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#### NOTE

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships ('Traineeships Directive')

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In preparation of the meeting of the Social Questions Working Party on 2 October 2024, delegations will find attached a second draft compromise text of the Directive referred to in subject.

Changes compared with the Commission proposal (8148/24) are set out in **bold** and deletions are marked with ~~strikethrough~~. Changes compared with the first draft compromise text (11869/24) are set out in **bold underlined** and deletions are marked with ~~strikethrough underlined~~.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on improving and enforcing working conditions of trainees ~~and combating regular~~**  
**employment relationships disguised as traineeships ('Traineeships Directive')**

(Text with EEA relevance)

THE **EUROPEAN** PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153 (2), point (b), in conjunction with Article 153 (1), point (b) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

Whereas:

- (1) In March 2014, the Council adopted the Recommendation for a Quality Framework on Traineeships ('2014 Recommendation') to provide Union-wide quality standards for traineeships. It recommends 21 principles for traineeships to improve the quality of traineeships, in particular to ensure high quality learning and training content and adequate working conditions to support education-to-work transitions and increase the employability of trainees. The 2014 Recommendation covers all traineeships except for those that are part of curricula of formal education and training and those regulated under national law and completion of which is a mandatory requirement to access a specific profession.
- ~~(2) The Council Recommendation on a European Framework for Quality and Effective Apprenticeships contains 14 criteria for quality and effective apprenticeships aiming to ensure that apprenticeship schemes are responsive to labour market needs and provide benefits to both learners and employers. These include criteria for learning and working conditions and criteria for framework conditions.~~
- (3) The reinforced Youth Guarantee<sup>3</sup> aims at ensuring that young people under the age of 30 receive a good quality offer of employment, continued education, apprenticeship or traineeship within a period of four months of becoming unemployed or leaving education. The 2014 Recommendation is an important reference point to measure the quality of traineeships offers under the reinforced Youth Guarantee.

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<sup>3</sup> Council Recommendation of 30 October 2020 on A Bridge to Jobs – Reinforcing the Youth Guarantee and replacing the Council Recommendation of 22 April 2013 on establishing a Youth Guarantee 2020/C 372/01 (OJ C 372, 4.11.2020, p. 1).

- (4) Labour shortages exist in many occupations and at all skills levels. They are expected to increase with the projected decline in the working age population and increasing demand for several occupations relevant for the green and digital transition. The lower labour market participation of young people contributes to these shortages. Quality traineeships can be a useful up- and/or reskilling pathway for persons of any age to acquire practical skills on the job to enter the labour market or take their career in a new direction.
- (5) Traineeships can help young people gain practical and professional experience, improve their employability, and facilitate their transition into stable employment. As such, traineeships constitute an important pathway to the labour market. For employers, traineeships provide opportunities to attract, train and retain young people. They can reduce the cost of searching for and recruiting skilled staff, when trainees are offered a regular position after their traineeship. However, this can only be achieved if traineeships are of good quality and offer decent working conditions.
- (6) Challenges persist regarding the problematic use of traineeships, including when regular employee positions are disguised as traineeships, depriving those workers of their full rights under Union law, national law and collective agreements and risking to trap them in precarious working conditions. Employment relationships disguised as traineeships distort competition between companies by putting compliant employers at a disadvantage, lead to the circumvention of employers' fiscal and social security obligations and to a substitution of permanent posts. In other cases, employers of entities hosting 'genuine' trainees may not comply with all requirements stemming from Union law, national law, collective agreements or practice, depriving them of their full rights.

- (7) Additionally, trainees are less likely to defend their rights due to their vulnerable positions in the labour market. The absence, complexity or diversity of regulatory frameworks for traineeships in various Member States alongside an insufficient enforcement of national legislation and the lack of capacity for controls and inspections, as well as a lack of clarity regarding the authority responsible for control and enforcement, are among the main factors leading to the problematic use of traineeships.
- (8) Evidence shows that a significant proportion of trainees are subject to less favourable working conditions compared to ~~regular~~ employees, including regarding working hours, leave entitlements, and access to equipment as well as pay.

