

LEGAL MIGRATION POLICY AND LAW

(2020/2255 (INL))

COMPROMISE AMENDMENTS - FINAL DRAFT

Rapporteur: Abir Al-Sahlani

COMPROMISE AMENDMENT 1 on CITATIONS

Amendments covered: 21 and 22 (Devesa & Engerer)

Fall: 1-4, 6-11, 14-18 (Weimers), 5 (Skyttedal), 12-13 (Rooker), 19-20 (Fest & al)

- 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, which includes:

Directive (EU) of the European Parliament and of the Council of ... 2021 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, and repealing Council Directive 2009/50/EC¹,
- 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 pairing²,
- Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers³,
- Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of

¹ OJ L ..., ...,2021, p. [2016/0176 COD]

² OJ L 132, 21.5.2016, p. 21.

³ OJ L 94, 28.3.2014, p. 375.

an intra-corporate transfer⁴,

- 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 State⁵,
- Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals⁶,
- having regard to Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents⁷,
- having regard to Directive 2003/86/EC of 22 September 2003 on the right to family reunification⁸,
- 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 granted⁹,

- having regard to Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013¹⁰,
- having regard to Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344¹¹,
- 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 Commission communication of 13 May 2015 entitled 'A European

⁴ OJ L 157, 27.5.2014, p. 1.

⁵ OJ L 343, 23.12.2011, p. 1.

⁶ OJ L 168, 30.6.2009, p. 24.

⁷ OJ L 16, 23.1.2004, p. 44.

⁸ OJ L 251, 3.10.2003, p. 12.

⁹ OJ L 337, 20.12.2011, p. 9.

¹⁰ OJ L 107, 22.4.2016, p. 1.

¹¹ OJ L 186, 11.7.2019, p. 21.

Agenda on Migration’,

- having regard to the Commission communication of 24 November 2020 entitled ‘Action plan on Integration and Inclusion 2021-2027’,
- having regard to the Commission communication of 6 April 2016 entitled ‘Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe’,
- having regard to the Commission communication of 12 September 2018 entitled ‘Enhancing legal pathways to Europe: an indispensable part of a balanced and comprehensive migration policy’,
- having regard to the Commission communication of 23 September 2020 on a New Pact on Migration and Asylum (COM(2020)0609),
- 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 the Commission Joint Research Centre study of 23 April 2020 entitled ‘Immigrant Key Workers: Their Contribution to Europe’s COVID-19 Response’ and its technical report of 19 May 2020 entitled ‘A vulnerable workforce: Migrant workers in the COVID-19 pandemic’,
- 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 September 2015 entitled ‘Exploring new avenues for legislation for labour migration to the European Union’,
- 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

¹² OJ C 58, 15.2.2018, p. 9.

¹³ Texts adopted, P9_TA(2020)0176.

¹⁴ Texts adopted, P9_TA(2021)0260.

2019 entitled ‘The cost of non-Europe in the area of legal migration’,

- having regard to the forthcoming study conducted by the European Parliamentary Research Service, referred to as European Added Value Assessment on 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, entitled ‘Maximizing the Shared Benefits of Legal Migration Pathways: Lessons from Germany’s Skills Partnerships’,
- having regards to the Africa Migration report of 2019 by the International Organisation for Migration,
- having regards to the Horizontal substitute impact assessment on the European Commission’s New Pact on Migration and Asylum of August 2021 published by the European Parliamentary Research Service,
- 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 (A9-0000/2021),

COMPROMISE AMENDMENT 2A on RECITALS¹⁵

(from “Whereas an adequate” until “migration with legal pathways”)

Amendments covered: **24, 28, 29, 30, 31, 32, 33, 35, 37, 38 and 40 (Rapporteur et al.)**

- *Whereas an adequate implementation of the existing legislation on labour migration is equally important to proposing new legislation;*
- *Whereas Article 79(1) of the Treaty on the Functioning of the European Union 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*
- *Whereas the EU is one of the main investors in developing human capital in neighbouring countries;*
- *Whereas the creation of additional legal pathways on an EU level could help to provide EU Member States with a tool to properly face upcoming demographic challenges, as well as meeting demands of the labour markets that cannot be met by the domestic workforce and enhance the matching of skills on the labour markets;*
- *Whereas 23 million non-EU nationals were legally resident in EU Member States in 2020, some 5, 1% of the EU total population¹⁶;*
- *Whereas the low issuance rate of long-term resident permits indicates that there could be a need to improve their attractiveness, which could be achieved by a revision of the directive clarifying the advantages of holding an EU long-term residence permit and approximating national legislative schemes*
- *Whereas according to the European Commission Report on the Impact of Demographic Change from 2020¹⁷, the median age of the EU27 is at 44 years today, has been increasing for several years and will continue to do so for at least the coming two decades;*
- *Whereas this implies that long-term, the EU will face a growing share of the population consisting of citizens being 65+ years old in the coming decades, while the share representing the working age population is projected to decrease during the same time period;*
- *Whereas the Fitness Check clearly stated that the current EU rules on legal migration has had limited impact in relation to attracting the skills and talents needed for the EU labour market and economy, as well as pointing out that the current legal framework is “fragmented and presents a number of gaps, as well as implementation*

