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## **Response to first stage consultation of social partners on a possible action further improving the quality of traineeships**

### **Introduction**

Employers operating across all sectors of economic activity are experiencing significant labour and skills shortages. This has been recognised by the European Commission in its proposal for designating 2023 the European Year of Skills, with specific attention set to be paid to skills matching. Employers welcome this focus, which is set within a broader context of the importance of skills as a factor of enterprises competitiveness.

At the same time, it is vital that the Commission's work also explores how to formulate concrete actions to help respond to this growing challenge, looking at all relevant policy areas. This includes education and training, employment, labour migration and mobility policies and synergies between them. This should be the main pre-occupation for the Commission in the months ahead. In a context of growing labour and skills shortages, it can be expected that many employers in fact are looking for young people to hire, which may in future reduce the actual use of traineeships.

BusinessEurope considers that the existing Council Recommendation on a European Quality Framework for Traineeships can still play an important role in simultaneously improving the quality of traineeships and enhancing the employability and employment prospects of trainees.

### **The role of traineeships**

Firstly, it is important to highlight that employers consider all traineeships, whether part of education, or a professional qualification, or those that are open market or provided as part of an ALMP, have the primary responsibility of developing skills while providing in-work experience. In addition, some of them are observation traineeships for pupils in compulsory education allowing them to discover a trade.

In most cases, traineeships provide a first work experience. They may also take place as part of a re-training perspective. Nevertheless, the purpose of a traineeship is to provide the skills that will increase an individual's employability and enhance their employment prospects. As such, all traineeships can be viewed as part of the learning experience. **While the situation can differ from Member State to Member State, trainees are not typically employees.** In the circumstances where trainees are in an open market traineeship and are considered to be workers according to national law then it is appropriate that they are subject to the applicable rules concerning remuneration and social protection and intellectual property, while noting that the level of remuneration can be less than for a regular employee given that a traineeship is part of the learning experience.

Moreover, the employability of trainees after a traineeship cannot be taken for granted. Therefore, it is important for employers that policy-makers at EU and national level do not constrain employers' hiring decisions, which not only depend on the performance of a trainee, but also on employers' actual need and capacity to hire a new recruit. In this respect, hiring

incentives targeted trainees as part of active labour market policies could be helpful on condition that they respect employers' freedom of hiring decisions.

In many cases, traineeships also help to provide career orientation and should be viewed as a way for young people to get a first-hand insight into what it is like in a specific workplace or environment. Without ending up in a constant cycle of traineeships, this form of work experience provides the possibility for young people to try out several different occupations, which can in turn help them to make informed decisions about their future career path, while enhancing their employment prospects. This is especially the case when traineeships take place as part of the formal education process and the possibilities for such traineeships and the involvement of enterprises needs to be encouraged.

The consultation document rightly underlines the differences between traineeships and apprenticeships, and the separate European Framework for Quality and Effective Apprenticeships, and that overlaps between these different instruments at EU level are to be avoided.

In terms of the potential cross-border aspects of traineeships, we consider that if mobility is to be further encouraged, as is also expected in the upcoming Council Recommendation on an EU learning mobility framework, it would be better to prioritise efforts to foster the mobility of apprentices.

## **BusinessEurope's response to the questions posed in the first stage consultation**

### **1. Do you consider that the European Commission has correctly and sufficiently identified the issues and the possible areas for EU action?**

We consider that the principles in the existing QFT remain relevant. In particular, it is **vital that Member States retain flexibility to implement the Recommendation, or the parts of it that are relevant to them, in the context of their national industrial relations system and education and training practices.** The need for national flexibility is underlined in the following key aspects around the provision and governance of traineeships:

- **Learning outcomes**

The content and learning outcomes of a traineeship, in terms of the improved skills and knowledge of the trainee, relative to the need that employers have for a competent and qualified workforce is the main determinant of the labour market chances of trainees and how quickly a trainee finds employment. In this respect, employers strongly support the principle of a common understanding of the learning outcomes to be gained, while noting that there also needs to be flexibility for these to evolve during a traineeship, depending on the nature of the tasks and assignments that are undertaken.

