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date of receipt:	21 March 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 132 final
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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Delegations will find attached document COM(2024) 132 final.

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Brussels, 20.3.2024  
COM(2024) 132 final

2024/0068 (COD)

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)

{SEC(2024) 97 final} - {SWD(2024) 66 final} - {SWD(2024) 67 final} -  
{SWD(2024) 38 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

In her Political Guidelines<sup>1</sup>, President von der Leyen stressed the need to strengthen Europe's social market economy and to foster "growth which creates quality jobs, especially for young people".

Youth unemployment remains a persistent challenge in the EU, with the youth unemployment rate being more than twice as high as the overall unemployment rate<sup>2</sup>. A particular challenge lies in activating more young people who are not in employment, education or training (NEETs) and who face specific obstacles that hinder their participation in the labour market. Therefore, the European Pillar of Social Rights Action Plan<sup>3</sup> sets out the target of decreasing the rate of young people aged 15-29 who are NEETs from 12.6% (2019) to 9% by 2030 by improving their employment prospects.

Traineeships can provide an opportunity for young people to gain practical and professional experience, improve their skills and thereby facilitate their access to the labour market. They offer an opportunity for employers to attract, train and retain their staff. However, the value of a traineeship depends on its quality. A quality traineeship requires fair and transparent working conditions and adequate learning content. Moreover, inclusive traineeships can help provide opportunities for everyone to access the labour market, including young people in vulnerable situations.

According to estimations based on the European Labour Force Survey (EU-LFS) data, there are 3.1 million trainees in the EU (2019 data) out of which 1.6 million are paid trainees and 1.5 million are unpaid. An increasing number of trainees in the EU participate in cross-border traineeships (21% of trainees in 2023 compared to 9% in 2013)<sup>4</sup>, demonstrating the potential of traineeships to contribute to fair labour mobility in the EU. Estimates also indicate that in 2019 around 370 000 paid trainees<sup>5</sup> did a traineeship of a long duration (more than 6 months), including consecutive/repeated ones with the same employer. Out of these, around 100 000 trainees did a traineeship of a long duration with poor learning content<sup>6</sup>.

The 2014 Council Recommendation on a Quality Framework for Traineeships (QFT) is an important reference point for determining what constitutes a quality traineeship. It sets out guidelines for traineeships outside education curricula and mandatory professional training.

In its 2023 evaluation of this Council Recommendation<sup>7</sup>, the Commission found indications that the QFT had a positive impact on the quality of traineeships in the EU. It also confirmed

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<sup>1</sup> Political Guidelines for the Next European Commission 2019-2024. 'A Union that Strives for More. My Agenda for Europe.' Available [online](#).

<sup>2</sup> Youth unemployment (15-25 years) was 14.9% in January 2024, compared to a general unemployment rate (20-64 years) of 6% (Eurostat).

<sup>3</sup> [COM\(2021\) 102 final](#).

<sup>4</sup> [Flash Eurobarometer 523 \(2964 / FL523\)](#).

<sup>5</sup> This does not include traineeships which are mandatory to access a profession.

<sup>6</sup> These numbers should be interpreted with caution as they are based on the combination of the results of Flash Eurobarometer 523 (share of trainees who did traineeships with a total duration longer than 6 months who also stated that they did not learn professionally useful things) and EU-LFS data on the number of paid trainees.

<sup>7</sup> Available [online](#).

that traineeships continue to be an important pathway for young people to enter the labour market. In addition, quality traineeships can be useful upskilling and/or reskilling opportunities for people of any age to acquire practical skills on the job to set their career in a new direction.

However, the evaluation also highlighted areas that could be further strengthened and improved. For instance, it recommended better integrating quality principles in national legislation, in particular for open-market traineeships (OMTs), stronger monitoring and enforcement to ensure the application of the quality principles on the ground and increasing awareness amongst various key stakeholders. The need for stronger support to employers, for example, through financial support and practical guidance, was also highlighted. Furthermore, the evaluation stressed that efforts to provide more concrete and practical information to young people on cross-border traineeships should be stepped up. It also identified additional quality criteria, such as fair pay and social protection, rules on remote/hybrid traineeships, better addressing the needs of groups in vulnerable situations, and strengthened support to trainees during and after the traineeship. Moreover, the evaluation noted the possibility of extending the scope of QFT from OMTs and traineeships that are part of active labour market policies (ALMP) to also cover other traineeships, such as those that are part of formal education and training curricula.

Various stakeholders called on the Commission to improve the quality of traineeships:

- The report on the final outcome of the Conference on the Future of Europe<sup>8</sup> includes the call to ensure that young people's traineeships and jobs comply with quality standards, including on pay, and that unpaid internships on the labour market and outside formal education are banned through a legal instrument.
- In its Opinion "The Equal Treatment of Young People in the Labour Market" of 15 June 2023<sup>9</sup>, the European Economic and Social Committee (EESC) noted that traineeships should offer good quality learning content and adequate working conditions, and should not be a substitute for regular jobs or a precondition for a job placement.
- In its Opinion "Youth Employment Support: a Bridge to Jobs for the Next Generation Reinforcing the Youth Guarantee" of 5 February 2021<sup>10</sup>, the Committee of the Regions considered that traineeships and apprenticeships should primarily provide a learning experience for young people, which can help them to decide on their future career and to develop their skills in order to access permanent employment.