¹⁵ Please note that in the Recitals appear as Citations. The changes will be made at the final stage

¹⁶[https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20210325-](https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20210325-2#:~:text=On%201%20January%202020%2C%2023,5.1%25%20of%20the%20EU%20population)

[2#:~:text=On%201%20January%202020%2C%2023,5.1%25%20of%20the%20EU%20population](https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20210325-2#:~:text=On%201%20January%202020%2C%2023,5.1%25%20of%20the%20EU%20population)

¹⁷ https://ec.europa.eu/info/sites/default/files/demography_report_2020_n.pdf

problems”;

- *Whereas the main findings of the Fitness Check highlighted effective legal migration policies being key in the management of migratory flows;*
- *Whereas Commissioner Ylva Johansson stated on the occasion of the launch event of the talent partnerships on June 11th 2021 that the Commission’s strategic objective is to replace irregular migration with legal pathways¹⁸;*

COMPROMISE AMENDMENT 2B on RECITALS¹⁹ Amendment covered: 47
(Rapporteur et al.)

- *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 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;*

COMPROMISE AMENDMENT 2C on RECITALS²⁰

Amendments covered: 23, 26 (Engerer et al.), 25,34, 36, 39, 41-45, 48 Rapporteur et al.)DEVE 4 and DEVE 14

- *Whereas the partnership frameworks between EU Member States and third countries can serve as a crucial tool in the acceleration of the mutual recognition of skills and qualifications of legal labour migrants;*
- *Whereas several EU Member States have already entered into successful partnerships with third countries to create a legal pathway for labour migration, as well as matching labour market demands on a smaller scale through pilot projects; Whereas talent partnerships should build upon positive lessons learned from these projects;*
- *Whereas the renewed European Partnership for Integration with social and economic partners looks into expanding the future cooperation to the area of labour migration;*
- *Whereas the mismatch of skills on the EU Member States’ labour markets’ has proven very costly for the European Union, causing its economy to lose over 2% of productivity per year according to a study from the European Economic and Social Committee from 2018²¹; whereas the same report states that the mismatch occurs on all skill levels -ranging from cooks and truck drivers to medical doctors and teachers; Whereas this report asserts that the current legislative schemes are insufficient in ensuring that the European Union remains economically competitive in both short-,*

¹⁸ https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2921

¹⁹ Please note that in the Recitals appear as Citations. The changes will be made at the final stage

²⁰ Please note that in the Recitals appear as Citations. The changes will be made at the final stage

²¹<https://www.eesc.europa.eu/en/news-media/press-releases/skills-mismatches-eu-businesses-are-losing-millions-and-will-be-losing-even-more>

medium and long-term, as well as meeting the demands of the Member States' labour markets;

- *Whereas in 2017, there were around 3.1 million EU long-term resident permits; Whereas 7.1 million long-term residence permits were issued under Member States' national legislation²²;*
- *Whereas the Single Permit Directive²³, adopted in 2011, has the facilitation of application procedures for a combined work and residence permit and equal treatment as its two main objectives; whereas the evaluation of the Directive under the Fitness Check on legal migration and its implementation report identified a number of shortcomings with regard to the achievement of those objectives; whereas to address those shortcomings, the 2020 Commission Pact on Migration and Asylum announced a number of new initiatives, including a revision of the Single permit Directive;*
- *Whereas technical developments have transformed the way the world works and in lieu has created a situation for many EU workers and self-employed persons to work remotely; whereas remote workers are however currently stuck in a legal grey area, as they cannot apply for a traditional work permit in a Member State²⁴;*
- *Whereas a number of Member States have launched new “Digital Nomad Visas”, which aim at facilitating the residence of remote workers or remote self-employed persons within a Member State and allowing them to work²⁵;*
- *Whereas the European 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 European Union;*
- *Whereas according to a publication from the Commission on 24 April 2020, an average of 13 % of keyworkers for societies are immigrants in the EU; whereas this shows that they played a crucial role in the EU's ability to handle the COVID-19 pandemic²⁶;*
- *Whereas the direct link between a legally staying TCNs right of residence (Hereinafter TCN) and his or her employer exposes them to potential labour exploitation; whereas there has been calls to phase out these permits and instead to allow legally staying TCNs to change employers without losing their work permits²⁷;*
- *Whereas Directive 2009/52/EC of the European Parliament and of the Council provides sanctions and measures that can be used against employers exploiting illegally staying TCNs who are working²⁸; whereas TCNs who have entered the EU*

