

Strengthening Quality Traineeships: Clearer Rules and Framework Needed

Position paper | June 2024

Executive summary

HOTREC acknowledges the European Commission's proposals for a [Directive on Traineeships](#) and a [Council Recommendation on a reinforced Quality Framework for Traineeships](#) (QFT). More clarity is needed however, especially for SMEs.

HOTREC's main priorities on the Traineeships Directive are as follows:

- It is unclear **what type of traineeship is addressed**. If the intention is to cover open-market traineeships, part of a labour relationship, this should be clearly explained.
- In countries where open-market traineeships exist, the trainee is already protected by national labour law or collective bargaining, as there is a labour relationship. **Further legislation is not needed.**
- The Directive **should not create a new category of worker** at EU level.
- **Red tape should be cut**, where possible, and reasonable timeframes considered, especially for SMEs.
- Definitions of traineeship and trainee **are inconsistent**.
- Collective bargaining agreements **should be able to derogate** from the Directive.
- There **should not be an overlap** between apprenticeship schemes and open-market traineeships.
- Instead of a new Directive, **a revision of the [Council Recommendation on QFT](#) is more appropriate.**

On the Council Recommendation on a reinforced QFT:

- **All traineeships should not be included**, subsidiarity must prevail.
- **Remuneration should not be made compulsory**, compensation is often a fair alternative.

Traineeships Directive

CONTEXT

HOTREC, the European Association of Hotels, Restaurants and Cafés in Europe takes note of the proposal for a [Directive on Traineeships](#).

Since the aftermath of the pandemic, the hospitality sector is faced with skill gaps (which was already an issue before the pandemic) and labour shortages. In September 2022, the sector lacked an average of 10 to 20 % of its workforce¹.

A solution to overcome these challenges would be to reinforce and adjust education and training strategies at national level, and continue upskilling and reskilling the workforce. Such actions would help attract and retain talent in the sector.

The wording of the proposed Directive and the revision of the Council Recommendation **will not help the sector overcome skill gaps and labour shortages**.

GENERAL REMARKS

There is a clear difference between trainees and employees. The objective of traineeships is to improve the skills of trainees, provide them with relevant work experience and facilitate their employability in the labour market.

HOTREC understands that this proposal aims to legislate a very particular situation: **open-market traineeships that involve labour relationships**. This should be well explained in the Directive. As it stands, prospective trainees might find it difficult to understand which type of traineeship the Directive applies to (e.g. traineeships as a key component of educational curricula; mandatory traineeships as part of a professional training; traineeships as part of active labour market policies; or open-market traineeships).

Moreover, **social partners should be able to derogate from the Directive**, if they are willing to stipulate their own terms and conditions on trainings ruled by an employment relationship. The autonomy of social partners should be respected, and subsidiarity should prevail.

The proposal for a Directive foresees an element of **administrative burden** for companies that will be required by competent authorities to comply with detailed reporting as part of investigations. The hospitality sector represents 2 million companies (99% of which are SMEs). Considering this, competent authorities must only initiate investigations based on serious reports with credible evidence received, not arbitrarily. Additional administrative burden should be avoided, when possible, and timeframes should be reasonable. Otherwise, companies, SMEs in particular, can be demotivated to organise trainings in their premises.²

1. [HOTREC position paper on labour shortages in the hospitality sector, page 2](#)

2. We therefore fully support recital 39 of the proposal, which requires Member States "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."



Furthermore, we consider that there **should not be an overlap between apprenticeships developed under a contract of employment and open-market traineeships**. A clear distinction should be established between these two types of work-based learning. Apprenticeships based on an employment contractual relationship should be free to follow national law, regulations or administrative provisions or collective bargaining agreements in place. We therefore call for the deletion of recital 17.

