more detailed analysis of costs and benefits is provided in Annexes 3 and 10). The IA presents the analytical methods used, including the underlying assumptions and limitations (IA, pp. 45, 47, 50, 51, 57, 62, 66 and Annexes 3 and 10) in a transparent manner.

The IA states that the initiative would have a positive **social impact** on the EU, as it 'would increase moderately the number of TCNs that could fill in the EU skills and shortages that employers are facing, while not increasing substantially the risk of displacement of the EU citizens and positively impacting social cohesion' (IA, p.67). It would also have a positive impact on third-country nationals and third countries (detailed under the 'Impact on third countries and developing countries' Section below).

The IA highlights that the initiative would have a clear impact on **fundamental rights**, and that all options respect fundamental rights. It further states that the initiative is consistent with the Charter of Fundamental Rights of the European Union ([CFEU](#)), for example, as regards freedoms, equality, solidarity and citizens' rights ([Chapters I-VI](#) CFEU). It would enhance the right to engage in work and choose an occupation (Article 15), fair and just working conditions (Article 31), the right to good administration (Article 41) and non-discrimination (Article 21). The provisions of Articles 7 and 8 of the EU Charter and those of the EU data protection legislation would also need to be taken into consideration, given the processing of personal data that the EU talent pool would require.

The IA stresses that the proposed initiative is 'both coherent and compatible with international law, in particular the UN Global Compact' (in particular its [objectives 5, 6 and 18](#)). The IA dedicates a

specific section (Annex 3, pp. 129-131) to the expected impacts on fundamental rights and the related [SDGs](#), where it mentions the SDGs relevant to the preferred option (see also IA, p. 30, IA, Section 6 and Annex 3, pp. 86-87) and how the preferred option would contribute to each of them. More specifically, these SDGs are:

- SDG 1 (no poverty);
- SDG 8 (decent work and economic growth);
- SDG 9 (industry innovation and infrastructure);
- SDG 10 (reduce inequalities).

However, the IA does not analyse SDG 5 (gender equality), even though the initiative could affect some TCNs (e.g. women) in a disproportionate way. It however identifies the need to address gender segregation as part of the problem definition (IA, p. 11).

Policy options score differently in terms of their potential **environmental impacts**, as not all of them would target the sectors linked to the green transition. The policy option that scores higher in this regard (PO2 – the preferred option) would target sectors and occupations linked to the green transition. It would facilitate the recruitment of TCNs for such occupations and thus bring about an 'increased number of "green" occupations being filled by TCNs'. This would have a positive impact on the EU transition toward a green economy.

The IA assesses the **economic impacts** of key policy measures identified and considers how they would affect employers (in particular SMEs), TCNs, national authorities and third countries. The economic impacts relate to growth and competitiveness (SDG 8), SMEs (SDG 8 and 9), and innovation and research. The IA substantiates its assessment in several comparative tables and annexes. It also presents an overview of how the different policy options compare in terms of their costs and benefits (IA, p. 68), while a more detailed assessment of costs and benefits of the policy options is included in Annex 10. Annex 4 presents an overview of the key assumptions applied to the assessment of the costs and benefits under each policy option. The IA further includes a summary of the costs and benefits linked to the preferred option (Annex 3, p. 125), including the administrative costs. These are: a) one-off costs for the IT development (2026-2027); b) recurrent yearly human resources costs; and c) recurrent yearly costs for other activities and IT maintenance. The IA provides an overview of the direct benefits for employers and TCNs, to be achieved through a simplification of the international recruitment procedures, allowing for easier and faster identification and matching. Indirect benefits would involve an increase in GDP and an increase in TCNs' fiscal contributions and remittances towards third countries. However, as also highlighted in the IA, this estimate must be taken with caution because it is based on a world-wide sample, and the patterns of remittances may vary considerably across continents and types of migrants.<sup>5</sup>

According to the IA, the initiative would guarantee to employers, in particular SMEs, access to a wider pool of candidates, tools facilitating recruitment, information and personalised support that would result in an increased number of recruitments. In particular, PO2, in view of its targeted nature, 'would guarantee better quality of candidates whose profile is more aligned with priorities of Member States' labour migration systems and the EU strategic interests like the twin transition (digitalisation and environment), and future prosperity' (IA, p. 67). Finally, the economies of third countries would benefit as a result of the successful matches provided by the EU talent pool (Annex 3, p. 128).

