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PART 1/2

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the documents

Proposal for a Directive of the European Parliament and of the Council on improving and enforcing working conditions of trainees and combating employment relationships disguised as traineeships

and

Proposal for a Council Recommendation on a reinforced Quality Framework for Traineeships and replacing the Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships

{COM(2024) 132 final} - {COM(2024) 133 final} - {SEC(2024) 97 final} - {SWD(2024) 66 final} - {SWD(2024) 68 final}

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Glossary

Term or acronym	Meaning or definition
2014 QFT Recommendation	Council Recommendation on a Quality Framework for Traineeships adopted in 2014
ALMP traineeships	Traineeships which are offered to (young) unemployed or those at risk of becoming unemployed, and there is usually a public institution (most often a PES) acting as an intermediary between the training provider and the trainee.
CBA	Collective bargaining agreements
Education Curricula traineeships (ECT)	Traineeships which refer to work-based learning placements that are part of curricula of formal education and training (school, vocational or higher education and training).
EPSR	European Pillar of Social Rights
EYF	European Youth Forum
NEETs	Young people neither in employment nor in education and training
Open-market traineeships (OMT)	Non-mandatory, bilateral agreements agreed between a trainee and a traineeship provider (public/private/non-profit) without the involvement of a third party and without a formal connection to education or training.
PES	Public employment services
2014 QFT	The Quality Framework for Traineeships, consisting of 21 quality elements to be applied to open market and ALMP traineeships in the EU (set in the 2014 QFT Recommendation, see above)
Reinforced Youth Guarantee (RYG)	Council Recommendation of 30 October 2020 on A Bridge to Jobs – Reinforcing the Youth Guarantee and replacing the Council Recommendation of 22 April 2013 on establishing a Youth Guarantee

Remuneration	In line with CJEU case law, pay or compensation, but may also include benefits in kind (e.g., food vouchers), reimbursement of travel or accommodation costs or special allowances (e.g., for overtime or daily allowance).
SMEs	Small and medium enterprises
Traineeships that are a mandatory requirement to access specific professions (MPT)	Traineeships which are regulated under national law and whose completion is a mandatory requirement to access a specific profession (e.g., medicine, architecture, etc.).
TPWC Directive	Transparent and Predictable Working Conditions Directive (2019/1152)
Youth Guarantee (YG)	(Council Recommendation on establishing the) Youth Guarantee of 22 April 2013

1 INTRODUCTION

1.1 Political and legal context

Pursuant to Article 9 of the Treaty on the Functioning of the European Union (TFEU), the Union, in defining and implementing its policies and activities, is to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

In line with principle 4 ("Active support to employment") of the European Pillar of Social Rights, the 2014 Council Recommendation on a Quality Framework for Traineeships aims to help young people to transition from education, unemployment or inactivity into the labour market, through quality traineeships that enhance their skills and allow them to gain work experience. As announced in the European Pillar of Social Rights Action Plan, in 2023 the Commission carried out an evaluation[1] (thereafter the "evaluation) of the 2014 QFT, which found that there is scope for improvement, notably as regards working conditions.

On 14 June 2023, **the European Parliament (EP) adopted a resolution on quality traineeships in the EU**, in accordance with Article 225 TFEU (thereafter "EP resolution"). It '*calls on the Commission to update and strengthen the 2014 Council Recommendation and to turn it into a stronger legislative instrument*'. The **Commission welcomed the EP resolution** and highlighted its strong commitment to continuing its actions to combat youth unemployment in the EU. Also in view of the political commitment expressed in the President's Political Guidelines to respond to the resolutions based on Article 225 TFEU, the Commission **confirmed its intention to follow up with a legislative proposal** as part of the initiative on a reinforced QFT that was announced in its 2023 Work Programme, in full respect of the Treaty limitations, the principles of proportionality, subsidiarity and better law-making.

The initiative on **Quality Traineeships** is part of the Commission's follow-up to the **Conference on the Future of Europe** and will contribute to the implementation of the **European Pillar of Social Rights Action Plan** and the objectives of the **European Year of Youth** and the **European Year of Skills**. It is also expected to **contribute to the United Nations (UN) Sustainable Development Goals (SDGs)** on poverty (SDG 1), quality education (SDG 4), Decent work and economic growth (SDG 8) and reduced inequalities (SDG 10) and to their respective targets. In the context of the green and digital transition and the shrinking working-age population, there is a need to activate all available talent, in particular young people, and to step up investments in skills across all generations. Traineeships are an important instrument to facilitate access to the labour market and job-to-job transitions and can thereby contribute to alleviating labour and skills shortages.

In line with Article 154 TFEU, the Commission has carried out a two-phase social partners' consultation which took place between 11 July 2023 and 15 September 2023 (first phase) and between 28 September and 9 November (second phase). The social partners decided not to launch the negotiations foreseen in Article 155 TFEU. Their views are reflected throughout this report and a synopsis of the replies has been included in Annex A2.1.

[1] European Commission (2023) Evaluation of the Council Recommendation on a Quality Framework for Traineeships (SWD(2023) 9 final).

1.2 The EU quality framework for traineeships

In March 2014, the Council adopted the Recommendation on a Quality Framework for Traineeships (QFT). The 2014 QFT aimed to set EU-wide quality standards for traineeships and to discourage the offer of traineeships with poor learning content or working conditions. It comprises a list of **21 principles in 10 main areas** (see Annex 6 for details on the principles).

The 2014 QFT Recommendation **defined traineeships as** "*a limited period of work practice, whether paid or not, which includes a learning and training component, undertaken in order to gain practical and professional experience with a view to improving employability and facilitating transition to regular employment*".

Four main types can be identified: Open-market traineeships **(OMT),** Active Labour Market Policy **(ALMP)** traineeships, Education Curricula traineeships **(ECT)** and Traineeships that are a mandatory requirement to access specific professions **(MPT)** (see glossary for definitions). **The 2014 QFT applies to OMT and ALMP traineeships and covers all trainees (i.e. with and without worker status). It does not apply to ECT and MPT.**

2 PROBLEM DEFINITION

Findings of the evaluation: The evaluation of the 2014 QFT found that **quality traineeships, i.e. traineeships that reflect the principles of the QFT**, contribute to increasing young people's employability and help employers to attract, train and retain young talent. However, in terms of effectiveness, it found that the progress toward the objective of the 2014 QFT to ensure more coherent regulatory approaches across Member States had been moderate. Concretely, since 2014, 14 Member States introduced changes to integrate QFT principles in their national legislation or policy frameworks. As for *conformity* to the QFT principles (i.e. the extent to which national legislation/frameworks integrate all principles fully), seven Member States were found to be in full conformity as regards OMT (an increase from four in 2016), while for ALMP traineeships, 18 Member States were found to be in full conformity with the QFT principles (an increase from 15 in 2016).

The evaluation also found that strengthened monitoring and enforcement was needed to improve the practical application of the quality principles on the ground, which is lagging behind in most Member States.

As for the non-binding nature of the QFT, the evaluation highlighted that though its effectiveness to fully achieve the QFT objectives could be improved, it allowed at the same time flexibility in national approaches to adapt to the diversity of national situations.

Furthermore, the evaluation found that, though the 2014 QFT principles remain relevant, there is a need to strengthen the framework by adding principles on remuneration and access to social protection for trainees, as well as principles on inclusion of vulnerable groups, remote/hybrid traineeships, and mentorship.

The evaluation identified that quality issues were more prevalent for OMT compared to ALMP traineeships, as the latter are known to be highly regulated in most Member States and, as illustrated above, were found to be highly conform to the 2014 QFT principles. Nevertheless, the additional quality principles identified by the evaluation as needed to strengthen the 2014

QFT are of importance for the quality of both OMT and ALMP traineeships. The evaluation also highlighted the need to reflect on extending the scope of the QFT to include traineeships that are part of formal education and training to improve coherence across the different types of traineeships.

Regulatory approaches to traineeships at national level: Trainees in the EU have different legal statuses in national law, depending on Member States' regulatory approaches and the type of traineeship. According to the results of the legal analysis under the supporting study, broadly three types of regulatory approaches can be distinguished: specific regulation, coverage by (statutory) labour law, no regulation (status depending on content of bilateral agreement). Annex A9.1 includes a detailed analysis per traineeship type and by Member State. These approaches mostly co-exist in Member States, and usually vary according to the type of traineeship.

Importantly, in many Member States (e.g. 23 Member States in the case of OMT) **unpaid traineeships are legally possible**. This is usually the case where unpaid traineeship contracts or "voluntary" traineeship schemes exist or when there is no regulation for traineeships.

Definition of an EU worker at EU level and limits of EU action: The **concept of "worker" under EU law** has been developed in the case law of the Court of Justice of the European Union, often synthesised in the Lawrie-Blum and Levin "formula"[2], i.e. that a person can be considered as worker given that "the person (1) pursues activities that are real and genuine which are performed (2) under the supervision of another person (3) in return for remuneration". Following the latter, **unpaid trainees cannot be considered "workers" within the meaning of EU law**.

2.1 What are the problems?

The identified problems are (1) the **problematic use** of traineeships by traineeship providers, (2) the **poor quality** of traineeships and (3) the **unequal access** to traineeships. The findings of these challenges are based on evidence gathered through the evaluation, consultation of social partners (Annex A2.1) and the study carried out to support the development of this initiative (thereafter "the supporting study")[3]. Problems have been identified both for paid and unpaid traineeships, and in all types of traineeships (OMT, ALMP, ECT and MPT) although to varying degree in the different traineeship types (see Annex 10). These problems are relevant to all trainees: those considered as workers (proxied by paid trainees) and those who are not (mainly unpaid trainees, see definition of workers in section 1.2), however to different extents as described below. The section below provides definitions of the terms used in this report in view of distinguishing between "non-problematic traineeships" and "quality" traineeships as follows:

Regarding Problem 1:

- A **non-problematic traineeship** is a lawful traineeship. It is used for its intended purpose (i.e. a genuine traineeship providing the trainee with a learning experience on the job) and

[2] O'Brien et al. 2016.
[3] Study exploring the context, challenges and possible solutions in relation to the quality of traineeships in the EU, forthcoming (VT/2022/047).

the rights of trainees comply with the applicable EU and/or national legislation. A non-problematic traineeship may not be conform with the principles of the 2014 QFT where these principles have not been integrated into binding law. A non-problematic traineeship is therefore not necessarily a quality traineeship (see below under problem 2).