²² <https://ec.europa.eu/migrant-integration/librarydoc/report-on-the-implementation-of-directive-2003/109/ec-on-the-status-of-long-term-foreign-residents>

²³ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011L0098>

²⁴ <https://www.etiasvisa.com/etias-news/digital-nomad-visas-eu-countries#:~:text=The%20digital%20nomad%20visa%20allows,are%20reviewed%20within%2030%20days.>

²⁵ Ibidem

²⁶ https://knowledge4policy.ec.europa.eu/publication/immigrant-key-workers-their-contribution-europes-covid-19-response_en

²⁷ <https://picum.org/wp-content/uploads/2021/03/Designing-labour-migration-policies-to-promote-decent-work-EN.pdf>

²⁸ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009L0052>

legally can also be exploited and should benefit from the same level of protection;

SEPARATE VOTE on AM 27 (Engerer et al.) (as addition to CA 2C to be placed between indent 7 and indent 8)

- *Whereas as noted in the European Parliament report on fair working conditions, rights and social protection for platform workers – new forms of employment linked to digital development (2019/2186(INI)), the misclassification of some platform workers as self-employed causes uncertainty and deprives workers of their access to employment rights, social protection, entitlements and the application of relevant rules;*

SEPARATE VOTE on AM 46 (Rapporteur et al.) (as addition to CA 2C)

- *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;*

COMPROMISE AMENDMENT 3 on PARAGRAPH 1

Amendments covered: 50 (Boeselager), 51 (Kuhnke), 55 (Dupont), 59 (Ruiz Devesa&al), 62 (Partly, Ruiz Devesa&al), 63 (Ruiz Devesa&al)
Fall: 49 (Weimers), 53 (Rooker), 54 (Uhrík), 56 (Fest&al), 57 (Skyttedal), 58 (Rooker), 60 (Skyttedal) and 61(Weimers)

1. *Considers that, in order to face **upcoming** demographic challenges **in Member States, where data trends show that the share of people aged 65 years or over is projected to be around one third of the EU's population by 2050²⁹ which will produce significant labour shortages of all skill-levels³⁰**, the Union needs **to present new avenues for legal labour migration to the Union, while also taking into account that Member States' labour markets are different and face different kinds of labour shortages and challenges; is of the view that these new avenues** will prove imperative to increase its economic competitiveness and its global influence as the champion of democracy, inclusion, human rights, free trade in goods and services and the rule of law, and as the leader in the fight against climate change; **notes that, the said proposals should ensure***

²⁹ Ageing Europe — looking at the lives of older people in the EU — 2020 edition

³⁰ <https://www.eesc.europa.eu/en/news-media/press-releases/skills-mismatches-eu-businesses-are-losing-millions-and-will-be-losing-even-more>

decent working conditions and reduce exploitation of TCN workers; Moreover, notes that in a scenario where barriers for legal labour migration are reduced and labour market discrimination against TCN workers is diminished, it is estimated that long-run GDP gains of €74.0 billion per year could be made in the EU³¹; Expresses concerns that high barriers for legal labour migration entail reduced attractiveness for the European Union in the global competition of workers of all skill levels; highlights that the introduction of new legal channels for migrants to enter the EU for work could generate up to €37.6 billion per year³²;

COMPROMISE AMENDMENT 4 on PARAGRAPH 2

Amendments covered: 52 (Barrena&al), 67 (Partly, Dupont), 69 (Guillaume&al), 70 (Kuhnke), 71 (Guillaume&al), *DEVE 3*

Fall: 64 (Rooker), 65 (Weimers), 66 (Uhrík), 68 (Fest & al), 72 (Weimers), 73 (Skyttedal), 74 (Weimers)