The IA further compares the options in terms of their **effectiveness and efficiency**. It presents all options in a detailed way, showing how they score (IA, pp. 47-66) and how they would affect each stakeholder group (IA, Annex 3, pp. 121-125). Concerning **coherence**, the IA states that all three POs would be in line with the EU's migration, social and economic policies. They would contribute to the European Year of Skills as a key component of the package on talent mobility. After comparing the options, the IA report concludes that the **preferred option** is the development of an EU talent pool to address labour market needs in key occupations (PO2).

According to the IA, PO2 would be the most effective option when it comes to addressing the problem drivers and the associated costs and impacts, and achieving the objectives of the initiative. It is also the least costly for achieving these objectives. In comparison with PO2, PO3 is expected to have a higher positive economic impact on GDP (by generating additional wages), on public finances and on SMEs (IA, p. 60). Nevertheless, the IA explains that the open nature of PO3 and the lack of pre-screening of candidates would lower the quality of matches, and are therefore sufficient justification for discarding this option and favouring PO2. The preferred policy option (PO2) would have a particularly positive impact on strategic sectors – such as the healthcare sector – that are suffering from structural shortages, and on sectors linked to the green and digital transition, while providing for quality profiles. At the same time, it would facilitate the implementation of the talent partnerships and incentivise cooperation with third countries on migration (migration management), while including appropriate safeguards and ensuring transparency and accountability on fundamental rights protection. The preferred option would also contribute to the relevant sustainable development goals (SDGs).

### SMEs/ Competitiveness

The initiative is relevant for small and medium-sized businesses. In line with the Better Regulation Guidelines (see also Better Regulation Toolbox, [Tool #23](#)), an **SME test** has been carried out, the main findings of which are described in detail in a separate annex (IA, Annex 11, pp. 337-341).

The IA highlights that 'the EU Talent Pool is highly relevant for SMEs, as the availability of skilled staff or experienced managers was the most important issue faced by SMEs in 2022'. It then identifies the affected businesses and gives detailed information on the impacts on SMEs, supported by relevant input from SME stakeholders, although it appears that no targeted SME consultation was conducted. In particular, the Commission gathered evidence through consultations activities. As part of these activities, SME stakeholders provided feedback to the IA and participated in the open public consultation through EU-level organisations such as SMEUnited.<sup>6</sup> These activities also involved direct consultation of individual enterprises (according to Annex 2 of the IA, the survey targeted companies or company branches based in 10 Member States, and covered SMEs and large enterprises). The IA further took into consideration the findings of the [2023 Flash Eurobarometer on the European Year of Skills](#) (with 13 000 SMEs participating) as well as the latest [Annual Report on European SMEs](#) by the European Commission's Joint Research Centre. The IA provides a comprehensive overview of the effect of the preferred option on SMEs, which would 'benefit from standardised processes, improved feedback mechanisms and dedicated communication channels as well as practical support in the form of assistance and support for international recruitment' (Annex 11, p. 338).

When analysing **competitiveness**, the IA provides a competitiveness check in a separate annex (IA, Annex 5), providing an overview of the impacts on competitiveness, including cost and price competitiveness (no impact), capacity to innovate (e.g. additional recruitment of workers from third countries), international competitiveness (no impact), and SME competitiveness. The IA also includes an additional competitiveness analysis with regards to the three main macro-sectors (Green, Health and ICT sectors) that suffer from labour shortages in most Member States, and that are more likely to benefit from this legislative initiative. The preferred option would cater to 'the needs of competitiveness of the EU as a whole in the context of the twin transition to the EU Digital and Net-zero economy, addressing increasing difficulties experienced by European companies in filling their vacancies in many sectors' (Annex 5, p. 143).

### Simplification and other regulatory implications

The IA explains, in line with the [REFIT initiative](#), that the preferred option is not expected to result in any simplification of a regulatory burden.

In light of the 'one in, one out' ([OIOO](#)) approach (Better Regulation Toolbox, [Tool #59](#)), the IA stresses that that 'the preferred option is not expected have any new or removed administrative burden on businesses and citizens' (IA, p. 70).