- The **problematic use of traineeships** relates to **unlawful practices** by traineeship providers which deprive individuals from rights they are entitled to under EU/national law:
    - Where traineeships **are used** for their intended purpose, they may not comply with the applicable EU or national legislation (**non-compliant traineeships**). This problem may occur for all trainees (considered as workers or not). Trainees who are workers enjoy the protection of the entire EU labour acquis. Non-workers are covered by the EU occupational health and safety legislation and at national level by rules on e.g. working time or leave entitlements (where they exist).
    - Where traineeships **are not used** for their intended purpose, but replace regular (entry-level) employee positions they are **work relationships disguised as traineeships**. In these cases, traineeship providers may circumvent the EU or national law and collective agreements which apply to regular workers. This problem has mainly been identified for trainees who are workers in OMT, ECT and ALMP, and to a lesser extent MPT.

<u>Regarding Problem 2:</u>

- A **quality traineeship** is a non-problematic (lawful) traineeship, that also fulfils the non-binding principles of 2014 QFT. As mentioned above, the evaluation highlighted that some important (relevant) quality principles were missing from the 2014 QFT and would deserve to be taken into account, in particular principles on remuneration and access to social protection.
- **Poor quality traineeships** refer to traineeships that do not fulfil (some of) the existing principles of the 2014 QFT and/or the additional quality elements identified by the evaluation (remuneration, social protection and strengthened learning component). They may be non-problematic (lawful) traineeships, especially where the 2014 QFT implementation in national law is weak. Or they may be non-compliant traineeships, especially where the 2014 QFT is well reflected in national law. They may however never be work relationships disguised as traineeships, as the latter are not traineeships.

  The problem related to the quality of traineeships is relevant to **all trainees (considered as workers or not) and all types of traineeships** (see Annex 10), with some differences in scale. Issues linked to remuneration and access to social protection are more problematic for trainees who are not paid (i.e. not considered as workers), whereas poor learning content may be an issue for all trainees. Most quality issues are found amongst OMT. The principle on maximum duration is less relevant for MPT and some types of ECT (see Annex 10). For the purpose of this Impact Assessment, poor quality traineeships are not included under problematic (i.e. unlawful) uses of traineeships.

The diversity of national regulatory approaches to traineeships results in considerable differences in trainees' access to labour rights and social protection. These differences exist between the same types of traineeships in different Member States and between different types of traineeships in the same Member State. Moreover, considerably different treatment within the same category of trainees is possible in most Member States, depending on whether the

trainee is a (paid) worker or not. For example, 23 Member States allow for both paid and unpaid OMT. This situation puts unpaid trainees (vis-à-vis paid trainees) and providers of paid traineeships (vis-à-vis their competitors providing unpaid traineeships) at an unfair disadvantage.

The identified 'internal' drivers are described in sections 2.3.2 to 2.3.4. Partially, these problems are also influenced by the 'external' drivers that are out of the scope the initiative (see section 2.3.1 and Annex A9.11). Problems, drivers and consequences are summarised in the problem tree (see Annex 11).

Prevalence of trainees: According to the EU-LFS there are **3.1 million trainees** in the EU (2019 data) out of which **1.6 million are paid trainees** (proxy for trainees with legal status of employees[4]) and **1.5 million are unpaid**. Paid traineeships are composed by: ALMP traineeships (36%), ECT (31%), OMT (24%) and MPT (9%). It should be noted that the methodology to estimate the number of trainees in the EU suffers from certain limitations (see Annex 4)[5]. The vast majority (85%) of unpaid traineeships are ECT, while 10% are OMT and 5% ALMP traineeship. In 15 Member States[6] financial support is provided to traineeship providers to encourage or enable traineeships. In one Member State (BG), financial support is provided to improve traineeship quality and in four Member States (BG, SK, IE, ES) to enable hiring trainees following their traineeship[7].

In terms of **sectoral and geographical distribution** (see Annex A7.4), five Member States represent almost 90% of the total number of paid trainees (ca. 1.4 million, 2019 data) in the EU (DE, ES, FR, IT, PL), which are also the Member States with the highest population in the EU. Moreover, five sectors make up the largest share of trainees: manufacturing, retail, health, education and real estate and professional counted more than 1 million (paid) trainees, or close to two-thirds of the total (2019 data). Not all types of traineeships are distributed evenly across sectors. ALMP are concentred (40%) in two main sectors: mining, quarrying and manufacturing; wholesale and retail trade. Italy and Poland account for about two thirds of total ALMP in the EU. Out of all MPT trainees 85% is concentrated in the sectors of education, health and real estate and professional sectors. ECT and OMT are quite spread across sectors. The number of ECT trainees increased strongly in all the service sectors and in particular in transport, storage and communication. Paid ECT traineeships are concentrated (60%) in two countries: Germany and France.

Data limitations of supporting evidence: Significant efforts have been made to collect data to provide an estimate of the size of the problems. However, it should be noted that these estimates are **subject to several limitations (**see Annex 4 for a detailed analysis of the robustness of the data). First, the total number of trainees is likely to be underestimated, this is particularly relevant for unpaid trainees, while data on paid trainees is more accurate. Second, many of the findings are based on surveys, such as the 2023 Eurobarometer and the trainee

[4] Paid trainees are estimated on the basis of the LFS variable 'TEMPREAS' which records the reasons for being temporary employees. The definition of 'employee' is in this case closely related to the definition of a worker under EU law (presence of a written or oral contract, receive a payment in cash or in-kind, work done under supervision).
[5] The EU-LFS is the primary source for labour market statistics in the EU and offers harmonised information across Member States. See Annex 4 for more details as well as a discussion on limitations and assumptions. For example, one of the assumptions is that all MPT are paid.
[6] BG, CY, DE, EL, ES, HR, IT, LU, LV, MT, SK, SI, EL, PL, RO.
[7] Study supporting the evaluation of the Quality Framework for Traineeships (VC/2021/0654), Ecorys (2023).

survey conducted under the evaluation. The relevant results have been interpreted with the full understanding that they represent the views of the respondents, and that they are influenced by their profile, which are not in all cases fully statistically representative of the wider population. Third, quantification of the problem in terms of absolute number was obtained by combining data from two different sources: the 2023 Eurobarometer and EU-LFS data on the number of trainees. Finally, data on work relationships disguised as traineeships exist only for limited elements, namely long duration and poor learning content.

Nevertheless, a compilation of information from literature, case law and surveys, complemented by stakeholder consultations and a two-stage consultation of EU social partners **provided robust evidence for the existence of the problem and its magnitude** (see Annex 4 for all sources used). In particular, the in-depth legal analysis of national regulatory systems carried out under the supporting study identified gaps in these systems that allow for the problematic use of traineeships to arise for current and future trainees if left unaddressed. Regarding the problems of quality and access, the results of the evaluation and the dedicated analysis under the supporting study provide robust evidence to substantiate the problem.

2.1.1 Problematic use of traineeships (P1)

The problematic use of traineeships primarily concerns **issues of fairness and justice between trainees.** At the same time, it can also produce an **uneven playing field between traineeship providers**, which is a particularly acute problem in the case of businesses, including SMEs. Problematic traineeships constitute *de facto* a cost-reduction measure, which creates a situation of unfair competition that, in the medium- and long-term, can prove to be particularly damaging for aggregate business competitiveness. It can lead to businesses relying excessively on such cost-reduction measures rather than investing in innovation, which requires skilled workers. While it is true that the current population of trainees is small in comparison to the overall working population, a suboptimal use of traineeships could in principle cause disproportionally negative effects for business competitiveness, as it would deprive companies of an important source of young talent, which is important to foster growth and innovation[8]. Furthermore, as young people are at the start of their professional career engaging in situations of problematic use of traineeships can have a negative long-term effect on them but also the overall future workforce. As discussed more extensively in section 5.1, certain sectors show an increase in labour demand and a "race for talent," which would arguably dampen the worst effects of the above-mentioned dynamic. However, this is not observable in all sectors, nor can be assumed to continue unabated in the mid- and long-term.

Data on the actual number of work relationships disguised as traineeships and non-compliant traineeships in the EU does not exist. In the majority of Member States dedicated controls and inspection are not carried out. Moreover, the identification of such cases requires a case-by-case assessment of the individual employment relationship and the information collected by labour inspectors is covered by strict confidentiality rules[9]. Therefore, it is not possible to assess whether **geographical regions or specific sectors are more affected by the**

[8] The SME Panel survey conducted as part of this Impact Assessment (see Annex 2) suggests that SMEs benefit significantly from traineeships, including in terms of increased productivity of the company, the ability to develop supervisors' and/or mentors' managerial skills, reduction of labour costs, reduction of training costs (if/when trainees are later hired), as well as their better performance.

[9] See ILO guide on how the labour inspectorate should protect personal and business privacy.

problem. Some indications provided by a 2016 Eurofound study[10] showed significant fraudulent use of traineeships and apprenticeships in 9 (EL, FR, IT, CY, NL, AT, PT, RO, SI) out of the (then) 28 Member States, mainly in the tourism and catering sectors. Further supporting evidence is presented below based on information from literature, case law and surveys.

