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NOTE

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

I. INTRODUCTION

With a view to the meeting of the Social Questions Working Party on 28 February 2025, delegations will find attached an updated compromise text.

Building on the work undertaken in the previous semester and the replies received to the questionnaire set out in WK 344/2025, the Presidency proposes a compromise that takes into account the priorities expressed by Member States and explores a new balance in the text. The compromise text aims to clarify the terms used and the purpose of the proposed Directive and to ensure the proposal has added value once implemented.

Given the main points of concern and divergent preferences expressed throughout the negotiations, including during the EPSCO Council on 2 December 2024 as well as during the last working party on 31 January 2025, the Presidency decided to focus work on Chapter I and III and the related recitals. The rest of the proposal would be updated as needed in a future compromise text.

Beyond the compromise proposed for Chapters I and III, a first round of editorial suggestions from the lawyer linguists was also included in the text. Please note that following lawyer linguistic suggestions, in Article 13, the reference to timeline for communicating information to the Commission and the Commission's reporting was updated (using as start date the date of entry into force, and not the date of transposition).

II. FORMATTING

In order to facilitate the examination and evolution of the text, the following formatting conventions are followed:

- English lawyer-linguistic revision changes are in ***bold italics*** and deletions are in **[...]**
- Changes compared to the initial Commission proposal are in **bold** and deletions in **[...]**
- PL Presidency changes in relation to the latest HU compromise text (doc. 16136/24) are marked in **bold underlined**, deletions by **[...]**
- If applicable, reinstated Commission text is marked by underlined only

III. PRESIDENCY COMPROMISE TEXT

Following the discussion during the Social Questions Working Party of 31 January on the interplay between the two objectives, the scope, and Chapter III of the Directive, the Presidency has made some adjustments in the compromise text so as to bring more clarity to the text and ensure the added value of the proposal.

- **Article 1: Subject matter**

The Presidency has adjusted **Article 1** to better reflect that the Directive pursues **two objectives**: (a) to improve and enforce the working conditions of trainees in open market traineeships, and (b) to detect and combat false traineeships.

- **Article 1a: Scope**

In order to ensure that the two objectives are achievable, the Presidency has amended the **scope** in **Article 1a**. Following the objective to improve and enforce the working conditions of trainees, Chapter II (Equal Treatment) and Chapter IV (Enforcement and supporting measures) apply to trainees in open market traineeships who have an employment contract or are in an employment relationship. To achieve the second objective of the Directive, that is to combat false traineeships that are in fact employment relationships, the scope of Chapter III (False traineeships) includes any person engaged in a false traineeship, regardless of the type of traineeship.

Notwithstanding, based on delegations' request, the Presidency has maintained the **exclusion of traineeships with formal connection to education and training** from the scope of the entire Directive, while simplifying the wording in the operative part and keeping the list of specific cases in Recital 16a.

- **Article 2: Definitions**

For the purposes of ensuring alignment with the objectives and the scope of the Directive, the Presidency has sought to bring more clarity to the definitions in Article 2. The Presidency has introduced two **new definitions** in **Article 2**: “open market traineeship” and “false traineeship”,

An “**open market traineeship**” is defined as a traineeship based on a non-mandatory, bilateral agreement between a trainee and a traineeship provider. This definition is inspired by Recital 16 of proposed Council Recommendation on a reinforced Quality Framework for Traineeships (ST 8155/24).

The notion of “**false traineeship**” now replaces the previous references to “disguised traineeship” or “employment relationship disguised as traineeship” with a view to bringing more clarity into the text. Therefore, “false traineeship” is defined as an employment relationship that is mislabelled as a traineeship without fulfilling the definition of a traineeship, thereby resulting into a lower level of protection for the individual concerned (the false “trainee”) than the protection afforded to a comparable employee.

Moreover, the Presidency has adjusted the notion of “**traineeship**” to reflect some aspects that are defining of the traineeship experience: improving employability and facilitating professional transition.

- **Chapter III: False traineeships**

In order to safeguard the effectiveness of the Directive, the Presidency has amended Chapter III so as to strengthen the interplay between the two objectives, the scope, and Chapter III of the Directive.

