REPORT

with recommendations to the Commission on legal migration policy and law (2020/2255(INL))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Abir Al-Sahlani

(Initiative – Rule 47 of the Rules of Procedure)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with recommendations to the Commission on legal migration policy and law (2020/2255(INL))

The European Parliament,

– having regard to Article 225 of Treaty on the Functioning of the European Union,
– having regard to Article 3(2) of the Treaty on European Union,
– having regard to Article 79 of the Treaty on the Functioning of the European Union,
– having regard to the Charter of Fundamental Rights of the European Union, in particular Article 45 thereof,
– having regard to the European Pillar of Social Rights, in particular Principles 5, 10, 12 and 16 thereof,
– having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 2 of Protocol 4,
– having regard to the Union legal migration acquis developed between 2003 and 2021 which regulates the conditions of entry and residence and the rights of third-country nationals working in the Union and which includes:


– Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing,


– Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 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\(^5\),


– Directive 2003/86/EC of 22 September 2003 on the right to family reunification\(^8\),

– having regard to Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted\(^9\),


– having regard to the European Council conclusions on COVID-19 and migration of 24 June 2021, in particular no. 12,

– having regard to the EU Emergency Trust Fund for Africa,

– having regard to the Commission staff working document of 29 March 2019 entitled ‘Fitness Check on EU Legislation on legal migration’ (the ‘Fitness Check’),

– having regard to the communication of the Commission of 13 May 2015 entitled ‘A European Agenda on Migration’,

– having regard to the communication of the Commission of 24 November 2020 entitled


\(^7\) OJ L 16, 23.1.2004, p. 44.

\(^8\) OJ L 251, 3.10.2003, p. 12.


‘Action plan on Integration and Inclusion 2021-2027’,

– having regard to the communication of the Commission of 6 April 2016 entitled ‘Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe’,

– having regard to the communication of the Commission of 12 September 2018 entitled ‘Enhancing legal pathways to Europe: an indispensable part of a balanced and comprehensive migration policy’,

– having regard to the communication of the Commission of 23 September 2020 on a New Pact on Migration and Asylum,

– having regard to the action plan and political declaration adopted at the EU-Africa Summit on Migration, held in Valletta on 11 and 12 November 2015, in particular their respective parts on legal migration and mobility,

– having regard to the press release of the Commission of 11 June 2021 entitled ‘Talent Partnerships: Commission launches new initiative to address EU skills shortages and improve migration cooperation with partner countries’,


– having regard to its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration12,

– having regard to its resolution of 19 June 2020 on European protection of cross-border and seasonal workers in the context of the COVID-19 crisis13,

– having regard to its resolution of 20 May 2021 on new avenues for legal labour migration, based on an initiative report of the Committee on Civil Liberties, Justice and Home Affairs14,


– having regard to the study by the Policy Department for Citizens’ Rights and Constitutional Affairs of its Directorate-General for Internal Policies of October 2015 entitled ‘EU cooperation with third countries in the field of migration’,

– having regard to the study by the European Parliamentary Research Service of March

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13 OJ C 362, 8.9.2021, p. 82.
2019 entitled ‘The cost of non-Europe in the area of legal migration’,
– having regard to the research paper by the European Parliamentary Research Service of September 2021 entitled ‘European added value of EU legal migration policy and law’,
– having regard to the studies by the European Migration Network,
– having regard to the Universal Declaration of Human Rights, in particular Article 13 thereof,
– having regard to the Global Compact for Safe, Orderly and Regular Migration of 19 December 2018,
– having regard to the international labour standards on labour migration adopted by the International Labour Conference of the International Labour Organization,
– having regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted by the General Assembly of the United Nations on 18 December 1990,
– having regard to the studies on legal migration by the Organisation for Economic Co-operation and Development,
– having regard to the work and reports of the UN Special Rapporteur on the human rights of migrants,
– having regard to the study by the Center for Global Development of 15 July 2019, entitle ‘Maximizing the Shared Benefits of Legal Migration Pathways: Lessons from Germany’s Skills Partnerships’,
– having regard to the Africa Migration Report: Challenging the narrative of October 2020 by the International Organization for Migration,
– having regard to the study by the European Parliamentary Research Service of August 2021 entitled ‘The European Commission’s New Pact on Migration and Asylum - Horizontal substitute impact assessment’,
– having regard to Rules 47 and 54 of its Rules of Procedure,
– having regard to the opinion of the Committee on Development,
– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0314/2021),
A. whereas an adequate implementation of the existing legal acts on labour migration is equally important to proposing new legal acts;
B. whereas Article 79(1) of the Treaty on the Functioning of the European Union (TFEU) states that “The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and
enhanced measures to combat, illegal immigration and trafficking in human beings”;

C. whereas the Union is one of the main investors in developing human capital in neighbouring countries;

D. whereas the creation of additional legal pathways at Union level could help to provide Member States with a tool to properly face upcoming demographic challenges, meet the demands of the labour markets that cannot be met by the domestic workforce and enhance the matching of skills on the labour markets;

E. whereas 23 million third-country nationals were legally resident in the Member States in 2020, some 5.1% of the total Union population;\footnote{https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20210325-2#:~:text=On%201%20January%202020%2C%2023.5.1%2525%20of%20the%20EU%20population}

F. whereas the low issuance rate of long-term resident permits indicates that there might be a need to improve their attractiveness, something that could be achieved by a revision of Directive 2003/109/EC to clarify the advantages of holding an EU long-term residence permit and approximate; national legislative schemes

G. whereas, according to the Commission report on the Impact of Demographic Change, adopted on 17 June 2020\footnote{https://ec.europa.eu/info/sites/default/files/demography_report_2020_n.pdf}, the median age of the population of the Union is currently 44 years, has been increasing for several years and will continue to do so for at least the coming two decades;