Non-compliant traineeships

The 2013 Impact Assessment underpinning the 2014 QFT showed that, while in some Member States national legislative frameworks for traineeships existed, there were notable enforcement challenges which deprived trainees of their rights. Principle 6 of the 2014 QFT recommends that Member States ensure that the rights and working conditions of trainees under applicable EU and national law are respected; it also recommends taking appropriate measures to apply the QFT as soon as possible. However, the evaluation showed that **monitoring and enforcement of the relevant national legislation governing traineeships is in many cases not fit for purpose**, limiting the impact of binding regulations.

While the case law on **non-compliance of traineeships with national or EU law** is limited[11], there is further available evidence. In 2022, the European Youth Forum (EYF) reported[12] on the occurrence of illegal OMT in FR and illegal unpaid traineeships in RO. Furthermore, the findings of the ECE legal analysis[13] indicate issues in terms of non-compliance. On MPT, the legal analysis showed that there is a risk of disguised self-employment among lawyer and architect trainees in BE. Issues as regards working time of resident doctors were highlighted in for example EL, ES and HR.

Work relationships disguised as traineeships

The 2013 Impact Assessment underpinning the 2014 QFT showed that there were widespread enforcement challenges related to the use of trainees to replace (permanent) employees. In cases of work relationships disguised as traineeships, the individual performs the tasks of a regular employee but is wrongly treated as a trainee. As a result, the individual is deprived of a genuine learning experience, the full set of worker rights enshrined in labour law and do not enjoy the same working conditions as other employees in the company[14]. This creates an unjustified unfavourable treatment of individuals who are wrongly classified as trainees instead of as regular employees. The risk of work relationships being disguised as traineeships is higher for OMT, but cannot be excluded for the other three types of traineeships[15].

[10] Eurofound (2016) Exploring the fraudulent contracting of work in the European Union, and Eurofound (2017.).) Fraudulent contracting of work: Abusing traineeship status (Austria, Finland, Spain and UK).
[11] See e.g. https://www.justice-en-ligne.be/IMG/pdf/trib._travail_liege_8_novembre_2019_rg_n_171218a.pdf
[12] European Youth Forum (2022) High Quality of Unpaid and Underregulated? Uncovering National Internship Policies in Europe. The report analysed non-compliance in several Member States.
[13] European Centre of Expertise in the field of labour law, employment and labour market policies (ECE), June 2023, Synthesis report on the review of national legislation and case law on trainees (EU27).
[14] Eurofound (2016) Exploring the fraudulent contracting of work in the European Union, and Eurofound (2017.).) Fraudulent contracting of work: Abusing traineeship status (Austria, Finland, Spain and UK).
[15] For the ALMP and ECT traineeships, the involvement of public employment services (PES) and educational institutions can reduce the risk especially in terms of learning content. For the MPT, the involvement of professional associations and the existence of specific national frameworks governing them lower the risk of misuse.

The attention to work relationships disguised as traineeships has been increasing over the last years. It has been raised by the International Labour Organization (ILO)[16] but also by youth organisations[17]. Also, the problem gained policy and media attention following a complaint lodged in 2017 with the ECSR by the European Youth Forum (EYF) on the issues of unpaid traineeships and work relationships disguised as traineeships in BE, on which the ECSR ruled against BE[18]. In addition to the case of BE and evidence presented above, research and case law highlight the issue of work relationships disguised as traineeships in specific countries. Regarding **OMT**, in IT, stakeholders[19] have highlighted the increasing use of traineeships to disguise precarious forms of employment[20] and in DE, cases against employers using traineeships not for intended purpose have been successfully pursued in labour courts,[21] while in SI in at least two cases the Supreme Court requalified a traineeship as an indefinite work contract due to the interplay between fixed-term contract rules (very limited and causal) and the conditions and duration of the traineeships[22]. Evidence also suggests that in some Member States employers use **ALMP trainees** to fill regular employment positions. In IE, the Department of Social Protection reported having investigated 200 companies for abuse on the JobBridge programme, in order to fill regular positions with trainees receiving unemployment benefits in view of gaining a competitive advantage[23]. In ES, stakeholders[24] reported that some training companies provide OMT in their own company with PES subsidies while some traineeship providers require young people looking for traineeship to register as unemployed in order to receive a training benefit[25]. Under the same study focus groups with students also revealed that some companies in specific fields (such ICT), called informally "empresas cárnicas" ("meat companies") are known for recruiting young students as trainees, while in reality they are actually responsible for key tasks in the business and replace regular workers. In FR, while open-market traineeships are prohibited, some employers have been reported to recruit beneficiaries of ALMP in a disguised form of regular employment, while certain fraudulent educational institutions have been reported to offer fictitious courses to be able to set up a tripartite traineeship contract with an employer (in the form of ECT)[26]. In CY, a 2015 report of the Equality body highlighted that Union citizens which come to CY to undertake an ECT engage in private regular employment contracts with employers (outside industrial collective agreements).

A number of elements can serve as indications to distinguish work relationships disguised as traineeships from genuine traineeships. The more elements present, the more likely it is a work

[16] ILO (2020) Promoting Employment and Decent Work in a Changing Landscape, A. Stewart, et. Al (2018), The regulation of internships: A comparative study.
[17] See for instance European Youth Forum on 'Fair traineeships' the focus is on traineeships being paid.
[18] The ECSR judgments have legal force and binding effect on the countries that have ratified the European Social Charter. (European Youth Forum (YFJ) v. Belgium (Complaint No. 150/2017).
[19] The main Italian trade union confederations (Cgil 2020) and other social actors such as the National Youth Council (Consiglio Nazionale Giovani) highlighted this issue, as reported in Jessoula, M., Pavolini, E., Natili, M. and Raitano, M. (2022) ESPN Thematic Report on Access to Social Protection for Young People – Italy.
[20] Jessoula, M., Pavolini, E., Natili, M. and Raitano, M. (2022) ESPN Thematic Report on Access to Social Protection for Young People – Italy.
[21] Waas (2021) Rights and obligations in the context of internships and traineeships: A German perspective, in: ILO (2021) Internships, Employability and the Search for Decent Work Experience.
[22] Judgment of the Supreme Courts: No VIII Ips 112/2003 (2004) and No VIII Ips 279/2005 (2006).
[23] Study supporting the evaluation of the Quality Framework for Traineeships (VC/2021/0654), Ecorys (2023).
[24] Labour Inspectorate, trade unions, student representatives and the Youth Council.
[25] Study supporting the evaluation of the Quality Framework for Traineeships (VC/2021/0654), Ecorys (2023).
[26] Results of the legal analysis which took place for the preparation of this initiative.

relationship disguised as a traineeship. These elements were identified on the basis of the 1) 2014 QFT definition of traineeship, 2) evidence in literature[27], 3) evidence from case law, including the European Committee of Social Rights (ECSR) ruling in the case against BE (see above) and 4) stakeholder views, including interviews under the supporting study[28] and the social partners' consultation (see Annex A8.1 for details on how these elements were identified):

- The **excessive duration** of traineeships and trainees' **previous experience in the field of activity**, gained also by doing **recurrent or consecutive traineeships with the same or different employer**. The former, in principle, refers to traineeships lasting more than six months, with some possible exceptions. Evidence suggests that such traineeships are common in the EU.
- The fact that the trainee is performing the **same/similar tasks with the same intensity and having the same/similar responsibilities** as regular (entry-level) employees combined with the **absence of a significant learning/training component**, which also constitutes an element of a poor-quality traineeship (see sections 2.1.2 and 2.3.3).
- The **high ratio of trainees** within an organisation, pointing to the substitution of employees with trainees[29].

To demonstrate the magnitude of the problem across the EU some rough estimate can be obtained for some specific categories of trainees being at risk of doing work disguised as a traineeship (subject to the data limitations described above). These rough estimates show that in 2019 around 370,000 paid trainees[30] did a traineeship with a long duration (more than 6 months, as per the 2014 QFT), including consecutive/repeated ones with the same employer (see Annex A8.2 and A8.3). The shares are almost evenly distributed among traineeship types: ALMP traineeships (40%) and OMT (26%) and ECT (34%)[31]. Problems with duration are not relevant for MPT. Out of these, around 100,000 trainees did a long duration traineeship with a poor learning content (2019 data[32], see Annex A8.6). Looking at the distribution by traineeship types, about 45% are ALMP traineeships, while OMT and ECT account for about 27% each[33]. Furthermore, roughly 500,000 paid trainees had done multiple traineeships with different employers at some point in their life (see Annex A8.4)[34]. Out of these 36% are ALMP traineeships, 30% are OMT and 34% are ECT[35].

[27] Eurofound (2017) Fraudulent contracting of work: Abusing traineeship status (Austria, Finland, Spain and UK).
[28] Interviewed trade unions, employer associations and youth organisations.
[29] Data on the share of trainees in a company is not available. A cap on the maximum share of trainees in a company, in particular for OMT, is legally defined d in 8 Member States (BG, LT, LU, HU, AT, PL, PT, RO).
[30] This does not include MPT, see section 2.3.2.
[31]Data by Member States is not provided as it is not reliable.
[32] Numbers should be interpreted with caution as they are based on the combination of the results of the Eurobarometer (share of trainees who did traineeships with a total duration longer than 6 months and who also stated that they did not learnt things that were useful professional) and LFS data on the number of paid trainees. Source: Supporting study. This does not include MPT, see section 2.3.2.
[33] Problems with duration do not relate to MPT, see section 2.3.2. Data by Member States is not provided as it is not reliable.
[34] Numbers should be interpreted with caution as they are based on the combination of the results of the Eurobarometer (14% of paid trainees did a traineeship more than 6 months; 1 in 2 trainees (paid and unpaid) did more than one traineeship, ca. 40% of which were with the same employer) and LFS data on the number of trainees, Source: Supporting study.
[35] Problems with duration do not relate to MPT, see section 2.3.2. Data by Member States is not provided as it is not reliable.