In particular, the European Parliament adopted on 14 June 2023 a resolution based on Article 225 TFEU<sup>11</sup> calling on the Commission to update and strengthen the 2014 Council Recommendation and to turn it into a stronger legislative instrument. It also called on the Commission to ensure minimum quality standards for traineeships, including pay.

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<sup>8</sup> [Conference on the Future of Europe. Report on the final outcome. May 2022.](#)

<sup>9</sup> HYPERLINK "https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022IE0638" [Available online.](#)

<sup>10</sup> [Available online.](#)

<sup>11</sup> HYPERLINK "https://www.europarl.europa.eu/doceo/document/TA-9-2023-0239\_EN.html" [Available online.](#)

In this context, the Commission announced an update of the Quality Framework for Traineeships in its 2023 Commission Work Programme<sup>12</sup>, to address issues including fair pay and access to social protection, as part of its engagement to implement the European Pillar of Social Rights Action Plan and to reach the EU's 2030 targets in the areas of employment, skills, and poverty reduction.

This proposal for a directive reflects the political commitment expressed in President von der Leyen's Political Guidelines to respond to European Parliament resolutions based on Article 225 TFEU with a legislative proposal, in full respect of proportionality, subsidiarity and better law-making principles. Considering these principles and the legal limits to EU action set by the Treaties, the proposal for a directive focuses on supporting Member States in improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships.

The proposed directive applies to trainees who have an 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, regardless of the type of traineeship. The proposed directive is complemented by a proposal for a strengthened Council Recommendation<sup>13</sup>, which applies to all trainees and which addresses wider issues of quality and inclusiveness, including access to social protection. The proposed Council Recommendation applies to trainees who are workers only insofar and to the extent that equivalent or more favourable provisions are not laid down in EU law.

The proposal for a directive addresses two problematic and unlawful situations that have been identified across all types of traineeships in the EU:

- Where traineeships **are used for their intended purpose**, that is to offer an opportunity for trainees to gain practical and professional experience, improve their skills and access the labour market, but do not comply with the applicable EU or national legislation, they are **non-compliant traineeships**. In these cases, trainees do not enjoy all the rights that they are entitled to. As illustrated in the accompanying impact assessment report, evidence of non-compliance has been found across the EU. In addition, non-compliance is likely to be underreported due to the complexity of regulatory approaches in Member States, their generally weak enforcement and the specific obstacles preventing trainees from taking legal action or filing complaints (e.g. short duration of contracts; the need to secure a more stable labour market position; a real or perceived dependency from the employer; the fear of negative repercussions from taking legal action or filing a complaint; or the lack of reporting channels or access to representation).
- Where purported traineeships **are not used for their intended purpose** and replace regular employee positions, they are **regular employment relationships disguised as traineeships**. In these cases, traineeship providers circumvent the EU or national law and collective agreements that apply to regular workers.

The problematic and unlawful use of traineeships undermines the working conditions of trainees and regular workers and harms social fairness. It can also produce an uneven playing field between traineeship providers, which is a problem for businesses, including for small

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<sup>12</sup> [COM\(2022\) 548 final](#).

<sup>13</sup> COM(2024) 133.

and medium-sized companies (SMEs). The use of non-compliant traineeships or regular employment relationships disguised as traineeships constitutes a cost-reduction measure for employers, which creates a situation of unfair competitive advantage compared to compliant employers. Unlawful traineeship arrangements, in particular those disguised as employment, are also a burden on public revenue through the loss of due social security contributions and tax payments.

Based on the results of the evaluation of the QFT, further evidence gathering, and the two-stage consultation of EU social partners in line with Article 154 TFEU, the proposed directive aims at achieving the following specific objectives.

#### *Improving and enforcing trainees' working conditions*

The proposed directive lays down the principle of non-discrimination to ensure that, with regard to working conditions (including pay), trainees are not treated in a less favourable manner than comparable workers in the same establishment, unless a different treatment is justified on objective grounds. The proposed directive contains a number of provisions that help trainees defend their rights as 'workers'. For instance, it ensures that workers' representatives may engage in procedures to enforce the rights of trainees. It introduces the obligation for Member States to set up channels for trainees to report malpractice and poor working conditions.

#### *Combating regular employment relationships disguised as traineeships*

The proposed directive requires Member States to provide for effective checks and inspections by competent authorities to detect regular employment relationships disguised as traineeships and take enforcement action. To determine whether a traineeship constitutes a regular employment relationship disguised as a traineeship, competent authorities would need to consider in their overall assessments a set of indicative elements set out at EU level. To facilitate this assessment, employers must give competent authorities access to certain information, including the number, duration and working conditions of traineeships. Member States are also required to set a limit indicating an excessive duration of a traineeship and of repeated, including consecutive, traineeships with the same employer. This will help national authorities identify possible regular employment relationships disguised as traineeships. In addition, the proposed directive requires Member States to ensure that employers improve transparency by including information on the expected tasks and working conditions including pay, social protection, learning and training elements in vacancy notices and advertisements of traineeships.

