



Brussels, 15.11.2023  
C(2023) 7700 final

**COMMISSION RECOMMENDATION**

**of 15.11.2023**

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### on the recognition of qualifications of third-country nationals

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) The Union's shortage of workers is significantly limiting its ability to adapt to the ongoing transformations in the nature of work, production and communication occurring across economies and labour markets.
- (2) Employers across the Union are consistently reporting difficulties in finding workers with the required skills. Moreover, the ageing demographic is expected to reduce the available workforce and exacerbate skills shortages in the future. Small and medium-sized enterprises (SMEs), which comprise 25 million entities across the Union, are particularly affected because they are struggling to find the right talent needed for sustainable growth, scalability, and competitiveness.
- (3) The shortage of skilled personnel spans all industrial ecosystems in many Member States, with high, medium, and low-skilled job vacancies on the rise. Sectors such as construction, manufacturing, information and communication technology (ICT), transportation, professional services, health and long-term care face persistent shortages. Additionally, labour shortages in key sectors crucial to the green transition have doubled between 2015 and 2021. This is further compounded by the fact that businesses struggle to find employees with adequate digital skills, and experience particular difficulties in recruiting ICT specialists.
- (4) Skills shortages pose a significant challenge to the Union's aspirations to remain a competitive global leader and a hub for net-zero technologies, and to meet ambitious climate and energy targets. They also hamper the Union's ability to harness the potential of the green and digital transitions, to strengthen the Union's technological leadership, stimulate growth and innovation, and respond effectively to emergencies like the COVID-19 pandemic or geopolitical conflicts. Skills gaps in specific sectors such as healthcare and long-term care limit the capacity to take care of the ageing population and to ensure access to quality healthcare for all.
- (5) Addressing these skills shortages requires substantial investment in upskilling and reskilling, as well as measures to boost the participation of working-age adults in the labour market, to facilitate labour mobility, to improve working conditions and attract individuals with the requisite skills to the Union.
- (6) The Union has consistently supported actions to address skills and labour shortages by maximising the potential of its domestic workforce. These actions include initiatives to improve labour mobility within the internal market, such as the European cooperation networks of employment services (EURES). Additionally, it seeks to elevate the participation rates of women, individuals with disabilities, and those with a migrant

background in the labour market. Special emphasis is also placed on engaging underrepresented groups, notably the youth who are neither employed nor engaged in education or training (NEETs). The 2020 European skills agenda<sup>1</sup> outlines 12 actions to help individuals and businesses develop skills and to put them to use, including Council recommendations on vocational education and training<sup>2</sup>, individual learning accounts<sup>3</sup>, micro-credentials<sup>4</sup> and the launch of the Pact for Skills. The Pact for Skills supports collaboration between public and private organisations to strengthen collective action on skills to meet labour market needs and supports large-scale partnerships in key industrial ecosystems.

- (7) The Union works towards an inclusive approach to filling labour shortages, notably by enabling people of all generations in the Union to realise their life choices and their potential in the economy and society at large. To this end, a comprehensive set of Union policy instruments, notably the Commission Communication on ‘Demographic change in Europe: a toolbox for action’, is available to Member States with a view to better reconciling family aspirations and paid work, supporting and empowering younger generations to thrive, as well as empowering older generations and sustaining their welfare.
- (8) However, the demand for skilled workers cannot be met by the Union’s workforce alone. For the Union’s economy to succeed and be resilient, it is necessary to make it more attractive to global talent. Managed legal migration of jobseekers from third countries must be part of the solution to labour shortages faced by employers to find workers with the skills they need and to boost economic growth.
- (9) EU labour force survey data shows that third-country nationals with a tertiary education are more likely than Union citizens to be over-qualified for their job and to be working in low- or medium-skilled occupations. In 2022, the Union’s over-qualification rate was 39.4 % for non-Union citizens, 31.8 % for Union citizens from other Member States and just 21.1% for nationals of the Member State in question<sup>5</sup>. Over-qualification can lead to economic losses for the individuals concerned as well as for the Union economy.
- (10) While Member States retain the right to determine volumes of admission for people coming from third countries to work, the Union has established a comprehensive approach to legal migration, recognising the essential role that migrants play in the Union’s economy and society, to streamline migration procedures and harmonise admission conditions and rights of third-country nationals in the Union. The pact on migration and asylum<sup>6</sup> recognises that developing legal pathways to the Union for skilled third country nationals is an essential part of a comprehensive migration

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<sup>1</sup> The European Skills Agenda launched in 2020 presented the EU objectives for upskilling and reskilling in the next five years.

<sup>2</sup> Council Recommendation of 24 November 2020 on vocational education and training (VET) for sustainable competitiveness, social fairness and resilience 2020/C 417/01 (OJ C 417, 2.12.2020, p. 1–16).

<sup>3</sup> Council Recommendation of 16 June 2022 on individual learning accounts 2022/C 243/03 (OJ C 243, 27.6.2022, p. 26–34).

<sup>4</sup> Council Recommendation of 16 June 2022 on a European approach to micro-credentials for lifelong learning and employability 2022/C 243/02 (OJ C 243, 27.6.2022, p. 10–25).

<sup>5</sup> Eurostat, LFSA\_EOQQAN

<sup>6</sup> Communication from the Commission on a New Pact on Migration and Asylum, COM/2020/609 final.

management system. Recast Directive (EU) 2021/1883<sup>7</sup> (the so called ‘the Blue Card Directive’) is intended to attract highly skilled talent to the labour market. In order to address growing demand for skilled professionals in the ICT sector in the Member States, this Directive foresees that higher professional skills should be considered to be equivalent to higher education qualifications in specific ICT occupations. Additionally, the skills and talent package<sup>8</sup>, adopted by the Commission in April 2022, emphasises that legal migration benefits both migrants and their countries of origin and destination. The package proposed legislative, operational and future-oriented policy measures to reinforce the Union legal migration framework, including proposals to amend Council Directive 2003/109/EC<sup>9</sup> and Directive 2011/98/EU of the European Parliament and of the Council<sup>10</sup> in order to simplify procedures for the admission of third-country nationals of all skill levels and to reinforce their rights once they are resident in the Union.