2.1.2 Poor quality traineeships (P2)

Poor quality traineeships are those which do not fulfil (some of) these existing QFT principles (baseline scenario) and/or those which carry at least one of the following dimensions identified by the evaluation:1) poor working conditions including lack of or low remuneration; 2) lack of access to social protection; 3) poor learning component, which encompasses learning content (i.e. learning objectives and tasks), and the availability of a mentor.

Data on **sectoral differences between traineeships** is available from the survey conducted by the study supporting the evaluation of the QFT. Evidence shows that some of the sectors with a high number of trainees (see data in the introduction to section 2.1 and Annex A7.4.2), and notably **wholesale & retail trade, health and social work, and education**, are the sectors which obtained the lower scores across (some of) the quality dimensions of the 2014 QFT (where data is available). In terms of overall attitude towards traineeships, there is some variation across the different sectors: for example, 23% of trainees reported a negative attitude in the wholesale & retail trade, transport, accommodation & food sectors while only 10% in the agriculture, forest and fishing, education and construction sectors. Other quality-related indicators point to a more nuanced picture. The study also asked about the implementation across sectors of three principles of the QFT: 1) provision of a written agreement, 2) the stipulation of learning objectives, and 3) the provision of a certificate at the end of the traineeship. Respondents attributed a 65% implementation rate for wholesale and retail trade, 68% for education and 78% for financial & insurance activities. These rates show a certain level of correlation with the (self-reported) labour market outcomes of these traineeships. The study supporting the evaluations showed that 60% of trainees in finance and insurance stated that they found a job after the traineeship as compared to 43% in the wholesale & retail trade, 31% in education, and 34% in health and social work[36] (see Annex A7.4.2 for details).

Working conditions, including remuneration

The 2023 Eurobarometer included, as examples, references to working hours, workload, treatment and access to equipment. While the majority of respondents (70%) indicated that their working conditions (apart from pay) were comparable to that of regular workers, a **considerable share (29%) stated that this is not the case**, with no notable differences among types of traineeships (34% for OMT, 32% for ECT, 31% for ALMP traineeships and 27% for MPT). In 13 Member States (BE, CZ, DK, ES, IT, CY, LV, LT, MT, NL, PL, SI, SK) this share was higher than the EU average (28%) while respondents working in an unskilled position are more likely to state that the working conditions during their last traineeship were not equivalent to those of regular employees.

The most prominent issue in the public debate on the quality of traineeships has been **remuneration**. Remuneration usually consists of pay or compensation, but may also include benefits in kind (e.g., food vouchers), reimbursement of travel or accommodation costs or special allowances (e.g., for overtime or daily allowance)[37]. This problem has two dimensions:

[36] Thes estimates are subject to the limitations presented in the introduction to section 2.1.

[37] In line with CJEU case law remuneration encompass pay regardless of whether it is called "fee", "compensation" or something else (e.g., allowance, benefits in kind or a scholarship) if these forms of remuneration are paid in exchange for the

1) **Many trainees are not paid**. In 2019, there were slightly above 1.5 million unpaid trainees in the EU[38] (48% of total trainees). Across **different traineeship types,** ECT are estimated to account for 85%, OMT for 9.8% and ALMP for 5.2%[39] of unpaid trainees. The 2023 Eurobarometer showed similar results, with 44% respondents stating they did not receive financial compensation. This overarching figure, however, masks considerable cross-country variation: from 60% in BE to 20% in HR. Looking at types of traineeships, 52% of the respondents doing ECT replied they were not paid nor received financial compensation[40]. The share was 42% for OMT, 38% for ALMP traineeships and 35% for MPT[41]. These results are somewhat consistent with the trainee survey carried out during the evaluation[42], showing that 39% of respondents did not receive a monthly financial allowance or compensation and 14% received it only occasionally[43]. **The lack of remuneration for trainees also poses obstacles in terms of access to traineeships**, for all trainees, and in particular those from vulnerable groups. Access to unpaid traineeships is only possible for trainees whose family or other income sources provide the means to cover their living expenses. For trainees who do not have this type of support access to unpaid traineeships is limited.

2) **Among remunerated trainees there may be very different levels of remuneration**, which might not always be fair/proportionate and may indicate the existence of unjustified different treatment with (entry-level) workers[44]. In the trainee survey conducted under the evaluation, 22% of trainees (353,000 trainees) stated that their compensation was not sufficient at all to cover the basic living costs such as rent, food, etc. while 40% stated that it was not sufficient to some extent. In total this corresponds to around 11 million trainees[45]. In the same survey, 54% stated that their remuneration (allowance or compensation) was below the national minimum wage (around 870,000 trainees (proxy)), with the share of respondents being significantly higher among female (36%) than male trainees (17%). Such data is not available by traineeship type. In line with these findings, a recent analysis conducted by the European Youth Forum[46] indicates that paid traineeships may not cover the costs of basic living expenditure in numerous EU countries. Assuming that a traineeship is paid at the annual net earnings of a single person without children earning 50% of the average earning, the study finds that in 12 countries paid traineeships would not compensate trainees enough to cover the costs of living.

Social protection

Regarding access to social protection, **evidence shows that many trainees do not have access to (full) social protection.** This does not only concern trainees who are unpaid/not considered

services performed by the trainee. The level or source of the remuneration is irrelevant. See also CJEU Trojani, C-456/02 and Risak/Dullinger, The concept of 'worker' in EU law, ETUI Report 140, 2018, p. 38.

38 Source: Supporting study, estimates based on LFS see Annex A7.3.

[39] Sources, supporting study, under which all MPT traineeships were assumed to be paid (see Annex 4).

[40] It should be noted that the Eurobarometer questionnaire did not ask whether trainees carrying out an ECT received support (e.g., a grant) for their studies.

[41] It is possible that respondents did not distinguish between ECT and MPT, which would lead to an overestimation of MPT.

[42] Sample of 1836 respondents doing a voluntary traineeship (excluding MPT).

[43] These estimates are subject to the limitations explained in the introduction to section 2.

[44] The Directive on adequate minimum wages allows for variations in the statutory minimum wage for specific groups of workers, if these respect the principles of non-discrimination and proportionality.

[45] The estimates of the absolute number of trainees obtained by combining the response rates from the trainee survey with 2019 LFS data on the prevalence of paid trainees. They are subject to the limitation described above.

[46] Discussion paper: the costs of unpaid internships. 2023. European Youth Forum.

workers, but also those who are paid/considered workers, although to a smaller extent. The 2023 Eurobarometer showed that 27% respondents did not have access to social protection, 28% had access to 'some elements', and only 33% had access like regular employees. Not having access to any social protection is most likely for respondents doing OMT (37% vs 18% for MPT). They are also the least likely to have access to social protection like regular employees (25% vs 39% for MPT). At Member State level, in more than a quarter of the Member States (7) around 1 in 3 respondents stated that they did not have access to social protection (BE: 36%, CY: 35%, FR: 33%, LV: 32%, and EE, LT and DK: 30%). Using the above Eurobarometer results in combination with EU-LFS data leads to the following estimates per traineeship type: 25% of paid and 58% of unpaid OMTs, 18% of paid ALMP and 32% of unpaid ALMP, 17% of paid ECT and 54% of unpaid ECT were not covered by social protection.

Learning content

Quality in terms of learning content is generally considered one of the key elements for traineeships to help transition to stable employment. The majority (77%) of respondents of the 2023 Eurobarometer at least agree that they learnt things that are useful professionally during their traineeship. However, almost 1 in 4 respondents disagree, a share that more than doubled since 2013 (10%). Similar results were obtained by type of traineeships: OMT (26%), ALMP traineeships (25%), MPT (23%) and ECT (21%). The results of the trainee survey conducted for the evaluation were more positive, with 85% agreeing that they learnt things that are useful professionally during their traineeship. However, 13% of respondents did not believe so. Also, 15% stated they did not acquire real-life work experience and 16% stated they did not acquire skills and competences[47]. When comparing paid with unpaid traineeships, the supporting study[48], found no difference in terms of views regarding having learnt professionally useful things during the traineeship. However, a study by Eurofound[49] found that paid trainees were more satisfied with development of skills[50] as part of their traineeship than unpaid trainees, but slightly less satisfied with the learning support received (i.e. through a mentor)[51]. The legal analysis as regards appointing a supervisor and/or a mentor showed that for OMT 9 Member States do not have corresponding legal provisions in place, while this is the case in 3 Member States for ALMP, 4 Member States for ECT and 2 Member States as regards MPT.

2.1.3 Unequal access to traineeships (P3)

P3.1 Groups in vulnerable situations

In the context of the evaluation, national authorities, public employment services (PES), youth organisations and organisations representing persons with disabilities reported that vulnerable young people (in particular from rural areas and in the outermost regions[52], a lower socio-

[47] For example, communication, leadership or teamworking.
[48] Combining data from EU-LFS (2019) and the 2023 Eurobarometer.
[49] Forthcoming Eurofound (2024) report: *Becoming adults - life and work for young people in a post-pandemic world.*
[50] Satisfaction with development of skills (scale 1 – 10, with 10 indicating highest satisfaction): 6.9 paid vs 6.3 unpaid trainees.
[51] Satisfaction with learning support (i.e. mentor, scale 1 – 10, 10 indicating highest): 6.2 paid vs 6.4 unpaid trainees.
[52] Guadeloupe, French Guiana, Martinique, Mayotte, La Réunion, Saint-Martin, Azores & Madeira, Canary Islands.

economic and/or migrant background, the Roma community, and with lower educational attainment) were less able to benefit from traineeships.