- **Consistency with existing policy provisions in the policy area**

As part of the European Year of Skills, the EU has set out to promote a mindset where upskilling and reskilling are the norm. Closing skills gaps and addressing skills mismatches across the EU will boost competitiveness, in particular of micro, small and medium-sized enterprises by better matching employers' needs with peoples' skills and aspirations. Equal access to skills development and work-based learning will help reduce inequalities, notably by empowering people to fully participate in the economy and society. The European Year of Skills follows the European Year of Youth, which emphasised the need to provide further impetus to the creation of quality employment opportunities for young people in line with the eleven youth goals of the 2019-2027 EU Youth Strategy<sup>14</sup>. In its Communication on the

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<sup>14</sup> [OJ C 456, 18.12.2018, p. 16.](#)

European Year of Youth 2022, the Commission committed to updating its quality framework for traineeships in 2024 to address issues including fair pay and access to social protection<sup>15</sup>.

The Commission's Youth Employment Support package<sup>16</sup> of July 2020 proposed Recommendations on a Bridge to jobs - reinforcing the Youth Guarantee<sup>17</sup> and a modernised European framework for vocational education and training, both of which the Council adopted<sup>18</sup>. The former specifically recommends that traineeship offers comply with the minimum standards laid out in the QFT. The latter sets out key principles for ensuring that vocational education and training adapts swiftly to labour market needs and provides quality learning opportunities for young people and adults. It places a strong emphasis on better opportunities for work-based learning and improved quality assurance.

In a similar way to traineeships, apprenticeships are an important pathway to facilitate transitions to the labour market. The Youth Employment Support package gave a renewed impetus to apprenticeships, including through the European Alliance for Apprenticeships<sup>19</sup>.

These initiatives aimed to improve the quality and effectiveness of the EU's measures to promote youth employment and are supported by EU funding. They implement amongst others the first and the fourth principle of the European Pillar of Social Rights. These principles lay down the right to 'quality and inclusive education, training and life-long learning' and the right of young people to 'continued education, apprenticeship, traineeship or a job offer of good standing within four months of becoming unemployed or leaving education'.

The EU labour and social acquis sets minimum standards through a number of legal instruments. The enforcement provisions included in this proposal for a directive are aimed at ensuring that trainees who are workers enjoy these rights. The following EU-level legal instruments are of particular relevance for these trainees:

- The Directive on transparent and predictable working conditions<sup>20</sup> provides for measures to ensure proper working conditions of people who work in non-standard work relationships. This includes the right to receive detailed information in written form on the essential aspects of their work. The minimum standards set out in the Directive are particularly relevant for trainees, given the usually limited duration of their employment relationship and vulnerable position on the labour market.
- The Fixed-Term Work Directive<sup>21</sup> aims at improving the quality of fixed-term work by ensuring the application of the principle of non-discrimination of fixed-term workers (including trainees) vis-à-vis comparable permanent workers. It establishes a legal framework to prevent abuse arising from the use

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<sup>15</sup> COM(2024) 1 final.

<sup>16</sup> COM(2020) 276 final.

<sup>17</sup> OJ C 372, 4.11.2020, p. 1–9.

<sup>18</sup> OJ C 417, 2.12.2020, p. 1–16.

<sup>19</sup> HYPERLINK "<https://ec.europa.eu/social/main.jsp?catId=1147>" [Available online](#).

<sup>20</sup> OJ L 186, 11.7.2019, p. 105–121.

<sup>21</sup> OJ L 175, 10.7.1999, p. 43–48. Clause 2 of the Fixed-Term Work Directive stipulates that Member States, after consultation with the social partners and/or the social partners may provide that the Directive does not apply to 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.

of successive fixed-term employment contracts or relationships. It also ensures access of fixed-term workers to appropriate training opportunities and to information about vacancies within the undertaking with a view to secure a permanent position.

- The Directive on adequate minimum wages in the EU<sup>22</sup> creates a framework to improve the adequacy of minimum wages in Member States with statutory minimum wages. It also aims to promote collective bargaining in all Member States, while enhancing effective access of workers to rights to minimum wage protection, where provided for in national law and/or collective agreements. It provides that where Member States allow for different rates of statutory minimum wage for specific groups of workers, they shall ensure that such variations of statutory minimum wages respect the principles of non-discrimination and proportionality.
- The Occupational Health and Safety (OSH) Framework Directive<sup>23</sup> lays down the main principles for encouraging improvements in the health and safety at work. It guarantees minimum safety and health requirements throughout the EU. The Framework Directive confirms that, as regards a secure workplace, the same rules apply to workers and trainees and is accompanied by further directives focusing on specific aspects of safety and health at work.
- The Council Directive establishing a general framework for equal treatment in employment and occupation<sup>24</sup> lays down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation. It notably prohibits discrimination of young trainees due to their age.