- (11) Skilled people in need of international protection willing to take up employment in the Member States constitute a largely underused pool of possible job seekers that could respond to the employers’ needs. In line with the Commission Recommendation on promoting legal pathways to protection in the EU<sup>11</sup>, the Commission has encouraged the Member States to put in place complementary labour pathways for people in need of international protection to leverage their skills, qualifications, and motivation, while addressing the skills and labour shortages in the Union.
- (12) In order to facilitate international recruitment and provide opportunities for third-country nationals to work in shortage occupations identified as of Union relevance, the Commission has proposed the establishment of an ‘EU Talent Pool’<sup>12</sup>, a platform bringing together and supporting the matching of profiles of jobseekers from third countries and job vacancies of employers established in the Member States. The Talent Pool will aim to make the Union more attractive to jobseekers from third countries and support employers in addressing skills and labour shortages in the Union. The EU Talent Pool could also support the operationalisation of the complementary labour pathways.
- (13) The Commission is also developing Talent Partnerships which are one of the key aspects of the external dimension of the Pact on migration and asylum and are

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<sup>7</sup> Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC (OJ L 382, 28.10.2021, p. 1–38).

<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Attracting skills and talent to the EU, COM/2022/657 final.

<sup>9</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44–5).

<sup>10</sup> 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 (OJ L 343, 23.12.2011, p. 1–9).

<sup>11</sup> Commission Recommendation (EU) 2020/1364 of 23 September 2020 on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways (OJ L 317, 1.10.2020, p. 13–22).

<sup>12</sup> Proposal for a Regulation of the European Parliament and of the Council establishing an EU Talent Pool (COM/2023/716).

operationalised in line with the Commission’s communication on attracting skills and talent to the EU<sup>13</sup>.

- (14) In a context of increasing global competition for skills and talent, only one of the Union’s Member States features in the top five most attractive OECD countries for highly educated workers in 2023<sup>14</sup>. The ability to attract and retain talent depends on multiple variables including integration and inclusion policies, support measures for migrants with special needs, legal pathways to permanent residence and citizenship including for students, income prospects and tax, perception of future prospects, quality of life and recognition of skills and qualifications.
- (15) The issue of attracting skilled workers and the role of recognition of skills and qualifications is addressed across the range of Union actions on skills and migration. The Commission communication accompanying the European skills agenda<sup>15</sup> highlights the need to do more to improve legal pathways into the Union and the recognition of third-country nationals’ skills on the labour market of the Union. The Commission’s action plan on integration and inclusion 2021-2027<sup>16</sup> acknowledges the importance of facilitating the recognition and comparability of qualifications of third country nationals to support third-country nationals to fully use their skills. The green deal industrial plan<sup>17</sup> announced actions, including work on the recognition of qualifications of third-country nationals and first signalled the value of a ‘skills-first’ approach to identify the actual skills of citizens and third-country nationals. The SME relief package<sup>18</sup> acknowledged that skills shortages are among the biggest challenges that SMEs face and recalled the commitment to present an initiative to improve the recognition of skills and qualifications of third country nationals to help address skills gaps in the labour market of the Union. The Commission Communication ‘Long-term competitiveness of the EU: looking beyond 2030’ similarly highlighted the fact that addressing skills shortages in the Union requires facilitating mobility by making it easier to recognise skills and qualifications of citizens of other Member States and those of third-country nationals.
- (16) On 14 September 2022, President von der Leyen announced the European Year of Skills (2023) in her state of the European Union address which highlighted the fact that attracting the right skills to the Union must be part of the solution to skills challenges. Decision (EU) 2023/936 of the European Parliament and of the Council<sup>19</sup>,

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<sup>13</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Attracting skills and talent to the EU (COM/2022/657 final).

<sup>14</sup> What is the best country for global talents in the OECD? OECD, Migration Policy Debates No. 29, 2023.

<sup>15</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, European Skills Agenda for sustainable competitiveness, social fairness and resilience (COM/2020/274 final).

<sup>16</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Action plan on Integration and Inclusion 2021-2027 (COM/2020/758 final).

<sup>17</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Green Deal Industrial Plan for the Net-Zero age (COM/2023/62 final).

<sup>18</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, SME Relief Package (COM/2023/535 final).

<sup>19</sup> Decision (EU) 2023/936 of the European Parliament and of the Council of 10 May 2023 on a European Year of Skills (OJ L 125, 11.5.2023, p. 1–11).

established four objectives for the European Year of Skills, including the objective of ‘attracting people from third countries with the skills needed in Member States’. That objective involves promoting learning opportunities (including language education and training where necessary), fostering skills-development and mobility, and facilitating the recognition of qualifications.