Accordingly, the Presidency has simplified **Article 4** by establishing that Member States have to provide for effective measures to **detect and combat false traineeships**. Following the new definition of “false traineeship”, this provision entails that Member States must take effective measures against employment relationships mislabelled as traineeships while they do not fulfil the definition of a traineeship. In addition, the Presidency has clarified that it is up to the Member States to decide which corrective measures to take if a false traineeship is detected.

Furthermore, **Article 5** of the Directive introduces an assessment of whether a traineeship is used in accordance with its intended purpose. In order to facilitate such assessment of a false traineeship, the Presidency has recuperated some of the elements of the Commission proposal, such as the absence of significant learning and training component, the excessive duration of the traineeship, or the level of tasks, responsibilities and intensity of work of the false trainee. The Presidency has also added a **new Recital 26a** to provide further explanations on the appropriate duration of a traineeship.

Finally, the Presidency has moved to a **new Recital 28a** the detailed information to be provided by employers to the competent authorities, to simplify the text and to reduce administrative burden.

IV. CONCLUSION

Delegations are invited to examine the Presidency compromise text in the Annex to this note and to provide the Presidency with their feedback at the Social Questions Working Party meeting scheduled for **Friday 28 February 2025**.

Further on, delegations will be invited to send their written remarks and text suggestions via the **Consultations in the Delegates Portal**. The related working document with the template in the table format will follow.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on improving and enforcing working conditions of trainees and combating [...] false
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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C , , p. .

² OJ C , , p. .

³ *Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)] and decision of the Council of*

Whereas:

- (1) **On 10** March 2014, the Council adopted **a** Recommendation for a Quality Framework on Traineeships⁴ (**the** ‘2014 Recommendation’) to provide Union-wide quality standards for traineeships. [...] **The 2014 Recommendation includes** 21 principles for traineeships to improve **their** quality [...], in particular to ensure high-quality learning and training content and adequate working conditions to support education-to-work transitions and **to** increase the employability of trainees. The 2014 Recommendation covers all traineeships except for those that are part of curricula of formal education and training⁵ and those regulated under national law **the** completion of which is a mandatory requirement to access a specific profession.
- (2) [...]
- (3) The reinforced Youth Guarantee **set out in the Council Recommendation of 30 October 2020 on A Bridge to Jobs**⁵ aims at ensuring that young people under the age of 30 receive a good quality offer of employment, continued education, apprenticeship or traineeship within a period of four months of becoming unemployed or leaving education. The 2014 Recommendation is an important reference point **for** measuring the quality of traineeships offers under the reinforced Youth Guarantee.
- (4) **There are** labour shortages [...] in many occupations and at all skill levels. They are expected to increase with the projected decline in the working age population and **with** increasing demand for several occupations **that are** relevant for the green and digital transitions. The lower labour market participation of young people contributes to **those** shortages. Quality traineeships can be a useful up- and/or re-skilling pathway for persons of any age to acquire practical skills on the job **in order** to enter the labour market or **to** take their career in a new direction.

⁴ **OJ C 88, 27.3.2014, p. 1.**

⁵ 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).

- (5) Traineeships can help [...] people gain practical and professional experience, improve their employability, and facilitate their transition into stable employment. [...] Traineeships *thus* constitute an important pathway *into* the labour market. For employers, traineeships provide opportunities to attract, train and retain [...] people. They can reduce the cost of searching for and recruiting skilled staff, when trainees are offered a regular position after their traineeships. 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 [...] **through false traineeships [...], which** deprive workers of their full rights under Union law, national law and collective agreements, and risk *trapping* them in precarious working conditions. **False** 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, [...] **traineeship providers might** not comply with all requirements stemming from Union law, national law, collective agreements or practice, depriving the *trainees* of their full rights.
- (7) Additionally, trainees are [...] *unlikely* 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 *the* insufficient enforcement of national legislation and the lack of capacity for controls and inspections, as well as a lack of clarity regarding the *authorities* 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 *as* compared to [...] employees, including regarding *their pay*, working hours, leave entitlements, and *their* access to equipment [...].