## Impact on third countries and developing countries

Assessing the potential effects of different policy initiatives on developing countries is a requirement of [Article 208\(1\) TFEU](#), which stipulates that the EU 'shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'. This constitutes the legal basis of the concept more generally known as policy coherence for development (PCD).<sup>7</sup>

The IA assessment of the impact on third countries is quite brief (IA, pp. 23, 49, 54-55, 61-62, and Annex 3). As highlighted above (under the Section on 'Problem definition'), the EU has to deal with challenges related to migration management. The IA acknowledges the need to 'create safe and effective pathways to reduce the incentives for irregular migration and to engage strategically with third countries, notably by establishing comprehensive, balanced and tailor-made partnerships' (IA, p. 11). In addition, one of the problem drivers identified has to do with the inconsistent and fragmented cooperation with third countries on legal migration/migration management (IA, p. 21). The IA underlines that both third countries and their citizens are negatively affected by this situation, as the former are losing out on the prospect of receiving higher remittances and the latter of getting upskilled in the EU and of potentially contributing to the labour markets of their countries of origin (brain gain), for example, through circular migration.<sup>8</sup> Annex 6 ('Problem assessment from a demographic perspective') highlights that at the global level, the world is becoming more migratory.<sup>9</sup> Of the several factors that shape this trend, the IA highlights better access to good quality education<sup>10</sup> and the fact that technical and vocational training as well as tertiary education are becoming more accessible in emerging and developing countries. The IA states that this initiative aims to make cooperation on migration management with third countries more effective by providing a tool to implement mobility- and skills-development schemes in a mutually beneficial way.

The IA expects talent partnerships to have some positive, incentivising effect cooperation with third countries. More specifically, the EU talent pool (as envisaged under PO2) would facilitate the recruitment of TCNs who participated in activities organised in the context of the talent partnerships with employers established in the participating Member States. The initiative is also expected to have a positive impact on remittances (Annex 10). The economies of third countries would benefit from additional remittances sent by TCNs coming to work in the EU as a result of the successful matches provided by the EU talent pool. These benefits link to SDG 1 (no poverty) (Annex 3, p. 128). However, as also highlighted above, estimates of potential remittances must be regarded with caution while also bearing in mind that not all TCNs would be willing to and/or capable of sending private funds to their home countries.

The talent pool would further ensure adequate protection of TCNs' fundamental rights, as it would afford them the right to choose an occupation and engage in work (Article 15 of the EU Charter and SDG 16), as well as the right to fair and just working conditions (Article 31 of the EU Charter) and non-discrimination (Article 21 of the EU Charter). Given that this initiative aims to reduce the risk of unfair recruitment and exploitative working conditions by putting up appropriate safeguards against them, it would also help strengthen TCNs' protection against discrimination while also improving the quality of their jobs and the standards of their working conditions (SDGs 8 and 10). According to the IA, one way to achieve stronger protection against discrimination would be through the application of non-discriminatory criteria to the candidates in the matching process. Quality checks on job vacancies would also help in this regard. However, the IA does not go into detail about the specific measures to ensure and enhance the protection of TCNs against discrimination. As highlighted by a civil society organisation during the stakeholder consultation, it is important to address existing challenges and inequalities within the talent pool concept (such as regularisation of migrants already present in the EU, streamlining title recognition processes, and fighting against wage gaps and discrimination), as well as to ensure that pre-screening processes of candidates' profiles embedded in the EU talent pool are transparent and comprehensive, in alignment with the principle of non-discrimination and equal opportunity.

In terms of the **negative impact** the initiative may have, third countries would most likely face the risk of a brain drain. Stakeholders consulted as part of the preparation of the legislative proposals further highlighted risks of a brain drain and a brain waste<sup>11</sup> as crucial aspects to be taken into account (Annex 2, pp. 94, 100, 106). That said, the IA claims that: 1) the increase of TCNs moving to the EU would be moderate in comparison with the baseline, making this impact limited; 2) due to the specific link with talent partnerships, the risk of a brain drain would be mitigated under PO2 for matches conducted in this context, given that talent partnerships are developed in a mutual beneficial way and the sectors they cover are selected in agreement with the partner country; and 3) the targeted nature of the preferred option (PO2), focusing only on specific occupations, would further limit the risk of a brain drain.