The Council Recommendation on access to social protection for workers and the self-employed<sup>25</sup> recommends Member States to ensure that both workers (including trainees who are workers) and the self-employed have access to effective and adequate social protection. The Recommendation covers unemployment, sickness and health care, maternity and paternity, invalidity, old-age and survivors' benefits and benefits in respect of accidents at work and occupational diseases.

The Council Recommendation on a European Framework for Quality and Effective Apprenticeships (EFQEA)<sup>26</sup> sets out 14 criteria to define quality and effective apprenticeships, ensuring both the development of job-related skills and the personal development of apprentices. It takes into account the diversity of vocational education and training (VET) systems across the EU. In some cases, apprentices covered by the EFQEA might also fall within the scope of this Directive, insofar as the apprentices fall under the notion of 'worker' as defined by the law, collective agreements or practice in force in the Member States, with consideration to the case-law of the EU Court of Justice.

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<sup>22</sup> OJ L 275, 25.10.2022, p. 33–47.

<sup>23</sup> OJ L 183, 29.6.1989, p. 1–8.

<sup>24</sup> OJ L 303, 2.12.2000, p. 16–22.

<sup>25</sup> OJ C 387, 15.11.2019, p. 1–8.

<sup>26</sup> OJ C 153, 2.5.2018, p. 1–6.



- **Consistency with other Union policies**

The proposal is consistent with recent EU policies that aim at empowering people through education, training and skills. The European Skills Agenda<sup>27</sup> seeks to strengthen the EU's sustainable competitiveness, ensure social fairness and support young people's resilience.

The proposal is also consistent with the proposal for a Council Recommendation 'Europe on the Move' – learning mobility opportunities for everyone of 15 November 2023<sup>28</sup>. This aims at making learning opportunities across the EU more accessible for all young people, including young people with fewer opportunities, such as persons with disabilities. It also promotes the attractiveness of the EU as a learning destination for talents from outside the EU.

Financial investments in upskilling and reskilling are at the heart of the European Social Fund Plus (ESF+), the Recovery and Resilience Facility (RRF), the Just Transition Fund, Erasmus+ and the Digital Europe Programme. Skills development is also supported by the European Regional Development Fund (ERDF) investments in education and training infrastructure and equipment.

This initiative is also one of the actions set out in the Commission's action plan on skills and labour shortages in the EU<sup>29</sup>.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 153(2)(b) TFEU, which provides for the adoption of directives setting minimum requirements with respect to, inter alia, 'working conditions' as set out in Article 153(1)(b) TFEU, while avoiding imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. Since it does not contain measures directly affecting the level of pay, it fully respects the limits imposed to Union action by Article 153(5) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The 2014 Quality Framework for Traineeships has helped Member States implement policy and legislative changes, in particular in those that have less developed traineeship systems. However, significant challenges in the use, quality of and access to traineeships remain in all Member States. An EU initiative can help to coordinate and focus Member States' efforts on measures that can address the specific problems identified across all types of traineeships. Only an EU action can set common rules to create a consistent framework of principles and minimum standards across all Member States. The initiative would support Member States' upward social convergence and the better enforcement of existing labour rights, contributing to a better level-playing field for trainees and traineeship providers in the EU.

Action solely by Member States in response to the need of enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships would not necessarily have the same level of protection in terms of transparency and predictability and

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<sup>27</sup> COM(2020) 274 final.

<sup>28</sup> COM(2023) 719 final. 2023/0405(NLE).

<sup>29</sup> COM(2024) 131.

would risk increasing divergences between Member States. The identified challenges must therefore be tackled at EU level.

The proposed directive is based on a minimum harmonisation of national systems which respects Member States' discretion to set higher standards and provides the possibility for social partners to be entrusted with the implementation of the proposed directive. In line with Article 153(2)(b) TFEU, it will support and complement the activities of the Member States through minimum requirements for gradual implementation.

- **Proportionality**

This proposal sets minimum requirements, thus ensuring that the degree of intervention will be kept to the minimum necessary in order to reach the objectives of the proposal. Member States which already have more favourable provisions in place than those put forward in this proposal will not have to change or lower them. Member States may also decide to go beyond the minimum standards set out. The costs linked to this proposal are reasonable and justified in light of the objective to strengthen the enforcement of working conditions of trainees.

The principle of proportionality is respected considering the size and nature of the identified problems. For instance, employers must provide authorities with information on traineeships upon request only. The impact assessment accompanying this initiative assessed and compared the policy options as to their proportionality relative to the baseline. The preferred option leaves room for Member States to define the method and form of intervention to achieve the objectives. Thus, it does not go beyond what is necessary to address the problems identified and achieve the specific objectives.

- **Choice of the instrument**

Article 153(2)(b) in combination with 153(1)(b) TFEU provides explicitly that directives are the legal instrument to be used for establishing minimum requirements concerning working conditions to be gradually implemented by Member States.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

An evaluation<sup>30</sup> on the 2014 Council Recommendation on a Quality Framework for Traineeships was carried out in 2022-2023. While traineeships continue to be an important pathway for young people to enter the labour market, it found room for improvement in terms of the implementation of the QFT principles on the ground, as well as monitoring and enforcement of the relevant national legislation governing traineeships. Various stakeholder groups saw a need to further strengthen the rights of trainees regarding pay and social protection.