- (9) At Union level, existing legal instruments provide a framework for the protection of workers, including the directives on transparent and predictable working conditions⁶, adequate minimum wages⁷, working time⁸, health and safety at work⁹, equality and non-discrimination¹⁰, work-life balance for parents and carers¹¹, information and consultation of employees¹², fixed-term work¹³, part-time work¹⁴, posting of workers¹⁵, and on temporary agency work¹⁶. This legal framework fully applies to trainees who have an employment contract or **who are in an** 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 traineeships¹⁷ and *of* apprenticeships¹⁸, and on access to social protection for workers and *the* self-employed¹⁹.

⁶ 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, *ELI*: <http://data.europa.eu/eli/dir/2019/1152/oj>).

⁷ 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).

⁸ 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).

⁹ 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).

¹⁰ 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).

¹¹ 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).

¹² 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).

¹³ 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).

¹⁴ 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).

¹⁵ 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).

¹⁶ 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).

¹⁷ Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships (OJ C 88, 27.3.2014, p. 1).

¹⁸ Council Recommendation of 15 March 2018 on a European Framework for Quality and Effective Apprenticeships (OJ C 153, 2.5.2018, p. 1).

¹⁹ 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).

- (10) The *May 2022 Report on the final outcome of the* Conference on the Future of Europe put forward a proposal on ensuring that young people’s internships and jobs adhere to quality standards, including on [...] **remuneration, as well as banning through a legal instrument** unpaid internships on the labour market and outside formal education.
- (11) *On 14 June 2023*, the European Parliament adopted a resolution pursuant to Article 225 of *the Treaty on the Functioning of the European Union (TFEU)* with recommendations to the Commission on quality traineeships²⁰[...]. In *the* resolution, it called on the Commission “to update and strengthen the 2014 [...] *Council Recommendation* and to turn it into a stronger legislative instrument”. It further called on the Commission to include additional principles in an updated quality framework for traineeships. Specifically, the European Parliament called for the Commission to “propose a directive on open labour market traineeships, traineeships in the context of active labour market policies and traineeships that are a mandatory part of professional training, in order to ensure minimum quality standards, including rules on the duration of the traineeships, access to social protection in accordance with national law and practice as well as pay that ensures a decent standard of living in order to avoid exploitative practices”.
- (12) The Commission carried out a two-stage consultation of social partners at Union level under Article 154 TFEU on the need, objectives and legal avenues for a potential action further improving the quality of traineeships. There was no agreement among the social partners to enter into negotiations with regard to those matters. It is, however, important to take action at Union level in this area by adapting the current framework on traineeships while taking into account the outcome of the consultation of social partners.

²⁰ European Parliament resolution of 14 June 2023 with recommendations to the Commission on quality traineeships in the Union (*OJ C, C/2024/484, 23.1.2024, ELI: <http://data.europa.eu/eli/C/2024/484/oj>*).

- (13) [...]
- (14) Article 153(2) *TFEU*, in conjunction with *Article 153* (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 **[...] false traineeships** and to ensure that the relevant Union and national law applicable 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 **detect and** combat **[...] false** 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) [...] **Chapter II and IV of** this Directive should apply to trainees in **open market traineeships** who have an employment contract or **who are in 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 of the European Union [...], ***which*** [...] has established criteria for determining the status of a worker, ***a matter*** which is to be based on a case-by-case-analysis. **Furthermore, Chapter III of this Directive should apply to any person engaged in a false traineeship.**

(16a) The classification of a traineeship as part of formal education is determined within national education and training systems, taking into account their specific structures and regulations. Due to their specific regulatory frameworks and the specific public interests they pursue, **traineeships with formal connection to education or training** should not be covered by this Directive, such as vocational education and training relationships, apprenticeships, traineeships which are carried out within the framework of formal education, including those that are a prerequisite to start formal education or vocational education and training, as well as traineeships that are obligatory in order to achieve a specific degree or qualification, professional traineeships as defined in Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications²¹. [...]

(17) [...]

(18) [...]

