



27/02/2025

## ETUC Assessment of the Council Proposal for the Traineeship Directive – February 2025

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**

While the directive aims to establish minimum standards for traineeships, ETUC has raised concerns about its limited scope and the potential negative consequences for workers' rights and national legal frameworks.

A primary concern is that the directive's narrow scope encompassing only **traineeships in the open labour market (OLM)** creates unnecessary confusion and requires significant adaptation of national laws, potentially undermining existing protections:

- In many EU member states, trainees already hold working status, meaning they are entitled to the same enforcement of working conditions and workers' rights as other employees. **Restricting the directive's enforcement to only the open labour market could lead to a dilution of existing protections, effectively lowering the standards currently in place for trainees.**
- Additionally, and importantly, in numerous member states, **students compelled to undertake a traineeship as an integral part of their studies frequently seek such opportunities within the open labour market (often through job portals) without guidance or support from their educational institutions.** Therefore, there is a clear overlap between the wishes to include the OLM traineeships and exclude those linked to education.

ETUC suggests deleting the reference to the employment relationship in the text. 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.

### **Article 1**

ETUC Amendment:

This Directive lays down a common definition of traineeships and sets out a framework of principles and measures to improve and enforce the working conditions of trainees and to prevent abusive practices arising from the use of traineeships

## **Definitions**

Traineeships, in their ideal form, are meant to serve as bridges between education and the labour market, offering young people the opportunity to gain meaningful work experience, build skills, and prepare for long-term careers. However, the current lack of a robust and clear definition of what constitutes a traineeship risks turning this potentially empowering tool into little more than an empty title, devoid of the rights and protections young workers deserve.

To address this, the definition of *'traineeship'* must be strengthened to establish a level playing field and ensure that labour rights are not left at the door the moment someone accepts a traineeship position. Without clear standards, the system is ripe for abuse, leaving many trainees vulnerable to exploitation.

### **Article 2**

ETUC amendment

- (a) 'traineeship'
- i. is a limited period of entry-level work practice
  - ii. aims at providing practical and professional skills through significant training, with a view to facilitating the transition from education to stable employment, or accessing a profession;
  - iii. is being paid at least in line with the Adequate minimum wage directive

ETUC welcomes the definition of false traineeships as an important step in right direction. However, ETUC stresses that this definition must be further strengthened to ensure it aligns with the principles of quality traineeships, particularly in guaranteeing fair working conditions, adequate compensation, and meaningful learning opportunities for all trainees.

ETUC Amendment

**(e) 'false traineeship' means any abusive practices arising from the use of traineeships for purposes other than facilitating the transition from education to stable employment, with the effect of granting lower levels of protection, including working conditions and pay, than the trainee concerned would be entitled to under Union or national law, collective agreements or practice.**

## **Equal treatment**

The ETUC opposes the inclusion of a new article in this part of the Directive referencing social partners' existing rights to conclude collective agreements as a means for justifying different treatment. **Collective agreements play a vital role in advancing fair treatment and may be a better tool to implement and complement EU-legislative** initiatives according to national practices and frameworks.

Negative impact and misuse by employers or 'yellow' unions must be prevented, and therefore, the **non-regression principle** is crucial to maintaining the same or higher protection that is already in place in some national systems and is laid in the Directive.

**ETUC suggest moving the wording and essence of Art 3.3 to Chapter V. Article 11.4 (see below)**

### Article 3.3

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.~~

### False traineeships

#### Article 4

ETUC agrees with the provisions outlined but finds them insufficiently clarified, particularly regarding corrective measures for non-compliant traineeships. In many Member States, such corrective measures could and should include the reclassification of trainees to correct employment status, ensuring they receive the full rights and protections entitled to workers. ETUC emphasizes the need for greater clarity and enforcement to guarantee that all trainees benefit from fair treatment and decent working conditions.

#### Article 5.1

ETUC believes that the indicators of false traineeships are crucial in guiding national competent authorities to detect and address abusive practices. These indicators serve as essential tools to distinguish between genuine learning opportunities and exploitative arrangements disguised as traineeships.

In particular, ETUC highlights several key factors that should be closely monitored: the lack of a meaningful training component, excessive duration or repetition of traineeships, **absence of fair remuneration, requirements for previous work experience, failure to publish transparent and accessible vacancy notices, and an unusually high ratio of trainees within an organization.**

ETUC Amendment

[...] 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) **the absence of remuneration granted in line with Directive (EU) 2022/2041**
- (e) **the requirement for candidates to have previous work experience prior to taking up the traineeship**

(f) the high ratio of traineeships relative to the size of the establishment

(g) the lack of a public vacancy notice for the traineeship

## **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

**(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**

ETUC welcomes the correct terminology: **workers' representatives**

## **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. In addition, to protect well-functioning system, we suggest including guarantees for social partners to have sufficient space for collective bargaining (11.4).

Furthermore, **ETUC firmly opposes the creation of a so-called "third status"** that would blur the line between employment and traineeships, as this risks undermining workers' rights and protections. However, the wording in the art. 11.3 remains ambiguous and open to interpretation, raising concerns about its implementation. The Directive states (Art 4) that "*Member States shall determine and implement appropriate corrective measures in accordance with national law and practice*", which could include, among other actions, reclassifying trainees and granting them proper employment status. ETUC emphasizes that such corrective measures must prioritize the correct classification of trainees as employees where appropriate, ensuring they receive the full rights and protections they are entitled to under labour law. Clarity and strong enforcement are essential to prevent abusive practice and guarantee fair treatment for all.

## Article 11

ETUC Amendment:

**11.1 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.**

11.2 This Directive shall not constitute valid grounds for reducing the general level of protection already afforded to workers, including trainees, within Member States

11.3 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.~~

**11.4 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 the Member States, the option of upholding or concluding collective agreements to implement and complement the same level of protections laid down in this Directive.**