- (17) The recognition of skills and qualifications plays a key role in the context of attracting talent and recruitment in general. Qualifications and learning outcomes associated with qualifications serve as signals of achievement in learning. Qualifications and qualifications levels are often used to set entry requirements for jobs and may be linked with career advancement and remuneration. Qualifications are often required to demonstrate compliance with standards and requirements to work in certain roles, for example in regulated professions.
- (18) A ‘skills first’ approach advocates for identification and full use of a person’s skills – whether they are acquired in formal, non-formal or informal settings – rather than basing assessments solely on qualifications. Measures to attract talent and to increase participation in the labour market can be maximised and should be underpinned by a ‘skills first’ approach that values skills and seeks to match people with jobs that reflect their talent and potential.
- (19) The recognition of skills and qualifications of third-country nationals is organised and managed in different ways at national level, depending on legal requirements and organisation of employment, education, training and migration in different Member States. Member States take legally binding recognition decisions in cases where they grant rights to third country nationals holding specific qualifications. Such decisions provide a way to verify that a person has the necessary skills and qualifications before granting them rights in 3 particular cases, namely, to access a regulated profession, to access learning, or in the context of labour migration.
- (20) The first case of access to a regulated profession occurs where a third-country national may need to have their skills and qualifications recognised for the purpose of accessing or pursuing a regulated profession. Hundreds of professions fall into this category, for example in nursing, medicine, pharmacy, architecture and – in some Member States – bricklayers, plumbers, electricians and civil engineers. A ‘recognition of professional qualifications’ is required in order to get access to such professions in Member States where they are regulated.
- (21) To effectively ensure the freedom to establish and provide services and the free movement of people, while ensuring that professional standards and requirements are met, the Union established common principles, procedures, and criteria for recognition in order to promote transparency, fairness and consistency in the recognition of professional qualifications through Directive 2005/36/EC of the European Parliament and of the Council<sup>20</sup>.
- (22) The beneficiaries of Directive 2005/36/EC are nationals of Member States exercising free movement rights under Union law. To complement the Directive, the primary beneficiaries of this Recommendation are third country nationals who are in the process of obtaining a visa or work and residence permit in a Member State or are already legally resident in the Union, irrespective of whether they are holders of qualifications issued in the Union or in third countries. A number of the

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<sup>20</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255 30.9.2005, p. 22)

recommendations may also be relevant for the recognition of qualifications of Union nationals that hold qualifications issued in third countries, to ensure the principle of equal treatment is respected.

- (23) Recital 10 of Directive 2005/36/EC states that the Directive does not create an obstacle to the possibility of Member States recognising, in accordance with their rules, the professional qualifications acquired outside the Union of third-country nationals, but that such recognition should respect the minimum training conditions for certain professions. Some rules on the recognition of qualifications apply to third-country nationals, where they benefit from equal treatment with nationals of the host Member State under the Union legislation on asylum and legal migration, as well as from free movement (e.g. long-term residents, third-country family members of Union citizens, beneficiaries of refugee or subsidiary protection status, researchers, highly skilled workers possessing an EU Blue Card, third-country nationals falling within the scope of Directive 2011/98/EU and seasonal workers).
- (24) Directive 2005/36/EC also applies to nationals of specific third countries through various instruments and agreements. For example, Directive 2005/36/EC thus also applies to nationals of EEA countries (under the Agreement on the European Economic Area) and to nationals of Switzerland (under the EU-Switzerland Agreement on the free movement of persons). The Withdrawal Agreement and Trade and Cooperation Agreement concluded between the European Union and the United Kingdom clarifies arrangements for application of Directive/2005/36/EC to qualifications obtained in the United Kingdom before the end of the transition period on 31 December 2020.
- (25) The Union's free trade agreements (FTAs) include provisions to support the development of mutual recognition agreements (MRA) for professional qualifications with third countries. The MRA for architects concluded in principle in 2022 between the Union and Canada enables access to practise as an architect in both territories in line with agreed criteria. The Union's trade agreements also feature commitments to facilitate the temporary presence of skilled professionals in the Union, which can complement procedures to better recognise third-country qualifications.
- (26) The second case where third-country nationals may need to have their skills and qualifications recognised is 'academic recognition' meaning recognition for the purpose of access to forms of further learning such as academic studies, and vocational or professional training; or for use of an academic title. Academic recognition focuses on the validity, level and learning outcomes of a foreign educational qualification or of prior learning with a view to accessing further studies. The networks of the European Network of National Information Centres and the National Academic Recognition Information Centres (the ENIC-NARIC networks) provide information, advice and recognition decisions to facilitate entry to further studies (usually in higher education) and may have roles in taking recognition decisions, handling appeals or advising on recognition or comparability of qualifications, including for access to employment in some countries.
- (27) The UNESCO and Council of Europe Convention on the Recognition of Qualifications concerning Higher Education in the European Region is the primary legal instrument for the recognition of qualifications in Europe and beyond. It promotes fair and transparent recognition procedures within a reasonable time frame for upper-secondary and higher education qualifications. Article VII of the Lisbon Recognition Convention seeks to facilitate the recognition of higher education

qualifications held by refugees, displaced persons and persons in a refugee-like situation who are unable to give documentary evidence of their qualifications in order to facilitate their access to higher education programmes or to employment activities. Furthermore, in 2017, the Lisbon Recognition Convention Committee adopted a Recommendation on the Recognition of Qualifications held by Refugees, Displaced Persons and Persons in a Refugee-like Situation which sets out principles for establishing policies on the recognition of qualifications held by refugees. The UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education establishes universal principles for the fair, transparent and non-discriminatory recognition of higher education qualifications and qualifications that give access to higher education and provide avenues for further study and employment.

- (28) The third case where third-country nationals may need to have their skills and qualifications recognised is in the context of labour migration procedures. For the purposes of issuing visas or work and residence permits for employment purposes, Member States verify the skills and qualifications of a third-country national. Assessment criteria and approaches differ between Member States. Recognition of skills and qualifications for labour migration can be organised as part of a pre-departure or post-arrival process to prepare third-country nationals for integration. High refusal rates for applications and long processing times can deter third-country nationals; and assessment based only on qualifications and formal education and training does not always capture the full skills set and potential of applicants and may hinder the integration of third-country nationals into the labour market.
- (29) Beyond the cases where recognition of skills and qualifications is required, third-country nationals may also need access to tools and information to support the transparency of their skills and qualifications for example, for employment in non-regulated professions or access to funding. While recognition of qualifications is not required, third-country nationals may nevertheless need to obtain a comparability statement, or information or advice on the nature and authenticity of their third-country qualifications in order to understand and explain the value of their skills and qualifications. Such a voluntary use of transparency instruments does not give additional rights to the qualification holder and does not fall within the scope of this Recommendation. Even though it is excluded from the definition of the term ‘recognition’ in the context of this Recommendation, obtaining such an official statement, or making their skills and qualifications understandable to employers might be referred to as ‘recognition’ in some Member States.
- (30) Long-standing initiatives such as the Europass framework<sup>21</sup> and transparency tools such as the European Qualifications Framework (EQF)<sup>22</sup>, European Skills, Competences, Qualifications and Occupation (ESCO), European Digital Credentials for Learning, and the Bologna Process transparency tools can be used to support the transparency and comparability of skills and qualifications across the Union in order to enable learning and career development.