- **Stakeholder consultations**

Specific consultation activities took place in 2022 as part of the Commission's 2023 evaluation of the QFT<sup>31</sup>, in particular through a public consultation survey. The evaluation also included targeted consultations of national and regional authorities responsible for

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<sup>30</sup> European Commission (2023) Evaluation of the Council Recommendation on a Quality Framework for Traineeships ([SWD\(2023\) 9 final](#)).

<sup>31</sup> European Commission (2023) Evaluation of the Council Recommendation on a Quality Framework for Traineeships ([SWD\(2023\) 9 final](#)).

education, training and employment policies, social partners, education and training providers, academic experts working on labour market issues, organisations representing young people, young (former, current and potential future) trainees and other stakeholders at EU, national and regional level. To reach all these stakeholders, different consultation activities and methods were used, such as interviews, targeted consultation meetings, a targeted trainees survey and case studies.

A two-stage consultation of the EU social partners under Article 154 TFEU was carried out for this proposal. During the first stage, which took place between 11 July and 15 September 2023, social partners were consulted on the need and possible direction of EU action<sup>32</sup>. During the second stage, between 28 September and 9 November 2023, the Commission consulted social partners on the objectives and potential legal avenues for EU action<sup>33</sup>. Trade unions welcomed the Commission's intention to update the QFT. They considered that, although the principles of the QFT remained relevant, trainees needed binding protection (in the form of a directive) to ensure fair compensation, working conditions and social protection. This directive should ensure access to all rights enjoyed by regular workers under existing EU legislation. Trade unions stressed that the main objective of EU action must be to set binding minimum standards for traineeships in the EU and to create a level playing field that discourages abuse. Employers considered that the principles of the 2014 QFT remain relevant. In their opinion, a stronger focus should be placed on its implementation and monitoring, but in their view a revised Council Recommendation would strike the right balance between promoting minimum standards and preserving flexibility. The objectives to address the problematic use of, improve the quality of and foster access to traineeships were supported by employers. Employers also highlighted the lack of data, in particular on open-market traineeships, and the link between pay and the quality of traineeships. There was no agreement among social partners to enter into negotiations to conclude an agreement at Union level in accordance with Article 155 TFEU.

Furthermore, as part of the study exploring the context, challenges and possible solutions in relation to the quality of traineeships in the EU, an online survey was conducted with national stakeholders. This aimed to gather information on the current practices of businesses regarding traineeships and identify good practices implemented in Member States and their impact on the quality of traineeships. The survey ran from 15 June to 8 September 2023 and was targeted at national public authorities, national business/employer associations, individual businesses, national trade unions, national youth organisations, civil society organisations and educational institutions. Targeted interviews with EU-level stakeholders were also carried out.

A dedicated 'SME Panel' survey was conducted by the Directorate General for Employment, Social Affairs and Inclusion (DG EMPL), the Directorate General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), the European Innovation Council and the SMEs Executive Agency (EISMEA) and with the support of the Enterprise Europe Network between 12 October and 9 November 2023.

The Flash Eurobarometer survey (523)<sup>34</sup> looked into young people's perceptions of their integration into the labour market, with a particular focus on traineeships. Between 15 and 24 March 2023, 26 334 people aged between 18 and 35 from all Member States were surveyed online.

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<sup>32</sup> HYPERLINK "[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_3746](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3746)" [Available online.](#)

<sup>33</sup> HYPERLINK "[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_4606](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4606)" [Available online.](#)

<sup>34</sup> [Eurobarometer: traineeships help young people land first job \(europa.eu\)](#)

- **Collection and use of expertise**

The proposed directive draws on several studies carried out to underpin the analysis of the initiative:

- preliminary results from a study commissioned from external experts: "Study exploring the context, challenges and possible solution in relation to the quality of traineeships in the EU" by a consortium of Ernst & Young (EY), the Centre of European Policy Studies (CEPS) and Open Evidence (forthcoming);
- an external study supporting the evaluation of the Quality Framework for Traineeships, Final Report, January 2023<sup>35</sup>;
- the Flash Eurobarometer survey on the perception of young people regarding their integration into the labour market, with a particular focus on traineeships<sup>36</sup>;

The European Parliament's 2023 legislative own-initiative resolution on quality traineeships in the EU was also taken into account, in conjunction with the relevant European added value Assessment of Parliament's research service<sup>37</sup>.

- **Impact assessment**

In line with its Better Regulation policy, the Commission carried out an impact assessment<sup>38</sup>. This gave a structured analysis of the policy problems, corresponding policy objectives and policy options and assessed their impact. It considered the subsidiarity, effectiveness, efficiency, coherence and proportionality of the identified options and how to monitor and evaluate the initiative in the future. This work was supported by a structured consultation in the Commission via an inter-service steering group<sup>39</sup> and the forthcoming "Study exploring the context, challenges and possible solution in relation to the quality of traineeships in the EU" referred to above.