2. Requests that the Commission submit, *at the latest* by 31 January 2022, on the basis of Article 79(2), in particular points (a) and (b), of the Treaty on the Functioning of the European Union, 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 *TCNs* 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 hereto; *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 mismatches between supply and demand*;

COMPROMISE AMENDMENT 5 on PARAGRAPH 3

Amendment covered: 109 (Partly, Boeselager), *DEVE 6*

Fall: 75 (Uhrík), 78 (Fest&al), 80 (Weimers), 81 (Rooker), 82 (Guillaume&al)

3. Considers that the creation of an *EU* talent pool for *TCNs* 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 the Commission to include, within the talent pool, an EU Talent Remote network that would allow TCNs to work remotely in a different Member state than the one they are residing in and would work together to better understand the benefits and challenges of hiring TCN talent remotely, and promoting fair remote hiring of international talent*; *points out*

³¹ [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694211/EPRS_STU\(2021\)694211_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694211/EPRS_STU(2021)694211_EN.pdf)

³² *Ibidem*

that this network would be optional for Member States to use;

COMPROMISE AMENDMENT 6 on PARAGRAPH 4

Amendments covered: 89 (Barrena & Daly), 90 (Devesa & Engerer), 165 (Engerer & al), 91 (Dupont)

Fall: 84 (Rooker), 85 (Weimers), 86 (Uhrík), 87 (Engerer) and 88 (Kuhnke) (*identical amendments*), 92 (Ruiz Devesa & Engerer)

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;
4. a. *Asks the Commission to take into account Article 15 (1) of the EP and the Council partial provisional agreement on the Reception Conditions recast Directive, thus reducing the negative impacts of forced inactivity until the finalisation of their asylum procedure;*

COMPROMISE AMENDMENT 7 on PARAGRAPH 5

Amendments covered: 76 (Barrena&al), 77 (Kuhnke), 79 (Engerer&al), 83 (Kuhnke&Boeselager), 96 (Boeselager), 97 (Dupont), 100 (Barrena&Daly), 101 (Kuhnke), *DEVE 1, 5, 13*

Fall: 93 (Uhrík), 94 (Rooker), 95 (Fest), 98 (Engerer&al), 99 (Weimers), 102 (Skyttedal), 103 (Barrena & Daly)

5. Welcomes Directive (EU) 2021/...³³, but considers it insufficient due to the fact that the labour markets of the Union *have different needs* of low- and medium-skilled workers; *notes that the Union is already dependent on them in essential sectors such as agriculture and healthcare*³⁴; calls, therefore, on the Commission to *make it a priority to include in its proposal an ambitious admission scheme for low- and medium-skilled TCN workers in consultation with social partners and civil society while reflecting the needs of the Member States; calls the Commission to include* the creation of a framework for the validation and recognition of their skills and qualifications, *including vocational training, to facilitate an early integration of TCNs into the labour market, based on objective and uniform criteria; Requests the continuous fair treatment of TCNs during the process, enabling efficient schemes and procedures, and facilitating information in an efficient and easy way; Encourages the Commission to insist on the need for national authorities to continuously share information and best practices with one another; Moreover, calls the Commission to implement targeted campaigns and promote through all possible means the revised Blue Card Directive, including in start-up and IT sectors, where skills are recognised equivalently to qualifications,*

³³ EUT number of 2016/0176 COD to be inserted.

³⁴ https://knowledge4policy.ec.europa.eu/publication/immigrant-key-workers-their-contribution-europes-covid-19-response_en

according to recitals 7 and 8 of the Directive (EU) 2021/...³⁵; Recalls, however, that Article 79(5) of the TFEU states that this 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”,

COMPROMISE AMENDMENT 8 on PARAGRAPH 6

Amendments covered: 104 (Partly, Kuhnke), 106 (Engerer&al), 107 (Boeselager), 108 (Barrena&al), 111 (Ruiz Devesa et al.), 112 (Engerer&al), 159 (Kuhnke &al), *DEVE 7*
Fall: 105 (Rooker), 110 (Engerer &al)

6. Considers that the Union is in need of *attracting* more self-employed people and entrepreneurs *and needs to enhance innovation, for example through youth mobility and nomad schemes. In order to remain relevant and competitive in the global market, increasing the economy’s agility, robustness, stability, and growth while creating new economic activity and employment opportunities*, calls on the Commission to include in its proposal an *EU-wide* admission scheme for entry and residence of self-employed people and entrepreneurs *based on objective and uniform criteria*, in particular *for those working to establish small and medium-sized enterprises and start-ups, and for highly mobile self-employed TCN workers, such as artists and cultural professionals; insists that the schemes proposed should include measures that enhance fundamental rights and promotes equal treatment for TCN workers; Considers that the Commission should introduce a 5 year multiple-entry visa allowing this category of TCN workers to enter the EU for up to 90 days per year;*