- (9) At Union level, existing legal instruments provide a framework for the protection of workers, including the directives on transparent and predictable working conditions<sup>4</sup>, adequate minimum wages<sup>5</sup>, working time<sup>6</sup>, health and safety at work<sup>7</sup>, equality and non-discrimination<sup>8</sup>, work-life balance for parents and carers<sup>9</sup>, information and consultation of employees<sup>10</sup>, fixed-term work<sup>11</sup>, part-time work<sup>12</sup>, posting of workers<sup>13</sup> and on temporary agency work.<sup>14</sup> This legal framework fully applies to trainees who have an employment contract or who should be regarded to have an employment contract or employment relationship as defined by law, collective agreements or practice in force in each Member State, with consideration to the case-law of the Court of Justice of the European Union. The Union legal framework also encompasses recommendations on the quality of traineeships<sup>15</sup> and apprenticeships<sup>16</sup> and on access to social protection for workers and self-employed<sup>17</sup>.

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<sup>4</sup> Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union (OJ L 186, 11.7.2019, p. 105).

<sup>5</sup> Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union (OJ L 275, 25.10.2022, p. 33).

<sup>6</sup> Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, p. 9).

<sup>7</sup> Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.06.1989, p. 1).

<sup>8</sup> Among others: Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

<sup>9</sup> Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance (OJ L 188, 12.7.2019, p. 79).

<sup>10</sup> Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ L 80, 23.3.2002, p. 29).

<sup>11</sup> Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ L 175, 10.7.1999, p. 43).

<sup>12</sup> Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC – Annex: Framework agreement on part-time work (OJ L 14, 20.1.1998, p. 9).

<sup>13</sup> Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 173, 9.7.2018, p. 16).

<sup>14</sup> Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).

<sup>15</sup> Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships (OJ C 88, 27.3.2014, p. 1).

- (10) The Conference on the Future of Europe<sup>18</sup> put forward a proposal on ensuring that young people's internships and jobs adhere to quality standards, including on pay-remuneration, as well as and banning through a legal instrument unpaid internships on the labour market and outside formal education.
- (11) The European Parliament adopted a resolution pursuant to Article 225 TFEU with recommendations to the Commission on quality traineeships in June 2023<sup>19</sup>. In its resolution, it called on the Commission "to update and strengthen the 2014 QFT and to turn it into a stronger legislative instrument". It further called on the Commission to include additional principles in an updated quality framework for traineeships. Specifically, the European Parliament called for the Commission to "propose a directive on open labour market traineeships, traineeships in the context of active labour market policies and traineeships that are a mandatory part of professional training, in order to ensure minimum quality standards, including rules on the duration of the traineeships, access to social protection in accordance with national law and practice as well as pay that ensures a decent standard of living in order to avoid exploitative practices".
- (12) The Commission carried out a two-stage consultation of social partners at Union level under Article 154 TFEU on the need, objectives and legal avenues for a potential action further improving the quality of traineeships. There was no agreement among the social partners to enter into negotiations with regard to those matters. It is, however, important to take action at Union level in this area by adapting the current framework on traineeships while taking into account the outcomes of the consultation of social partners.

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<sup>16</sup> Council Recommendation of 15 March 2018 on a European Framework for Quality and Effective Apprenticeships (OJ C 153, 2.5.2018, p. 1).

<sup>17</sup> Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed (OJ C 387, 15.11.2019, p. 1).

<sup>18</sup> [Report on the final outcome, p.90 – May 2022.](#)

<sup>19</sup> European Parliament resolution of 14 June 2023 with recommendations to the Commission on quality traineeships in the Union (2020/2005(INL)).