The impact assessment identified three problems: (1) the problematic use of traineeships by traineeship providers, (2) the poor quality of traineeships and (3) unequal access to traineeships. The impact assessment examined three policy options, which combined both legislative and non-legislative measures addressing the objectives of the initiative in terms of enforcing applicable rights of trainees, preventing the problematic use of traineeships, ensuring fair working conditions, improving the learning content, and improving the access to and the inclusiveness of traineeships. The assessment of the impact of the options also took into consideration the potential unintended consequences of the different policy options, including on the offer of traineeships.

The preferred policy option identified in the impact assessment is a package made up of a directive applying to trainees who are workers under EU law and an updated Council recommendation covering all trainees. This package is expected to bring social benefits to

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<sup>35</sup> HYPERLINK "<https://ec.europa.eu/social/BlobServlet?docId=26544&langId=en>" [Available online](#).

<sup>36</sup> HYPERLINK "[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2484](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2484)" [Available online](#).

<sup>37</sup> The Quality of Traineeships in the EU – European added value assessment. Available [online](#).

<sup>38</sup> Commission Staff Working Document, Impact Assessment Report (2024), Accompanying the proposal for a Directive of the European Parliament and of the Council on improving and enforcing working conditions of trainees and combating employment relationships disguised as traineeships and the proposal for a Council Recommendation on a reinforced Quality Framework for Traineeships, *forthcoming*.

<sup>39</sup> Including the Legal Service, SG, DG CNECT, DG EAC, JRC, DG COMM, DG GROW, DG JUST, DG REGIO and DG AGRI.

trainees by reducing problematic and poor-quality traineeships through equal treatment, fairer pay and social protection, and by improving access to traineeships, in particular for persons in vulnerable situations, including persons with disabilities, those residing in rural, remote and outermost regions, those with a disadvantaged socio-economic and/or migrant background, those from the Roma community, and those with lower educational attainment. The preferred option is expected to result in economic benefits for traineeship providers, such as fairer market competition, productivity and competitiveness gains due to a more skilled and diverse workforce and lower search, matching and recruitment costs. As for costs associated with the preferred option, these relate to a possible increase in labour costs, adjustment costs and potential costs resulting from administrative or judicial procedures. National budgets and administrations are expected to benefit from increased tax and social security receipts, and reduced social protection and activation spending.

The impact assessment was first discussed with the Commission's Regulatory Scrutiny Board on 13 December 2023. On 1 February 2024, a revised impact assessment Report was submitted to the Board. On 22 February 2024, the Board issued a positive opinion with reservations<sup>40</sup>. The remaining comments were subsequently addressed, by specifying further the limitations of the used data, strengthening the discussions on level playing field and competition issues and providing additional targeted clarifications on the description and assessment of the policy options.

- **Fundamental rights**

The Charter of Fundamental Rights of the European Union protects a broad range of employment rights. The objectives of this proposal are in line with the Charter. By enshrining the principle of non-discrimination of trainees and providing measures to combat regular employment relationships disguised as traineeships, the proposal would strengthen Article 31 on fair and just working conditions and Article 32 on the protection of young people at work which stipulates that young people admitted to work must be protected against economic exploitation

#### **4. BUDGETARY IMPLICATIONS**

The proposal does not require additional resources from the EU budget.

#### **5. OTHER ELEMENTS**

- **Monitoring, evaluation and reporting arrangements**

It is proposed that Member States transpose the proposed directive 2 years after its adoption and communicate to the Commission the national transposition measures via the MNE (National Measures for Execution)-Database. In line with Article 153(3) TFEU they may entrust the social partners with the transposition through collective agreements. The Commission stands ready to provide technical support to Member States to implement the proposed directive.

The Commission proposes to review the implementation of the proposed directive 5 years after the transposition deadline and propose, where appropriate, legislative amendments. Progress in achieving the objectives of the initiative will be monitored by a series of core

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<sup>40</sup> Regulatory Scrutiny Board, 2<sup>nd</sup> Opinion 'Positive with reservations' on the impact assessment Quality Framework for traineeships of 28 February 2024 (to be published).

indicators related to the policy objectives. These indicators and the related data sources are specified in Annex 15 of the impact assessment. The monitoring framework will be subject to further adjustments based on the final legal and implementation requirements and timeline.

- **Explanatory documents**

Member States might use different legal instruments to transpose the proposed directive, which is why it is justified to request that Member States accompany the notification of their transposition measures with one or more documents. These should explain the relationship between the components of the proposed directive and the corresponding parts of national transposition instruments, in accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>41</sup>.

- **Detailed explanation of the specific provisions of the proposal**

*Chapter I – General provisions*

*Article 1 – Subject matter*

This provision sets out the subject matter of the Directive, which is to lay down a common framework of principles and measures to improve and enforce the working conditions of trainees and to combat regular employment relationships disguised as traineeships.

*Article 2 – Definitions*

This provision defines a number of terms and concepts necessary to interpret the provisions of the Directive ('traineeship', 'trainee', 'regular employment relationship' and 'regular employee').

