



Traineeship Package

Adopted at the Executive Committee Meeting of 25-26 June 2024

The European Trade Union Confederation (ETUC) notes with reservations the ['traineeship package'](#) recently introduced by the European Commission composed of the Directive on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships ('Traineeships Directive') and The Council Recommendation on reinforced Quality Framework for Traineeships.

We support the objective of the proposed Directive to improve and enforce the working conditions of trainees and combat regular employment relationships disguised as traineeships, as well as the aim of the proposed (non-binding) recommendation to improve the quality of traineeships. However, we find the scope and measures identified in the Directive insufficient and not entirely aligned with the interests expressed by trade unions during two rounds of Social Partner Consultations. We particularly recall the need for respect and active promotion of collective bargaining and the non-regression clause that guarantees that this Directive cannot (1) lower the existing level of protection, (2) lead to the introduction of any new non-standard forms of employment (precarious work and new forms of contract) at the national level. (3) establish a third (new) category of workers.

A better balance and distinction between the two tools (the Directive and the Recommendations) must be made, and the Directive has to be significantly amended to carry more legislative improvements to the current situation and meaningfully improve the situation for trainees.

ETUC assessment

The main shortcoming of the proposed Directive lies in the scope and the definitions. The proposal suggests that only trainees who have 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 Justice¹ should be covered by this Directive. However, it does not address all traineeships after graduation (as the EP proposed in their resolution on quality traineeships in the Union), and it does not cover the most exploitative forms of traineeships, which are unpaid. It does not specify what traineeships are (or should be) nor grant any additional new rights for those young people who undertake them. Instead, it focuses on a non-exhaustive set of indicative elements that labour inspectorate / competent national authorities should use to detect when the traineeships are used falsely to replace entry-level employment positions.

The proposal treats all the traineeships equally regardless of their type, which brings confusion, undermines the existing diversity and risks a large degree of variation in implantation approaches.

Furthermore, while the labour inspectorate/ competent authorities (according to national practice) have an important role to play when it comes to detection and action

¹ Use of ECJ case law excludes the most vulnerable trainees from the scope of the directive – the unpaid trainees.



in the case of bogus traineeships, they cannot have disproportionate responsibility for this problem, while Member States and traineeship providers bear none or very little.

The way towards a better directive

Scope and definition

ETUC emphasises the need to clarify the definition of traineeships to ensure it is not solely linked to an employment relationship, as this is problematic for three important reasons: (1) it could eventually lead to the creation of the third status of workers; (2) it excludes trainees who are not receiving any pay or remuneration; (3) it creates confusion between traineeships performed as part of the education system, apprenticeships and the ones done after graduation. The Directive should not cover apprenticeships.

Instead, it should be defined by the type of traineeship performed outside the education system (not for university or other credits). Those are:

- Traineeships in the open labour market;
- Traineeships as part of active labour market policies (ALMP) ;
- Traineeships as a mandatory part of professional training.

Furthermore, the Directive should stipulate that all forms of traineeships where trainees de facto have to perform tasks such as those of other workers (disguised employment) have to be fully covered by the relevant labour and social law as well as collective agreements.

ETUC supports the aim of the Council Recommendation to ensure fair and safe working conditions for traineeships within the education system in line with the EU treaties, labour law and collective agreements on both national and EU levels.

All trainees who de facto have to perform tasks such as those of other workers are indeed workers and should be treated as such with all the rights and protections applicable to workers. This approach would ensure that people performing traineeships before graduation (while in education) and apprentices remain excluded from this proposal and regulated on a national level. It would also deliver on the principle of facilitating the transition from education to the labour market while ensuring that the first work experience (for which traineeships are intended) is a quality start to working life and not the first step into precarity.

Equal treatment

Member States shall ensure that, with respect to working conditions, including pay, trainees are not treated in a less favourable manner than comparable employees. Sub-minimum wages and lack of social protection disregard young people's right to equal pay for equal work, whilst research has repeatedly shown that they are also ineffective at boosting youth employment rates.