This is supported by estimates based on the EU-LFS data and the Eurobarometer results[53]. The prevalence of paid traineeships amongst young people from rural areas is lower compared to those residing in cities (LFS 2019: 21.9% versus 44.8%), while unpaid traineeships are slightly more prevalent in cities (2023 Eurobarometer: 30.2% versus 27.4% in rural areas[54]). The chances for a person from another EU country or a third-country, resident in the country of traineeship, to do a paid traineeship, are 30% lower compared to those of a person who has the nationality of the EU country where the traineeship is taking place. Furthermore, a Eurofound study[55] found that those identifying themselves as from an ethnic minority, a religious minority or with an immigrant background had less traineeship experience (around 39%) than those who did not identify themselves as belonging to those groups (around 53% had at least one traineeship experience). Based on EU-LFS data, the share of young people with a low degree of education undertaking a traineeship is lower than those having a medium or higher educational attainment and these figures remain low even after taking into account that many educational and mandatory traineeships require tertiary education attainment. The 2023 Eurobarometer indicated that a **large share of respondents** disagrees or tends to disagree that young people coming from a disadvantaged socio-economic background (40%), with a migrant background (39%), or with disabilities (46%) have equal access to traineeship opportunities. In almost half of the EU countries[56], 50% or more of the respondents believe that persons with disabilities have less access to traineeships. A Eurofound study[57] found that people with disabilities were a lot less likely to be compensated[58] and that they did more traineeships (4 on average) than those without disabilities (2 on average) before finding a regular job.

The available information on unequal access of vulnerable groups to traineeships does not allow for a breakdown by type of traineeship. However, considering that the objective of ALMP traineeships is reintegration and activation of the unemployed and the inactive, including those harder to reach, it could be deduced that access for those belonging to vulnerable groups to ALMP traineeships should be better compared to the other types of traineeships.

P3.2 Cross-border traineeships

There are indications that **the prevalence of cross-border traineeships has increased** (from 9% in the 2013 Eurobarometer to 21% in 2023), but some people **still face difficulties accessing them**, primarily due to a lack of financial means and the unavailability of relevant information. The costs of cross-border traineeships tend to affect people in socio-economically vulnerable situations more. Trainees have also cited the lack of information on cross-border

[53] The methodology to estimate the number of trainees in the EU suffers from some limitations (see Annex 4). Eurobarometer results are influenced by the self-response bias of the replies provided by respondents as well as by the profile of the respondents to the survey, which was not based on stratified sampling.
[54] No LFS data available on unpaid traineeships.
[55] Forthcoming Eurofound (2024) report: *Becoming adults - life and work for young people in a post-pandemic world.*
[56] AT, BE, CY, DK, EE, EL, FI, IE, LU, LV, PT, SE.
[57] Forthcoming Eurofound (2024) report: *Becoming adults - life and work for young people in a post-pandemic world.*
[58] On whether the traineeship was compensated, 31% of those identifying themselves as a person with disabilities stated yes, versus 53% of those not identifying themselves as a person with disabilities.

traineeships as an obstacle in both the evaluation and the 2023 Eurobarometer. No data exists on the prevalence of the cross-border dimension per traineeship type.

P3.3 Remote/hybrid traineeships

The rise of remote/hybrid traineeships following the COVID-19 pandemic **brought new traineeship opportunities for some, but posed difficulties for groups in vulnerable situations**. Remote traineeships may help to overcome distance to the physical workplace and lower costs, for example for cross-border trainees or for trainees residing in rural and remote areas. However, such opportunities need to fulfil certain enabling conditions, such as appropriate equipment, adequate training and learning opportunities, sufficient connectivity and network security, adequate work arrangements (including supervision, guidance, and mentoring), and a sufficient level of digital skills. Where enabling conditions imply financial costs for trainees (e.g. equipment, network coverage and security and other expenses related to working from home), the impact is likely to be greater on groups in vulnerable situations, including those from a disadvantaged socio-economic background. For employers (in particular some SMEs), limited resources preventing them to cater for a remote/hybrid work environment including adequate digital tools may mean that they attract fewer candidates[59].

Looking into the problem by type of traineeship, the legal analysis as regards formal telework arrangements indicates that these are lacking in 12 Member States for OMT, in 12 Member States for ALMP, 13 Member States for ECT, and 11 Member States for MPT. Hence, the problem exists in all types of traineeships.

2.2 Who is affected by the problems?

The identified problems have consequences for trainees, traineeship providers and society at large (for details see Annex A9.12). Trainees being in a weak position in the labour market are at greater risk of precariousness and insecurity. Specifically, consequences **for trainees** relate to more legal uncertainty and vulnerability, increased precariousness of their working conditions and reduced opportunities for career development/employability. The lack of effective enforcement aggravates the issue as it prevents individuals from enjoying their rights under EU and national labour law.

The consequences for **traineeship providers** relate to a reduced potential pool to recruit from (which can also increase challenges to match trainees' skills with organisational needs), an "uneven playing field" and unfair competition between providers with and without quality traineeships and those using and not using trainees to replace entry-level employment (within and across countries), and a burdensome process to offer quality traineeship opportunities, in particular for SMEs, due to the complexity of the current national rules. Even though the current population of trainees is small in comparison to the overall working population, this can prove to be damaging for business competitiveness, as companies might find it harder to find the talent they need to grow and compete, particularly in innovation-intensive sectors, where the contribution of young and diverse talent is particularly important.

Regarding **society at large,** the identified problems lead to sub-optimal labour market outcomes, including increased unemployment rates. They also result in skills and competences

[59] Hybrid or remote working arrangements, are increasingly priced by workers and this is a factor that can affects workers choice to work in a certain place, see among others McKinsey (2023).

not matching labour market needs, thus reduced productivity, and loss of competitiveness and finally loss of public revenue. Also, poor quality traineeships will not be able to help address the challenges hampering the transition to and achievement of a sustainable Europe by 2050 as identified in the 2023 Strategic Foresight report. Individuals engaged either in work disguised as traineeships or non-complaint traineeships or in poor quality traineeships are at a higher risk of precarious work. This can have a long-term impact in terms of wellbeing, social protection and pensions, placing trainees at a greater risk of poverty and social exclusion.

2.3 What are the problem drivers?

2.3.1 External drivers

The problems outlined above are influenced partially, and sometimes indirectly, by global megatrends affecting labour markets, such as globalisation, digitalisation and ongoing societal changes (including demographic change). These drivers, while having some impact on the problems the EU initiative aims at tackling, are "external" to its scope (see Annex A9.11 for details).

2.3.2 Drivers related to the problematic use of traineeships

D1.1 Absence, complexity and diversity of regulatory frameworks, and insufficient enforcement of applicable law

The absence, complexity and diversity of regulatory frameworks for traineeships and/or trainees observed within and across Member States (see Annex A9.1 for details)[60] **is an obstacle to detecting and combating the problematic use of traineeships,** i.e. work relationships disguised as traineeships and non-compliant traineeships (see 2.1.1 for details).

First, the **absence of worker status for trainees has been identified as an enabling condition for work disguised as traineeships** as it creates legal uncertainty about the applicable rules[61]. The legal analysis showed that in a number of Member States the legal status of trainees depends on whether their traineeship fulfils the conditions of an employment relationship. This is the case in 13 Member States (CZ, DK, EE, IE, EL, HR, LV, MT, NL, AT, SK, FI, SE) where no specific regulation exists for OMT and the working conditions are agreed bilaterally between the trainee and the employer/traineeship provider. This lack of regulation may enable work relationships disguised as traineeships. National labour law may only contain a vague definition of an "employment relationship", making it difficult to determine whether a traineeship fulfils these conditions. The results of the legal analysis show that in several Member States, either such cases have been pursued in judicial procedures, or concern has been raised by stakeholders regarding the correct labour market classification of trainees in their countries.[62]

[60] Source: Legal analysis conducted under the supporting study.
[61] Eurofound (2017) Fraudulent contracting of work: Abusing traineeship status (Austria, Finland, Spain and UK).
[62] The results of the legal analysis under the supporting study showed that in DE, cases against employers misusing traineeships have been successfully pursued in labour courts and BE has been found by the European Committee of Social Rights in breach of the European Social Charter as regards the issue of work relationships disguised as traineeships. In ES courts are often solicited in cases related to the misclassification of traineeships, with several important judgments favouring the conversion of trainees to employees. In IT, stakeholders have highlighted the increasing use of traineeships to disguise precarious forms of employment.

Second, the **complexity and diversity of regulatory approaches** by Member States, including per type of traineeship, result in different legal classifications and corresponding rights of trainees across the EU. This **raises uncertainty about the relevant rules and poses challenges to employers (especially SMEs)** who might not always be aware of their obligations and the rights of trainees, or lack the administrative capacity to ensure compliance, giving rise not only to intended but also to "unintended" work relationships disguised as traineeships and non-compliant traineeships. These findings were supported by interviews with relevant stakeholders under the supporting study and the evaluation. This complexity and diversity may also lead to **non-compliance of traineeships with the rights conferred to "workers" under EU law.** National classifications of trainees may not always be in line with the qualification of 'workers' under EU law[63] which may deprive trainees from some rights they are entitled to under EU law.

It should also be noted that the **diversity of national systems among Member States is associated with unequal access to traineeships** for both trainees and traineeship providers. First, unequal access to trainees by traineeship providers situated in different Member States can result from differing requirements across countries. The same applies to uptake of traineeships. Prevalence rates in EU countries, including the variation in the different traineeship types, provide ample evidence of the effect of regulatory diversity. This heterogeneity is likely to constitute barriers to cross-border traineeships, which are a potential vehicle for a more efficient EU labour market via a better matching of skills and demand. This might also act as a drain on business competitiveness[64].

Third, as shown by the evaluation, **quality monitoring and enforcement mechanisms are missing in many Member States**. Furthermore, according to the legal analysis conducted under the supporting study, in **most Member States there are no systems for inspections or guidance for labour inspectorates with specific reference to traineeships,** for any of the four traineeship types[65] (see Annex A9.4). These findings are confirmed by the survey carried out under the supporting study as 24% of respondents in public authorities indicated that there is no enforcement mechanism to ensure that quality principles are implemented in their countries. Among public authorities which stated that such mechanisms exist in their country, only 26% of respondents (from BE, BG, CZ, EE, IT, LT, MT, NL, AT, SK) noted that such mechanisms are based on inspections, 18% (from BE, DK, IT, LU, NL, SK) indicated they are based on complaints received, and 32% stated that they used 'other' enforcement mechanisms. It should be noted that the complexity and internal diversity of national systems exacerbate the challenges for competent authorities to enforce legal rules.