COMPROMISE AMENDMENT 9 on PARAGRAPH 7:

Amendments covered 113 (Partly, Boeselager), 114 (partly, Kuhnke), 115 (Barrena & al), 116 (Rooker), 117 (Dupont), *DEVE 8, 9, 12*
Fall: 118 (Uhrík), 119 (Fest & al)

Separate vote: DEVE 29 A

7. Requests the Commission to 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, and that Member States could opt into on a voluntary basis; calls on the Commission to ensure that the 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 could be found in existing skills-based agreements in Member States, and that they should be developed in consultation with relevant organisations both in the Member States and in the third countries;*

³⁵ EUT number of 2016/0176 COD to be inserted.

SEPARATE VOTE on DEVE 29A (First sentence until “*to strive for formal agreement with partner countries on migration mobility*”, as addition to CA 9)

7.a) ***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;***

COMPROMISE AMENDMENT 10 on PARAGRAPH 8

Amendments covered: 122 (Partly, Kuhnke &al), 124 (Partly, Engerer &al), 126 (Partly, Düpont), 127 (Barrena Arza), 128 (Al-Sahlani)
Fall: 120 (Rooken), 121 (Uhrík), 123 (Weimers), 125 (Guillaume & al)

8. ***Welcomes the European Commission’s planned review of the Directive 2011/98/EU; Notes that **one of** the objectives of **this** Directive **is** to simplify and harmonise the rules concerning permits currently applicable in the Member States **and promote equal treatment, and that these have** not been fully achieved with some of the provisions being implemented in different ways across **the** Union; further considers that that **the Commission should take the necessary steps to ensure that the Directive should first and foremost be properly implemented by Member States, secondly that it should** be amended to **require that** applications for a single permit **may** be lodged from within both a Member State and **from** a third country, and, in order to further simplify and harmonise the rules, to clearly regulate the procedure for obtaining an entry visa so as to avoid applicants having to submit **twice** the documents needed to obtain a single permit and **to reduce dependency of workers and risk of exploitation; points out that the lodging of an application from within a Member State should only be available if the TCN holds a residence permit at the point of the lodging of the application;** calls on the Commission to include such amendments in its proposal;***

COMPROMISE AMENDMENT 11 on PARAGRAPH 9

Amendments covered: 131 (Dupont), 132 (Kuhnke)
Fall: 129 (Rooken), 130 (Uhrík), 133 (Engerer&al), 134 (Barrena&al)

Separate vote on AM 135 (Engerer&al)

9. ***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 **TCNs** applying for work in the Union **or already holding a work permit;** insists that the lead authorities should be responsible for the sharing of information among Member States on **TCN** workers and 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 EU for work;** points out that **this information could be transmitted either virtually or via relevant institutions present in*****

*third countries, such as Member States embassies or established EU delegation offices; 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 and support employers to consider the possibility of applying for this permit; points out the need to facilitate the gathering of data, statistics and evidence as well as information-sharing between Member States to improve the efficiency and effectiveness of the acquis***³⁶;

SEPARATE VOTE on AM 135 (Engerer&al) as addition to CA 11

9.a) Encourages Member States to adopt a naming and shaming approach to enterprises which exploit third country nationals for human capital;

COMPROMISE AMENDMENT 12 on PARAGRAPH 10

Amendments covered: 138 (partly/ Kuhnke & al), 140 (Partly, Dupont),
Fall: 136 (Rooker), 137 (Weimers), 139 (Barrena &al), 141 (Grapini), 142 (Uhrík)

10. 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 until the end of the period they are allowed to stay, however no longer than nine months, as set out in the Directive, provided that they are applying for work at another employer during the said time period; Furthermore, in order to avoid labour exploitation, calls on the Commission to encourage Member States to fully apply the above-mentioned provision, thereby delinking residence permits from employer and job;** calls as well on the Commission to include in its proposal an amendment to Directive 2014/36/EU to allow **for Member States to renew work permits, for the purposes of seasonal work, which should be extended for a period of up to 5 years;**

COMPROMISE 13 on PARAGRAPH 11

Amendments covered: 146 (Düpont), 145 (partly/Kuhnke), 148 (Barrena &al)
Fall: 143 (Uhrík), 144 (Skyttedal),