²¹ *Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22, ELI: <http://data.europa.eu/eli/dir/2005/36/oj>).*

- (19) Traineeships [...] are limited in time, [...] include a significant learning and training component and [...] are undertaken in order to gain practical and professional experience [...]. **The learning and training component of traineeships is understood as being significant when trainees acquire or improve a skill set, practical experience, or industrial and professional insights, with a view to improving employability and preparing them for future career opportunities and challenges. In the light of these [...] elements, persons undergoing a probationary period should not be understood as trainees under this Directive.**
- (19a) **Throughout this Directive, a trainee should be understood as any person undertaking a traineeship who is covered by the scope of this Directive.**
- (20) The principle of non-discrimination is suitable to combat *the* abuses of traineeships, such as granting trainees less favourable working conditions or lower pay compared with [...] **comparable** employees without appropriate justification [...]. It can also help make traineeships more accessible to groups of workers in a vulnerable situation **and improve the sustainability of traineeships as a pathway to stable employment opportunities.**

- (21) It is therefore necessary to lay down the principle of non-discrimination for trainees, which should apply in addition to Clause 4 of the Annex to [...] Council Directive 1999/70/EC[...]²², 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 [...] **qualify as** ‘fixed-term workers’ within the meaning of that Directive. Its clause on the principle of non-discrimination, however, does not [...] **provide** for comparison with other fixed-term workers. [...] It also fails to recognise the particularly vulnerable position *of* trainees [...]. It is therefore necessary to [...] **ensure** that the principle of equal treatment [...] **with comparable** employees applies to[...] trainees who have an employment relationship.

²² Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work conducted by ETUC, UNICE and CEEP (OJ L 175, 10.7.1999, p. 43, *ELI*: <http://data.europa.eu/eli/dir/1999/70/oj>).

- (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 [...] employees in the same establishment, unless different treatment is justified on objective grounds. **For the purpose of this Directive, “pay” should be understood in accordance with national law and practice and [...] can include compensation whether pecuniary or in kind.** The sole fact of being a trainee cannot constitute grounds for less favourable treatment compared to [...] employees in the same establishment. At the same time, different tasks, lower responsibilities or work intensity in relation to comparable [...] employees *can be [...] objective grounds for different treatment, where relevant, with regard to the [...] working condition(s), including pay,* at issue. The extent of different treatment should, however, be proportionate to those grounds. **Social partners can consider objective grounds for different treatment of trainees and strike a balance, including in collective agreements, considering the specificities of national contexts and the needs of various sectors.**
- (23) The application of the principle of non-discrimination requires the identification of a comparable [...] employee engaged in the same, or *a* similar, type of work or occupation as the trainee, due regard being given **to circumstances such as professional experience, qualifications and skills, as defined in national law or collective agreements.**
- (23a) [...]
- (24) [...]

(25) **[...] Members State should provide for effective measures in accordance with national law and practice, including, where appropriate, controls and inspections conducted by the competent authorities, [...] to detect and combat false traineeships. Where appropriate, and in accordance with national law or practice, [...] Member States could also entrust social partners with tasks related to detecting and combating false traineeships. [...] When a false traineeship is detected, Member States should determine and implement the necessary measures in accordance with national law or practice.**

(26) The assessment **[...] to detect false traineeships** should be based on the factual circumstances and not on the formal designation of the contractual relationship. **[...]** Competent authorities should perform an overall assessment of all relevant **factual elements on a case-by-case basis.** [...]

(26a new) While the appropriate duration of a traineeship may vary depending on its purpose and sector, a duration of up to six months is generally considered sufficient to achieve its intended objectives. A significantly longer duration, particularly where multiple consecutive traineeships are conducted with the same provider, may raise concerns about the genuine nature of the traineeship and should be carefully assessed.

(26a) For carrying out the assessment of all relevant factual elements, the competent authorities *should take into account*, among others, the following elements: the absence of a significant learning or training component; the excessive duration of the **[...] false traineeship or multiple consecutive traineeships with the same employer by the same person;** and the levels of tasks, responsibilities and intensity of work **[...]**.

(27) [...]

(28) When competent authorities carry out their analysis of [...] **all relevant [...] factual elements to [...] detect false traineeships**, the information needed to perform that 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 [...]. **Ensuring access to such information is crucial to enable competent authorities to determine whether a traineeship is used in accordance with its intended purpose or whether it may constitute a false traineeship.**

(28a new) Such information may include details on the number of trainees hosted by the employer and their employment status in relation to the total number of employees. It may also cover the duration of traineeships, as well as the nature of tasks and responsibilities assigned to trainees compared to those performed by comparable employees.