~~(13) The Commission has extensively consulted with stakeholders, including trainees and youth organisations, traineeship providers, national public authorities, educational institutions, and experts from academia.~~

(14) Article 153(2) in conjunction with (1)(b) TFEU empowers the European Parliament and the Council to adopt Directives setting minimum requirements on working conditions with a view to achieving the objectives set out in Article 151 TFEU, namely the promotion of employment and improved living and working conditions.

(15) Considering the persisting challenges regarding the problematic use of traineeships in the Union, further action is needed to ~~combat regular employment relationships disguised as traineeships~~ **ensure the determination of the correct employment status of trainees** and to ensure that the relevant Union and national law applicable to workers is fully implemented and enforced in relation to trainees. This Directive addresses these challenges by laying down minimum requirements to improve and enforce the working conditions of trainees in the Union and to combat ~~employment relationships~~ disguised ~~as~~ traineeships, by establishing a common framework of principles and measures necessary to ensure equal treatment and to implement and enforce Union and national law applicable to workers more effectively.



- (16) This Directive should apply to trainees in the Union who have **or should be regarded to have** an employment contract or employment relationship as defined by the law, collective agreements or practice in force in the Member States, with consideration to the case-law of the Court of Justice of the European Union. In its case law, the Court of Justice has established criteria for determining the status of a worker, which is to be based on a case-by-case-analysis. **Trainees in vocational education and training relationships, apprenticeships, and traineeships which are carried out within the framework of formal education, including those that are a prerequisite to start a formal education or vocational education and training, and those that are obligatory in order to achieve a specific degree, are not covered by the scope of this Directive.**
- (17) Work-based learning programmes falling under the definition of traineeship vary significantly across Member States. ~~Hence, apprenticeships may fall within the scope of this Directive, insofar as apprentices fall under the notion of ‘worker’ as defined by the law, collective agreements or practices in force in the Member States, with consideration to the case-law of the Court of Justice of the European Union.~~
- (18) ~~Chapter III of the Directive applies to regular employees who are falsely labelled as trainees, i.e. when employers label a regular employment relationship either as a traineeship which is not an employment relationship, or as a traineeship which does constitute an employment relationship, however with a lower level of pay or other working conditions than those which regular employees would be entitled to under Union or national law, collective agreements or practice.~~
- (19) Traineeships ~~which are employment relationships can be distinguished from ‘regular’ employment relationships in that they~~ are limited in time, ~~they~~ include a significant learning and training component and ~~that they~~ are undertaken in order to gain practical and professional experience ~~with a view to improving employability and facilitating transition to employment or accessing a profession.~~ **The learning and training component of traineeships shall be regarded as significant when it is not such as to be regarded as purely marginal and ancillary and whereby trainees acquire or improve a skill set, practical experience, industrial and professional insights, with a view to preparing them for future career opportunities and challenges.**

- (20) The principle of non-discrimination is suitable to combat abuses of traineeships, such as granting trainees less favourable working conditions or lower pay compared with regular employees without appropriate justification, ~~and to ensure the sustainability of traineeships as a pathway to stable employment opportunities~~. It can also help make traineeships more accessible to groups of workers in a vulnerable situation **and improve the sustainability of traineeships as a pathway to stable employment opportunities**.
- (21) It is therefore necessary to lay down the principle of non-discrimination for trainees which should apply in addition to Clause 4 of the Annex to the Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, which provides that in respect of employment conditions, fixed-term workers are not to be treated in a less favourable manner than comparable permanent workers solely because they have a fixed-term contract or relation unless different treatment is justified on objective grounds. Trainees who have an employment relationship ~~are by definition~~ **qualify as** ‘fixed-term workers’ within the meaning of that Directive. Its clause on the principle of non-discrimination, however, does not ~~allow~~ **provide** for comparison with other fixed-term workers. Moreover, Clause 2 (2) of the Annex to that Directive allows Member States to exclude certain types of workers from its scope, including initial vocational training relationships and apprenticeship schemes or employment contracts and relationships which have been concluded within the framework of a specific public or publicly supported training, integration and vocational retraining programme. It also fails to recognise the particularly vulnerable position that trainees are in. It is therefore necessary to guarantee that the principle of equal treatment **with** ~~compared to regular~~ **comparable** employees applies to all trainees who have an employment relationship.