Separate vote: AM 149 (Engerer &al)

11. Requests the Commission to include in its proposal an amendment to Directive 2009/52/EC to adapt its scope to include exploited legally residing *TCNs* working in the Union **who are victims of conditions that affect their health, safety and offend their human dignity, and to improve enforcement of equal treatment provisions, such as accessible and effective complaints mechanisms and access to justice for all workers**

³⁶ European Commission Fitness Check SWD of legal migration, March 2019

in case of exploitation and other criminal offences;

SEPARATE VOTE on AM 149 (Engerer&al) as addition to CA 13

11.a) Encourages Member States to adopt a naming and shaming approach to enterprises which exploit third country nationals for human capital;

COMPROMISE AMENDMENT 14 on PARAGRAPHS 12, 13 and 14

Amendments covered: 147 (Guillaume &al) 152 (Partly, Kuhnke &al), 154 (Partly, Düpont), Fall: 150 (Weimers), 151 (Uhrík), 153 (Fest &al), 155 (Rookken), 158 (Weimers), 160 (Fest &al), 161 (Weimers), 162 (Düpont), 163 (Uhrík), 167 (Engerer & al)

AM withdrawn: 156 (Boeselager)

Separate vote on AM 157 (Kuhnke) and 164 (Guillaume &al)

12. Is of the view that Directive 2003/109/EC, ***which is currently under-used and does not provide an effective right to intra-EU 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 Union long-term residence status from five to three years, ***without prejudice to the Commission's upcoming revision of the Directive; Reminds however, that continuous residence in one Member State is one of the aspects that promotes the proper integration of a person in a community before this person decides to reside in another Member State;*** calls on the Commission to include those amendments in its proposal;
13. 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;
14. Instructs its President to forward this resolution and the accompanying recommendations to the Commission, the Council, and national parliaments.

SEPARATE VOTE on AM 164 (Guillaume &al) as addition to CA 14 before paragraph 12

- Acknowledges that most Member States have national schemes to attract labour migrants; however believes that, in the medium term, the EU must move away from a sectoral approach and adopt an immigration code setting out broad rules governing entry and residence for all third-country nationals seeking employment in the Union and harmonising the rights enjoyed by such third-country nationals and their families;

SEPARATE VOTE on AM 157 (Kuhnke) as addition to CA 14 after paragraph 12

- Calls on the Commission to review the implementation of Directive 2003/86/EC on the right to family reunification and to take any steps needed to further facilitate its

implementation and decrease the financial and practical barriers to family reunification for TCN migrant workers;

**ANNEX TO THE MOTION FOR A RESOLUTION:
RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED**

COMPROMISE AMENDMENT 15 - Recommendation 1

Amendments covered: 170, 175 (Partly, Boeselager), 174 (Barrena & Daly), 178 (Partly, Boeselager), 179 (Partly, Kuhnke)

Fall: 168 (Uhrík), 169 (Weimers), 171 (Engerer & al), 172 (Uhrík), 173 (Kuhnke), 176 (Engerer & al), 177 (Uhrík)

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 ***TCNs*** 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. ***The job matching through the 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 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 talent pool, as established by the legislative act, would allow ***TCNs*** to express their interest in and apply for work, while also enabling employers to search for potential employees. ***TCNs*** would be able to apply for work where there is a shortage in the Member States' domestic labour markets, after having gone through ***a transparent and non-discriminatory*** application and pre-screening process, ***facilitated by the EU***. The 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 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 this tool and its usage could be enhanced if there is a targeted information dissemination, which promotes the talent pool and matching platform in third countries and participating Member States.*** In that spirit, the Union-wide transnational advisory service network, as referred to in Recommendation 6, should facilitate the running of the talent pool and serve as a contact point for the talent pool in the Member State. ***Furthermore, considers that this network, based on the harmonisation of applications, would help to reduce bureaucracy at Member-State level. Lastly, within the talent pool, an EU Talent Remote Network should also be set up, in order to allow TCNs to work remotely in a different Member State than the one they are residing in. In addition, the TCN remote workers should enjoy equal treatment.***

COMPROMISE AMENDMENT 16 - Recommendation 2

Amendments covered: 184 (Partly, Barrena Arza & Daly), 185, 190 (Rephrased, Kuhnke, Boeselager), 186 (Partly, Düpont), 187 (Engerer & al) 192 (Engerer & al)
Fall: 180, 183, 189 (Uhrík), 181 (Weimers), 182 (Kuhnke & Boeselager), 188 (Düpont), 191 (Barrena Arza, Daly)