However, the IA does not appear to have dealt in sufficient depth with the impact on third/developing countries, although some of the envisaged measures concern them specifically. This concerns, for example, the risk of a brain drain in those cases where Member States participating in a talent partnership would not be obliged to participate in the EU talent pool and vice versa, given that the two initiatives remain separate, as also highlighted in the IA (Annex 9, p.288). The IA also states that this initiative is both coherent and compatible with international law, in particular the UN Global Compact (e.g. Objective 6: Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work). However, it would have benefited from a more in-depth analysis of the ethical recruitment issue. Various stakeholders commented on the importance of and need to ensure ethical recruitment in the context of the EU talent pool. Finally, the IA would have benefited from an assessment of potential impacts in relation to gender equality/diversity, the equal treatment of persons with disabilities and the unique challenges faced by asylum seekers and refugees, as pointed out by several stakeholders.

## Monitoring and evaluation

The IA provides a list of performance monitoring indicators linked to the specific objectives pursued by the preferred measures (IA, p. 71). In addition, the IA describes the data sources and tools to ensure sufficient monitoring. The proposal further suggests the inclusion of a provision requiring the submission of a report (to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions) on the application of the regulation, by 31 December 2031 (after an estimated 3 years of operation of the EU talent pool), and every 5 years thereafter (COM (2023)716, Article 23, p. 37). Existing EU agencies and networks, such as the Fundamental Rights Agency, the European Migration Network, and the Commission Knowledge Centre on Migration and Demography can be used to undertake punctual research into themes related to the implementation of the EU talent pool. The Commission will also continue to make use of the existing expert groups that contributed to the impact assessment ((COM (2023)716, Explanatory Memorandum, p. 13).

## Stakeholder consultation

The Commission provides a description of the stakeholder consultation in a separate annex, as required in the BRG (IA, Annex 2). The Commission launched a [call for evidence](#) from 16 February 2023 to 16 March 2023 (45 contributions were submitted<sup>12</sup>). The IA states that no dedicated public consultation took place in the framework of the preparation of this report since previous consultations were taken into account, namely the public consultation on the future of legal migration (Annex 2, p. 82, footnote 217), the [OECD feasibility study on the Talent Pool](#), and consultations related to the skills and talent package. Nevertheless, the Commission organised targeted consultations to cover more technical questions, including meetings with civil society organisations, EU agencies and international organisations; written contributions were also shared following these meetings. In addition, a series of consultation activities have been conducted by the external contractor in the context of the study to collect targeted input on the staff and budget allocation across the EURES National Coordination Offices. Other consultation activities done as part of the study sought to collect information on the validation and recognition procedures across



Member States as well as their associated costs and length (consultation with national representation of the NARIC network). Finally, the external contractor conducted a broad stakeholder survey in the context of the study to gather insights on the views of stakeholders on the problem and its drivers, and to collect cost data and stakeholder views on the impact of the policy measures and options and the potential magnitude of the impact of these policy measures for the assessment of impacts.<sup>13</sup>

The IA outlines the positions of the different stakeholders, including divergent views and suggested measures (IA, Annex 2), for example, as regards **the adoption of the EU talent pool** (where none of the EU citizens participating in the call for evidence were in favour of developing an EU talent pool). The 55 respondents who took part in the broad stakeholder survey ranked PO3 as the most effective (preferred) policy option, with some highlighting the importance of **involving trade unions, social partners and SMEs**. The IA presents the (partly diverging) views of the different stakeholder groups in a transparent way, and it appears that stakeholders' views and their support for the preferred option were broadly taken into account.

Overall, the annex on stakeholder consultation is informative and comprehensive, providing an in-depth insight into stakeholders' views (broken down by categories) on the problem drives, the initiatives' objectives, the evaluation of impacts and the choice of the preferred option. However, the feedback from this consultation strategy could have been better reflected in the IA, particularly regarding the available policy options and their potential impacts.

## Supporting data and analytical methods used

The IA was supported by a wide variety of sources and evidence collected through desk research, a comprehensive literature review, inter-service cooperation, expert consultations and focused group discussions. (IA, Annex 1, pp. 76-81). In addition, an external contractor conducted a [study to support the work on the impact assessment](#). The IA is transparent about the evidence and analytical methods used, including the underlying assumptions. It is clearly stated that it 'draws on numerical estimates and calculations, as well as qualitative material such as expert opinions' (IA, Annex 1, p. 77).