The evaluation also found a **limited capacity of labour inspectorates across the EU.** According to ILO data[66], between 2017 and 2022, the number of inspectors declined in most Member States[67], notably in DE, ES, FR and PL. Similarly, trade unions interviewed for the

[63] See section 3.1 for more details on the concept of "worker" as developed in CJEU case law.
[64] European Commission (2013), Impact Assessment accompanying the proposal for a Council Recommendation on a Quality Framework for traineeships (SWD(2013)495).
[65] Four Member States have systems of inspections or guidance for all traineeships (LT, LU, HU, SK) (see Annex A9.4).
[66] See ILOSTAT data.
[67] In 2017, the average number of employed people per labour inspector was close to 16 000, which is considerably above the 10 000 target set by the ILO (see (SWD(2018) 68)). However, there is considerable variation in the resources available across Member States (from 36 000 in IE to 6 100 in BE) (see Williams and Puts (2017) 2017 Platform Survey Report: organisational characteristics of enforcement bodies, measures adopted to tackle undeclared work, and the use of databases and digital tools).

supporting study highlighted that labour inspectorates often lack resources – in terms of personnel and finances – to satisfactorily carry out inspections. This is particularly worrying in light of the 2016 Eurofound study[68], which explicitly notes that "costs and difficulties in detecting fraudulent use" are one of the main enabling factors for the 'fraudulent' use of traineeships. This issue was also highlighted in the decision of the ECSR on the case brought by the EYF against BE, which concluded that the Labour Inspectorate was inefficient in detecting and preventing the abusive practice of replacing paid jobs with unpaid traineeships[69].

The evaluation also pointed out **a lack of transparency in the vacancy notices,** which is a driver of poor-quality traineeships as it prevents trainees from making well-informed decisions when applying for a traineeship. Namely, it identified that Principle 14, on transparency of vacancies is among the principles that are the least[70] implemented in legislative frameworks of Member States, for both OMT and ALMP traineeships. Furthermore, a **vacancy analysis[71],** conducted as part of the evaluation, examined almost 2,000 vacancies[72] in the 27 Member States and showed that only around 40% for OMT and 50% for ALMP traineeships vacancies mentioned allowance or compensation and/or/ did not clarify the learning and training objectives; 63% of OMT and 40% of ALMP did not mention the duration and less than 10% mentioned information on social protection (see Annex A9.7).

Available evidence also shows that **procedures for registering complaints or reporting malpractice are lacking in a number of Member States and types of traineeships**. The legal analysis of the supporting study (see Annex A9.4) indicates that only in four Member States (IE, LT, LU and SK) there are such procedures for all four types of traineeships.

Finally, the different interpretations of the legal status of trainees also exacerbate the **weak position of trainees in the labour market**. This results from the complexity of the legal rules which results in an asymmetric power dynamic between the employer and the trainee; the relatively short duration of traineeship; the need to secure a more stable labour market position, and a real or perceived dependency or the fear of negative repercussions from taking legal action or filing a complaint (see Annex A9.9). Therefore, even when legal remedies against breaches of labour law exist in Member States, trainees are unlikely to go to court.

D1.2 Inadequate and insufficient rules to prevent work relationships disguised as traineeships

Inadequate and insufficient rules, in particular linked to duration, are an obstacle to preventing work relationships disguised as traineeships. As discussed in section 2.1.1, traineeships lasting longer than 6 months could be an indication of a work relationship disguised as a traineeship if they are not justified by the nature and purpose of the specific type of traineeship. The latter is notably the case for MPT which warrant a longer learning experience. The results of the legal analysis carried out under the supporting study show that a variety of **legal requirements for the duration of traineeships exist in many Member States**

[68] Eurofound (2016) Exploring the fraudulent contracting of work in the European Union.
[69] European Youth Forum (YFJ) v. Belgium (Complaint No. 150/2017).
[70] Member States not having implemented at all the principle.
[71] Sources for vacancy analysis: OMT vacancies: portals for open market traineeships in Member States (e.g. Monster/Jobpilot, LinkedIn, Indeed, Jobat, StepStone)"; ALMP vacancies: PES vacancy databases and EURES.
[72] of which 1,272 were on OMT and 700 concerned ALMP traineeships.

for all types of traineeships (see Annex A9.3). While the optimal duration might vary by type of traineeship, the 2014 QFT Recommendation stipulated that for OMT and ALMP traineeships, in principle, the maximum duration should be 6 months. The legal analysis by Member States by type of traineeship indicates that a corresponding legal obligation exists for some contracts in only seven Member States for OMT[73], 14 for ALMP traineeships[74] and in four for ECT[75], while MPT are generally not restricted to six months[76]. The overall duration of traineeships is sometimes also prolonged through repeated, including **consecutive, traineeships** with the same employer. However, the results of the legal analysis show that in most **Member States there are no legal restrictions on consecutive traineeships for any type of traineeship** (see Annex A9.3).

Furthermore, a potential driver of the problematic use of traineeships could be the fact that **traineeship providers request in vacancy notices previous experience in the field of activity**[77]. This requires trainees to take up multiple traineeships in order to qualify as a candidate, leading to a cycle of repeated traineeships and pointing to a practice aimed at replacing entry-level jobs with work relationships disguised as traineeships.

2.3.3 Drivers related to the poor quality of traineeships

D2.1 Inadequate remuneration and lack of access to social protection

Whether traineeships are remunerated hinges on their classification in national (labour) law and the different remuneration policies for the different types of traineeships in the Member States. Trainees who are workers under EU law are covered by a number of EU directives that may allow for differentiated treatment with other workers. Fixed-term[78] and Part-time Work **Directives** provide that those trainees, if considered workers under EU law, **shall not be treated less favourably** in their employment conditions, including **remuneration**, than comparable permanent or full-time workers, unless the difference is justified on objective grounds. Such **objective grounds** can relate to the characteristics of the traineeship, such as different tasks, a significant learning component and lower responsibilities or intensity. However, if the different treatment is disproportionate to the grounds, it may result in poor quality traineeships with precarious working conditions. It is to be noted that the **Fixed-term work Directive (FTWD)** ensures the equal treatment of fixed-term workers and comparable permanent workers[79]. However, it may be difficult to identify a comparable permanent worker to a trainee. Where a comparable permanent worker cannot be identified, the protection under

[73] BE, BG, CZ, LT, LU, PL, RO.
[74] BE, BG, CZ, EE, EL DK, FR, IT, LT, LU, PT, PL, RO, SK.
[75] BG, HU, IT, LU.
[76] Only IT and SI require some traineeships to be less than six months and this not for all contracts.
[77] Evidence from the EURES vacancy analysis conducted under the supportive study provides some evidence in this regard, despite the limited scope of the analysis performed. For more information, see Annex 4 and Annex 9.7.
[78] The Fixed-Term Work Directive (clause 2) sets out that Member States, after consultation with the social partners and/or the social partners may provide that it does not apply to initial vocational training relationships and apprenticeship schemes or employment contracts and relationships which have been concluded within the framework of a specific public or publicly-supported training, integration and vocational retraining programme.
[79] Clause 2 of the Fixed-Term Work Directive stipulates that Member States, after consultation with the social partners and/or the social partners may provide that the Directive does not apply to initial vocational training relationships and apprenticeship schemes or employment contracts and relationships which have been concluded within the framework of a specific public or publicly-supported training, integration and vocational retraining programme.

Clause 4 of the FTWD does not apply[80]. It may in practice be more effective to apply a comparison between a trainee and an entry-level worker of the same category in the same establishment, which may include other fixed-term workers.

Article 6 of the Directive on adequate minimum wages allows for variations in the statutory minimum wage for specific groups of workers, if these respect the principles of non-discrimination and proportionality, the latter including the pursuit of a legitimate aim. However, recital 29 notes that it is important to avoid variations being used widely, as they risk having a negative impact on the adequacy of minimum wages.

The supporting study shows that specific provisions on the remuneration of trainees are characterised by **considerable complexity across and within Member States and across the four types of traineeships** (see Annex A9.2). While several Member States guarantee at least the minimum wage for trainees for some types of traineeships, others set the **minimum level of remuneration to a proportion of the minimum wage.** Two Member States (ES and SI) have in place legal provisions for OMT to ensure proportionate remuneration of trainees, while in PL a recommendation on proportionate pay was adopted by the Social Dialogue Committee. At the same time, 23 Member States (BE, CZ, DE, DK, EE, EL, IE, ES, HR, IT, CY, LV, LT, LU, HU, MT, NL, AT, PL, PT, SK, SE, FI)[81] also allow for types of OMT traineeships which are **unpaid**. The lack of financial resources is also a factor preventing trainees from doing cross-border traineeship due to the (sometimes even higher) costs involved (see Annex A9.10).