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<sup>21</sup> Decision (EU) 2018/646 of the European Parliament and of the Council of 18 April 2018 on a common framework for the provision of better services for skills and qualifications (Europass) and repealing Decision No 2241/2004/EC (OJ L 112, 2.5.2018, p. 42–50).

<sup>22</sup> Council recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning and repealing the recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning (OJ C 189, 15.6.2017, p. 15–28).



- (31) In all three cases where third-country nationals may need to have their skills and qualifications recognised, procedures for the recognition of skills and qualifications of third-country nationals are often more complex and costly than those for Union citizens. Third-country nationals tend to have more limited access to support. They may experience difficulties due to linguistic barriers (if information and support services are not available in the languages that they know) or may struggle to navigate and understand the varying national systems for the recognition of skills and qualifications. Third-country nationals may be expected to organise and cover the costs of translating and officially certifying documents, and to supply documents and other evidence of their qualifications that are not required from Union nationals or are not typically issued in their home countries. Beneficiaries or applicants for international protection in the Union as well as people in need of international protection that are in third countries and may benefit from complementary labour pathways may even be unable to fully document their qualifications, for example when documents have been lost during flight or displacement.
- (32) Employers and recruiters often face challenges and costs when recruiting third-country nationals. Lack of access to information on qualifications obtained in third countries, burdensome administrative processes, translation requirements, verifying authenticity, compliance and lengthy processing times (including for recognition of skills and qualifications) can make it harder for them to attract talent in a competitive labour market. Some Member States apply the principle of preference for Union citizens (labour-market tests) which require companies to prove that they have unsuccessfully searched for national workers, Union citizens or legally residing third-country nationals with access to the labour market according to national legislation, before they are allowed to recruit a third-country national. This requirement creates a further burden for employers, particularly for SMEs.
- (33) The recognition of skills and qualifications issued in third countries can be challenging for national authorities in Member States because of a lack of access to information on third-country qualifications; differences in the organisation of education, training and qualification systems, language differences, difficulties with verifying authenticity, and a lack of established networks and contacts through which to build trust and understanding in qualifications obtained outside the Union. Furthermore, national authorities manage data and information on the recognition of skills and qualifications differently and inconsistently, and therefore have limited capacity to exchange information with each other and develop consistent approaches to recognising the skills and qualifications of third-country nationals.
- (34) The recognition of skills and qualifications of third-country nationals at national level should be planned, resourced and developed as part of ‘whole-of-government’ approaches to attracting talent, in line with shifts in the supply of and demand for skills.
- (35) National authorities should enhance their capacity to simplify and expedite recognition procedures and provide relevant support and information to third-country nationals, recognition authorities, public employment services, labour inspectorates and migration authorities. Cooperation at Union level in the area of skills and qualifications and the expertise and experience of Member States in the recognition of skills and qualifications can support national authorities and inform the collective capacity of the Union to reform and enhance processes for the recognition of third-country nationals’ skills and qualifications. Cooperation can enable expertise- and information-sharing and consistent approaches to the recognition of third-country

nationals' skills and qualifications, in particular for qualifications that are frequently seen in recognition procedures in Member States.

- (36) Administrative cooperation, partnerships and agreements with third countries, and co-operation with education and training providers and other stakeholders in third countries, can facilitate trust, transparency and easier exchange of information and authentication of qualifications.
- (37) Russia's war of aggression against Ukraine created an urgent need to facilitate access to the Union labour market for beneficiaries of temporary protection. Commission Recommendation (EU) 2022/554<sup>23</sup> set out recommendations and guidance to support Member States in facilitating the recognition of professional qualifications of people fleeing Russia's war of aggression against Ukraine. A Commission assessment<sup>24</sup>, published in June 2023, of the Member States' uptake of and responses to that Recommendation identified a range of promising practices. The assessment highlighted the fact that some Member States had taken significant steps to facilitate the integration of Ukrainian professionals, especially in the fields of health and teaching. Recommendation (EU) 2022/554 sent a strong political signal to Member States to do all they could to meet the urgent needs of the situation. Stakeholders, such as the group of coordinators for the recognition of professional qualifications, expressed their appreciation for Recommendation (EU) 2022/554 and some suggested the measures should be extended to other third-country nationals.
- (38) The Union is committed to supporting human and economic development through development assistance and cooperation. Partnerships with third countries to attract talent are developed in a mutually beneficial manner that support filling both partners' labour-market needs. Union and Member State policy and action on international recruitment should mitigate any potential negative implications for countries of origin. Efforts to attract talent should not lead to human-capital flight or a 'brain drain' which can limit the socio-economic capacity and development of third countries and their ability to manage essential services. Systematic approaches to international recruitment are necessary, including mutually beneficial partnerships with countries of origin, such as Talent Partnerships, that support the development of skills and capacity in the country of origin.