- (22) Member States should therefore ensure that, in respect of working conditions including pay, trainees are not treated in a less favourable manner than comparable regular employees in the same establishment, unless different treatment is justified on objective grounds. **For the purpose of this Directive, “pay” should be understood as including compensation, such as but not limited to travel facilities, housing or food allowances.** The sole fact of being a trainee cannot constitute grounds for less favourable treatment compared to employees in the same establishment. At the same time, different tasks, lower responsibilities or work intensity in relation to comparable regular employees may constitute objective grounds for different treatment, where relevant, with regard to the employment condition at issue. The extent of different treatment should, however, be proportionate to those grounds.
- (23) The application of the principle of non-discrimination requires the identification of a comparable regular employee engaged in the same or similar type of work or occupation as the trainee, due regard being given to qualifications and skills.
- (23a) Chapter III of the Directive aims at addressing the issue of trainees who purportedly are not in an employment relationship but who should be regarded as being in an employment relationship, i.e. when employers hire trainees outside of an employment relationship usually with a lower level of pay or worse working conditions than those which employees would be entitled to under Union or national law, collective agreements or practice.**
- ~~(24) Member States should have appropriate measures in place to combat regular employment relationships disguised as traineeships with the effect of granting lower levels of protection, including working conditions and pay, than the worker concerned would be entitled to under Union or national law, collective agreements or practice.~~
- (25) It is necessary to ensure effective **measures, including where appropriate** controls and inspections conducted by competent authorities as they are essential to protect the rights of trainees and to combat regular employment relationships disguised as traineeships. **Where appropriate and in accordance with national law or practice, such tasks may be entrusted to social partners. They** **Such controls and inspections** should be targeted to avoid the substitution of regular employment by disguised traineeships and to protect workers' rights.

- (26) The assessment whether an ~~an regular~~ employment relationship is disguised as a traineeship **without an employment relationship** should be based on the factual circumstances and not on the formal designation of the contractual relationship. In order to determine ~~whether a regular employment relationship is disguised as a traineeship~~ **the correct employment status of trainees**, competent authorities should perform an overall assessment of all relevant facts **on a case-by-case basis**. In order to facilitate the assessment for competent authorities, ~~key~~ **specific** elements that would allow to make the distinction between an ~~regular~~ employment relationship and a disguised traineeship should be set out. ~~The assessment of those elements should be performed on a case-by-case basis, taking due account of the circumstances of each specific case. Therefore, the elements referred to are indicative and non-exhaustive and without the necessity to meet a specific threshold.~~
- (27) ~~Requiring previous work experience for a traineeship in the same or similar field of activity may not indicate a regular employment relationship disguised as a traineeship if the employer provides justification such as an equivalent period of previous work experiences being an alternative to having a degree in a certain field of activity or expertise.~~
- (28) When competent authorities carry out their analysis of the relevant facts to determine ~~the existence of a regular employment relationship disguised as a traineeship~~ **the correct employment status of trainees**, the information needed to perform this analysis might not always be easily accessible to them. In order to enable competent authorities to perform their tasks, ~~employers~~ **entities hosting trainees** should be obliged to provide them with the necessary information that lies in their control upon request ~~of the competent authorities~~.
- (28a) **In the case of trilateral relationships where an intermediary facilitates the provision of traineeships, an entity hosting trainees should be understood as referring to the entity where the traineeship is undertaken.**