H. whereas this implies that over the coming decades the Union will face a growing share of the population consisting of citizens aged 65 years and over, while the share of the population being of working age is projected to decrease during the same time period;

I. whereas the Fitness Check states that the current Union rules on legal migration have had limited impact in relation to attracting the skills and talents needed for the Union labour market and economy and that the current legal framework is “fragmented and presents a number of gaps, as well as implementation problems”;

J. whereas the main findings of the Fitness Check highlight effective legal migration policies as being key in the management of migratory flows;

K. whereas Commissioner Ylva Johansson stated on the occasion of the launch event of the talent partnerships on 11 June 2021 that the Commission’s strategic objective is to replace irregular migration with legal pathways\footnote{https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2921};

L. whereas visa measures can act as a positive incentive in the engagement with third countries; whereas the full implementation of the recently revised Visa Code\footnote{Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).} and additional efforts on visa facilitation with third countries are part of a comprehensive approach to migration policy outlined in the New Pact on Migration and Asylum;
whereas more cooperation and exchange of information would help to detect visa abuse;

M. whereas the partnership frameworks between Member States and third countries can serve as a crucial tool in the acceleration of mutual recognition of skills and qualifications of legal labour migrants;

N. whereas several Member States have already entered into successful partnerships with third countries to create a legal pathway for labour migration and to match labour market demands on a smaller scale through pilot projects; whereas talent partnerships should build upon positive lessons learned from these projects;

O. whereas the renewed European Partnership for Integration with social and economic partners looks into expanding future cooperation to the area of labour migration;

P. whereas the mismatch of skills on the Member States’ labour markets has proven very costly for the Union, causing its economy to lose over 2 % of productivity per year according to a study from the European Economic and Social Committee from 2018\(^1\); whereas that study states that the mismatch occurs on all skill levels, ranging from cooks and truck drivers to medical doctors and teachers; whereas that study asserts that the current legislative schemes are sufficient to ensure that the Union remains economically competitive in the short, medium and long-term and to meet the demands of the Member States’ labour markets;

Q. whereas in 2017 there were around 3,1 million third-country nationals holding an EU long-term residence permit compared to around 7,1 million third-country nationals holding a national long-term residence permit\(^2\);

R. whereas the two main objectives of Directive 2011/98/EU are the facilitation of application procedures for a combined work and residence permit and equal treatment; whereas the evaluation of that Directive as part of the Fitness Check and its implementation report identified a number of shortcomings with regard to the achievement of those objectives; whereas, to address those shortcomings, the Commission in the New Pact on Migration and Asylum announced a number of new initiatives, including a revision of that Directive;

S. whereas technical developments have transformed the way the world works and has created a situation in which many Union workers and self-employed persons work remotely; whereas remote workers are currently stuck in a legal grey area because they cannot apply for a traditional work permit in a Member State\(^3\);

T. whereas a number of Member States have launched “digital nomad visas”, which aim to facilitate the residence of remote workers or remote self-employed persons within a

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\(^3\)[https://www.etiasvisa.com/etias-news/digital-nomad-visas-eu-countries#:~:text=The%20digital%20nomad%20visa%20allows,are%20reviewed%20within%2030%20days.]
Member State and to allow them to work\(^22\);

U. whereas the Union is in the process of a post-pandemic economic recovery; whereas improved legislative schemes on legal labour migration are a decisive factor for the economic recovery of the Union;

V. whereas, according to the Commission Joint Research Centre study of 23 April 2020 entitled ‘Immigrant Key Workers: Their Contribution to Europe’s COVID-19 Response’, an average of 13% of workers key for societies are immigrants to the Union, which shows that they played a crucial role in the Union's ability to handle the COVID-19 pandemic;

W. whereas the direct link between the residence rights of legally staying third-country nationals and their employer exposes them to potential labour exploitation; whereas there have been calls to phase out those kinds of permits and instead allow legally staying third-country nationals to change employers without losing their work permits\(^23\);

X. whereas Directive 2009/52/EC provides for sanctions and measures that can be used against employers exploiting illegally staying third-country nationals who are working; whereas third-country nationals who have entered the Union legally can also be exploited and should benefit from the same level of protection;

Y. whereas the European Labour Authority has strengthened its cross-border operational capacity to support and strengthen national labour inspectorates and authorities, as well as social partners, in order to promote fair labour mobility and tackle cross-border fraud and abuse;

1. Considers that, in order to face upcoming demographic challenges in Member States with data showing that the share of inhabitants aged 65 years or over is projected to be around one third of the Union population by 2050\(^24\), which will produce significant labour shortages at all skill levels\(^25\), the Union needs to present new avenues for legal labour migration to the Union, while also taking into account the fact that Member States’ labour markets are different and face different kinds of labour shortages and challenges; is of the view that such new avenues will prove imperative for increasing the Union’s economic competitiveness and its global influence as the champion of democracy, the rule of law, human rights and free trade in goods and services, and as the leader in the fight against climate change; notes that such new avenues should ensure decent working conditions and reduce the exploitation of third-country workers; notes, moreover, that in a scenario where barriers to legal labour migration are reduced and labour market discrimination against third-country workers is diminished, it is estimated that long-run GDP gains of EUR 74 billion per year could be made in the Union\(^26\); is concerned that high barriers to legal labour migration entail reduced

\(^{22}\) Ibidem
\(^{25}\) Navarra, C. and Fernandes M. *European Added Value Assessment - Legal migration policy and law*, EPRS, 2021.
attractiveness for the Union in the global competition of workers of all skill levels; highlights that the introduction of new legal channels for migrants to enter the Union for work could generate up to EUR 37,6 billion in GDP gains per year;  