*Chapter II – Equal treatment*

*Article 3 – Principle of non-discrimination*

Article 3 enshrines the principle of non-discrimination of trainees. It requires Member States to have measures in place to ensure that trainees are not discriminated against as to their working conditions, including pay. However, objective grounds, such as different tasks, lower responsibilities, work intensity or the weight of the learning and training component may justify different treatment.

This provision applies in addition to the principle of non-discrimination laid down in the Fixed-Term Work Directive, which provides for the equal treatment of fixed-term workers with comparable permanent workers in the same establishment unless different treatment is justified on objective grounds. The additional provision in the Directive is necessary, on the one hand, as the Fixed-Term Work Directive allows Member States to exclude certain trainees from its scope and, on the other hand, to ensure that fixed-term workers in a comparable position can also serve as comparators.

*Chapter III – Regular employment relationships disguised as traineeships*

*Article 4 – Measures to combat regular employment relationships disguised as traineeships*

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<sup>41</sup> OJ C 369, 17.12.2011, p. 14.

This provision requires Member States to take appropriate measures to combat the phenomenon of regular employment relationships disguising as traineeships. Member States must put in place provisions for effective controls and inspections by competent authorities to detect cases where regular employment relationships disguised as traineeships lead to lower levels of protection of workers, including working conditions and pay, and to take action in such cases.

#### *Article 5 – Assessment of regular employment relationships disguised as traineeships*

This article requires competent authorities to perform an overall assessment of all relevant factual elements when determining whether a regular employment relationship is disguised as a traineeship. This assessment should take into account various elements such as the duration, the existence of a significant learning and training component, equivalent levels of tasks and responsibilities and whether the employer requires previous work experience for the traineeship.

It further stipulates an information obligation for employers towards competent authorities in order to help the latter carry out the assessment. This obligation only applies upon request by the authorities. Information must be provided on the number and duration of traineeships, working conditions (including pay), learning and training components and traineeship vacancy notices.

Additionally, it stipulates that Member States must set a limit for excessive duration of traineeships for the purpose of the assessment and lays down rules for the content of traineeship vacancy notices.

#### *Chapter IV – Enforcement and supporting measures*

##### *Article 6 – Implementation and enforcement of relevant Union law*

Article 6 requires Member States to take measures to implement and enforce EU law applicable to workers in relation to trainees.

##### *Article 7 – Right to redress*

This provision requires Member States to provide access to an effective and impartial dispute resolution mechanism and a right to redress, including adequate compensation, if a trainee's rights are infringed under the Directive or other EU law applicable to workers.

##### *Article 8 – Procedures on behalf or in support of trainees*

This article enables workers' representatives to engage on behalf or in support of one or several trainees in judicial or administrative proceedings in order to enforce the rights of trainees, provided the trainee or the trainees agree. This should help trainees overcome cost-related or procedural barriers.

##### *Article 9 – Protection against adverse treatment and consequences*

This provision stipulates the protection of trainees and their representatives against adverse treatment or consequences, in particular, regarding dismissal or its equivalent, for exercising the rights provided for under the Directive. It further stipulates a right of trainees, if they consider they have been dismissed for exercising their rights under the Directive to request

the employer to provide duly substantiated grounds for the dismissal. If a trainee presents facts pointing to a dismissal for exercising their rights under the Directive the provision places the burden on the employer to prove that the dismissal or equivalent measures were based on other grounds.

#### *Article 10 – Penalties*

This article requires Member States to provide for effective, proportionate and dissuasive penalties for breaches of the obligations under the Directive.

#### *Chapter V – Final provisions*

#### *Article 11 – Non-regression and more favourable provisions*

This article clarifies that no provision in the Directive should be interpreted to lower the protection of workers afforded by other instruments and that the Directive does not constitute a valid ground to lower the general level of protection awarded to workers, including trainees. It also allows Member States to introduce provisions that are more favourable to workers or to encourage or allow the application of collective agreements that are more favourable to workers.

#### *Article 12 – Transposition and implementation*

This provision sets out the maximum period that Member States have to transpose the Directive into national law and communicate the relevant texts to the Commission. This period is set at 2 years after the date of entry into force. Moreover, it highlights that Member States must ensure adequate involvement of social partners and may entrust them with implementation of the Directive.

#### *Article 13 – Reporting and review*

This article requires Member States to submit to the Commission the information needed to draft a report on the implementation of the Directive, including data on traineeships, 5 years after its entry into force. It also requires the Commission to submit the report to the European Parliament and to the Council, accompanied by a legislative proposal if needed.

#### *Article 14 and 15 – Entry into force and addressees*

These provisions stipulate that the Directive is to enter into force on the twentieth day following its publication in the Official Journal and is addressed to Member States.



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>42</sup>,

Having regard to the opinion of the Committee of the Regions<sup>43</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>44</sup> 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>45</sup> aims at ensuring that young people under the age of 30 receive a good quality offer of employment, continued education, apprenticeship or

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<sup>42</sup> OJ C , , p. .

<sup>43</sup> OJ C , , p. .