Regarding **access to social protection**, the evaluation noted that the regulatory strategies regarding traineeships **result in uncertain eligibility for social protection of trainees**. Similarly, the impact assessment for the Recommendation on access to social protection[82] found that in certain EU Member States trainees are not officially included in specific or all branches of the social security system and therefore are in a disadvantaged position compared to regular (standard) employees. These findings are confirmed by the results of the legal analysis conducted under the supporting study (see Annex A9.2). Gaps in access to social protection could put trainees at risk in terms of their welfare and health and contribute to their economic uncertainty as well as to their risk of poverty. This is even more so the case for vulnerable groups. Unpaid trainees do not have access to certain social protection branches, due to the lack of employment status and/or for not fulfilling the minimum contribution period. The latter makes it particularly difficult for young unemployed people with very little or no work experience to gain access to contributory benefits, such as unemployment, sickness, maternity, paternity and parental leave benefits. But also paid trainees, who are in most cases new entrants to the labour market, may face barriers in accessing social benefits due to their short contributory history. The 2023 Eurobarometer shows a large discrepancy in access to social protection between paid trainees (73.6% at EU level) and unpaid trainees (25.4% at EU level). As for types of traineeships, it can generally be observed that coverage is higher in those traineeships where trainees are considered to be in an employment relationship. As a

[80] The Fixed-Term Work Directive (Clause 4) requires that in respect of employment conditions, fixed-term workers (which in principle include trainees) shall not be treated in a less favourable manner than comparable permanent workers solely because they have a fixed-term contract or relation unless different treatment is justified on objective grounds. However, clause 4 of the FTWD may be challenging to apply to trainees as clause 3 of the FTWD requires a comparable permanent worker in the same establishment to be engaged in the same or similar work/occupation, due regard being given to qualifications/skills.
[81] All Member States except BG, SI, RO, and FR where OMT are banned.
[82] European Commission (2018), Impact Assessment accompanying the proposal for a Council Recommendation on the access to social protection for workers and the self-employed (SWD(2018) 70 final).

consequence, access to social protection is found to be lowest for ECT across all branches, as trainees are often attributed a student status rather than employment status.

D2.2 Insufficient learning content of traineeships

The evaluation indicated gaps in the legal frameworks to ensure that the tasks of the trainees are aligned with their learning and training objectives. In fact, the **principle on alignment of tasks with learning objectives was among the QFT principles that were the least implemented in national legal frameworks in Member States** (see Annex 9.5). Providing transparent information about learning objectives could help in this regard. In addition, a Eurofound study[83] found that trainees with a written agreement tend to be more satisfied with the improvement of skills during the traineeship than those without[84]. In addition, the same study found that the written agreement is a strong predictor for being offered a job (49% with a written agreement vs 18% without). The Directive on transparent and predictable working conditions (TPWC Directive) does not foresee any requirement to inform about learning objectives of trainees. Evidence shows that the largest gaps in legal provisions in this area are found in the case of OMT. The other three types of traineeships tend to be more regulated (see Annex A9.5). No legal provisions were in place to ensure that tasks allow trainees to work towards their learning and training objectives in 11 Member States for OMT, 1 Member State for ALMP, 5 Member States for ECT and 3 Member States for MPT. The extent to which such provisions are translated into effective learning content seems to be, however, somewhat limited.

The evaluation also **identified having a supervisor or a mentor as part of the learning component** of traineeships **to be a critical quality element** which would have a substantial positive impact on labour market integration. Compared to a supervisor, the concept of mentorship denotes providing help and advice and actively following up on the trainees' progress in conducting their tasks, without necessarily having a subordinate relationship[85].

However, the results of the 2013 and the 2023 Eurobarometer showed that there was a 16 percentage points drop in the share of respondents who stated they had access to mentors. The more recent results show that 23% of respondents believed they had no or insufficient access to guidance. The supporting study showed that **while legal provisions on supervision or mentorship exist in several countries, gaps remain,** in particular for OMT[86] (Annex A9.6). For OMT 9 Member States do not have corresponding legal provisions in place, while this is the case in 3 Member States for ALMP, 4 Member States for ECT and 2 Member States as regards MPT.

D2.3 Gaps in scope

In the evaluation, various stakeholders highlighted that the relevance of the QFT could be enhanced by extending the scope of the QFT (currently covering OMT and ALMP traineeships). The supporting study investigated this issue in more depth and found evidence that the identified quality issues also exist in ECT and MPT, albeit to different degrees. It also

[83] Forthcoming Eurofound (2024) report: *Becoming adults - life and work for young people in a post-pandemic world.*
[84] 6.7 (written agreement) vs 6.3 (no written agreement) on a scale from 1- 10, with 10 indicating highest satisfaction.
[85] It should be noted that the 2014 QFT includes a provision on supervision. Principle 5: *"Encourage traineeship providers to designate a supervisor for trainees guiding the trainee through the assigned tasks, monitoring and assessing his/her progress"*.
[86] In nine Member States (AT, DE, EL, IE, IT, LV, MT, PL, SK) such provisions do not exist.

needs to be highlighted that the quality issues identified mainly concern working conditions (P2.1) rather than learning content (P2.2). Based on the 2023 Eurobarometer, ECT are perceived to be of lower quality in terms of (the lack of) remuneration, compared to the other types of traineeships. As regards working conditions (compared to regular workers) and (the lack of) access to social protection, only OMT are perceived worse. MPT generally tend to be perceived as being of better quality compared to ECT, ALMP and OMT (see Annex 10). However, though no corroborating figures could be found in the EU-LFS, in the 2023 Eurobarometer 35% of MPT respondents claimed to be unpaid and 26% disagreed that they were subject to the same working conditions as (regular) workers. Moreover, traineeships exceeding 6 months were found to be most prevalent for MPT and OMT (both 13% in the 2023 Eurobarometer), and slightly lower for ALMP and ECT (both 11% in the 2023 Eurobarometer).

With regard to the legislative provisions at the national level, the analysis of the supporting study highlights that OMT and ECT legislations tend to allow for unpaid traineeships (85% and 100% respectively, in terms of share of Member States), while this is rare in the case of ALMP (16%) and MPT (4% for medical professions and 12% in the case of legal professions). Gaps in legislation to ensure that tasks are aligned with the learning and training objectives as well as on mentorship are more prevalent for OMT (48% and 37% respectively) and ECT (25% and 21% respectively) than for ALMP (4% and 12% respectively) and MPT (14% and 9% respectively). Finally, all types of traineeships tend to have gaps in legislation on procedures to report malpractice: OMT (70%), ECT (55%), MPT (50%) and ALMP (48%).

In general, OMT are the most problematic in terms of quality issues, while quality issues were also found in ECT and MPT to varying degrees. Both types account for a non-insignificant share of total number of traineeships[87].

2.3.4 Drivers related to the unequal access

D3 Barriers of access to traineeships for vulnerable groups, cross-border and hybrid/remote traineeships

In addition to the issues discussed above (see sections 2.3.2 and 2.3.3), additional barriers exist to equal access to traineeships opportunities.

First**,** the **lack of outreach and awareness-raising as regards traineeship opportunities** prevents vulnerable groups from taking up a traineeship. As shown by the evaluation, vulnerable groups often lack personal and professional networks, they are less likely to find traineeship opportunities through such networks, and are therefore more dependent on other sources of information. As for cross-border traineeships, the trainee survey of the evaluation showed that 478 out of 1,293 (37%) mentioned a lack of interest as their main reason for not looking for a cross-border traineeship. This might indicate insufficient outreach and awareness-raising on the benefits of cross-border traineeships. Lacking information on the practical and regulatory side (linked to D2.1) of traineeships abroad is another negative driver for their access. In the 2023 Eurobarometer, 22% said they were not well informed about traineeships abroad (see Annex A9.10).

[87] In terms of prevalence, the supporting study showed ECT accounted 31.1% and MPT 9.2% of paid traineeships (LFS, 2019 data). Of unpaid traineeships, ECT are estimated (based on LFS data) to account for 85%.

Second, the **lack of adapted traineeship programmes tailored to the specific individual needs**, for example adjusted workspaces or addressing specific training needs or accessibility requirements for persons with disabilities, is another barrier. In the 2023 Eurobarometer, less than half of the respondents believed that persons with disabilities receive adapted offices or a reasonable adjustment to carry out tasks. Third, equal access to remote/hybrid traineeships is hampered by **uneven individual situations in terms of equipment, infrastructure, skills and guidance needed**. The lack of any of those (in particular those that incur financial costs) may impede access for vulnerable groups. In this case, the resources a traineeship provider has at its disposal is of crucial importance; SMEs may struggle especially to offer quality remote/hybrid opportunities[88]. The 2023 Eurobarometer showed that around half of the respondents agree that they received adequate guidance and mentoring to carry out their tasks remotely (54%[89]) and that they were provided with all the necessary equipment to do so (50%[90]). Furthermore, the legal analysis of the supporting study showed that 10 Member States (DE, EE, EL, CY, LV, NL, AT, PT, RO, NL) have no formal teleworking arrangements for any type of traineeship (see Annex A9.8). Looking at the results by traineeship type formal telework arrangements indicate that these are lacking in 12 Member States for OMT, in 12 Member States for ALMP, 13 Member States for ECT, and 11 Member States for MPT.

2.3.5 Other factors hampering the use, quality of and access to traineeships

The evaluation also revealed a number of cross-cutting issues that hamper the use, quality of and access to traineeships. These include the **weak monitoring frameworks on traineeships**, the insufficient involvement of social partners and other relevant stakeholders, the **lack of awareness** about the QFT quality principles and **lack of practical guidance** and the lack of sufficient financial and administrative resources, in particular for SMEs (see Annex A9.10).

2.4 How likely is the problem to persist?

According to the projections, the total number of traineeships is expected to grow in the future by 16% (linear growth scenario) or 17.1% (high growth scenario) (see section 5.2 and Annex A7.5). In the absence of EU action, the QFT continues to represent the essential framework for ensuring high-quality traineeships in the EU. After the adoption of the 2014 QFT there was a gradual improvement in the degree of conformity of national regulatory systems with the QFT principles, however, progress has slowed down over the years and there is no indication that Member States are planning reforms on quality traineeships. Some of the recent legal and policy initiatives at EU level could lead to some improvements in the quality of traineeships in the EU by stimulating policies promoting fair/proportionate remuneration, access to social protection, and higher transparency. Nevertheless, these initiatives do not address all the challenges identified (see section 5.1 and Annex A12.1).