2. Requests that the Commission submit, by 31 January 2022, on the basis of Article 79(2) TFEU, in particular points (a) and (b) thereof, a proposal for an act that would serve as a package of proposals to facilitate and promote entry into and mobility within the Union for legally migrating third-country nationals applying for work or already holding a work permit and that, by aligning provisions across the existing legal migration directives, would serve to reduce bureaucracy, enhance harmonisation, promote fundamental rights, such as equal treatment, and prevent labour exploitation, following the recommendations set out in the Annex to this Report; notes that such a new act supporting legal labour migration from third countries and a greater degree of mobility remains one of the main answers to the current mismatches between labour supply and demand;  

3. Considers that the creation of a Union talent pool for third-country nationals who wish to apply for work with a view to migrating legally to a Member State, as well as for Union-based employers to search for potential employees in third countries, would be an essential tool for achieving the purpose of the proposed act and calls on the Commission to include the creation of such a talent pool in its proposal; proposes that the Commission include, within the talent pool, a Union talent remote network that would allow third-country nationals to work remotely in a Member State other than the one in which they are residing and the Commission and the Member states to work together to better understand the benefits and challenges of hiring third-country nationals talent remotely, and promote fair remote hiring of international talent; points out that such a network would be optional for Member States to use;  

4. Supports the Commission’s statement in its communication of 23 September 2020 on a New Pact on Migration and Asylum regarding the enhancement of bona fide short-term mobility as a complement to legal pathways, especially for the purposes of research or study, in order to improve upstream cooperation with third countries, and requests the Commission to explore this direction further;  

5. Asks the Commission to take into account Article 15 (1) of the Parliament and Council partial provisional agreement on the Reception Conditions recast Directive, thus reducing the negative impact of forced inactivity until the finalisation of the asylum procedure;  

6. Welcomes Directive (EU) 2021/1883 but considers it insufficient due to the fact that the labour markets of the Union are also in need of low and medium-skilled workers, even though those needs differ; notes that the Union is already dependent on them in essential sectors such as agriculture and healthcare; calls, therefore, on the Commission to make it a priority to include in its proposal an ambitious admission

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scheme for low and medium-skilled third-country workers in consultation with social partners and civil society, while reflecting the needs of the Member States; calls on the Commission to include the creation of a framework for validation and recognition of the skills and qualifications of third-country nationals, including vocational training, based on objective and uniform criteria, to facilitate their early integration into the labour market; requests that the framework for validation and recognition of skills and qualification ensure that third-country nationals are consistently treated fairly during the validation and recognition process, enable efficient schemes and procedures, and facilitate obtaining information in an efficient and easy way; encourages the Commission to insist that national authorities continue to share information and best practices with one another; calls on the Commission, moreover, to promote by all means possible, including by means of targeted campaigns, the revised Blue Card Directive, Directive (EU) 2021/1883, including in start-ups and in the IT sector, where skills are recognised equivalently to qualifications as set out in Article 26, read jointly with Annex I, of that Directive; recalls, however, that Article 79(5) TFEU states that that Article “shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed”:

7. Considers that the Union is in need of attracting more self-employed persons and entrepreneurs and needs to enhance innovation, for example through youth mobility and nomad schemes; in order for the Union to remain relevant and competitive in the global market, increasing the agility, robustness, stability, and growth of its economy, while creating new economic activity and employment opportunities, calls on the Commission to include in its proposal a Union-wide admission scheme for the entry and residence of self-employed persons and entrepreneurs based on objective and uniform criteria, in particular for those working to establish small and medium-sized enterprises and start-ups, and of highly mobile self-employed third-country nationals, such as artists and cultural professionals; insists that the schemes proposed must include measures that enhance fundamental rights and promote equal treatment for third-country workers; considers that the Commission should introduce a five-year multiple-entry visa allowing that category of third-country nationals to enter the Union for up to 90 days per year;

8. Requests that the Commission include in its proposal a framework for talent partnerships with third countries that Member States could opt into on a voluntary basis, tailored to the situation and the benefit of both the sending and receiving countries in question, which should include vocational training programmes based on skills, in particular aptitude tests, workplace observation and simulations; calls on the Commission to ensure that that framework allows for Parliament to be able to fully exercise its scrutiny and evaluation role and that the proposal includes adequate mechanisms to prevent labour exploitation and ensure equal treatment; highlights that inspiration for the talent partnerships can be found in existing skills-based agreements in Member States and that the talent partnerships should be developed in consultation with relevant organisations both in the Member States and in third countries;

9. Maintains that it is essential to follow a different and balanced approach to the relationship between the Union and third countries in the field of migration; calls on the Union to strive for formal agreements with partner countries on migration mobility;
10. Welcomes the Commission’s planned review of Directive 2011/98/EU; notes that one of the objectives of that Directive is to simplify and harmonise the rules on permits currently applicable in the Member States and to promote equal treatment and that those objectives have not been fully achieved with some of the provisions of that Directive having been implemented in different ways across the Union; considers further that that the Commission should take the necessary steps to ensure first and foremost that that Directive be properly implemented by Member States, secondly that it be amended to allow applications for a single permit to be lodged both from within a Member State and from a third country, and thirdly, in order to further simplify and harmonise the rules, that the procedure for obtaining an entry visa be clearly regulated so as to avoid the situation whereby applicants would have to submit the documents needed to obtain a single permit twice and to reduce the dependency of workers and the risk of exploitation; points out that the lodging of an application from within a Member State should only be available if the third-country national holds a residence permit at the time the application is lodged; calls on the Commission to include such amendments to that Directive in its proposal;