- (29) Member States should have appropriate measures in place to facilitate the assessment of whether a purported traineeship genuinely constitutes a traineeship. A reasonable maximum duration of traineeships should, in principle, not exceed six months, as stipulated in the 2014 Recommendation. However, Member States may provide that a longer duration can be justified if it is based on objective grounds. Examples of such exceptions could be traineeships whose completion is a mandatory requirement to access a specific profession, the trajectory of which to acquire the necessary knowledge, competences and experience warrants a longer traineeship experience. Certain traineeships that are part of active labour market policies aimed at the integration of persons in a vulnerable situation could also benefit from a longer duration. Some traineeships that are part of curricula of formal education or vocational education and training may have a longer duration for reasons linked to the curricula.-
- (30) The obligation for employers to include information on the expected tasks, working conditions, including pay, social protection, learning and training elements in the vacancy notices and advertisements for traineeships could be fulfilled by including a link to a website containing this information.
- (31) In addition to this Directive, Member States should ensure full implementation and enforcement of the rights enshrined in the Union acquis applicable to trainees who have in an employment relationship.

- (32) An extensive system of enforcement provisions for the social acquis in the Union has been developed in recent legal instruments, such as Directive (EU) 2019/1152 and Directive (EU) 2023/970<sup>20</sup>. Such provisions should be included in this Directive to help ensure effective enforcement and defence of rights of trainees **in an employment relationship** stemming from this Directive and from other Union law applicable to workers.
- (33) Trainees should have access to effective and impartial dispute resolution and a right to redress, including adequate compensation. Trainees should be informed about the redress mechanisms for the purpose of exercising their right to redress. Having regard to the fundamental nature of the right to effective legal protection, trainees should continue to enjoy such protection even after the end of the traineeship giving rise to an alleged breach of rights under this Directive and other relevant Union law applicable to workers.
- (34) To provide a more effective level of protection of trainees, representatives of workers' **representatives** should be able to engage in proceedings in order to defend any of the rights and obligations arising from this Directive or from other Union law applicable to workers either on behalf or in support of one or several trainees.
- (35) Trainees should be provided with adequate judicial and administrative protection against any adverse treatment and consequences in reaction to any complaint lodged with the employer or resulting from any proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive or in other Union law applicable to workers. In particular, trainees **in an employment relationship** should be protected from dismissal or its equivalent and all preparations for dismissal or its equivalent for exercising the rights provided for in this Directive or in other Union law applicable to workers.

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<sup>20</sup> — Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, OJ L 132, 17.5.2023, p. 21.

- (36) Member States should lay down rules on effective, proportionate and dissuasive penalties for cases of infringement of the rights provided for in the scope of this Directive. Penalties can include administrative and financial penalties, such as fines or the payment of compensation, as well as other types of penalties.
- (37) This Directive lays down minimum requirements, thus leaving untouched Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive.
- (38) Since the objectives of this Directive, namely to enforce working conditions of **trainees in an employment relationship** and ~~combat regular employment relationships disguised as traineeships~~ **ensure the determination of the correct employment status of trainees**, cannot be sufficiently achieved by the Member States, but can, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (39) In implementing this Directive Member States should avoid imposing unnecessary administrative, financial and legal constraints, in particular if they hold back the creation and development of micro, small and medium-sized enterprises. Member States are therefore encouraged to assess the impact of their transposition measures on those enterprises in order to ensure that they are not disproportionately affected, paying particular attention to microenterprises and to the administrative burden, to publish the results of such assessments, and to provide support to those enterprises as necessary.

- (40) Member States may entrust the social partners with the implementation of this Directive, where the social partners jointly request to do so and provided that the Member States take all the necessary steps to ensure that they can at all times guarantee the results sought under this Directive. They should also, in accordance with national law and practice, take adequate measures to ensure the effective involvement of the social partners and to promote and enhance social dialogue with a view to implementing the provisions of this Directive.