Annexes 4 and 10 provide an overview of the key assumptions on the basis of which the assessment of costs and benefits under each policy option was conducted. The assessment of the policy options, including their effectiveness and efficiency, is based on estimations about a) the number of Member States participating in the initiative; b) the number of potential users (TCNs and employers) of the EU talent pool by 2030; and c) the number of successful matches made through the EU talent pool. Moreover, the IA is frank about the limitations in the calculations, resulting from the nature of the policy area at hand. These limitations are also related to the expected uptake of the initiative by the Member States. In particular, the IA explains that, while the initiative would be designed to attract as many Member States as possible, it is likely that their participation would be a gradual process, with only some Member States joining in the first years of operation and others doing so progressively over the years. Finally, with regard to the method of calculation, the IA acknowledges that, in relation to **efficiency (concerning administrative costs)**, 'where costs vary depending on the number of Member States participating, a range of costs is provided to cover the two scenarios with 11 or 20 Member States participating, respectively' (IA, pp. 50, 56, 62). In sum, the key sources of evidence feeding into the IA are mostly recent, reliable and well-referenced, and their limits are acknowledged transparently.

## Follow-up to the opinion of the Commission Regulatory Scrutiny Board

The Commission's Regulatory Scrutiny Board (RSB) issued a [positive opinion with reservations](#) on the draft IA report on 28 September 2023. The RSB criticised shortcomings that concern, inter alia, the EU added value and the practical functioning of the EU talent pool platform, in particular with regard to its links with the talent partnerships; the description of the specific objectives (following the S.M.A.R.T. rules); the presentation of the costs and benefits of all options (with a focus on

effectiveness and efficiency); and the need for a clearer overview of all impacts. The Commission services describe in Annex 1 to the IA how the RSB's recommendations were addressed. It appears that efforts were made to address these recommendations; however, some of the points would have deserved a more in-depth assessment, for example, as regards the description of the specific objectives in S.M.A.R.T.er terms. The IA did not deal in sufficient depth with the impact on third/developing countries (e.g. with regard to the risk of a brain drain as well as aspects related to gender equality/diversity, the equal treatment of persons with disabilities and unique challenges faced by refugees, protection of TCNs against discrimination, ethical recruitment, potential additional remittances to third countries). It is difficult to verify to what extent the IA report has been improved, as the previous draft IA is not publicly available. Finally, some other weaknesses remain, notably regarding the readability of the document. Significant information that should be detailed in the main report is scattered over multiple annexes and is difficult to trace.

## Coherence between the Commission's legislative proposal and IA

The legislative proposal appears to be aligned with the preferred policy option presented in the IA.

The problem definition and problem drivers in the impact assessment (IA) appear to be well-supported by evidence. The IA provides a well-structured analysis of the existing situation and the likelihood for the problem to persist. The IA identifies the initiative's general and specific objectives, which appear to be specific, achievable, relevant and time-bound, but not measurable, as recommended by the Better Regulation Toolbox 'S.M.A.R.T.' criteria. The IA does not define more detailed operational objectives as recommended by the BRG; instead, it provides a list of performance monitoring indicators directly linked to the specific objectives.

The IA provides a sufficient range and description of the policy options. It offers an assessment of the options and presents the intervention logic in a clear and transparent manner, where the options are linked to the problem drivers and the specific objectives and their drivers. The IA analyses, in a comprehensive and balanced manner, qualitatively and, where possible, quantitatively, the main expected economic, social and fundamental rights, and environmental impacts, covering specifically effectiveness, efficiency and coherence. The IA explains how the preferred option would contribute to the SDGs; however, additional SDGs (e.g. SDG 5 on gender equality) should have been examined. The analysis of impacts on third and developing countries would have benefited from more attention, given the strong external dimension of the proposal.

The IA provides a comprehensive summary of the preferred option's (PO2) costs and benefits for the affected stakeholder groups. It is transparent about data uncertainties and assumptions. Stakeholders were widely consulted and their views were taken into account. The preferred option enjoys broad stakeholder support, with any divergent views sufficiently presented in the dedicated annex of the IA. Overall, the annex on stakeholder consultation appears to be very informative and comprehensive; however, the feedback from this consultation strategy could have been better reflected in the IA, particularly regarding the available policy options and their potential impacts.