<sup>44</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>45</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).

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.

- (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 '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>46</sup>, adequate minimum wages<sup>47</sup>, working time<sup>48</sup>, health and safety at work<sup>49</sup>, equality and

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<sup>46</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>47</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>48</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>49</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).

non-discrimination<sup>50</sup>, work-life balance for parents and carers<sup>51</sup>, information and consultation of employees<sup>52</sup>, fixed-term work<sup>53</sup>, part-time work<sup>54</sup>, posting of workers<sup>55</sup> and on temporary agency work.<sup>56</sup> This legal framework fully applies to trainees who 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>57</sup> and apprenticeships<sup>58</sup> and on access to social protection for workers and self-employed<sup>59</sup>.

- (10) The Conference on the Future of Europe<sup>60</sup> put forward a proposal on ensuring that young people’s internships and jobs adhere to quality standards, including on pay and banning 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>61</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

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<sup>50</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>51</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>52</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>53</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>54</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>55</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>56</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>57</sup> Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships (OJ C 88, 27.3.2014, p. 1).

<sup>58</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>59</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>60</sup> [Report on the final outcome – May 2022](#).

<sup>61</sup> European Parliament resolution of 14 June 2023 with recommendations to the Commission on quality traineeships in the Union (2020/2005(INL)).

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.

- (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 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 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.
- (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.
- (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.

- (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 ‘fixed-term workers’ within the meaning of that Directive. Its clause on the principle of non-discrimination, however, does not allow 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 compared to regular 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. The sole fact of being a trainee cannot constitute grounds for less favourable treatment compared to regular 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.
- (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 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. They should be targeted to avoid the substitution of regular employment by disguised traineeships and to protect workers’ rights.
- (26) The assessment whether a regular employment relationship is disguised as a traineeship 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, competent authorities should perform an overall assessment of all relevant facts. In order to facilitate the assessment for competent authorities, key elements that would allow to make the distinction between a 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 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 should be obliged to provide them with the necessary information that lies in their control upon request of the competent authorities.
- (29) Member States should have appropriate measures in place to facilitate the assessment of whether a purported traineeship genuinely constitutes a traineeship. This should include a time limit indicating excessive duration of a traineeship and of repeated, including consecutive, traineeships with the same employer. 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 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>62</sup>. Such provisions should be included in this Directive to help ensure effective enforcement and defence of rights of trainees 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

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<sup>62</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.

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 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 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.
- (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 and combat regular employment relationships disguised as traineeships, 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 employment relationships disguised as traineeships

#### *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;
- (b) ‘trainee’ 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.

## **Chapter II**

### **Equal treatment**

#### *Article 3*

##### *Principle of non-discrimination*

Member States shall 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, such as different tasks, lower responsibilities, work intensity or the weight of the learning and training component.

Where there is no comparable regular employee 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.



## **Chapter III**

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

#### *Article 4*

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

Member States shall provide for effective controls and inspections conducted by competent authorities to detect and take enforcement measures against practices where a regular employment relationship is disguised as traineeship 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.

#### *Article 5*

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

1. In order to determine whether a purported traineeship constitutes a regular employment relationship, competent authorities shall make an overall assessment of all relevant factual elements. 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 with the same employer by the same person;
  - (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 the assessment referred to in paragraph 1, the employer shall, upon request, provide those authorities with the following information:
  - (a) the number of traineeships and regular employment relationships
  - (b) the duration of traineeships;
  - (c) the working conditions, including pay, tasks and responsibilities of purported trainees and of regular employees at comparable positions;
  - (d) the descriptions of the learning and training components of traineeships;
  - (e) the vacancy notices for traineeships.
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 to ensure that all relevant Union law applicable to workers is fully implemented and enforced in relation to trainees. In particular they shall:

- (a) ensure that information on the rights of trainees is publicly available in a clear, comprehensive and easily accessible way;
- (b) develop guidance for employers of trainees regarding the legal framework for traineeships, including relevant labour law and social protection aspects;
- (c) provide for effective controls and inspections conducted by competent authorities to enforce relevant labour law in relation to trainees;
- (d) ensure that the competent authorities are provided with the human, technical and financial 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, channels for trainees to report malpractice and poor working conditions, and provide information on those channels

*Article 7*  
*Right to redress*

Member States shall ensure that trainees, including those whose employment relationship has ended, have access to effective and impartial dispute resolution and a right to redress, including adequate compensation, 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 may 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 act on behalf or in support of one or several trainees in the case of an infringement of any right or obligation arising from this Directive or from other Union law applicable to workers, with that trainee's or those trainees' approval.

*Article 9*  
*Protection against adverse treatment and consequences*

1. Member States shall introduce the necessary measures to protect trainees 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 on the grounds that they have exercised the rights provided for in this Directive or in other Union law applicable to workers.
3. Trainees 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 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.

*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 information concerning the implementation of this Directive that is necessary for the Commission to draw up a report. That information shall include

data on traineeships for the purposes of allowing the proper monitoring and assessment of the implementation of this Directive.

2. The Commission shall submit the report 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*