HAVE ADOPTED THIS DIRECTIVE:



# Chapter I

## General provisions

### *Article 1*

#### *Subject matter*

This Directive lays down a common framework of principles and measures to improve and enforce the working conditions of trainees ~~and to combat regular~~ **in an employment relationship and to combat disguised employment relationships disguised as traineeships traineeships which purportedly are not an employment relationship but which should be regarded as being an employment relationship (“disguised traineeships”).**

### *Article 1a*

#### *Scope*

1. This Directive applies to every trainee who has<sub>2</sub> or who ~~on the basis of an assessment of the facts,~~ should be regarded to have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in the Member State, with consideration to the case-law of the Court of Justice.
2. This Directive shall not apply to vocational education and training relationships, to apprenticeships nor to traineeships which are carried out within the framework of formal education.

*Article 2*  
*Definitions*

For the purposes of this Directive, the following definitions apply:

- (a) ‘traineeship’ means a limited period of work practice which includes a significant learning and training component, undertaken to gain practical and professional experience ~~with a view to improving employability and facilitating transition to a regular employment relationship or accessing a profession~~ **and which is not part of curricula of formal education or vocational education and training**.
- (b) ‘trainee **in an employment relationship**’ means any person undertaking a traineeship ~~who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in every Member State with consideration to the case law of the Court of Justice;~~
- (c) ~~‘regular employment relationship’ means any employment relationship that is not a traineeship;~~
- (d) ~~‘regular employee’ means any person in a regular employment relationship.~~
- (da) "comparable employee" means a person with an employment contract or employment relationship in the same establishment, who is not undertaking a traineeship and is engaged in the same or similar work or occupation.**

## Chapter II

### Equal treatment

#### Article 3

#### *Principle of non-discrimination*

1. Member States shall ensure that, in respect of working conditions, including pay, as laid down in national law, collective agreements or practice in each Member State, trainees in an employment relationship are not treated in a less favourable manner than employees in comparable regular employees entry level positions in the same establishment, unless different treatment is justified on objective grounds, such as different tasks, lower responsibilities, work intensity or the **higher** weight of the learning and training component.
2. Where there is no employee in a comparable regular employee entry level position in the same establishment, the comparison shall be made by reference to the applicable collective agreement, or where there is no applicable collective agreement, in accordance with national law or practice and with due regard to Article 12 (4) and (5).

## Chapter III

### **Regular Disguised employment relationships disguised as traineeships**

#### *Article 4*

*Measures to combat regular disguised employment relationships disguised as traineeships*

#### **Determination of the correct employment status of trainees**

Member States shall provide for effective measures, including where appropriate ~~and in accordance with national law or practice~~ controls and inspections conducted by the competent authorities in accordance with national law or practice, to detect and take enforcement measures against practices where a regular identify ~~those~~ trainees who purportedly are not in an employment relationship is disguised but who should be regarded as traineeship with being in an employment relationship and to ensure the determination of their correct employment status.

~~Member States shall take enforcement measures against practices that have the effect of granting lower levels lowering the level of protection, including working conditions pay, than to which the worker concerned would be entitled to under Union or national law, collective agreements or practice.~~

## Article 5

### *Assessment of ~~regular employment relationships~~ **disguised as traineeships***

1. ~~In order to determine whether a purported traineeship constitutes a regular employment relationship, For the purposes of Article 4, the competent authorities~~ **or social partners according to national law or practice** shall make an overall assessment of all relevant factual elements **of the traineeship, in accordance with national law or practice.** That assessment shall take into account, among others, the following indicative elements:
  - (a) ~~the absence of a significant learning or training component in the purported traineeship;~~
  - (b) ~~the excessive duration of the purported traineeship or multiple and/or consecutive purported traineeships~~
  - (c) ~~equivalent levels of tasks, responsibilities and intensity of work for purported trainees and regular employees at comparable positions with the same employer;~~
  - (d) ~~the requirement for previous work experience for candidates for traineeships in the same or a similar field of activity without appropriate justification;~~
  - (e) ~~a high ratio of purported traineeships compared with regular employment relationships with the same employer;~~
  - (f) ~~a significant number of purported trainees with the same employer who had completed two or more traineeships or held regular employment relationships in the same or similar field of activity, prior to taking up the purported traineeship.~~