11. Requests that the Commission include in its proposal the establishment of a transnational advisory service network, to be managed by the Commission, for legally migrating third-country workers, with each Member State designating a lead authority to process applications and to coordinate the advice and information provided to third-country nationals applying for work in the Union or already holding a work permit; insists that the lead authorities should be responsible for sharing information among Member States on third-country workers, should act as contact points for workers and employers with regard to the talent pool and should provide relevant information to third-country nationals interested in migrating legally to the Union for work; points out that such information could be transmitted either virtually or via relevant bodies present in third countries, such as Member State embassies or Union delegations; asks that the lead authorities be responsible also for close coordination with one another with regard to applications lodged for a single permit to reside and work in accordance with Directive 2011/98/EU in order to avoid double submissions and to encourage employers to consider the possibility of applying for that permit and to support them in that effort; points out that there is a need to facilitate the gathering of data, statistics and evidence and that there is a need for information-sharing between Member States to improve the efficiency and effectiveness of the legal migration acquis;

12. Calls on the Commission to include in its proposal an amendment to Directive 2014/36/EU to allow holders of work permits under that Directive a period of three months to seek new employment after having left their previous employer without having their work permit revoked, allowing them to reside legally within the Member State in question until the end of the period they are allowed to stay, but no longer than nine months, as set out in that Directive, provided that they are applying for work at another employer throughout that period; furthermore, in order to avoid labour exploitation, calls on the Commission to encourage Member States to fully apply that provision, thereby delinking residence permits from the employer and the job; calls on the Commission to include in its proposal an amendment to that Directive to allow Member States to renew work permits for the purposes of seasonal work up to a total period of five years;
13. Requests the Commission to include in its proposal an amendment to Directive 2009/52/EC to adapt its scope to include exploited legally residing third-country nationals working in the Union who are victims of conditions that affect their health and safety and violate their human dignity and to improve the enforcement of equal treatment provisions, such as accessible and effective complaints mechanisms and access to justice for all workers in case of exploitation and other criminal offences;

14. Is of the view that Directive 2003/109/EC, which is currently under used and does not provide an effective right to intra-Union mobility, should be amended to allow third-country nationals who are long-term residents of a Member State to reside permanently within another Member State from the day their permit is issued on terms similar to the terms applicable to Union citizens and to reduce the number of years of residence required to acquire EU long-term resident status from five to three years, and requests the Commission to include those amendments in its upcoming revision of that Directive; acknowledges that continuous residence in one Member State is one of the aspects that promotes the proper integration of a person in a community before that person decides to reside in another Member State; calls on the Commission to include those amendments in its proposal;

15. Is of the view that sufficient funding for the proposals set out in this report is required and considers that the financial implications of the requested proposal should be covered by the relevant Union budgetary allocation;

16. Instructs its President to forward this resolution and the accompanying recommendations to the Commission, the Council and the national parliaments.
ANNEX TO THE MOTION FOR A RESOLUTION: RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

Recommendation 1 (on the establishment of an EU talent pool for legally migrating third-country nationals)

– The European Parliament considers that the legislative act to be adopted should establish an EU talent pool and matching platform for third-country nationals who wish to apply for work in and migrate legally to a Member State, as well as for Union-based employers to search in third countries for potential employees, and should facilitate the admission and free movement of third-country workers. Job matching through the EU talent pool should happen on a voluntary basis. The European Parliament considers that such an EU talent pool should establish synergies with the existing framework, and that the legislative act should therefore amend Regulation (EU) 2016/589 in order to expand the current scope of the EURES Portal, established by that Regulation;

– The EU talent pool, as established by the legislative act, should allow third-country nationals to express their interest in and apply for work, while also enabling employers to search for potential employees. Third-country nationals should be able to apply for work where there is a shortage in the Member States’ labour markets, after having gone through a transparent and non-discriminatory application and pre-screening process, facilitated by the Union. The EU talent pool would serve as an optional tool that Member States could use to meet the demands of and shortages in the Member States’ labour markets that cannot be met by the domestic workforce. The EU talent pool should be complemented by increased coordination between participating national authorities, with the involvement of public employment services and local authorities, and it should take into account national specificities and the different demands of national labour markets. The promotion of the EU talent pool and its usage could be enhanced by targeted information dissemination, promoting the EU talent pool and matching platform in third countries and participating Member States. In that spirit, the Union-wide transnational advisory service network, referred to in Recommendation 6, should facilitate the running of the EU talent pool and serve as a contact point for the EU talent pool in the Member States. Utilising that network, based on the harmonisation of applications, would help to reduce bureaucracy at Member State level. Within the EU talent pool, an EU talent remote network should be set up in order to allow third-country nationals to work remotely in a Member State other than the one in which they are residing, and such remote workers should enjoy equal treatment.

Recommendation 2 (on an admittance scheme for low and medium-skilled third-country workers)

– Given the demographic challenges and the global competition for talent, it is a pressing need for many Member States to improve their attractiveness and to create admission schemes for all skilled third-country workers, not only for highly-skilled workers. With the replacement of Council Directive 2009/50/EC by the revised Blue Card Directive, Directive (EU) 2021/1883, the Union has taken significant steps to achieve that goal for highly-skilled third-country workers. However, it is imperative that it also achieve that goal for third-country workers considered to be low or medium-skilled in order to fill vacancies and improve matching of the different needs of the Member States’ labour
markets, as determined by the Member States themselves, and to be consistent in practicing Union values. This will further enhance the Union’s economic competitiveness.

– To properly address that issue, the European Parliament calls on the Commission to include, within the legislative act to be adopted, provisions setting up an admission scheme with conditions of entry and residence for low and medium-skilled third-country workers. That scheme should ensure equal treatment in line with the existing Union *acquis* on labour migration and include the creation of a framework within which third-country workers are able to have their skills and qualifications properly recognised and validated for use on the Member States’ labour markets. In order to prevent any abuse of third-country workers and to ensure that they are treated equally when working or applying for work in the Union, the European Parliament, while insisting on the proper implementation of Directive 2009/52/EC and its monitoring mechanisms, calls for the Directive to be amended to include legally residing third-country workers within its scope, as set out in Recommendation 8. Furthermore, the European Parliament calls on the proper implementation by the Member States of the relevant existing legal framework on the issue of legal labour migration.