It is encouraging, and very welcome, that the Ecorys study found that the QFT principles with the most positive impact on young people's labour market integration are those outlining the need to determine learning and educational objectives of the traineeship and the written agreement.

- **Scope**

As noted in the consultation document, Traineeships that are part of formal education and training processes are already subject to structured and regulated governance systems with established learning outcomes, oversight and well-established quality assurance and certification systems at national level. The trainees taking part in these traineeships are considered to be students and not workers. **These mandatory traineeships should be**

**clearly excluded from the scope of any future EU initiative**, noting that Articles 165 (4) and 166 (4) TFEU (relating to education and vocational training policy) exclude legislative action aimed at harmonising the laws and regulations of Member States.

- **Compensation**

Considering that trainees are often not defined as employees, and are in a process of gaining new work experience, employers continue to consider that it is most appropriate to talk about compensation, rather than remuneration. It is the case in **France**, where traineeships outside of academic curricula, formal education, or vocational courses are forbidden since 2010.

In parallel, it can be noted that there are provisions in some Member States, such as **Germany** whereby voluntary trainees are predominantly subject to the legal provisions applicable to employees. Nevertheless, trainees are not employees who are engaged in gainful employment. They are therefore subject to separate regulations under the Vocational Training Act – including social protection and minimum wage for traineeships longer than three months. In **Belgium** open-market traineeships are legally regulated through the professional immersion agreement (“convention d’immersion professionnelle”). Between 2013 and 2015, the immersion agreement was not an employment contract and therefore the allowance was not qualified as salary but the employees were subject to social security. This was a legal status determined at the national level and was an example of why the flexibility afforded by a Council Recommendation is the best approach. However, since 1 July 2015, the work immersion agreement is no longer under the jurisdiction of the federal government (2 out of 3 regions have taken over this work placement scheme for non-student adults). The allowance corresponds to at least half of the minimum wage and is modulated according to age. Only work accident coverage is guaranteed but it is no longer subject to general social security, unless the criteria for dual training<sup>1</sup> are met. This is the consequence of a unanimous opinion of the social partners.

In **Denmark**, most traineeships are part of various educational schemes and programmes and used as a tool to enhance employment prospects. Open market traineeships are not widely used and limited to very few business areas. In **Poland**, it can be noted that there are several provisions aimed at fostering the employment of young people. This includes a special act for trainees which provides for them to be compensated up to half of the minimum wage. The lower amount takes into account that trainees are still learning. Young people, including trainees, up to the age of 26 are also exempted from paying taxes on their earnings.

The emphasis on pay in relation to the quality of traineeships is not backed up by evidence. **The results of the original impact assessment that was conducted prior to the adoption of the QFT showed that an unpaid traineeship cannot be considered as substandard.**

Additionally, **in- job training of young people entails indirect costs for enterprises** such as the time dedicated by one of the employees or the entrepreneur him/herself to supervising a trainee. Part of his/her working time is then devoted to the training, resulting in a partial loss of productive capacity. This is particularly the case in smaller and micro-sized enterprises, whilst also impacting larger enterprises.

## **2. Do you consider that EU action is needed to address the identified issues effectively and achieve the objectives set out?**

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<sup>1</sup> The conditions for dual training subject to social security are as follows: employment contract; remuneration paid by the employer; training plan divided between studies (at least 150 hours per year; but at least 240 hours per year for young people under 18) and work in the company (at least 20 hours of work per week); this training must lead to a professional qualification.

We have carefully reviewed the European Parliament's own initiative report on traineeships and have noted the call for an enlarged scope and a more binding approach in the form of a directive for open market traineeships and traineeships that are part of an ALMP or professional training and a Decision on traineeships that are part of formal education, as well as adequate remuneration and social protection for all trainees. We have also noted the European Commission's evaluation of the implementation of the QFT published in January 2023. The evaluation concludes that there is the need to explore whether the QFT could be reinforced by adding quality elements on fair remuneration and social protection as well as provisions on telework/hybrid traineeships, by better addressing the needs of vulnerable groups, and through strengthened support to trainees during and after the traineeship (e.g. through mentorship and post-placement support).