A SME test was carried out. However, it appears that no targeted SME consultation was conducted. The Commission made efforts to take the RSB's comments into account, but some weaknesses remain (for example, as regards the description of the specific objectives in S.M.A.R.T.er terms, and a more in-depth analysis of the impacts on third and developing countries).

## ENDNOTES

- <sup>1</sup> European Parliament resolution of 25 November 2021 with recommendations to the Commission on legal migration policy and law ([2020/2255\(INL\)](#)); European Parliament resolution of 20 May 2021 on new avenues for legal labour migration ([2020/2010\(INI\)](#)).
- <sup>2</sup> The subsidiarity grid aims to provide a shared and consistent approach to assess conformity of a given proposal or initiative with the Treaty-based principles of subsidiarity and proportionality.
- <sup>3</sup> V. Margaras and K. Eisele, [Recognition of the qualifications of third-country nationals](#), EPRS, European Parliament, November 2023.
- <sup>4</sup> European Commission, Communication on 'Attracting skills and talent to the EU', COM(2022) 657, 27 April 2022.
- <sup>5</sup> The average share of income that third-country nationals send home is estimated at 15 %, as reported by a UN online publication from 2019: [Remittances matter: 8 facts you don't know about the money migrants send back home | UN DESA | United Nations Department of Economic and Social Affairs](#).
- <sup>6</sup> [SMEunited](#), formerly known as UEAPME, is the association of crafts and SMEs in Europe with around 70 member organisations from over 30 European countries. It represents national cross-sectoral Craft and SME federations, European SME branch organisations and associate members, and speaks on behalf of the 22.5 million SMEs in Europe, which employ almost 82.4 million people.
- <sup>7</sup> Through Policy Coherence for Development (PCD), the EU seeks to take account of development objectives in all its policies that are likely to affect developing countries, by minimising contradictions and building synergies. PCD is a fundamental element in making progress towards the EU's development cooperation objectives, i.e. reduction and – in the long term – eradication of poverty, and key in implementing the [2030 Agenda for Sustainable Development](#) and its sustainable development goals. The EU's development and migration cooperation policies, focusing increasingly on security, EU labour shortages, and readmission, present a challenge to PCD principles, as they can lead to a misalignment with partner countries' interests (for example, in hindering regional free movement, or depriving these countries of remittances or skilled workers. See also: [Understanding policy coherence for development](#), E. Pichon, European Parliamentary Research Service, November 2023.
- <sup>8</sup> Circular migration can be defined as a form of migration that is managed in a way allowing some degree of legal mobility back and forth between two countries. See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on circular migration and mobility partnerships between the European Union and third countries, COM/2007/0248 final.
- <sup>9</sup> A more migratory world means that the volume, diversity, geographical scope and overall complexity of international migration have increased as part of globalisation processes.
- <sup>10</sup> As the population of well-educated workers is growing in many countries around the world, access to quality education has become increasingly available. Technical and vocational training as well as tertiary education are becoming more accessible in emerging and developing countries. This has led to an increase in the number of medium- and high-skilled workers entering the global talent pool, including in sectors and occupations with persistent labour and skills shortages in Europe. UNDESA Policy Brief 152 [UN DESA Policy Brief No. 152: Population, education and sustainable development: interlinkages and select policy implications](#) | Department of Economic and Social Affairs.
- <sup>11</sup> The non-recognition of the skills (and qualifications) acquired by migrants outside the EU, which prevents them from fully using their potential (see the [Commission website](#)).
- <sup>12</sup> Of the 45 replies, 23 were from EU citizens (53.5 %), five from trade unions (11.6 %) and four from non-governmental organisations (9.3 %). Two contributions were from public authorities (4.7 %) and 1 from a business association (2.3 %) while eight replies were submitted by stakeholders who defined their profile as 'other' (18.6 %).
- <sup>13</sup> The survey was disseminated to all stakeholders by the study team. The survey was distributed to 166 stakeholders, out of which 20 stakeholders (mainly associations) were also asked to distribute the survey to other relevant stakeholders and colleagues (snowballing technique).

This briefing, prepared for the Committee on Civil Liberties, Justice and Home Affairs (LIBE), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the impact assessment. It does not attempt to deal with the substance of the proposal.

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