



7 November 2023

### **BusinessEurope response to the second stage consultation of social partners on a possible action further improving the quality of traineeships**

#### **Introduction**

This input constitutes BusinessEurope's response to the second stage consultation on a possible action on quality traineeships.

Our first remark is that **we regret that the Commission has not taken into account the views of BusinessEurope, and other EU level employers' organisations, as concerns our proposals for reinforcing the existing Council Recommendation**, which we outlined in the first stage consultation<sup>1</sup>. We continue to believe that **reinforcing the existing Council Recommendation would be a more adequate, proportional, and appropriate response** to the issues presented in the Commission's own evaluation report and the study conducted by Ecorys than pursuing the idea of a directive.

Having reflected on the potential orientation of a future initiative outlined in the second stage consultation document, we also want to **re-state our objection to extending the scope of the existing Council Recommendation to include traineeships that are part of formal education and training**. In the first stage consultation document, the Commission rightly observed that 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 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.

#### **1. What are your views on the objectives of possible EU action set out in Section 6.1?**

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, and it is important that this is appropriately reflected through an **adequate learning and training component**.

BusinessEurope also recognises the relevance of **fostering access to traineeships**. Whereas this is facilitated in the case of traineeships that are part of formal education and training, individuals looking for a traineeship in an open market context may need additional support and guidance to find a traineeship that matches their interests and

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<sup>1</sup> [https://www.busesseurope.eu/sites/buseur/files/media/position\\_papers/social/2023-09-12\\_busesseurope\\_response\\_first\\_stage\\_consultation\\_traineeships.pdf](https://www.busesseurope.eu/sites/buseur/files/media/position_papers/social/2023-09-12_busesseurope_response_first_stage_consultation_traineeships.pdf)

learning and career development. As such, guidance, and support, particularly through Public Employment Services as well as other bodies can be particularly important.

The existing Council Recommendation already includes the principle whereby traineeship providers are encouraged to include information in the vacancy notice about the terms and conditions of a traineeship, including as concerns whether an allowance and/or compensation and health and accident insurance are applicable. As a principle this can provide guidance to employers. However, it is also important to take into account existing national practices. An obligation for companies to disclose sensitive information in their vacancy notices such as remuneration, however, is not in line with many existing national laws and practices and therefore not acceptable.

## **2. What are your views on the possible avenues for EU action set out in Section 6.2?**

With regard to the issues raised in the consultation document as possible avenues for EU action, BusinessEurope's views are as follows:

### Identifying a common understanding at EU level on the main features that are considered to signify the misuse of traineeships

- Having an *indicative* common understanding of what constitutes the misuse of traineeships would be a useful step to ensure that all relevant actors, especially employers, trainees, regulatory authorities, have an objective set of criteria against which to assess the conduct of a traineeship. This would also have the benefit of circumventing subjective views and perceptions that can distort the reality.

### Setting a maximum duration for a traineeship (or the sum of several traineeships)

- The existing Council Recommendation already outlines that traineeships should typically not exceed a reasonable duration of up to 6 months unless this is justified under existing national approaches and conditions. Retaining this approach is a sensible way forward with the addition that this can include a single traineeship or several traineeships.
- Conversely, we do not see the added value of establishing a minimum duration. This would be excessive interference.

### Previous work experience

- On the basis that traineeships are typically a first work experience, BusinessEurope agrees that employers should not, in principle, require candidates for traineeship positions to have previous work experience in the field of activity.

### Checks and inspections

- BusinessEurope agrees that national authorities should carry out checks and inspections, including as concerns the conduct of traineeships, in line with their existing role as the responsible national authorities for enforcing legislation and while being conscious not to increase reporting obligations for employers.

- This point also relates to the possibility for trainees to have access to, and be aware of, their rights.

#### Principle of fair remuneration

- 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.
- Equally, the second stage consultation document rightly acknowledges that in cases where trainees are remunerated, they can receive less remuneration than regular workers on the basis that a traineeship is a period of work experience and on the job training. This is important to reflect in any future initiative because it is widely accepted that trainees are not as skilled and competent as a full employee, because they are in a process of learning, and so there are sufficient objective grounds for a lower level of remuneration, in cases where there is an employment contract and remuneration is applicable. In other cases outside of an employment relationship it is most appropriate to refer to compensation.
- BusinessEurope does not support the notion of further transparency around remuneration structures. This information is rarely publicly available for regular employees and so it is disproportionate to expect companies to provide such information in terms of how the possible remuneration of trainees relates to that of full employees.

#### Enhancing the learning content

- BusinessEurope fully recognises the importance of learning and training content that leads to enhancing the employability of trainees after completing their traineeship. However, we reject the proposal for establishing a legal obligation as concerns training objectives.
- Similarly, learning agreements do not necessarily have to be written. The main thing is that there is a learning and training content that is identified as relevant and appropriate by the employer and the trainee, but this does not have to be in a written form.
- As concerns the suggestion that there could be updated principles strengthening the provision of information on mentoring, supervision, and evaluation, it needs to be acknowledged that trainees are already typically assigned a mentor/supervisor in the company. A further call advising companies not already doing this to put such a structure in place would be sufficient. The notion of evaluation should not become too formal or bureaucratic to the point that it becomes a reporting requirement by companies. Upon completion of a traineeship a feedback session between the trainee and mentor/supervisor would be sufficient in terms of giving both parties the chance to comment on how the traineeship went and possible issues to address in the future.

#### Cross border mobility of trainees

- While this can be a useful opportunity, it should be seen as a nice add-on, rather than an essential aspect of any future initiative. In this respect, BusinessEurope would agree with the relevance of improving information provision for employers and trainees when it comes to traineeship opportunities as well as the applicable

legal framework in combination with simplified administrative procedures. This is something that the European Labour Authority would be well placed to work on.

### **3. What are your views on the possible EU policy instruments presented in Section 6.3?**

As indicated in our response to the first-stage Commission consultation of the social partners on traineeships, we consider that a reinforced Council Recommendation is a more adequate answer than a directive to deal with some new issues that have emerged in relation with open market traineeships, for example as concerns remote or hybrid traineeships and cross-border traineeships.

BusinessEurope does not see the need for a directive for addressing the issues that are presented in the consultation document and which we have elaborated in the question above.

**BusinessEurope is against the misuse of traineeships, and we consider that better enforcement of the existing rules and practices via national inspectorates and authorities is the most appropriate way to address such issues, where they occur, rather than proposing binding legislation at EU level.**

Finally, we don't see grounds for extending the scope of the Council Recommendation to cover traineeships that are part of formal education and training. Within this it is important to acknowledge the varying role that national and sectoral social partners play in national vocational training systems, taking into account national industrial relations systems and education and training practices. There is a need for flexibility within different national settings in line with diverse national practices.

### **4. Are the European social partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in Section 6.1?**

BusinessEurope does not identify scope for engaging in a European level social dialogue process on the issue of traineeships.

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