Moreover, there is a **lack of data available in particular when it comes to open labour market traineeships**. This has been raised both in the Ecorys study as well as the 2021 study by the European Parliament assessing the European added value of the QFT. This point is also addressed in the Parliament's own initiative report.

**Without a more solid data-driven evidence base and assessment of the existing QFT in practice, we remain cautious about an extensive revision of the current approach to the QFT and how to identify the best policy approaches to tackle the issues raised by the European Parliament and other stakeholders.** An overly prescriptive approach that creates more administrative and financial burdens on enterprises, especially SMEs, might produce unintended adverse effects, such as disincentives for offering traineeships as well as the inability to respond to the flexibility needs of trainees. From the employers perspective, in-job training of young people entails both an investment and costs. On the one hand, it is an investment because traineeships allow companies to train potential new staff. On the other, it might entail direct and indirect costs. As direct costs, if applicable an allowance or compensation should remain at a reasonable level otherwise it might prevent SMEs, and other enterprises, from offering traineeships. An example of indirect cost for SMEs is the time dedicated by one of the employees or the entrepreneur him/herself supervising a trainee. Part of his/her working time is then devoted to the training, resulting in a loss of production. These costs need to be taken into account when considering the introduction of new obligations for companies, as this might discourage them from offering training placements.

European employers call on the Commission to further reflect on the following aspects:

- **We consider that a reinforced Recommendation is a more adequate answer than a directive to the issues presented in the Ecorys study and the EU Commission evaluation.** Further thought should be given to exploring where there may be added value from a revision of the existing Council Recommendation to address the issues related to open market traineeships and traineeships that are part of an ALMP or professional training. This includes consideration to the impact of remote forms of learning and working that have been introduced as a result of COVID and how this has impacted the provision of, and participation in, traineeships, likewise the impact of the green transition. As indicated by the Commission in its first-stage consultation document, improving the existing Council recommendation would also be logical to achieve a comprehensive EU approach to traineeships as a Council recommendation is the only legal instrument available at EU level to broaden the personal scope of the existing quality framework to traineeships that are part of formal education and training curricula.
- Complementing the existing Recommendation with additional supporting actions, notably mutual learning activities, could simultaneously help to raise awareness of the QFT, and foster implementation through the exchange of good practices. This could be achieved through the creation of a dedicated group of Member States and relevant

stakeholders, but without creating a new permanent structure. Such mutual learning exchanges could include dedicated exchanges between the interested Member States on how to address situations of misuse of traineeships.

- To try to remedy issues around a lack of data, there would be merit in further exploring how to incorporate traineeships, especially open market ones, into EU wide data collection processes, i.e. through data collected in the labour force survey and Eurostat.
- Lastly, and in parallel to reflections on the QFT, it would also be relevant to consider the wider role of career guidance and advice that is available for young people, in order to best support them in the school-to-work transition. This is not specific to trainees and the context of the QFT alone, but to all young people and the support they receive as they progress through different stages of education. Well designed, effective career guidance and advice is an indispensable pillar in helping young people to orient their education and training pathway, including opportunities for practical work experience, such as a traineeship. It is crucial that such guidance and advice is connected to labour market realities and companies needs in order to prevent a further widening of the skills gap and skills mismatches. This can better help young people to transition from education into work.

**3. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?**

As elaborated in this first stage consultation response, BusinessEurope's view is that Member States need to retain flexibility to implement the existing Recommendation, or the parts of it that are relevant to them, in the context of their national industrial relations system and education and training practices. Within this context and given the legal framework, we consider that the most appropriate course of action would be to give further thought to exploring where there may be added value from a revision of the existing Recommendation, retaining the current scope, rather than engaging in a broader and overly prescriptive approach, especially not through a directive that would legally not be able to cover most of the traineeships affected.

On this basis, BusinessEurope does not identify scope for engaging in a European level social dialogue process on this issue.

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