As stated in its submission to the consultation process of social partners, HOTREC considers that the existing Council Recommendation on a European [Quality Framework for Traineeships](#) (QFT) is still valid, and therefore believes that a **new Directive on the matter is inappropriate and unnecessary, particularly considering the principle of subsidiarity that applies to the fields of education and employment**. Moreover, HOTREC finds that this initiative will not improve the sector to overcome skills and labour shortages.

DEFINITIONS: Article 2

Clarify the scope of the Directive

HOTREC suggests that the Directive provides for a definition of open-market traineeships, if it is the intention to address these types of traineeships³.

Art. 2/2 states that a “trainee is any person undertaking a traineeship who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in every Member State with consideration to the case law of the Court of Justice”.

HOTREC believes that this definition might interfere with Member States’ competences or established collective bargaining at national level and **will create a new category of worker at EU level**. A definition of “worker” should be left to the national level. Moreover, trainees who are considered workers are already covered by EU and national legislation.

Overall, there is a **lack of consistency between the definitions of ‘trainee’ and ‘traineeship’**, as the definition of ‘trainee’ requires the existence of an employment contract or an employment relationship, while the definition of ‘traineeship’ does not⁴.

PRINCIPLE OF NON-DISCRIMINATION: Article 3

Compensation or lower remuneration fairly justified

The article calls for the equal treatment of trainees and workers, if they hold a comparable working situation to a regular employee, in terms of pay and working conditions.

HOTREC agrees with this principle. But as it is acknowledged in the Directive, traineeships can be characterised by “different tasks, lower responsibilities, work intensity or the weight of the learning and training component”. A trainee is meant to gain a learning experience. An employee will be asked to perform a task in terms of skills and qualifications. Therefore, we consider that a **compensation or lower remuneration can be fairly justified**.

For instance, in Belgium, open-market traineeships are regulated by the so-called “*convention d’immersion professionnelle*” – professional immersion agreement. Currently the compensation corresponds to at least half of the minimum wage. The scheme also includes work accident coverage.

In Austria, the collective agreement stipulates that trainees who work in companies for a certain period of time due to training regulations are paid less. The reason for the slightly lower pay is the training nature of the employment relationship. Trainees have an employment contract, and both the collective agreement and national labour law are applicable.

As already mentioned, we also consider that social partners should be able to **reach collective bargaining agreements that might derogate from the proposed Directive** – their autonomy should be respected.

3. For inspirational purposes, the Commission report on “European Network of Public Employment Services – Remuneration on open-market traineeships in the EU-27” defines open-market trainings, as non-mandatory, bilateral, and private agreements between a trainee and an employer – page 6.

4. A “traineeship” is defined in Art. 2/a of the Commission proposal, as 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 transition to a regular employment relationship or accessing a profession.

MEASURES: Article 4

Reporting obligations should be minimal, where possible, especially for SMEs

To combat regular employment relationships disguised as traineeships, the proposal sets out certain measures. Member States should provide effective controls and inspections to detect and enforce measures against practices where a regular employment relationship is disguised as a traineeship. However, **reporting obligations for employers should be minimal, where possible, especially for SMEs**, and investigations should be initiated based on serious petitions with credible evidence received, not arbitrarily.

Nevertheless, please refer to the comments in the previous section noting that **there are justified reasons to treat differently a trainee and a regular employee**, even if the traineeship is ruled by an employment

ASSESSMENT: Article 5

Limit the administrative burden, especially for SMEs

The article outlines the factual elements to determine whether a traineeship constitutes a regular employment relationship.

We consider positive to have an indicative orientation of bogus traineeships that is commonly followed by employers, trainees and national authorities.

Art.5/2 provides an **indicative list** of information that employers might be requested to deliver (e.g. description of the learning and training components of traineeships). As explained in the previous section, the **administrative burden** put on companies, especially SMEs, should be **considered and limited** as much as possible and be dealt with in a proportionate manner.

Art.5/3/a aims that Member States define a time-limit indicating excessive duration of a traineeship and of repeated, including consecutive, traineeships with the same employer. HOTREC considers that this approach **does not respect Members States' practices and collective agreements in place**.