**Recommendation 3 (on an admittance scheme for entrepreneurs and self-employed persons)**

– Traditionally, work permits are issued in the place where the third-country national already has an offer of employment. However, the European Parliament is of the view that the basis for issuing work permits could be improved and developed further. Along the same lines, the Commission has stated that its objective is to encourage more people to become entrepreneurs, thereby improving the Union’s innovation, creativity and economic performance. Self-employed third-country nationals or third-country nationals working as entrepreneurs might feel that the environment in their country of origin is not conducive for their start-up or for their efforts as entrepreneurs. Through a Union-wide admittance scheme, such third-country nationals could be given an opportunity to migrate legally to the Union and establish themselves and their businesses. Union-level action should strive towards a favourable environment for entrepreneurship, including for third-country nationals and for high common standards with respect to the fundamental rights of entrepreneurs and self-employed persons.

– To that end, the European Parliament considers that the legislative act to be adopted should include an admission scheme with conditions of entry and residence for self-employed persons and entrepreneurs, in particular for third-country nationals who establish small and medium-sized enterprises and start-ups and that that admission scheme should ensure robust safeguards, equal treatment and the protection of fundamental rights. The definitions of ‘self-employed person’ and ‘entrepreneur’ vary across the Union, and they should continue to be defined by each Member State in accordance with their national legal traditions and case law.

**Recommendation 4 (on the preparation of a framework for talent partnerships between Member States and third countries)**

– The European Parliament calls on the Commission to prepare a tailor-made framework
for talent partnerships in which Member States can voluntarily participate and to include that in the legislative act to be adopted. The talent partnerships should be open to third-country workers of all skill levels, as well as to students and graduates, and would serve as an efficient tool for Member States to match the skills of workers in third countries with the demands of the Member States’ labour markets which cannot be met by the domestic workforce. The aim of the talent partnerships is to add another legal channel as a mobility option for third-country nationals who wish to migrate to the Union for work and to tackle the issues of labour market shortages and mismatches across the Union, creating a ‘quadruple win’ for the Union, third countries, employers and migrant workers. The practical implementation of the talent partnerships would rely on close cooperation with national authorities, labour market institutions, civil society actors and social partners. The Commission should ensure that the European Parliament is able to, on a regular basis, scrutinise and evaluate the functioning of the talent partnerships, as well as to propose recommendations to improve the overall functioning of the framework for talent partnerships.

– A reinforced and more comprehensive approach would offer cooperation with partner countries and help boost mutually beneficial international mobility. It is important that Member States and third countries have equal opportunities to develop the talent partnerships and are able to create a transparent and accessible process for applicants. The talent partnerships should be inclusive and build strong cooperation between the institutions concerned, for example national ministries of labour and education, employers, social partners, and education and training providers. It is important that the Member States strongly engage with the talent partnerships, that the private sector, in particular Union businesses, social partners and relevant civil society actors, be involved and that partner countries have a meaningful sense of ownership.

**Recommendation 5 (on the simplification and improvement of Directive 2011/98/EU)**

– The European Parliament is of the view that the procedures with respect to Directive 2011/98/EU should be further harmonised for that Directive, in particular its equal treatment provisions, to be fully efficient and properly implemented. Therefore, the European Parliament considers that the legislative act to be adopted should amend that Directive in order to allow that applications for a single permit to be lodged both from within a Member State and from a third country, while engaging both the Member States and third countries in the exchange of information and coordination of the applications lodged, in full compliance with Union data protection standards. However, in order to be able to lodge an application for a single permit from within the territory of a Member State, the third-country national must have a valid residence permit at the time the application is lodged. The European Parliament moreover calls for the clear regulation and streamlining of the procedure for applying for an entry visa in order to avoid the situation whereby applicants would have to submit the documents needed to obtain a single permit twice. The European Parliament furthermore asks the Commission to analyse and reduce the administrative requirements and inefficiencies in permit procedures which prevents migration by legal pathways from responding to real labour market needs. Lastly, the European Parliament considers that the legislative act to be adopted should contain changes that would alleviate the difficulties third-country nationals holding work permits face when changing employment, as they currently are too dependent on the employer and therefore prone to labour exploitation.
**Recommendation 6 (on the establishment of a Union-wide transnational advisory service network for legally migrating workers)**

- The European Parliament is of the view that systematic cooperation between and engagement with the authorities of Member States and of third countries is required to enhance legal pathways for labour migration. To achieve that goal, the European Parliament considers that the legislative act to be adopted should establish a service network, managed by the Commission, for third-country workers, with each Member State designating a lead authority to coordinate the advice and information provided to legally migrating third-country nationals applying for work in the Union. The transnational advisory service network should build on existing established networks and services and, if necessary, expand the scope of such established networks and services. The authorities of each Member State should also be responsible for closely coordinating with one another with regard to applications lodged for a single permit to reside and work in the Union in accordance with Directive 2011/98/EU in order to avoid double submissions. The transnational advisory service network should also take into account national specificities and the different demands of national labour markets.

- In addition, each Member State should be responsible for requesting from employers information on third-country workers, in full respect of Union data protection law, in order to enable third-country workers to be connected with the relevant authorities and support services and in order to facilitate the protection of third-country workers and the strengthening of their equal rights and treatment. Moreover, the legislative act to be adopted should ensure that employers provide accurate and timely information about the rights, the relevant authorities and the services available to third-country workers. That transnational advisory service network should facilitate the running of the talent pool, as outlined in Recommendation 1, and relevant civil society organisations, including diaspora communities, should be consulted in the development of the transnational advisory service network.

