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**NOTE**

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| From: | General Secretariat of the Council |
| To: | Council |
| 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')<br>- *General approach*<br>- *Statement by Estonia* |

Delegations will find in the annex a statement of Estonia in relation to the abovementioned proposal.

**ANNEX**

**Statement of Estonia**

**Directive on improving and enforcing working conditions of trainees and combating practices that disguise employment relationships as traineeships ('Traineeships Directive')**

Estonia supports the overall aim of the Traineeships Directive to improve the quality of and access to traineeships. However, we consider it necessary to express the following concerns regarding the application of the Directive.

According to the text of Article 8 on procedures by workers' representatives, Member States should ensure compliance with two different situations.

Member States shall ensure that workers' representatives:

1) *are able to engage* […] in any relevant judicial or administrative procedure to enforce the rights and obligations arising from this Directive;

**and**

2) *are able to act* […] on behalf or in support of a trainee in case of an infringement of any right or obligation arising from this Directive […].

We have understood that the second situation (*are able to act* […] *on behalf or in support of*) means representation or advising in court proceedings (such use of the term *in support of* has been negotiated within the framework of civil law instruments, e.g. anti-SLAPP directive). However, it is not clear to us what the first situation (*are able to engage*) means, if it does not mean representation or advising in court proceedings and is regulated as a separate obligation.

According to the wording of the provision, the Member State should ensure that workers' representatives, who do not act as representatives or advisors in court proceedings, should be able to participate in judicial proceedings. Estonian civil procedural law does not provide for such a possibility, and such a new sector-specific obligation would interfere with the procedural autonomy of a Member State and cannot be the goal of EU law.

During the negotiations in the Council of the European Union, we have asked for clarifications on what is meant by *are able to engage in* […] *judicial* […] *procedure to enforce the rights and obligations arising from this Directive*, if it means something other than representation or advising in court proceedings; we have offered wording proposals for Article 8, as well as a proposal for the wording of the recital.

We have understood the Commission in such a way that, in order to correspond to the first situation stipulated in Article 8 (*Member States shall ensure that workers' representatives are able to engage* […] *in any relevant judicial* […] *procedure to enforce the rights and obligations arising from this Directive*), Member States do not have to change their civil procedural law.

Given that the text of the Directive allows for a different interpretation, we note that Estonia interprets the first situation regulated in Article 8 in such a way that Estonia does not have to change its procedural law in order to meet the requirements of Article 8. It would be sufficient that, according to Estonian procedural law, the trainee can use workers' representatives as a representative or an advisor in court proceedings (the second situation of Article 8).