2. ~~To enable competent authorities to carry out~~ **For the purpose of the assessment referred to** in paragraph 1, the employer **entities hosting trainees who purportedly are not in an employment relationship** shall, upon request, provide those authorities **or social partners** with the following necessary information, **such as which may include the following**:

- (a) the number **and employment status** of traineeships and regular trainees **who purportedly are not in an employment relationship** and the number of persons in an employment relationship **hosted by that entity**;
- (b) the duration of traineeships **for trainees who purportedly are not in an employment relationship** **disaggregated by the employment status of trainees**;
- (c) the ~~working conditions, including pay,~~ tasks and responsibilities of **purported trainees who purportedly are not in an employment relationship** and of **comparable** regular employees at **in a comparable positions** **entry-level position**;
- ~~(d) the descriptions of the learning and training components of the traineeships;~~
- ~~(e) the vacancy notices or advertisements for traineeships where they exist.~~

3. ~~To facilitate the assessment referred to in paragraph 1, Member States shall:~~

- ~~(a) define a time limit indicating excessive duration of a traineeship and of repeated, including consecutive, traineeships with the same employer;~~
- ~~(b) require employers to include information on the expected tasks, working conditions, including pay, social protection, learning and training elements in the vacancy notices and advertisements for traineeships.~~

~~Member States may provide for exceptions to the time limit in point (a) in cases where a longer duration is justified by objective grounds.~~

## Chapter IV

### Enforcement and supporting measures

#### Article 6

#### *Implementation and enforcement of relevant Union law*

Member States shall take effective measures in accordance with national law or practice to ensure that all relevant Union law applicable to workers is fully implemented and enforced in relation to trainees **in an employment relationship**. In particular they shall:

- (a) ensure that information on the rights of trainees in an employment relationship and on the obligations of entities hosting trainees is publicly available in a clear, comprehensive and easily accessible way;
- (b) develop guidance for employers of trainees in an employment relationship regarding the legal framework for traineeships, including relevant labour law and social protection aspects;
- (c) provide for effective measures to combat practices that have the effect of lowering the level of protection of trainees, including where appropriate and in accordance with national law or practice controls and inspections conducted by the competent authorities in accordance with national law or practice, to enforce relevant labour law in relation to trainees in an employment relationship;
- ~~(d) ensure that the competent authorities are provided with the human, technical and financial adequate resources necessary to perform effective controls and inspections and have the competence to impose effective, proportionate and dissuasive penalties;~~

- (e) develop the capability of the competent authorities, in particular through training and guidance, to proactively target and pursue non-compliant employers;
- (f) ensure, in cooperation with the competent authorities ~~or social partners~~, **that channels are in place** for trainees ~~in an employment relationship~~ to report ~~malpractice and poor working conditions~~ **alleged infringements arising from this Directive**, and provide information on those channels.

#### *Article 7*

##### *Right to redress*

Member States shall ensure that trainees **in an employment relationship**, including those whose employment relationship has ended, have access to effective and impartial dispute resolution and a right to redress, including adequate compensation **for the damage sustained**, in the case of infringements of their rights arising from this Directive ~~or from other Union law applicable to workers~~.

#### *Article 8*

##### *Procedures on behalf or in support of trainees*

Member States shall ensure that ~~representatives of~~ workers' **representatives** ~~may~~ **are able to** engage in any relevant judicial or administrative procedure to enforce the rights and obligations arising from this Directive ~~or from other Union law applicable to workers~~. They ~~may~~ **and that they can** act on behalf or in support of ~~one or several~~ trainees **in an employment relationship** in the case of an infringement of any right or obligation arising from this Directive ~~or from other Union law applicable to workers~~, with ~~the that~~ trainees' ~~s or those trainees'~~ approval, **in accordance with national law or practice**.