**Recommendation 7 (on amending Directive 2014/36/EU to enable seasonal workers to change employer)**

- Promoting professional mobility for legally residing third-country nationals working in a Member State also means protecting them from exploitation. Numerous third-country workers, in particular low-skilled third-country workers, hesitate to leave an exploitative employer because it would mean that they would lose their work permit and right to stay in the Union. This is currently evident in the desperate situation of many workers in different sectors across the Union, such as in the catering, hotel and entertainment sectors, as well as care workers. Holders of a work permit issued under Directive 2014/36/EU are, in particular, prone to exploitation because they often tend to work within sectors mainly employing low-skilled workers.

- Therefore, the European Parliament considers that the legislative act to be adopted should amend Directive 2014/36/EU to allow holders of work permits under that Directive a period of three months to seek new employment after having left their previous employer without having their permit revoked. The holders should be allowed to reside within the Union until the end of the period they are allowed to stay, but no

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longer than nine months, as set out in that Directive. The European Parliament recommends that the Commission, at the same time, consider other appropriate amendments to that Directive in order to bring it up to date and in line with other more recent Union legal acts dealing with legal migration, including allowing the application to be submitted from within the territory of the Member State, and to further address persistent labour exploitation of seasonal workers.

Recommendation 8 (on amending the Directive 2009/52/EC to include legally residing third-country nationals and to address labour exploitation)

Directive 2009/52/EC contains several tools that can be used to support irregularly staying third-country nationals working within the Union. The fact that it only covers irregularly staying third-country workers is, however, a substantial flaw. While regularly staying third-country workers enjoy a higher level of protection, mainly by virtue of their legal right to stay within the Union but also through other means, they too can be exploited and remain more vulnerable than Union citizens. Consequently, the European Parliament sees a need to amend Directive 2009/52/EC to enforce a horizontal provision strengthening the effective access to labour rights and to effective remedies through complaints mechanisms and legal procedures and to make that Directive applicable to all third-country nationals working in the Union.

Recommendation 9 (on the need for a revision of Directive 2003/109/EC)

Holders of EU long-term residence permits face a number of barriers to the exercise of their right to move to and reside in other Member States for work, study or other reasons. This is because the conditions for mobility which EU long-term residents must fulfil in many cases are similar to the conditions other third-country nationals must fulfil for a first-time application for a long-term permit. In 2017, in the 25 Member States bound by Directive 2003/109/EC, there were approximately 3.1 million third-country nationals holding an EU long-term residence permit as compared to approximately 7.1 million third-country nationals holding a national long-term residence permit. It can therefore be concluded that third-country nationals underuse the EU long-term residence permit, meaning that many of them do not enjoy the benefits flowing from having Union status, despite the fact that they would be eligible. The implementation report on that Directive points to the fact that most Member States have not actively promoted the use of the EU long-term residence permits and, as a result, there is no ‘level-playing field’ between the Union legislative scheme and the national equivalent.

Therefore, the European Parliament considers that the legislative act to be adopted should amend Directive 2003/109/EC to allow third-country nationals who are long-term residents of a Member State to reside permanently within another Member State from the day their permit is issued on terms similar to the terms applicable to Union citizens. The European Parliament recommends that the Commission, at the same time, consider other appropriate amendments to that Directive to bring it up to date and in line with other more recent Union legal acts dealing with third-country nationals legally staying in the Union. The European Parliament requests the Commission to, as a minimum, include in its proposal a reduction of the number of years required for acquiring an EU long-term residence permit from five to three years, particularly to

enhance mobility, and a simplification and harmonisation of procedures. By making such amendments, Directive 2003/109/EC would facilitate intra-Union mobility as well as international mobility to and from the Union and third countries. Lastly, the European Parliament encourages the Commission to conduct a study on the issue of third-country nationals’ turnover rates within the Union in order to better understand the reasons for departure from a Member State within the first three years of arrival.
11.10.2021

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Civil Liberties, Justice and Home Affairs

Legal migration policy and law
(2020/2255(INL))

Rapporteur for opinion: Pierrette Herzberger-Fofana

(Initiative – Rule 47 of the Rules of Procedure)

SUGGESTIONS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Notes that the 'New Pact on Migration and Asylum' is a holistic attempt to address Europe's migration asylum, integration and border management challenges; reiterates the need to tackle the external challenges of migration, such as political instability, poverty and violence; underlines that armed conflicts and climate change are one of the main drivers of migration; urges therefore, to continue addressing the root causes and drivers of migration through a values-based approach in the country of origin or transit; stresses that effective development cooperation can reduce significantly the drivers of forced and irregular migration and thereby contribute to sustainable, long-term development of those countries and their nations; notes that the Union can do more to seize the positive contributions that legal migration can make to sustainable development and societies in countries of origin and destination while it is fundamental to define safe and legal channels for migration; Calls on the Commission to carry out an impact assessment on the New Pact on Migration and Asylum with a specific focus on its impact on developing countries;

2. Draws attention that the 'New Pact on Migration and Asylum' should revolve around responsibility and solidarity by creating a proper solidarity system among Member States; calls for overcoming the principle of the first country of arrival in favour of a more flexible mechanism; beneficiaries of international protection should be granted freedom of movement in the Schengen area;

3. Recalls that according to the Article 79 TFEU, the Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member
States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings and that this Article shall not affect the right of Member States to determine volumes of admission of third-country nationals to their territory in order to seek work, whether employed or self-employed; underlines that labour migration at Union level has an impact on Member States’ diverse labour market policies and on the overall functioning of the Union internal market; underlines however that knowledge and skills’ transfer acquired abroad have been shown to have concrete development benefits in origin countries; considers that well-designed and well-managed legal migration policies can be a source of innovation and economic development, beneficial for both countries of origin and host countries; considers that a fragmentation of labour migration regulations across the Union discourages the use of legal pathways and causes low expectation of possibilities to re-entry and discourages circular migration as well as trajectories and more articulated forms of human mobility that have potential beneficial effects on developing countries of origin;