RECOMMENDS:

## CHAPTER I: GENERAL PROVISIONS

### Objective

1. This Recommendation sets out guidance on simplifying and expediting the recognition of the skills and qualifications of third-country nationals by Member States with a view to making the Union's labour market more attractive to third-country nationals and to facilitate their integration into the labour market in line with the needs of the Union economy and society.
2. Procedures for the recognition of the skills and qualifications of third-country nationals should be part of holistic, 'whole-of-government' approaches to managing

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<sup>23</sup> Commission Recommendation (EU) 2022/554 of 5 April 2022 on the recognition of qualifications for people fleeing Russia's invasion of Ukraine (OJ L 107I, 6.4.2022, p. 1–8).

<sup>24</sup> Assessment of Commission Recommendation (EU) 2022/554 of 5 April 2022 on the recognition of qualifications for people fleeing Russia's invasion of Ukraine, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, June 2023.

the availability of skills, in line with skills trends in the Member States and at Union level. This approach includes upskilling and reskilling, labour market activation, mobility within the Union, working conditions, and attracting talent from outside the Union.

3. Member States should seek to use the potential of legal migration to attract skilled third-country nationals to address labour and skills shortages. In this context, Member States should:
  - (a) aim to systematically improve their attractiveness as a destination for third-country nationals of all skills-levels, including by enhancing systems for recognition of skills and qualifications, where applicable leading to a considerable increase of their OECD talent attractiveness indicator for highly educated workers.
  - (b) make full use of the skills and qualifications of third-country nationals in their labour markets, with the aim to significantly reduce the gap in the over-qualification rate between third-country nationals and their own nationals by 2030.

### **Scope**

4. This Recommendation applies to situations in which third-country nationals are in the process of obtaining a visa or work and residence permit in a Member State or are already legally resident in the Union.
5. This Recommendation applies where recognition of skills and qualifications is required in order to grant rights to a third-country national, namely:
  - (a) to give access to a regulated profession in a Member State ('recognition of professional qualifications').
  - (b) to grant access to a learning programme ('academic recognition').
  - (c) to grant a visa or work and residence permit for employment purposes in the Member State, where recognition of skills and qualifications is a part of the process ('recognition of skills and qualifications for labour migration').

### **Definitions**

6. For the purposes of this Recommendation, the following definitions apply.
  - (a) 'Recognition of skills and qualifications' means formal acknowledgement by a relevant authority of the validity of a foreign qualification, and identification of skills, with a view to granting rights to a third-country national, namely access to a regulated profession, a visa or work and residence permit for employment purposes, or access to a learning programme.
  - (b) 'Recognition of professional qualifications' means recognition by a Member State of a foreign professional qualification for the purpose of access to or pursuit of a regulated profession in its territory.
  - (c) 'Regulated profession' means a professional activity or group of professional activities, access to which, the pursuit of which, or one of the modes of pursuit of which is subject, directly or indirectly (by virtue of legislative, regulatory or administrative provisions) to the possession of specific professional qualifications.

- (d) ‘Academic recognition’ means the formal acknowledgement by a competent authority of the validity and level of a foreign educational qualification or of prior learning, focused on learning outcomes, with a view to accessing further studies without prejudice to the right of an education and training institution or the competent authorities to set specific admission criteria for specific programmes or to check the authenticity of documents.
- (e) ‘Recognition of skills and qualifications for labour migration’ means recognition of skills and qualifications as a part of a Member State process to grant a visa or work and residence permit to a third-country national including as part of points-based immigration systems.
- (f) ‘Priority regulated profession’ means a regulated profession that has been identified by a Member State as essential for meeting key skills needs for economic development or for the provision of essential skills and services and where particular actions or measures are necessary in order to build up the active workforce in the relevant profession.
- (g) ‘Validation of skills acquired through non-formal and informal learning’ means the process by which a competent authority or body confirms that a person has acquired learning outcomes through non-formal and informal learning settings, measured against a relevant standard.
- (h) ‘Bridging course’ means a targeted learning opportunity covering substantial differences between knowledge, skills and competences acquired by a person and those required to gain access to a regulated profession.
- (i) ‘European Learning Model’ means the multilingual data model for learning, published by the Commission, which can be used to describe all learning-related data, including formal, non-formal and informal learning, and which supports skills-data exchange, interoperability, and the issuing and exchange of digital credentials.
- (j) ‘European Qualifications Framework or EQF’ means a common reference framework of eight levels of qualifications, expressed as learning outcomes with increasing levels of proficiency, which serves as a translation device between different qualifications systems and their levels, to improve the transparency, comparability and portability of people’s qualifications.
- (k) ‘National qualifications framework’ means an instrument for the classification of qualifications according to a set of criteria for specified levels of learning achieved, which aims at integrating and coordinating national qualifications subsystems and improving the transparency, access to, progression and quality of qualifications in relation to the labour market and civil society.
- (l) ‘Over-qualification’ means a situation where a person has a level of skill or education and training higher than that required to perform their job<sup>25</sup>.

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<sup>25</sup> Eurostat defines over-qualification rate as the share of employed persons with a tertiary level of educational attainment (ISCED 2011 levels 5–8) who are employed in low or medium-skilled occupations for which a tertiary education is generally not required (major groups 4–9 of ISCO-08).

## **CHAPTER II: PRINCIPLES FOR THE RECOGNITION OF SKILLS AND QUALIFICATIONS OF THIRD-COUNTRY NATIONALS**

These principles address the role of the recognition of skills and qualifications of third country nationals in the wider policy context of labour migration and labour market and skills policies.