## Article 9

### *Protection against adverse treatment and consequences*

1. Member States shall introduce the necessary measures to protect trainees ~~in an employment relationship or and~~ **in an employment relationship** and their representatives from any adverse treatment by the employer and from any adverse consequences resulting from a complaint lodged with the employer or resulting from any proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive ~~or in other Union law applicable to workers~~.
2. In particular, Member States shall take the necessary measures to prohibit the dismissal or its equivalent, and all preparations for dismissal or its equivalent, of trainees ~~in an employment relationship~~ **in an employment relationship** on the grounds that they have exercised the rights provided for in this Directive ~~or in other Union law applicable to workers~~.
3. Trainees ~~in an employment relationship~~ **in an employment relationship** who consider that they have been dismissed, or have been subject to measures with equivalent effect, on the grounds that they have exercised the rights provided for in this Directive, ~~or in other Union law applicable to workers~~, may request the employer to provide duly substantiated grounds for the dismissal or the equivalent measures. The employer shall provide those grounds in writing.
4. Member States shall take the necessary measures to ensure that, when trainees ~~in an employment relationship~~ **in an employment relationship** referred to in paragraph 3 establish, before a court or other competent authority or body, facts from which it may be presumed that there has been such a dismissal or equivalent measures, it shall be for the employer to prove that the dismissal or equivalent measures were based on grounds other than those referred to in paragraph 2.

5. Member States shall not be required to apply paragraph 4 to proceedings in which it is for the court or other competent authority or body to investigate the facts of the case.
6. Paragraph 4 shall not apply to criminal proceedings, unless otherwise provided by the Member State.

#### *Article 10*

##### *Penalties*

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive or the relevant provisions already in force concerning the rights which are within the scope of this Directive. The penalties provided for shall be effective, proportionate and dissuasive.

## Chapter V

### Final provisions

#### *Article 11*

#### *Non-regression and more favourable provisions*

- ~~1. No provision in this Directive shall be construed as lowering the protection of workers afforded by other instruments of Union law, national law, collective agreements or practice.~~
2. This Directive shall not constitute valid grounds for reducing the general level of protection already afforded to workers, including trainees, within Member States.
3. This Directive shall not affect Member States' prerogative to apply or to introduce laws, regulations or administrative provisions which are more favourable to workers or to encourage or permit the application of collective agreements which are more favourable to workers.
- 3a. **This Directive is without prejudice to any other rights conferred on workers by other legal acts of the Union.**

## *Article 12*

### *Transposition and implementation*

1. Member States shall take the necessary measures to comply with this Directive by [2 years after entry into force]. They shall immediately inform the Commission thereof.
2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
3. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.
4. Member States shall, in accordance with their national law and practice, take adequate measures to ensure the effective involvement of the social partners and to promote and enhance social dialogue with a view to implementing this Directive.
5. Member States may entrust the social partners with the implementation of this Directive, where the social partners jointly request to do so and provided that Member States take all necessary steps to ensure that they can at all times guarantee the results sought under this Directive.

*Article 13*  
*Reporting and review*

1. By [5 years after the date of transposition], Member States shall communicate to the Commission ~~all~~ **relevant** information concerning the implementation of this Directive that is necessary for the Commission to draw up ~~a~~ **the** report **referred to in paragraph 2**. That information shall include **relevant** data on traineeships for the purposes of allowing the proper monitoring and assessment of the implementation of this Directive.
2. **By [6 years after the date of transposition], the Commission shall, after consulting the Member States and the social partners at Union level and taking into account the impact on micro, small and medium-sized enterprises,** submit ~~the~~ **a** report **on the implementation of this Directive referred to in paragraph 1** to the European Parliament and to the Council. The report shall, if appropriate, be accompanied by a legislative proposal.

*Article 14*  
*Entry into force*

The Directive shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

*Article 15*  
*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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