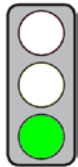


KEY ISSUES

Objective of the Recommendation: The Member States will prescribe standard working conditions for traineeships.

Affected parties: Businesses and trainees.



Pro: (1) Traineeship agreements improve legal certainty, both for trainees and businesses.

(2) The EU-wide advertising of traineeships in EURES may increase the number of cross-border traineeships.

Contra: –

CONTENT

Title

Proposal COM(2013) 857 of 4 December 2014 for a Council **Recommendation** on a **Quality Framework for Traineeships**

Brief Summary

Note: The numbering corresponds to the Commission Proposal.

► Context and objective

- According to the Commission, traineeships – particularly those with high quality learning content and working conditions – provide an important entry point into the world of work for young people.
- In the Commission's view, the potential of traineeships is not being fully exploited because
 - the content and working conditions of many traineeships are inadequate,
 - businesses substitute regular jobs with traineeships and
 - only a few traineeships are completed abroad (Eurobarometer No. 378).
- The Commission sees the fact that traineeships are regulated differently – and sometimes not at all – in the Member States as a key reason for the low number of transnational traineeships.
- With a "Quality Framework for Traineeships" (QFT), the Commission wants
 - to establish EU-wide minimum standards,
 - improve the working conditions and quality of the content of traineeships and
 - increase the cross-border mobility of trainees.
- In public consultations, the majority of stakeholders argued against a binding Directive and in favour of a non-binding Council Recommendation.

► Scope

- The QFT only applies to "open market" traineeships. These are traineeships where no third party, such as an educational institution, is responsible for the learning content.
- The QFT does not apply to traineeships which
 - are part of academic and/or vocational curricula or
 - are a requirement for practising a certain profession and are regulated by national legislation.
- The recommendations will be adopted into national law or existing practice (No. 1).

► Traineeship agreement

- The Member States will guarantee that traineeship providers and trainees conclude a written traineeship agreement (No. 2).
- The traineeship agreement will contain:
 - the learning objectives and tasks (No. 4),
 - the rights and obligations, such as confidentiality clauses (No. 9),
 - the name of the trainee's supervisor (No. 5),
 - the working conditions, such as working hours and holiday entitlement (No. 6),
 - the rules on health and accident insurance as well as sick leave during the traineeship (No. 7 and 8),
 - whether remuneration and/or an expense allowance are payable and at what rate (No. 7 and 8) and
 - the duration of the traineeship (No. 3).
- Traineeships should, as a rule, last no more than six months. Exceptions are permitted, e.g. for in-house training programmes or traineeships in another Member State (No. 10).

- The Member States will determine the conditions under which a traineeship may be extended or "renewed" after expiry of the agreed duration (No. 11).
- The notice period for traineeship agreements should be two weeks for both parties (No. 12).
- ▶ **Training certificate**
The traineeship provider will provide written confirmation of the skills acquired (No. 13).
- ▶ **Transparency requirements**
Advertisements for traineeships will include information about the conditions of the traineeship, particularly remuneration, working conditions and social protection. Employment services will provide guidance on these points. (No. 14)
- ▶ **Cross-border traineeships**
 - The national employment services will publish traineeship vacancies in their national job portals and in the European job portal "EURES-Portal" (No. 17).
 - The Commission wants to work together with the Member States to set up an information website about the various national legal frameworks for traineeships (No. 28).
 - The Member States will remove any mobility restrictions on cross-border traineeships – such as high administrative costs or unclear rules (No. 16).
- ▶ **EU Funding**
 - The Commission wants to give financial support to the cross-border traineeships offered under the new funding programme for education, training, youth and sport "Erasmus +" (No. 27).
 - In order to promote traineeships, the Member States will make use of the European Social Fund (ESF), the European Regional Development Fund (ERDF) and "other funds" in the 2014–2020 programming period (No. 18 and 26).
- ▶ **Implementation of the Quality Framework for Traineeships**
 - The Member States will implement the QFT by no later than the end of 2014 and notify the Commission of the authority in charge of this implementation (No. 19 and 20).
 - The social partners, employment services and (vocational) educational institutions will be involved in the implementation of the QFT (No. 15, 21 and 22).
 - The Commission monitors, analyses and reports on the implementation of the QFT (No. 23 and 24).

Statement on Subsidiarity by the Commission

By comparison with national solutions, applying EU-wide standards to the information about traineeship conditions has the advantage that, in relation to transnational job searches, it is easier for trainees to compare all the relevant information. This strengthens cross-border mobility. In addition, standards for the 28 Member States can be defined faster if the EU assumes a coordinating role.

Policy Context

In a resolution of 14 June 2012 [2012/2647(RSP)], the European Parliament called for a Council Recommendation on a quality framework for traineeships. The Commission announced the QFT in the Youth Employment Package [COM(2012) 727] and in the Communication on combating youth unemployment [COM(2013) 447, see [cepPolicyBrief](#)]. In the run-up, there were consultations both with the public and with the social partners. The QFT aims to support the implementation of the Youth Guarantee [COM(2012) 729, see [cepPolicyBrief](#)].

