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WORKING DOCUMENT

From: To:	Presidency Delegations
N° Cion doc.:	8148/1/24 REV1 + ADDs 1-5
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships ('Traineeships Directive')

In view of the meeting of the Social Questions Working Party on 4 November, delegations will find, attached, a Presidency note on the Proposal for a Directive on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships (Traineeships Directive) (EU) 2024/0068, to serve as a basis for an exchange of views.

Delegations are invited to prepare their oral interventions, considering that no written contributions will be requested. For each topic, the Presidency will ask the views of delegations in one full round of oral comments. For the sake of clarity, each topic will be taken separately, and Member States are asked to ensure they have separate interventions for each topic.

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Presidency Note

Given the carefully balanced mandates on each side, there are areas the Presidency will need to further explore to better understand Member States positions. The Presidency has set out the issues where further understanding could help to reach a suitable compromise with the Parliament. Please provide any details which you consider are particular to your Member State and could help the Presidency identify where flexibilities might lie.

Guiding questions to the SQWP:

1. Scope

The types of traineeships covered in the mandates of the co-legislators differ and national preferences on how broad the coverage should be remain diverse.

The Council General Approach, specifically, excludes via Article 1a(3) and recitals 16a and 16b the "traineeships that are carried out within the national framework of education and training" and "traineeships carried out as part of active labour market policies". The Parliament's position differs significantly from that of the Council, as the EP mandate covers almost all of these traineeships. For ease of reference, the Presidency has provided a table with the groups included or excluded from the scope, on the basis of the General Approach and the EP mandate.

Please note that the Presidency is aware of the Member States' positions regarding the personal scope and the importance of staying within the legal basis. It would be useful for the Presidency if you can provide further detail on your current position to help us understand where the flexibilities of the Member States lie.

- Would you be open to including in the scope any of the following groups? Please provide your rationale either way.
  - ***Mandatory Professional Traineeships***: Traineeships which are regulated under national law and whose completion is a mandatory requirement to access a specific profession (e.g., medicine, architecture, etc.)
  - ***Active Labour Market Policy Traineeships (ALMP)***: Traineeships which are offered to the unemployed or those at risk of becoming unemployed. For ALMPs there is usually a public institution (most often a public employment service) acting as an intermediary between the training provider and the trainee.

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2. Definition of traineeships

The definition of traineeship indicates, inter alia, how the co-legislators view the purpose of a traineeship and who should be afforded the protections of the Directive. In the Council's mandate, traineeships are undertaken with a view to improving employability and facilitating professional transition (General Approach, Article 2(1)(a)). The Parliament's mandate considers a different definition should apply; according to their definition, traineeship means entry-level work undertaken with a view to facilitating the transition from education to a standard employment relationship or to accessing a profession. Presidency has explained during negotiations that the Council's mandate is broader in this regard. The Council's definition covers traineeships supporting professional transition e.g. from one type of employment to another (reskilling/upskilling) or from unemployment to employment (even if not permanent). On the other side, the Parliament places considerable value on early-career and entry-level traineeships.

- Can you accept a definition of traineeships which would include wording that builds on the Council's definition and also places an emphasis on entry-level work and/or the transition from education to employment?

3. Other Union law

Recital 9 of the Directive refers to the considerable existing legal framework applying to trainees who are workers (this list should nevertheless not be seen as exhaustive).

Based on the reasoning that the trainees are in a vulnerable labour market position (short term contracts, power dynamics, etc.), Articles 7 to 9 of the Commission proposal and the EP mandate give trainees extra procedural support to claim their existing material rights, not only under this Directive, but also under other Union labour law. If included, trainees could, on this basis, enforce not just rights arising from this Directive but also, e.g., working time rules, non-discrimination rules from other acts, health and safety rules, etc. The Commission and the Parliament argue that this is coherent with the objective of Chapter IV which is about implementation and enforcement of relevant Union law.

- Can you agree that the procedures made available under this Directive can be used by trainees to enforce their rights not only deriving from this Directive but from other EU labour law applicable to workers?
- Should this concern rights arising from all labour law applicable to workers or only the legislative acts contained in Recital 9?

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Annex

Scope (types of traineeships) as in the mandate of the co-legislators

Type		**EP**	**Council General Approach**
Open Market Traineeships		Included	Included (Paid trainees with an employment contract)
Traineeships carried out within the national framework of education and training[1]	Vocational education and training relationships	Excluded if mandatory and undertaken solely to obtain academic or professional credits Included if non-mandatory	Excluded
	Apprenticeships	Excluded	Excluded
	Curricular traineeships which are carried out within the framework of formal education, including those that are a prerequisite to start formal education or vocational education and training	Excluded if mandatory and undertaken solely to obtain academic or professional credits Included if non-mandatory	Excluded
	Traineeships that are obligatory in order to achieve a specific degree or qualification	Included	Excluded
	Statutory professional traineeships (covered by Directive 2005/36/EC)	Included	Excluded
ALMP traineeships[2]		Included	Excluded

[1] Detailed as in General Approach, Art 1a3 and Recitals 16a
[2] Detailed as in General Approach, Art 1a3 and Recitals 16b

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