Quality traineeships

From the beginning of our advocacy, ETUC and EU institutions noted that the difficulty in traineeship regulation lies in the diversity of the national systems. For this reason, a chapter that establishes the **minimum criteria for quality traineeships across Europe cannot be omitted from the proposal**; on the contrary, it is the tool to deliver the minimum floor of rights and level playing field where trainees who do not have 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

The Directive must set up criteria that define the quality traineeships:

- Written non-renewable employment contracts registered with relevant authorities according to national practice, allowing for transparency, adequate control, and data collection;
- Setting a maximum duration of a traineeship for six months and, in exceptional circumstances, for one year (where duly justified);
- Setting up learning objectives within the written contract;
- Setting up adequate mentoring and supervision arrangements in the written contract;
- Remuneration should not be lower than the minimum wage and should align with the provisions in Directive (2022/2041) and the collective agreements; In contrary, cases where trainees have to financially contribute to traineeships must be ban;
- Access to social security applicable for workers according to national practice and in line with Council Recommendations on access to social protection for workers and the self-employed (2019/C 387/01);
- Provision of occupational health and safety measurements in line with national and EU legislation;
- The provision of a rest period is in line with the Working Time Directive (2003/88/EC).

ETUC notes that the minimum quality criteria will also contribute to fair treatment across the EU as we see the increasing number of cross-border traineeships.

Promotion and importance of social dialogue and collective bargaining

A core task for the ETUC is to promote social rights and workers' rights in the EU legal framework. The challenges facing workers in the EU member states are different, yet the fight for higher wages and better working conditions are universal. The integrated EU internal market makes the strive for a level playing field without social dumping and with respect for social and employment rights more important than ever.

The ETUC will always support its national affiliates in their strive for collective bargaining and their freedom to maintain, conclude and enforce collective agreements which may be a better tool to implement and complement EU-legislative initiatives according to national practices and frameworks. In this respect acknowledging the importance for the social partners to have room for negotiating and collectively bargain. Negative impact and misuse by employers or 'yellow' unions must be prevented.

Responsibilities of traineeship providers

Quality traineeships are at the top of the agenda for young people due to the ongoing exploitation by employers as cheap and unpaid labour. The main objective of the Directive should be to close as much as possible a legal loophole that allows for such exploitation across Europe. If we define the employer's responsibilities, it is then (as the proposal contemplates) the role of the labour inspectorate/ competent authorities to check and follow the relevant procedure in the event of infringement.

It should be regulated that:



- The traineeship providers do not require previous working experience when issuing or advertising traineeship vacancy notices;
- The number of traineeship positions in the company can represent a maximum of 20% of the number of permanent positions;
- The trainee and traineeship provider must set the learning objectives jointly. The tasks to be carried out by the trainee must have strong links to established learning objectives ;
- Supervision, mentoring, and progress monitoring must be guaranteed throughout the traineeship;
- The employer must submit the information on traineeships to competent legal authorities, workers' representatives, and trade unions.
- The employer has no right to claim financial contribution from the trainee.

Combating regular employment relationships disguised as traineeships and fight against the bogus traineeships

As the directive proposal acknowledges and aims to address, traineeships often replace entry-level jobs because of a lack of regulation. Paid or unpaid traineeships can replace regular employment relationships; this is why the enlarged scope of a directive that would also cover unpaid traineeships is crucial. Clear rules and elements should be in place to facilitate the identification of the exploitation, together with measures for control and enforcement. Based on the identification of what are quality criteria for traineeships (and how they are differentiated from regular employment/entry level jobs), the competent authorities (labour inspectorates or others) should receive appropriate and targeted guidance and adequate human and financial resources to carry out the inspections, enforcement measures and to overcome the lack of official complaints that are documented due to power imbalance between the trainee (often striving for a permanent position) and the employers. The austerity measures that will impact public service capacity (including the labour inspectorate) cannot affect the well-being of workers and access to their rights.

For this, the following supporting measures should be introduced by Member states:

- A dedicated channel for lodging complaints from trainees and trade unions should be established;
- Trainees should be informed and have access to Trade Unions present at the workplace ;
- The inspection could take place retroactively (after the end of the contract) ;
- Dissuasive fines and measures should be established;
 - o E.g., the temporality bans on proposing new traineeship vacancies;
- A list of clear elements on bogus traineeships and how to recognise them should be drawn in coordination with (sectorial) social partners.

The traineeship observatory should be established for data collection at national and cross-national levels.