For instance, in Finland, a person can complete, with the same employer, a traineeship for vocational school studies and another one for higher education studies. Vocational Education and Training can also include trainees that are longer than 6 months. The aim is to better prepare the trainees for the working life and to provide them with more competencies and skills.

We fully agree that Member States may provide for exceptions to the time-limit to art 5/3/a in cases where a longer duration is justified on objective grounds. Art 5/3/b should use the expression "compensation" instead of "pay" – please see justification Art. 3.

Overall, we prefer the recommendations contained in the [QFT from 2014](#) which stipulates that traineeships should not exceed a duration of up to 6 months unless this is justified by national approaches and conditions (paragraph 10).



PROTECTION: Article 9

Trainees' rights are already protected by national legislation or collective agreements

This article is supposed to protect trainees against adverse treatment and consequences. However, if the Directive is addressed to trainees who are considered workers and operate under an employment relationship, then their rights are already covered by national legislation or collective agreements. The possibility and conditions for the trainees to invoke their rights, or in the case of employment relationships terminated without justification, are already provided in other legislation. This article is unnecessary and should therefore be removed.

REPORTING AND REVIEW: Article 13

We encourage the Commission to gather more information on how open-market traineeships work at national level. A study on the topic would be welcome.

Recommendation on the Quality Framework for Traineeships

GENERAL REMARKS

- **Scope** (para 2): The scope of the Recommendation cannot be broadened to include all traineeships, namely by including traineeships provided as part of formal education and training⁵. As indicated in the Commission's analysis document undertaken during the consultation phase, trainees or traineeships that are part of formal education or training curricula are usually classified as students. Therefore, according to Art. 165/4 and 166/4 TFEU, legislative action aimed at harmonising laws and regulations of Member States is not possible.
- **Learning outcomes** (para 4): We agree that a flexible general agreement on the learning outcomes is established between the employer and the trainee based on the skills of the trainees and the needs of the employer.
- **Compensation/Remuneration** (para 6): In open-market traineeships, pay is already legislated at national level. The QFT reference to compensation might be more appropriate as it could take other forms into account than strictly monetary. In fact, trainees do not have the same work experience and knowledge as employees, and the employer also invests resources to supervise and mentor the trainee, which impacts productivity (especially in the hospitality sector, mainly composed of micro-enterprises). Mandatory pay, including reference to it in QFT Recommendations, might discourage companies, particularly SMEs and microenterprises in the sector from providing traineeships.
- **Mentor and supervisor** (para 8 + 9): HOTREC proposes to merge these two paragraphs because a mentor and supervisor can be the same person, particularly for SMEs and microenterprises, which make up over 90% of the hospitality sector.
- **Other procedures**: An evaluation can be done via a meeting at the end of the training between the mentor and the trainee. Any extra written obligations for the employer should be avoided, as they would constitute a burden (para 4). A certificate of the training is relevant (para 17).
- **Cross-border** (para 25): This should not be mandatory, due to the extra cost for the employer (if a trainee is sent away, another person needs to replace him/her – compensation and social security might need to be paid twice, depending on the country). Information provided to employers and trainees on the different opportunities should be further disseminated.

HOTREC SUGGESTIONS

HOTREC agrees that some aspects of the Recommendation (QFT) can be updated (e.g. applying the concept of inclusive traineeships; applying a reinforced quality framework). **Effective monitoring or evaluation mechanisms, and better awareness raising** to employers and employees about the quality principles of the QFT could be enhanced.

5. The proposal seeks to extend the scope of the 2014 Council Recommendation on Quality Framework for Traineeships, which only applies to open market traineeships and to traineeships as part of active labour market policies, to two additional types of traineeships: traineeships that are part of curricula of formal education and training, and traineeships that are a mandatory requirement to access a certain profession.