Legislative Procedure

4 December 2013	Adoption by the Commission
Open	Adoption by the Council, publication in the Official Journal of the European Union, entry into force

Options for Influencing the Political Process

Leading Directorate General:	DG Employment and Social Affairs (leading)
Committees of the European Parliament:	Employment (leading), Rapporteur TBA
Federal Ministries:	Family (leading)
Committees of the German Bundestag:	Employment (leading); Economic Affairs; Family
Decision-making mode in the Council:	Qualified majority (Adoption by a majority of the Member States and with 260 of 352 votes; Germany: 29 votes)

Formalities:

Legislative competence:	Art. 153, 166 and 292 TFEU (Employment conditions, vocational training)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Legislative procedure:	Art. 292 TFEU (Sui generis procedure)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

With its proposal, the Commission correctly restricts itself to "open market" traineeships because other traineeships are already sufficiently regulated either by academic institutions, vocational training schemes or national legislation.

In addition to providing further qualifications, traineeships also provide the opportunity of getting to know different types of business and facilitate the choice of, and entry into, a profession. Written **traineeship agreements improve legal certainty** in this regard, **both for trainees and businesses**. The inclusion of learning objectives and trainee tasks in the traineeship agreement gives greater weight to the traineeship as a qualification. However, the type and amount of details to be included must not place too much of an administrative burden on businesses as to make traineeships unattractive.

A basic restriction on the duration of the traineeship to six months is justifiable because, during the course of the traineeship, the trainee's expertise increases and thus also the likelihood that the trainee will take over the work of a regular employee and de facto replacing him. Although this generally also applies to foreign traineeships the exception applicable to foreign traineeships can be justified due to the higher cost of workplace training and the desire to promote foreign traineeships.

The "low" number of cross-border traineeships is less the result of differing regulations in the Member States and more to do with the importance of cultural differences and language barriers. EU-wide minimum standards for traineeships alone will not therefore have any appreciable positive effect.

Impact on Efficiency and Individual Freedom of Choice

To support cross-border traineeships is appropriate because an increase in cross-border traineeships will also give rise to an increase in workforce mobility. This will be beneficial both to young people from countries with high youth unemployment, because it will increase their individual freedom of choice when looking for work, and to businesses in Member States with a large number of job vacancies. The method of funding is critical however. Financial support for cross-border traineeships from EU funds always results in inefficiencies due to the "dead-weight effect". **The EU-wide advertising of traineeships in EURES**, on the other hand, **can effectively increase the number of cross-border traineeships** – without any negative effects and at a lower cost.

Impact on Growth and Employment

An increasing number of cross-border traineeships has a positive effect on growth and employment because employees with international experience are sought after in many sectors. Where, however, as a result of over-restrictive regulation, traineeship places become unattractive, young people will find the transition from education to work more difficult because traineeships are an important entry point into the world of work. Potential for growth and employment would therefore be wasted.

Impact on Europe as a Business Location

Negligible

Legal Assessment

Legislative Competency

Unproblematic. The Council can adopt Recommendations on a proposal from the Commission (Art. 292 TFEU). The requirement is that the EU has institutional competence, i.e. competence has been transferred to the EU by the Member States, and the Council must be the competent organ within the EU. The proposed Recommendations relate in particular to employment conditions and vocational training. The EU has institutional competence in both areas (Art. 153 and Art. 166 TFEU). The Council's competence with regard to vocational training derives directly from the competence provision (Art. 166 (4) TFEU). Although there is no such express provision on competence with respect to employment conditions, the Council can also adopt Recommendations if it is authorised to legislate in ordinary or special legislative procedure (Art. 296 TFEU). This is the case for employment conditions (Art. 153 (2) TFEU).

In other respects, the Recommendations fall within the competences transferred because the proposal is limited to standard information for job advertisements and contracts and, in particular, does not provide for standard learning content, remuneration or social insurance obligations.

Subsidiarity

Unproblematic.

Proportionality

Unproblematic. The Council Recommendation has no legally binding effect (Art. 288 TFEU) and is thus a milder form of legislation than the Directive. It is, nevertheless, suitable for achieving the objective because Council Recommendations are voluntary obligations which Member States cannot avoid without reason (Art. 4 (3) TFEU).

Compatibility with EU Law in other Respects

Most Recommendations are already part of European employment law, at least as regards paid traineeships, because, according to the case law of the European Court of Justice, paid traineeships are employment contracts: "The essential feature of an employment relationship is that for a certain period of time a person performs services for and under the direction of another person in return for which he receives remuneration." ECJ, Case 344/87, para. 17) Employee status within the meaning of EU law also applies to part-time employees (ECJ, Case 53/81), in the case of very low pay (ECJ, Case 139/85) and in the case of a two-month fixed term (ECJ, Case c-413/01).

Impact on German Law

There is no law applying specifically to traineeships. In order to comply with the recommendations, certain aspects of employment law would have to be adapted. Thus the limited duration, as well as the extension possibilities and exceptions for foreign traineeships, would have to be incorporated into the law on part-time work and fixed term contracts (TzBfG). Nevertheless, there will be little change in Germany because the Commission Recommendations are largely already contained in the guideline entitled "[Traineeships - Benefits for Trainees and Businesses](#)" available since 2011 and drawn up jointly by the leading business associations and the Federal Ministries of Employment and Education.

Conclusion

Traineeship agreements improve legal certainty both for trainees and businesses. The EU-wide advertising of traineeships in EURES may increase the number of cross-border traineeships.