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 within the Union* to improve its attractiveness *as well as creating admission schemes* for all skilled third-country workers, not only for highly-skilled workers. With the revision of the Directive (EU) [EU BLUE CARD], the Union has taken *significant* steps to achieve that goal for highly-skilled *TCN* workers. However, it is imperative to *also* achieve that goal *for TCN workers considered to be* low- and 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 EU values. This will* further enhance the Union's economic competitiveness.
- To properly address that issue, the European Parliament calls on the Commission to, within the legislative act to be adopted, include provisions setting up an admission scheme with conditions of entry and residence for low- and medium-skilled third-country workers. The scheme should *ensure equal treatment in line with the existing EU 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 TCN workers and to ensure their equal treatment when working or applying for work in the EU, insists on the proper implementation of the Directive 2009/52/EC and its monitoring mechanisms within the framework of the proposal, and calls for the Directive to be amended to also cover legally residing TCN workers within its legal scope, as set out in Recommendation 8. Furthermore, the European Parliament also calls on the proper implementation by the Member States of the relevant existing legal framework on the issue of legal labour migration.*

COMPROMISE AMENDMENT 17 - Recommendation 3

Amendments covered: 195 (Kuhnke), 196 (Partly, Engerer & al), 198 (Partly, Boeselager), 199 (Partly, Kuhnke)
Fall: 193, 194, 197 (Uhrík), 200 (Engerer & al)

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

- Traditionally, work permits *are* issued *in the place* where the *TCN* already has an employment contract or *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 performance³⁷. Third-country nationals working as entrepreneurs or as self-employed people might experience 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 *TCNs* could be given an opportunity to migrate legally to the Union and establish themselves and their businesses. *EU-level action should promote a favourable environment for entrepreneurship, including in this regard for TCNs, and strive for high common standards on the fundamental rights of entrepreneurs and self-employed workers.*
- 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 people and entrepreneurs, in particular for *TCNs* who establish small and medium-sized enterprises and start-ups, *as well as ensuring robust safeguards, equal treatment and the protection of their fundamental rights.* The definitions of ‘self-employed person’ and ‘entrepreneurs’ *vary across the Union, and is hence to be defined by each Member State in accordance to their legal tradition and case law.*

COMPROMISE AMENDMENT 18 - Recommendation 4

Amendments covered: 203 (Barrena Arza & Daly), 204, 207 (Kuhnke), 205 (Partly, Kuhnke), DEVE 10, 23, 28

Fall: 201, 202, 206 (Uhrík), 208 (Kuhnke)

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 this in the legislative act to be adopted. Those partnerships would be open to third-country workers of all skill-levels, as well as 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 the domestic workforce cannot meet. The aim of those partnerships is to add another legal channel as a mobility-option for *TCNs* 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 EU, third countries, employers and migrant workers.* The practical implementation of the 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 partnerships, as well *as* propose

³⁷ https://ec.europa.eu/growth/smes/sme-strategy/start-up-procedures_en

recommendations to improve the overall functioning of the framework.

- 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 their partnership and are able to create a transparent and accessible process for applicants.*** Those 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. However, it is important that Member States strongly engage with those talent partnerships, that the private sector, in particular European businesses, and the social partners ***and relevant civil society actors*** be involved, and that partner countries have a ***meaningful*** sense of ownership.

COMPROMISE AMENDMENT 19 - Recommendation 5

Amendments covered: 210 (Engerer & al), 211, 216 (Al-Sahlani), 212 (Kuhnke), 214 (Partly, Engerer & al), 215, 217 (Partly, Kuhnke),
Fall: 209, 213 (Uhrík), 218 (Barrena Arza & Daly)

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

- The European Parliament is of the view that procedures with respect to Directive 2011/98/EU should be further harmonised for that Directive to be fully ***efficient and properly implemented, in particular the equal treatment provisions.*** Therefore, ***the European Parliament*** considers that the legislative act to be adopted should amend that Directive in order to ***require that*** applications for a single permit ***may*** be lodged both from within the territory of a Member State and from a third country, while engaging both the Member States and the third countries in ***the exchange of information and coordination of the applications lodged, in full compliance with EU data protection standards.*** ***However, in order to be able to lodge an application for a Single Permit from within the Union, the TCN must have a valid residence permit at the point of the lodging of the application.*** The European Parliament moreover calls for, inter alia, the clear regulation and streamlining of the procedure for applying for an entry visa in order to avoid applicants having to submit the documents needed twice to obtain a single permit. ***Furthermore, asks the Commission to analyse and reduce the administrative requirements and inefficiencies in permit procedures, which prevents legal pathways from responding to real labour market needs. Lastly, asks the Commission to propose changes that would alleviate the difficulties TCNs holding work permits face when changing employment, as they currently are forced to become too dependent on the employer and therefore prone to labour exploitation.***