4. Deplores the lack of legal migration pathways and the fragmentation of Union legislative framework; expresses deep concern on the high uncertainty conditions and the limited possibilities offered and notes that several major categories of third country nationals are still not covered by legislative provisions;

5. Underlines the need for labour migration channels for low and medium skilled workers, ensuring respect and full enforcement of equal treatment and non-discrimination principles; considers that the Union economy benefits from their presence and notes that the significant contribution of third-country nationals to labour market became even more evident during Covid-19 pandemic; regrets that, regardless of the skill-level of their employment, third-country nationals experience worse labour conditions and face barriers to integration, including discrimination to accessing healthcare and education; notes that precarious and exploitative labour conditions are often connected to irregular status and calls for fast and open regularisation processes improving workers’ rights and conditions;

6. Welcomes the revised Union Blue Card Directive and the EU Talent pool proposed by the Commission as a measure to attract global talent; stresses the need to simplify administrative procedures for the recognition of legal migrants’ qualifications and professional skills; recalls that measures to support youth and women’s entrepreneurial activities or to facilitate remittances are other ways in which migrants abroad can invest in their country of origin;

7. Calls for the EU Talent Partnerships to include youth-specific pathways, such as student visas, scholarships, training opportunities for young low-skilled workers, that will help to strengthen human capital of countries of origin and will prevent children being exposed to dangerous journeys and to violence, abuse and exploitation by traffickers and smugglers;

8. Considers that EU Talent Partnerships should be finalized to create and improve regular, safe and effective pathways and should be integrated in a framework promoting migration as a key feature for sustainable development; urges that those partnerships should not be, directly or indirectly, conditional to other aspects of migration agenda such as returns, readmissions or border management;
9. Underlines that emigration of highly qualified citizens can deprive countries of origin of their human capital and an educated workforce (“brain drain”); underlines that migration plays an important and complex role for economic and social development and considers that this involves several development-enabling factors, in particular the huge amount of financial flows from remittances; considers it decisive to involve diaspora organizations in strengthening those factors and in promoting forms of social remittances, such as the circulation of knowledge and ideas and economic and social exchanges; calls for the future EU Talent Partnerships to address this issue and take on board lessons from the recent EU pilot projects on legal migration; considers that those partnerships should support educational and vocational training systems in the countries of origin and enhance skill development not only for the destination country’s benefits; and that it is necessary to provide countries of origin with development assistance in the education and health sector, as well as for better governance and the protection of human rights;

10. Stresses that moving beyond the “pilot” phase, which implies scaling up the amount of projects and funding, will require sustained political and financial support from Member States as well as close cooperation with partner countries to ensure that EU Talent Partnerships can truly reflect shared priorities around mobility and skills and do not focus on destination countries needs only; calls on upcoming EU Talent Partnerships to overcome the shortcomings of the Pilot Projects and therefore: to expand the scope of participants, duration and purpose of trainings, to ensure better social protection and labour rights of participants, calls for increased funding of the Erasmus+ programme and creating opportunities for academic exchanges;

11. Calls on the Commission and the Member States to define "education corridors" in order to give the opportunity to refugees and students from countries in conflict to continue their study in Union and to be accepted in European universities;

12. Recalls that mobility has long been a critical adaptation strategy for populations facing economic, security and environmental pressure in their regions of origin; stresses that tackling the external dimension of legal migration requires Union policies that favour the development of legal and safe migration pathways, in order to reshape rather than prevent migration trends, so as to work with rather than against them; insists that an approach which emphasizes border control and the reduction of migrant arrivals in Europe pushes migrants towards more dangerous routes but will not prevent them from undertaking their journey; underlines that the use of development aid to deter migration has been proven not to reduce migration rates but may instead help them increase;

13. Underlines that the COVID-19 pandemic has revealed the important contributions of immigrant workers across the skills spectrum in key sectors such as health care and social care, information and communications technology (ICT), logistics, agriculture, and construction; calls on the Union to develop a more sustainable legal migration policy in partnership with third countries and to ensure safe two-way migration mobility, such as for labour, academic or training purposes which could benefit both, countries of origin and host countries;

14. Regrets the continued and excessive focus on the deterrence of migration to the Union and considers that this has not produced an adequate level of management of the
migratory phenomenon or the respect of fundamental rights; stresses that short-term or politically expedient thinking, implemented through measures to strengthen border controls and reduce migrant arrivals in Europe has led to a drastic reduction in legal migration opportunities, and pushed migrants towards more dangerous routes, into the arms of ruthless migrant smugglers and several times resulted in serious violations of their basic human rights; stresses that the border procedure at the external borders should only be considered as a measure of last resort, and not used by default;

15. Stresses that all asylum applicants should have the right to an individual assessment of their application and should enjoy the right to an effective remedy when border procedures apply, including the right to remain in the territory pending the outcome of the remedy without being held in detention for the sole reason of being subject to these procedures;

16. Stresses that no detention should be allowed where detention conditions are not compatible with human dignity; and that health and psychological care, access to interpretation, legal information and assistance by NGOs should always be provided;

17. Underlines that people in need of international protection should be able to reach the Union without having to resort to using smugglers, calls for enhancing legal and safe channels for people in need of protection such as resettlements programmes, humanitarian visas and humanitarian corridors;

18. Stresses that particular attention should be given to vulnerable categories and in particular to children, women and family units; calls for strengthening reception mechanisms and legal channels for access of vulnerable children and families in need of international protection through expanding refugee resettlement, family reunification, community and private sponsorship schemes and humanitarian visas;