7. Member States should systematically reduce barriers related to recognition of skills and qualifications that impede the possibility for third-country nationals to legally migrate to that Member State, to secure employment that reflects their skills and experience, and to successfully integrate into that Member State's labour market, thereby addressing skills and labour shortages in the Member State.
8. National procedures for the recognition of skills and qualifications should use a 'skills first' approach that emphasises a person's full talent and potential and mitigates the risk of over-qualification. Procedures should avoid basing assessments of third-country nationals solely on their qualifications. Recognition of qualifications should be used in combination with an assessment of skills and experiences wherever possible.
9. Member States that make use of labour market tests should regularly monitor labour market needs and availability of skills and may consider exemptions from labour market tests for recruitment in occupations or sectors experiencing skills shortages, and are encouraged to envisage in particular such exemptions for SMEs. Member States should ensure that where they are conducted, labour market tests are completed rapidly, involve a limited administrative burden for employers and third country nationals, and are applied in a clear and transparent manner. Member States should provide particular support to SMEs.
10. National approaches to attracting global talent, including the recognition of skills and qualifications, should be managed to mitigate the risk of human-capital flight ('brain drain') for countries of origin. This can be achieved through collaboration to support knowledge-sharing and skills-development in the country of origin, ongoing research and monitoring to identify potential negative consequences for countries of origin, and support for circular migration, so that both countries can derive benefits from legal migration to the Union.
11. The recognition of skills and qualifications should not be required for the purposes of recruitment in professions that are not regulated. In these cases, transparency tools and information can support understanding and comparison of qualifications of third-country nationals with a view to supporting recruitment where necessary.

## **CHAPTER III: ORGANISATION OF THE RECOGNITION OF THE SKILLS AND QUALIFICATIONS OF THIRD-COUNTRY NATIONALS**

The recommendations in this chapter apply to all 3 cases of recognition of skills and qualifications as set out in 5 (a) – (c) above.

### **Capacity-building**

12. Member States should invest appropriate financial and human resources in the capacity of their relevant authorities, including their European National Information Centres and the National Academic Recognition Information Centres (ENIC-NARIC centres), in order to ensure that they can respond to demand, and can simplify and

expedite procedures for the recognition of skills and qualifications of third-country nationals.

#### *Staff development*

13. National authorities should ensure that relevant personnel have access to training to develop the skills, including foreign language skills, needed in order to be able to inform and advise both employers and third-country nationals, and to assess skills and qualifications.

#### *Data management*

14. National authorities should systematically record, analyse and publish data on the types of applications received from third-country nationals, countries of origin, processing times and outcome of decisions taken (including negative decisions and compensation measures that have been applied) to monitor the impact of procedures for recognition of skills and qualifications.
15. National authorities should adopt the European Learning Model for structuring data on recognition decisions, previously processed qualifications and other data on learning achievements and entitlements in order to support the interoperability between systems and easier sharing of information on the recognition of skills and qualifications of third-country nationals.
16. National authorities should use the European Skills, Competences, Qualifications and Occupations (ESCO) classification when they record information on occupations, qualifications and knowledge, skill and competences within their national systems in order to facilitate the exchange of information between Member States and third countries and translation of data.
17. National authorities should include information on the corresponding level on the EQF in all data they record on third-country qualifications in order to facilitate the comparison and transparency of qualifications.

#### *Knowledge development*

18. National authorities should develop and seek access, as relevant, to reliable sources of information on qualifications, education and training systems, quality assurance and regulated professions in third countries.
19. Member States should develop interoperable national databases on the comparability of third-country qualifications, with the possibility to issue comparability statements, so as to facilitate the sharing of information on their recognition decisions and further the transparency of recognition procedures. To facilitate interoperability, the databases should be based on the standards of the European Learning Model.

#### *Cooperation*

20. Member States should engage in dialogue with social partners and relevant national stakeholders (for example, employers, SMEs, civil society, and migrant organisations) in order to address barriers to recruitment of third-country nationals, including insufficient understanding and recognition of skills and qualifications.
21. National authorities should develop contacts and working relationships with other national authorities and relevant stakeholders, including in other Member States, to develop knowledge and exchange information on the recognition of skills and qualifications of third-country nationals.

## **Cooperation with third countries**

22. National authorities should cooperate with third countries (including in the context of trade agreements, mutual recognition agreements and partnerships, such as Talent Partnerships) to facilitate simplified and expedited recognition of skills and qualifications of third-country nationals.
23. Where cooperation with third countries exists, national authorities should:
  - (a) offer pre-arrival access to recognition procedures to third-country nationals from the third country.
  - (b) develop knowledge on relevant qualifications, including expected learning outcomes, on the structure of the education and training system of the third country, and on the scope of regulated professions in cooperation with the third country.
  - (c) organise exchanges of information, study visits and joint projects with third-countries in order to promote understanding and trust in qualifications.
  - (d) establish, with authorities in the third country, processes to authenticate documents, identify fraudulent documents and obtain missing information to reduce the administrative burden on applicants and national authorities.

## **Information and Support**

24. Member States should offer targeted and tailored support for third-country nationals on the recognition of skills and qualifications including:
  - (a) as part of pre-departure processes.
  - (b) as part of employment services to support access to the labour market.
  - (c) for access to lifelong learning opportunities in the Member State.
  - (d) to support the re-establishment of third-country nationals in their country of origin upon their return.
25. Member States should ensure that third-country nationals, employers and stakeholders can access user-friendly, complete and up-to-date information on the recognition of skills and qualifications of third-country nationals in its territory.
  - (a) Information and support services should be provided in the national language(s), in English and in languages frequently spoken by incoming migrants or migrants already legally residing in the Member State.
  - (b) Online information should be provided in mobile-friendly and accessible formats.
26. Member States should co-ordinate their approaches to information provision and support services for the recognition of skills and qualifications of third-country nationals, at national, regional, and local level, including by:
  - (a) development of comprehensive online tools to help third-country nationals access necessary information on and support with the recognition of their skills and qualifications.
  - (b) centralised or coordinated development of information on the recognition of skills and qualifications of third-country nationals that can be disseminated and re-used by recognition authorities, public employment services, labour inspectorates and migration authorities.