COMPROMISE 20 - Recommendation 6

Amendments covered: 223, 227 (Kuhnke), 225 (Partly, Engerer & al), 228 (Engerer & al)

Fall: 219, 222, 226 (Uhrík), 220 (Engerer & al), 221 (Kuhnke), 224 (Barrena & Daly)

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 transnational advisory 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 service network should build upon already existing networks and services established, and if necessary, expand the scope of the adequate institution.*** The authorities in 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. That network should also take into account national specificities and 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 **TCNs** to be connected with the relevant authorities **and support services** and in order to facilitate **the protection and** the strengthening of the equal rights **and treatment of TCN** workers. **Moreover, it should ensure that employers provide accurate and timely information about the rights, the relevant authorities and available services to TCNs.** This 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 service network.**

COMPROMISE AMENDMENT 21 - Recommendation 7

Amendments covered: 231 (Kuhnke), 234 (Kuhnke & Boeselager), 235 (Engerer & al)

Fall: 229, 230, 233 (Uhrík), 232 (Engerer & al)

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

- Promoting professional mobility for legally residing **TCNs** working in a Member State also means protecting them from exploitation. Numerous **TCNs**, in particular low-skilled **ones**, 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 disparaging situation of many workers in different sectors across Europe, such as**

*in the catering, hotel and entertainment sectors, as well as care workers*³⁸. Holders of a work permit issued under the Directive 2014/36/EU are, in particular, prone to exploitation, as 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 would be allowed reside within the Union until the end of the period they are allowed to stay, however no longer than nine months, as set out in the Directive.*** The European Parliament recommends that the Commission, at the same time, considers 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 within the territory of the Member State, and further addressing persistent labour exploitation of seasonal workers.***

COMPROMISE AMENDMENT 22 - Recommendation 8

Amendments covered: 238, 240, 242 (Partly) (Kuhnke)

Fall: 236, 239 (Uhrík), 237, 241 (Skyttdal), 243 (Kuhnke)

Recommendation 8 (on amending the Directive 2009/52/EC to include legally residing third-country nationals and 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, as well as 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 remedy through complaints mechanisms and legal procedures and*** make the Directive applicable to all third-country nationals working in the Union.

COMPROMISE AMENDMENT 23 - Recommendation 9

Amendment covered: 166 (Engerer & al) 246 (Partly, Kuhnke & Boeselager)

Fall: 244, 245 (Uhrík)

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

³⁸ https://ec.europa.eu/home-affairs/minimum-standards-sanctions-and-measures-against-employers-illegally-staying-third-country_en

- Holders of Union long-term residence permits face a number of barriers in exercising the right to move and reside in other Member States for work, study or other reasons. This is because the conditions for mobility which Union long-term residents must fulfil might be similar to the conditions other third-country nationals must fulfil for a first-time application. In 2017, in the 25 Member States bound by Directive 2003/109/EC, there were approximately 3,1 million third-country nationals holding a Union long-term residence permit. This can be compared to about 7,1 million third-country nationals holding a national long-term residence permit. It can therefore be concluded that third-country nationals underuse the Union long-term residence permit, meaning that many of them do not enjoy benefits from the rights of the 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 Union long-term residence permits and, as a result, there is no ‘level-playing field’ between the Union legislative scheme and the national equivalent³⁹.
- 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 reducing the number of years required for acquiring a Union long-term residence permit from five to three years *particularly to enhance mobility as well as simplifying and harmonising procedures. With this in mind, the Directive should facilitate intra-EU mobility as well as international mobility to and from the Union and third countries, by reducing the time required to obtain a long-term residence status. Lastly, encourages the European Commission to conduct a study on the issue of TCNs’ turnover rates within the European Union, in order to better understand the reasons behind departure from a Member State within the first three years of arrival.*

³⁹ <https://ec.europa.eu/migrant-integration/librarydoc/report-on-the-implementation-of-directive-2003/109/ec-on-the-status-of-long-term-foreign-residents> 29/03/2019