19. Highlights that the working document of the Frontex Scrutiny Working Group (FSWG) of the European Parliament concluded that the mechanisms of this agency to monitor, report and evaluate fundamental rights situations are deficient; urges the Frontex Management Board, the Commission and Member States to implement the recommendations of the FSWG without further delay;

20. Calls for appropriate international law enforcement efforts, in close cooperation with relevant local governments as well as with UNHCR and IOM, to combat criminal networks of smugglers and human traffickers, ensuring full respect of human rights; underlines that the SDG target 10.7 establishes the need to improve international cooperation for creating safe regular and orderly migration pathways;

21. Recalls that the European Consensus for Development provides for a coordinated, holistic and structured approach to migration, given its cross-cutting nature and considers it as one of the key areas to which Policy Coherence for Development (PCD) applies; in this regard, calls for PCD compliant and regularly assessed external migration policies which contribute to human rights, gender equality and empowerment, poverty eradication and human development;

22. Deplores the fact that less than 1% of Union spending for asylum and migration has been dedicated to expenditure on migration facilitation and mobility including pathways to protection, and in particular to the Union between 2014 and 2019, while
around 13% was allocated to addressing migration restriction and reduction measures; notes that there is no long-term assessment of the consequences of the measures on migratory routes and the security situation; calls for the appropriate use of the NDICI-Global Europe to contribute to addressing the root causes of migration by fighting poverty, stimulating economic growth and by enabling development in third countries; recalls that the NDICI-Global Europe can support migration-related policies in a limited way, though this must be in line with the principle of policy coherence for sustainable development;

23. Calls to allocate a significant part of its 10% spending earmarked for migration to developing and expanding legal migration policy options including developing new channels for migrants to enter the Union, supporting the freedom of movement within regions outside of Europe, supporting labour mobility schemes, promoting education and study mobility schemes, in particular through the budget line allocated to Erasmus+, facilitating safe arrival in the Union for asylum and non-asylum migration, facilitating the recognition of professional qualifications, supporting pilot projects on legal migration within third countries and in the Union;

24. Stresses that the evaluation of the NDICI-Global Europe instrument must be carried out in relation to the degree of attainment of the SDGs rather than using reduced migration as an indicator of success; underlines, in this regard, that Official Development Assistance cannot be used to strengthen borders, encourage deportations and prevent the influx of migrants into the Union;

25. Underlines that the Union should at all cost avoid using development cooperation policy as an instrument to manage migration flows and stresses that development support cannot be conditional upon the capacity or willingness of partner countries to cooperate on Union migration policies, including in the forced return of their nationals or border management, as this would undermine the legal obligation of the Union to Policy Coherence for Development and with the European Consensus on Development, and be against the aid effectiveness principle of country ownership; recalls also that ODA must be used for its primary purpose of eradicating poverty and not to support migration management and control or any other actions without development objectives;

26. Notes that NDICI-Global Europe Regulation foresees mid-term and final evaluations and the detailed annual reporting by the Commission to the European Parliament and the Council on the ongoing activities, results delivered, effectiveness, as well as progress towards the thematic targets and objectives of that Regulation; calls on the Commission to develop and implement a precise methodology for tracking the 10% expenditure earmarked for migration and forced displacement to effectively ensure proper transparency and accountability regarding this spending, as required in that Regulation;

27. Stresses the need to involve all relevant stakeholders in Europe and partner countries, including parliaments, NGOs, local authorities, private sector, cities and municipalities that play a key role in the integration of migrants and refugees in the definition and evaluation of new and existing legal migration strategies; highlights the importance of a structured dialogue with independent civil society organisations, religious entities and trade unions which play a key role in partner countries, including
in conflict resolution;

28. Retains it essential to build up a different and balanced approach of the Union-third countries’ relationship in the field of migration; calls on the Union to strive for formal agreements with partner countries on migration mobility, return- and readmission in line with the Charter of Fundamental Rights of the European Union and the Geneva Convention on the Status of Refugees; regrets that partnerships between the Union and third countries have often been used for externalization of migration management and deplores that a particular focus on stopping migration flows has led to counterproductive effects on development policies; Stresses that the Union and its Member States should not establish cooperation arrangements on border management with third countries that do not ensure respect for essential human rights standards; underlines that migration governance should be coherent with other Union external actions, respecting human rights and leaving no one behind as stipulated in the 2030 Agenda;

29. Welcomes the Africa-EU Migration and Mobility Dialogue, which focuses on migration and mobility within Africa and the Union; calls for greater South-North and North-South mobility in the areas of education, vocational training and academic exchanges; recalls that as most migrants move within their own region and continent of origin, intra-regional and intra-continental mobility should be facilitated; calls on the EU-Africa partnership and the future OACPs-EU agreement to support intra-regional and intra-continental mobility of persons in accordance with the African Charter of Human rights and the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment; calls on the Commission and Member States to engage with African partners given that intra-African mobility is essential for development.
MINORITY POSITION

Bernhard Zimniok

The 'New Pact on Migration and Asylum is the Commission attempt to legalize illegal migration and mislead Europeans into believing the threat of illegal migration vanished. The Member States have to find solutions enabling a stop to illegal migration and cooperation on re-migration of large volumes of migrants that constitute a cultural liability and security risk for the peoples and nations of Europe. The attempts of the political elite alongside the Commission to legalizing illegal migration will not reduce migration to Europe, it will trigger further and increasing mass-migration; this is done against the will of a majority within the indigenous peoples of Europe. The Commission and political elite of the Member States disregards the peoples of Europe’s right to self-determination. The external boundary-line of the EU must be secured; trespassers swiftly detained and return. Any real labour shortages is remedied with the labour force within the Member States. All EU policies and measures must now be directed toward: halting migration and the return of all illegal migrants. The current 10% of EU-funds the Commission earmarks for predominantly facilitating migration from the third world to Europe must now be used to ensure re-migration from Europe.
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