



Brussels, 14 November 2024

ETUC Assessment of the Council Proposal for the Traineeship Directive

European Trade Union Confederation, representative of workers and defenders of fair opportunities and quality jobs for young people, urges policymakers to redirect this proposal toward real change by considering the arguments and proposals below.

We are sending you the ETUC proposal on the text and we hope you can defend youth and workers' rights.

General Provisions

ETUC suggests deleting the reference to the employment relationship. Trainees classified as workers are already within the scope of national labour laws and the EU's existing social acquis, granting them fundamental protections such as minimum wage, working hours regulation, and the right to social security. Applying the Directive only to these individuals misses the mark, as they do not represent the vulnerable segment of trainees who are left without any protections under the current system.

Proposal of a text:

Article 1.

ETUC Amendment:

This Directive lays down a common framework of principles and measures to improve and enforce the working conditions of trainees ~~in an employment relationship~~ and to combat practices that disguise employment relationships as traineeships.

Article 1a.1

ETUC Amendment:

This Directive applies to trainees, ~~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

Article 1a.2

Traineeships should not be mistaken with apprenticeships, dual learning or other work experiences happening as a part of the formal education.

The EP resolution from June 2023, calling for a Directive proposed to address 3 types of traineeships, all happening **after graduation** (after exiting the formal education system):

- **Open labour market traineeships**
- **Active Labour Market Policies (ALMPs) traineeships**

- Mandatory traineeships for obtaining the title of a profession

Excluding any categories of traineeships identified above, such as those offered under Active Labour Market Policies (ALMPs), would create dangerous loopholes that undermine the Directive's effectiveness. ALMPs are often intended to enhance employability for people facing particular challenges in entering the labour market; however, if traineeships under these programs are exempt from the Directive, it would be extremely difficult—if not impossible—for authorities to distinguish between ALMP traineeships and regular traineeships. Employers could misuse this exemption to justify offering substandard conditions, sidestepping the Directive's protections and creating a two-tier system where some trainees are denied fair treatment.

Moreover, ALMP traineeships, despite their specific purpose, must not be allowed to fall below the standards of the open labour market. All trainees, whether in ALMPs or traditional roles, deserve the same baseline protections, including fair remuneration, limited duration, and clearly defined learning objectives. Allowing lower standards for ALMP traineeships would erode the integrity of the Directive, and the absence of protections would leave trainees vulnerable to poor working conditions, potentially causing them to cycle through low-quality placements without gaining meaningful, sustainable employment.

ALMP traineeships are offered to young people who are not in education, employment or training and who are seeking a job. They need a quality opportunity in the labour market, not a precarious contract. Those young people are not entitled to unemployment benefits as they do not have working experience. If they do, traineeship, a transition tool from education to the labour market is not the right pathway for them.

ETUC Amendment:

This Directive shall not apply to:

- vocational education and training relationships,
- apprenticeships,
- traineeships which are carried out within the framework of formal education,
- ~~traineeships that are obligatory in order to achieve a specific degree or qualification,~~
- nor to
- ~~traineeships within active labour market policies~~

Equal treatment

Article 3.3

The ETUC opposes the inclusion of a new article in the Directive referencing social partners' existing rights to conclude collective agreements as a mean for justifying different treatment. While collective agreements play a vital role in advancing fair treatment and enhancing labour standards, they should never be used to justify discrimination or to impose conditions that fall below the existing standards at the

workplace. Collective agreements should serve as instruments to improve—not dilute—the working conditions of trainees and all employees alike.

ETUC Amendment:

~~Member States may, on the condition that 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.~~

Employment relationships disguised as traineeships

Article 4

The ETUC welcomes the new provisions addressing trainees who are not classified as workers, aligning with our proposed amendments to Article 1. Including these trainees in the Directive is essential for ensuring that all young people, regardless of legal status, receive fair treatment and basic protections. This approach broadens the Directive’s impact, closing existing gaps and creating a more inclusive framework that safeguards all trainees from exploitation.

Article 5.1

A clear, EU-wide definition of what a traineeship is and is not establishes a foundation upon which quality standards can be built. With a universal understanding that traineeships are designed for young entrants to the workforce, the Directive can set firm criteria for traineeship quality. This clarity would empower enforcement bodies, make it easier to evaluate and report abuses, and ultimately encourage employers to use traineeships responsibly.

ETUC believes that without clearly defined standards, it becomes nearly impossible to assess whether a traineeship is being misused as bogus position meant to avoid offering a standard employment contract. Quality criteria set a baseline, making it clear to both employers and oversight authorities what distinguishes a legitimate, educational traineeship from a short-term job or disguised employment.

ETUC Amendment:

For the purposes of Article 4, the Member States shall provide a **framework** ~~for an overall assessment~~ of all relevant factual elements of the traineeship, in accordance with national law or practice.

Article 5.1a (new)

Member states shall

- (a) Ensure that traineeships are based on a written agreement concluded at the beginning of the traineeship between the trainee and the traineeship provider.
- (b) Ensure presence of a significant learning or training component.
- (c) Ensure a reasonable duration of traineeships that does not exceed six months, without possibility of extension or repetition unless duly justified by objective grounds and taking into account national practice
- (d) Ensure lower levels of tasks, responsibilities and intensity of work for trainees and regular employees at comparable positions with the same employer
- (e) Ensure that trainees are fairly paid, taking into account elements such as the trainee's tasks and responsibilities, the intensity of the trainee's work, and the weight of the learning and training component
- (f) Ensure that trainees have access to adequate social protection, including necessary coverage in line with national legislation, and taking into account, where applicable, the Council Recommendation 8 November 2019 (60)
- (g) Ensure that no requirement for previous work experience is requested to candidates for traineeships

Enforcement and supporting measures

Article 6.

Reports indicate that labour inspectorates in each Member State are currently understaffed, posing a significant barrier to the effective enforcement of the Directive. To uphold the Directive's standards, and ensure the measures proposed in Article 4, it is essential that Member States commit to providing these authorities with sufficient human, technical, and financial resources. Properly resourced authorities are vital for monitoring compliance, addressing abuses, and ensuring that all trainees receive the protections guaranteed by the Directive. Without this investment, even the most robust Directive risks falling short in practice.

ETUC Amendment: keeping the point d), as proposed by the European Commission:

(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;

Article 8

Representatives of trainees should be able, in accordance with national law and practice, to represent one or several trainees in any judicial or administrative proceedings to enforce any of the rights or obligations arising from this Directive. Bringing claims on behalf of or supporting several persons performing traineeships is a way to facilitate proceedings that would not have been brought otherwise because of procedural and financial barriers or a fear of reprisals.

ETUC Amendment: keeping it as proposed by European Commission:

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 **one or several trainees** in case of an infringement of any right or obligation arising from this Directive, with the **trainees'** approval.

Final provisions

ETUC strongly suggest the return of the text regarding the lowering protection of workers. This provision ensures minimum standards and prevents lowering the protection. Collective agreements and any other provision in EU regulation should serve as instruments to improve—not dilute—the working conditions of trainees and all employees alike.

Article 11.1

ETUC Amendment: keeping it as proposed by European Commission:

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.

Article 11.3

The ETUC opposes any provisions that could lead to the creation of a third category of workers. However, we are against the new additions as it contradicts the obligations set out in Article 4. Under Article 4, Member States are required to assign employment status to individuals found in bogus traineeships, ensuring they receive the full protections of employment.

ETUC Amendment:

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. ~~Nothing in this Directive should be construed as imposing an obligation on Member States to introduce a specific employment status for trainees.~~