- (c) coordinating input and updates to the contact information of national authorities responsible for the recognition of professional qualifications of third-country nationals published on the Regulated Professions Database, to support the action described in 56 (c) below.
27. Information provided should help third-country nationals to understand what recognition procedures, if any, they may need to follow and refer them to relevant support services as follows:
- (a) access to regulated professions: third-country nationals should be referred to relevant information on regulated professions in the Member State, including relevant contact points that provide information on the recognition of professional qualifications and competent authorities in Member States.
  - (b) to grant access to a learning programme: third-country nationals should be referred to relevant information on academic recognition and studying in the Member State.
  - (c) legal migration procedures: third-country nationals should be referred to relevant information on legal migration procedures, including the contact details of relevant migration authorities.
  - (d) employment in unregulated professions: third-country nationals should be referred to information on transparency of skills and qualifications, including online information services, so that they can obtain advice or statements (e.g., comparability statements) that will help them to explain their skills and qualification to employers.
28. Member States should facilitate recognition and transparency of any learning done by third country nationals in the Member State by:
- (a) ensuring that third-country nationals can obtain evidence (e.g., certificates or other credentials) of any learning they have done in the Member State.
  - (b) ensuring that third-country nationals have access to processes for validation of skills acquired through non-formal and informal learning.
  - (c) providing administrative support to other Member States and countries of origin to assist with recognition and understanding of learning done by third-country nationals in the Member State.

### **Procedures**

29. Member States should ensure that procedures for the recognition of skills and qualifications of third-country nationals are user-friendly and minimise the administrative burden for applicants.

### *Translations*

30. National authorities should use eTranslation (the Commission's machine translation system) or other machine translation, where appropriate.
31. National authorities should minimise requirements for third-country nationals to provide translations of documents, where possible, including by not requesting applicants to provide translations from languages covered by the eTranslation tool.

### *Authentication*

32. Member States should seek to create the necessary trust to efficiently verify the authenticity, validity, level, and learning outcomes, as appropriate, of qualifications



from third countries, including through cooperation with third countries and developing knowledge on third country qualifications systems.

33. In cases of uncertainty or doubt, national authorities should verify the authenticity of documents whenever possible, e.g., by contacting authorities in third countries, rather than require the applicant to provide additional evidence. National authorities should not place applicants under an undue burden or expense of having documents certified or otherwise proving their authenticity.
34. National authorities should ensure that beneficiaries or applicants for international protection as well as people in need of international protection who are in third countries and may benefit from complementary labour pathways who cannot adequately document their qualifications can access an assessment of their qualifications, where appropriate, by the national authorities for the purposes of seeking employment or access to learning.
35. National authorities should ensure that processing times are substantially reduced when documents are submitted as digital credentials with a trustworthy digital signature (similar to the level of authenticity offered by the European Digital Credentials Infrastructure) because authenticity can be verified instantly in such cases.

#### *Costs*

36. National authorities should publish transparent information on any costs associated with recognition procedures and ensure that costs that are applied do not exceed the actual cost of the procedure and are comparable, for similar circumstances, with costs applied to Union citizens. Member States are encouraged to reduce or eliminate costs, such as application fees, where possible for beneficiaries or applicants for international protection as well as people in need of international protection who are in third countries and may benefit from complementary labour pathways.

#### *Processing applications*

37. National authorities should ensure that third-country nationals:
  - (a) have access to relevant online tools similar to those that are available to Union citizens for submitting and processing applications for recognition.
  - (b) receive instant acknowledgement-receipts after submitting online applications for recognition.
  - (c) receive an acknowledgment-receipt of a complete application or notification of any missing documents within a reasonable period that should not exceed 15 calendar days from submission of the application for recognition.

## **CHAPTER IV: RECOGNITION OF PROFESSIONAL QUALIFICATIONS**

The recommendations in this chapter apply to competent authorities responsible for the recognition of the skills and qualifications of third-country nationals to give access to a regulated profession in a Member State, as referred to in 5 (a) above.

38. Member States should facilitate the recognition of professional qualifications of third-country nationals by simplifying processes and aligning them more closely with the processes laid down in Directive 2005/36/EC.

## **Documents and formalities**

39. Competent authorities should request from third-country nationals a similar number and similar types of documents as required of Union citizens to support applications for authorisation to access a regulated profession, as set out in Article 50 (1) and Annex VII to Directive 2005/36/EC.
40. The recognition of professional qualifications should not be subject to linguistic knowledge unless it belongs to the qualifications (e.g, speech therapists, teachers for languages). Language requirements for practicing the regulated profession in the host Member State should not exceed what is necessary and proportionate.

## **Recognition decisions**

41. Competent authorities should:
  - (a) base their assessment of applications by third-country nationals on rules equivalent to those set out in Article 13(1) of Directive 2005/36/EC.
  - (b) regard evidence of formal qualifications issued by a third country as evidence of formal qualifications if the third-country national has 3 years of professional experience in the profession concerned in another Member State which previously recognised the third-country qualification, based on Article 3(3) of Directive 2005/36/EC.
  - (c) apply compensation measures only in situations equivalent to those set out in Article 14 of Directive 2005/36/EC.
  - (d) ensure that the option of choosing between an adaptation period and an aptitude test is available to third-country nationals as it would be under Article 14 of Directive 2005/36/EC.
  - (e) consider information contained in previous recognition decisions taken by other Member States, where available, to enable faster recognition of the applicant's professional qualification.
  - (f) complete the recognition procedure for authorisation to access a regulated profession as quickly as possible so that a duly substantiated decision can be issued within a reasonable period, which should not exceed 2 months from the date of submission of a complete application.