(28a) **In the case of trilateral relationships where an intermediary facilitates the provision of traineeships, the traineeship provider should be understood as referring to the entity at which the traineeship is undertaken.**

(29) [...]

(30) [...]

(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 [...] **in an employment relationship. In particular, Member States should develop the capability of the competent authorities, where appropriate following a risk-based approach.**

- (32) ***This Directive includes an*** extensive system of [...] provisions [...] [...] to help ensure effective enforcement and ***the*** defence of ***the*** rights of trainees **in an employment relationship, *whether*** stemming from this Directive ***or*** from other Union law applicable to workers. [...] **Channels to report alleged infringements arising from the application of this Directive can support trainees in enforcing their labour rights. Existing channels can *also* be used for that purpose.**
- (33) Trainees should have access to effective and impartial dispute resolution and a right to redress, including adequate compensation. Trainees should be informed about the redress mechanisms for the purpose of exercising their right to redress. Having regard to the fundamental nature of the right to effective legal protection, trainees should continue to enjoy such protection even after the end of **a** traineeship giving rise to an alleged breach of rights under this Directive [...].
- (34) To provide [...] effective [...] protection of trainees, **Member States should ensure that workers' representatives [...] are able to engage, in accordance with national law or practice, in any relevant judicial or administrative proceedings in order to defend *or enforce* any of the rights and obligations arising from this Directive [...]. Where such action is admissible pursuant to national law or practice, Member States should ensure that workers' representatives are able to act on behalf or in support of a trainee. Member States which do not allow workers' representatives to act on behalf or in support of a trainee should not be required to do so.**

- (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 [...] **the obligations and vindicating** the rights provided for in this Directive[...]. In particular, trainees **in an employment relationship** should be protected from dismissal or its equivalent and **from** all preparations for dismissal or its equivalent for exercising the rights provided for in this Directive [...].
- (36) Member States should lay down rules on effective, proportionate and dissuasive penalties for [...] infringements of the rights provided for in [...] 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 **maintain or** introduce [...] more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive.
- (38) Since the objectives of this Directive, namely to enforce working conditions of **trainees in an employment relationship** and **to combat [...]** **practices where** employment relationships **are** 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 **of the Treaty on European Union (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:**

- a) improve and enforce the working conditions of trainees in [...] open market traineeships;**
and
- b) detect and combat [...] false traineeships.**

Article 1a

Scope

- 1. For the purposes of Chapters II and IV, this Directive applies to trainees in open market traineeships who have an employment contract or who are in an employment relationship as defined by the law, collective agreements or practice in force in the Member State, with consideration to the case law of the Court of Justice.**
- 1a. For the purposes of Chapter III, this Directive applies to any person engaged in a false traineeship.**
- 2. This Directive shall not apply to [...] traineeships with formal connection to education or training.**

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 professional transition.**
- (b) ‘trainee’ means any person undertaking a traineeship;
- (c) [...]
- (d) [...]
- (da) "comparable employee" means a person with an employment contract or employment relationship in the same establishment, who is not undertaking a traineeship and is engaged in the same or similar work or occupation, due regard being given to circumstances such as professional experience, qualifications and skills.
- (e) "false traineeship" means any employment relationship that is labelled as traineeship but in substance does not fulfill the definition of traineeship under this Directive resulting in a lower level of protection for the individual concerned than that afforded to a comparable employee.**
- (f) "open market traineeship" means traineeship based on a non-mandatory, bilateral agreement between a trainee and a traineeship provider.**

Chapter II

Equal treatment

Article 3

Principle of non-discrimination

1. Member States shall ensure that, in respect of working conditions, including pay **as laid down in law, collective agreements or practice in each Member State**, trainees are not treated in a less favourable manner than comparable [...] employees [...], unless different treatment is justified on objective grounds [...] such as different tasks, lower responsibilities, work intensity or the **higher** weight of the learning and training component.
2. Where there is no comparable [...] 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.
3. **Member States may, [...] if the national social partners jointly agree, give the social partners, at the appropriate level and subject to the conditions laid down by Member States, the option of upholding or concluding collective agreements establishing the objective grounds that are considered to justify a different treatment, in accordance with paragraph 1.**

Chapter III

[...] **False** traineeships

Article 4

*Measures to combat [...] **false** traineeships*

Member States shall provide for effective **measures in accordance with national law or practice, including, where appropriate,** controls and inspections conducted by **the** competent authorities [...], to **detect and combat [...]** false traineeships.

