Legal migration by non-EU citizens – public consultation

Consultation on the European Union’s (EU) legislation on the legal migration of non-EU citizens (Fitness Check on EU legal migration legislation)

Submission by TCO Sweden, Register ID number 86242309652-84

TCO is unable to express an opinion on a large part of the questions included in the public consultation on legal migration and therefore submits this statement in writing instead.

TCO is the Swedish confederation of professional employees, whose affiliates organise approximately 1.4 million workers.

TCO position regarding legal migration

TCO supports initiatives to enable labour migration to the EU. However, it is TCO’s position that the current directives cause undue regulatory burden in member states. The directives require the issuing of specific permits for each respective directive, obliging member states to maintain multiple parallel structures in order to issue different permits for different categories of workers.

This is further complicated by variations in certain specific provisions and definitions regarding criteria for entry between the different directives. This makes implementation complex, and it is fragmenting successful labour migration models such as the Swedish one. The Swedish system enables labour migration to all occupations, on the condition of an offer of employment if working conditions are on the level of collective agreements. The Swedish system benefits from offering the same rights to all work permit holders. The fact that all labour migration takes place within the same system, with the exception of those permits issued in accordance with EU legislation, makes the system easier to use for employers.

TCO believes that regulation of labour migration is most effective when EU directives stipulate criteria of entry and the issuance of permits, without requiring member states to issue work permits with different stamps to different categories of workers. TCO does not believe there is an added value in having the title “blue card”, “intra-corporate transferee”, etc. stamped on the work permit. Instead it contributes to ineffective labour migration governance.
TCO is firmly opposed to EU directives preventing member states from issuing national permits, both on a point of principle and out of the perspective of regulatory effectiveness. Regarding the latter, TCO identifies two main risks. Firstly, TCO thinks it is likely that in many countries, existing national programs will be dismantled as the EU-regulated systems replace (rather than supplement) these national systems. As a consequence, TCO thinks it is likely that the possibilities for labour migration to Europe will become fewer and narrower. Secondly, TCO thinks it is likely that unintentional regulatory gaps will emerge between different categories of permit holders in the emerging, increasingly complex, system of EU permits. This would have the unfortunate consequence of preventing labour migration from being the means to fill skills shortages.

In summary, TCO does not support the proposal to prevent member states from issuing national permits. TCO considers the current system an example of where EU legislation makes regulatory frameworks more, not less, complex.

Comments regarding specific questions

Q 11.
TCO welcomes initiatives to expand the possibilities for labour immigration to the EU, but only if it is done in such a way that allows member states to:

1) Issue national permits, including to the target groups of the directives
2) Incorporate the directives into national systems in order to maintain well-functioning broad national systems for labour migration. A continued increase in the number of permit types would lead to fragmented and ineffective regulation of labour migration. It would most likely also have unintended consequences in the form of gaps between different types of permits

Q 12-13.
TCO welcomes rules that make it possible for non-EU workers, students and researchers to be able to travel, work and study in different EU countries once admitted in one country. However, in the case of working in other EU countries, this requires clear rules and regulation to prevent abuse of the rules. The terms and conditions of work as stipulated by national law in the host country must always apply. TCO therefore thinks that it is not possible to remove requirements to apply for a new permit when moving to a second member state, in order to achieve greater mobility. Instead, the EU
can introduce clearer pathways and rules to transition from one type of permit to another.

As a result of this, TCO does not see increased mobility for non-EU citizens as a reason for preventing the issuance of national work permits in order to replace them with EU-wide permits.