## **Priority regulated professions**

42. Member States should make best use of skills intelligence on labour and skills shortages, available in national and Union sources, as well as require their relevant authorities to report on anticipated workforce shortages in the regulated professions under their remit. Member States should use this data in workforce planning, including for the purposes of identifying priority regulated professions for attracting third-country nationals, third countries for potential partnerships and any adaptations to procedures for recognition of skills and qualifications.
43. Competent authorities should draw on previous decisions or develop knowledge on relevant qualifications for priority regulated professions from relevant third countries in order to:
  - (a) establish 'fast-track' work streams, including by deploying additional staff, to respond to a new or urgent priority for recognition.

- (b) minimise processing times so that a duly substantiated decision can be issued within 4 weeks from the date of submission of a complete application.
  - (c) minimise requirements for applications for recognition.
  - (d) identify substantial differences in education and training with relevant third countries in order to develop tailored bridging-courses for third-country nationals.
44. For priority regulated professions, competent authorities should explore mechanisms that give third-country nationals faster access to practise already after submitting their application for recognition and while the procedure for examining the application is pending, including:
- (a) temporary job opportunities, under supervision organised in line with national practices for the profession.
  - (b) temporary job opportunities, accompanied by training and assessment.
  - (c) access to assistant-level positions related to the profession with the opportunity to advance to full access to practise the profession following a positive recognition decision.
45. Competent authorities should offer language training to third-country nationals in order to facilitate their access to practicing the priority regulated profession in cases where they meet all recognition requirements.

## **CHAPTER V: RECOGNITION OF SKILLS AND QUALIFICATIONS FOR LABOUR MIGRATION**

The recommendations in this chapter apply to national authorities involved in labour migration procedures, as referred to in 5 (c) above.

46. National authorities involved in recognition of skills and qualifications, migration and employment should cooperate closely to streamline labour migration processes, while taking into account the views of social partners and industry, in particular SMEs.
47. Member States should clearly communicate where the recognition of skills and qualifications is required as part of processes, such as point-based systems, to obtain a visa or work and residence permit in their Member State.
48. Member States should facilitate the early recognition of skills and qualifications, where required, as part of pre-departure assessments from the country of origin, so that third-country nationals can enter the labour market without unnecessary delay.
49. National authorities should follow the ‘skills first’ approach in order to mitigate the risk of overqualification in the context of labour migration. Procedures should prioritise assessment of skills and experiences in order to identify the full potential of third-country nationals and support their integration into the labour market in roles that match their skills. National authorities should avoid basing assessments on qualifications alone.

## **CHAPTER VI: FINAL PROVISIONS**

### **Ensuring equal treatment**

50. Member States should ensure that Union citizens with qualifications obtained in the Union or in a third country should receive treatment that is no less favourable than the treatment given to third-country nationals with the same qualifications.
51. Member States should ensure that qualifications obtained in the Union are recognised in the same way whether held by Union citizens or third-country nationals.
52. Member States should use the discretion they have to simplify and expedite national procedures for the recognition of qualifications. Where procedures in a Member State are more flexible than those laid down in Directive 2005/36/EC, that Member State should consider whether a similarly flexible approach can be taken in relation to the recognition of qualifications obtained in a third country.

### **Commission support**

53. The Commission will facilitate exchange of information and cooperation between Member States on the recognition of skills and qualifications of third-country nationals, including through mutual learning, exchange of good practices and by facilitating cooperation between Member States, social partners, stakeholders, recognition authorities and international organisations. The Commission will organise meetings within the group of coordinators for the recognition of professional qualifications and other relevant settings, such as the European Qualifications Framework Advisory Group, the Labour Migration Platform, the European Integration Network, the EU Talent Pool Steering Group and the networks of the European Network of National Information Centres and the National Academic Recognition Information Centres (the ENIC-NARIC networks).
54. The Commission will invite Member States to report on national initiatives, reforms, good practices and statistics on the recognition of skills and qualifications of third-country nationals.
55. The Commission can provide Member States, upon their request, with tailor made support and expertise under its Technical Support Instrument to reform national systems and facilitate processes for the recognition of skills and qualifications of third country nationals.
56. The Commission will work to improve the transparency of, and access to, recognition processes by:
  - (a) encouraging and assisting Member States to develop semantically interoperable databases on recognition processes and decisions that are capable of generating statements of comparability.
  - (b) continuing its support to the ENIC-NARIC networks and encouraging Member States to consider extending the NARIC's competences to cover vocational education and training (VET) qualifications.
  - (c) support Member States to include information in the Regulated Professions Database on the competent authorities in Member States responsible for recognising qualifications held by third country nationals giving access to regulated professions.

- (d) providing access to online information to assist third country nationals to understand requirements for recognition of skills and qualifications in the Union.

57. The Commission will use Union tools to promote understanding of skills and qualifications gained in priority third countries that are relevant to meeting Union labour market shortages. The Commission will:

- (a) work with the European Training Foundation (ETF), ENIC-NARIC networks, the European Quality Assurance Register for Higher Education, Member States and third countries to develop guidance on third-country qualification frameworks and specific qualifications, comparing the European Qualifications Framework with national qualification frameworks, and conducting targeted assessments of third country practice on accreditation and quality assurance.
- (b) ensure the Europass platform includes up-to-date information on recognition practices and relevant legislation in third countries, in line with Article 3 (2) (d) of Decision (EU) 2018/646.
- (c) explore the feasibility of setting up further online resource hubs with information on skills and qualifications, building on the resource hub focused on Ukraine.
- (d) explore the feasibility of developing a Union-level tool that is able to generate statements of comparability based on a harmonised template for specific third country qualifications covering multiple Member States.
- (e) translate tools that facilitate the assessment of third country nationals' skills (e.g., Europass, the EU Skills Profile Tool for Third-Country Nationals) in the languages of selected third countries.

Done at Brussels, 15.11.2023

*For the Commission*

*Thierry Breton*

*Member of the Commission*