Where a false traineeship is detected, Member States shall determine and implement appropriate corrective measures in accordance with national law and practice.

Article 5

*Assessment of [...] **false** traineeships*

1. [...] **For the purposes of Article 4, [...] competent authorities shall make an overall assessment of relevant factual elements [...], in accordance with national law or practice.** That assessment shall take into account [...] the following [...] elements:
 - (a) the absence of a significant learning or training component in the **false [...]** traineeship;
 - (b) the excessive duration of the [...] **false** traineeship or multiple and/or consecutive purported traineeships with the same employer by the same person;
 - (c) the equivalent levels of tasks, responsibilities and intensity of work for [...] **false** trainees and comparable employees;
 - (d) [...]
 - (e) [...]
 - (f) [...]

2. [...] **For the purpose of the** assessment referred to in paragraph 1, [...] **Member States shall ensure that employers provide**, upon request, [...] **the competent** authorities with the [...] necessary information **[...]**.

(a) **[...]**

(b) **[...]**

(c) **[...]**

(d) **[...]**

(e) **[...]**

3. **[...]**

Chapter IV

Enforcement and supporting measures

Article 6

Implementation and enforcement of relevant Union law

Member States shall take effective measures **in accordance with national law or practice** to ensure that all relevant Union law applicable to workers is *also* 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 *the* employers of trainees regarding the legal framework for traineeships, including ***an adequate level of information on the*** relevant labour law and social protection aspects;
- (c) provide for effective **measures in accordance with national law or practice including, where appropriate,** controls and inspections conducted by **the** competent authorities, to enforce *the* relevant labour law in relation to trainees;
- (d) [...]
- (e) develop the capabilities of the competent authorities, in particular through training and guidance, to proactively target and pursue non-compliant employers;
- (f) ensure, in cooperation with the competent authorities **or social partners, that channels are in place** for trainees to report [...] **alleged infringements of rights and obligations under [...] this Directive**, 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 **for the damage sustained**, in the case of infringements of their rights arising from this Directive[...].

Article 8
Procedures [...] by workers' representatives

Member States shall ensure that **workers' representatives [...] are able to engage, in accordance with national law or practice**, in any relevant judicial or administrative procedure to enforce the rights and obligations arising from this Directive [...] **and are able to [...] act, where admissible pursuant to national law or practice**, on behalf or in support of [...] **a trainee in** case of an infringement of any right or obligation arising from this Directive [...], with **the** trainee's [...] approval.

Article 9

Protection against adverse treatment and consequences

1. Member States shall introduce the necessary measures to protect trainees [...] **or** 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 **and obligations** provided for in this Directive [...].
2. In particular, Member States shall take the necessary measures to prohibit the dismissal or its equivalent, and all preparations for **the** dismissal or its equivalent, of trainees on the grounds that they have exercised the rights provided for in this Directive [...].
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, [...] 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 [...] 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. [...]
 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. **At the same time, nothing in this Directive shall be construed as imposing an obligation on Member States to introduce a specific employment relationship for trainees in their national law.**
- 3a. This Directive is without prejudice to other rights conferred on workers by other legal acts of the Union.**

Article 12

Transposition and implementation

1. Member States shall take the necessary measures to comply with this Directive by [2 years after entry into force **of this Directive**]. 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 **main** 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 *[...] 7 years after the date of [...] entry into force* of this Directive], Member States shall communicate to the Commission **relevant** information concerning the implementation of this Directive that is necessary for the Commission to draw up **the** report **referred to in paragraph 2**. That information shall include **relevant** data on traineeships for the purposes of allowing the proper monitoring and assessment of the implementation of this Directive.

2. **By [...] 8 years after the date of [...] entry into force of this Directive], the** Commission shall, **after consulting the Member States and the social partners at Union level and taking into account the impact on micro-, small and medium-sized enterprises**, submit a report [...] **on the implementation of this Directive** 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 **that of** its publication in the *Official Journal of the European Union*.

Article 15
Addressees

This Directive is addressed to the Member States.

Done at [...] ...,

For the European Parliament
The President

For the Council
The President