In terms of the quality and the problematic use of traineeships, an increase in labour demand could in principle create competition among traineeship providers, which could mitigate some of the challenges identified. However, the competitiveness pressure may continue to incentivise traineeship providers to hire trainees as a cheap source of labour and labour demand developments may affect occupations differently (section 5.2). According to the projections,

[88] Hybrid or remote working arrangements, are increasingly priced by workers and this is a factor that can affects workers choice to work in a certain place, see among other McKinsey (2023).
[89] 15 Member States showing a higher percentage: BG, ES, FR, MT, BE, HR, NL, SK, PL, HU, SI, CZ, IE, PT, RO.
[90] 12 Member States showed a higher percentage (from low to high): MT, BE, HR, NL, SK, PL, HU, SI, CZ, IE, PT, RO.

the number of unpaid traineeships is still expected to increase. Even though the increase is expected to be small (5.3% in the linear growth scenario) this will continue to block access to traineeships for individuals who cannot rely on other sources of income to cover their living expenses, including people in vulnerable groups.

Therefore, in the future, trainees will continue to face challenges resulting from the problems and their drivers described in section 2 regarding the use, quality of and access to traineeships. In highly competitive sectors, jobseekers, in particular young people due to their weak position in the labour market, could still be inclined to engage in work relationships disguised as traineeships, non-compliant or poor-quality traineeships (including those without remuneration) in order to secure access to the labour market. Furthermore, in several sectors where traditionally working conditions were suboptimal, especially those characterised by more manual skills and lower literacy, despite persistent labour and skills shortages the quality of traineeships cannot be expected to improve, following the trend for the general workforce[91]. Finally, the adaptations related to improving access to traineeships (such as more targeted outreach to vulnerable groups, work organisation and tools in view of remote/hybrid traineeships, and those to facilitate the cross-border dimension) may not be prioritised in order to attract trainees.

2.5 Stakeholders' views on the problem definition

Regarding the first identified problem (Problematic use of traineeships), the EP resolution, trade unions, employer associations and youth organisations agree on **the importance of combatting work relationships disguised as traineeships**. Also, according to a survey carried out under the supporting study, almost half of the representatives from Member States (17 out of 38 valid responses) stated that the replacement of regular employment by traineeships is common in their country. Regarding the second identified problem (Poor quality of traineeships), the EP resolution, trade unions and youth organisations consider that **fair remuneration and access to social protection** are essential quality features missing from the 2014 QFT. The EP resolution condemns unpaid traineeships and states, alongside trade unions and youth organisations, that they are a form of exploitation of young workers. On the other hand, employer associations highlight potential negative consequences of remuneration such as additional costs for employers and a reduced number of traineeship offers. Regarding the learning aspect of traineeships, the EP resolution, trade unions, employer associations and youth organisations agree on **the importance of learning objectives** in traineeships. Regarding the third identified problem (unequal access to traineeships), the EP resolution states that young people from vulnerable backgrounds are unfairly excluded from accessing employment opportunities. Trade unions, employer associations and youth organisations agree that the 2014 QFT is **less effective for vulnerable groups** and that **marginalised youth are less able to benefit from traineeships** due to financial barriers.

3 WHY SHOULD THE EU ACT?

3.1 Legal basis

According to **Article 3 TEU, the Union aims at promoting the wellbeing of its people** and works in particular for the sustainable development of Europe based on balanced economic

[91] European Commission (2023). Employment and Social Development in Europe (ESDE)

growth and price stability, a highly competitive social market economy, aiming at full employment and social progress.

Title X of the Treaty on the Functioning of the European Union (TFEU) contains the legal bases at the disposal of the Union for pursuing these objectives in the area of "**Social Policy"**, commensurate with the competences conferred upon it by the Treaties (Article 5(2) TEU). The use of these competences is governed by the principles of subsidiarity and proportionality (Article 5(3) and 5(4) TEU).

In this title, **Article 153(1) TFEU** has a wide personal and material scope, providing the legal basis for the EU "*to support and complement the activities of the Member States*" in a number of fields both inside and outside the labour market. Article 153(2)(b) TFEU empowers the European Parliament and the Council to adopt – in accordance with the ordinary legislative procedure – directives setting minimum requirements for gradual implementation, having regard to the conditions and technical rules in each of the Member States.

This legal basis would enable the Union to **set minimum standards regarding the working conditions of people doing traineeships**. However, any **EU action under Article 153 TFEU is subject to strict legal limitations**. Under Article 153(1)(b) TFEU, the EU can only take measures on working conditions with regard to trainees, regardless of the type of traineeship, if they are "workers" within the meaning of EU law.

Article 153(5) TFEU excludes an EU measure which would directly require that an activity such as a traineeship has to be performed for pay. Article 153(5) has been interpreted by the CJEU in such a way that the exclusion on 'pay' "*must be construed as covering measures - such as the equivalence of all or some of the constituent parts of pay and/or the level of pay in the Member States, or the setting of a minimum guaranteed wage - that amount to direct interference by EU law in the determination of pay within the European Union". "It cannot, however, be extended to any question involving any sort of link with pay; otherwise, some of the areas referred to in Article 153(1) TFEU would be deprived of much of their substance"*[92].

As regards **social protection, the EU's legislative competence is limited by Article 153(4) TFEU**, which states that the measures under Article 153 TFEU "*shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof*". Moreover, the Council would have to act unanimously under Article 153(1)(c) TFEU, in accordance with a special legislative procedure (Article 153(2) TFEU).

Article 166 TFEU requires the Union to implement a vocational training policy which supports and supplements the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training. **Article 165 TFEU requires the Union to contribute to the development of quality education** by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity. Both Articles can be considered as legal bases for Union

[92] See Case C-268/06, Impact, point 124-125; Case C-307/05, Del Cerro Alonso, point 41.

action, but for non-legislative measures, since both of them **exclude any harmonisation of the laws and regulations of the Member States**.

3.2 Subsidiarity: Necessity of EU action

Member States are confronted with common challenges such as digital, green and demographic transitions (including a shrinking working age-population[93]), which exacerbate existing labour shortages, skills gaps and mismatches across the EU Single Market (see also 5.1. on the baseline). To support social inclusion, additional efforts will be needed to activate the untapped employment potential of inactive groups, in particular, young people, women and people with disabilities. An EU initiative in this area is warranted to make **better use of the potential of traineeships to provide a genuine learning and work experience resulting in successful education-to-work or job-to-job transitions**, in line with the objective spelled out in Section 4.1 and the **objectives of the 2023 European Year of Skills**. Research has confirmed a positive association between traineeships with adequate working conditions[94] and an adequate learning and training component[95] and beneficial future labour market outcomes for trainees and employers. Notwithstanding the overall relatively small share of trainees in companies, this could also produce beneficial effects for EU business competitiveness, not the least because it would help companies tap into an important source of innovation-ready talent.

Both the 2023 Eurobarometer and the evaluation suggest some improvements in the working conditions[96] of trainees across the EU since the adoption of the QFT in 2014. Among the most implemented QFT principle is the written traineeship agreement, which is included in 17 Member States' legislation governing OMTs and 27 Member States' legislation governing ALMP traineeships. In addition, the extensive legal analysis conducted in support of this Impact Assessment has pointed out the **existence of various good practices** in Member States, which are specifically targeted at addressing the identified problems in Section 2 (see Annex 9 for full details). For example, in seven Member States (BG, CY, DE, ES, HU, LT and SI) open market trainees are entitled to at least the minimum wage. In two of these Member States (ES and SI), while the minimum wage is guaranteed, additional provisions exist for trainees providing for proportionate remuneration. 15 Member States have set a maximum duration on OMT, with 6 Member States also restricting consecutive OMT. Four Member States have specific mechanisms of inspections or guidance for all traineeship types (BG, LT, LU, SK). Another four Member States (IE, LT, LU and SK) have procedures for registering complaints and reporting malpractice for all four types of traineeships. As part of its Action Plan – Fight against social fraud 2023-2024, BE has committed to perform 24 targeted investigations per year into suspicious situations related to work relationships disguised as traineeships[97]. These provisions and actions have inspired the design of the measures assessed in this Impact Assessment.

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[93] European Commission (2023), The impact of demographic change in a changing environment (SWD(2023) 21 final).
[94] See for example O'Higgins and Penedo Caro (2021). What makes for a 'good' internship? in: "Internships, Employability and the Search for Decent Work Experience," Books, Edward Elgar Publishing, number 20653.
[95] Stewart (2021) The nature and prevalence of internships, in: ILO (2021) Internships, Employability and the Search for Decent Work Experience.
[96] The 2023 Eurobarometer showed that more than half (55%) of young Europeans doing traineeships received financial compensation, an increase compared to 40% in a Eurobarometer survey carried out in 2013. In 2023 around 11% of respondents stated that their last traineeship lasted more than 6 months, four percentage points lower than in 2013 (15%). 61% of respondents stated that they had full (33%) or partial (28%) access to social protection during their traineeship.
[97] Action Plan : Fight against social fraud 2023-2024 (recurrent actions 47-48).

Nevertheless, despite the progress made, and as shown in Section 2, **significant challenges in the use, quality of and access to traineeships occur in all Member States**, albeit to **a different extent per Member State and per traineeship type**, which have similar underlying causes. While Member States can continue to take measures to improve the situation at national level, also taking into account the 2014 QFT (see baseline scenario in Section 5.1), an **EU initiative can help to coordinate and focus Member States' efforts** on measures which can address the specific problems identified across all types of traineeships.

While confirming the relevance and added value of the 2014 QFT, the evaluation revealed significant potential to further **improve its implementation in national legislation**. More specifically, the evaluation, supported by evidence from the legal analysis (see Annex 9), confirm considerable gaps in conformity between national and regional regulatory frameworks and the 2014 QFT, with significant variations across Member States and types of traineeships. Only seven Member States' legislation is fully/mostly aligned with the QFT principles for OMT, while in seven Member States national legislation is in partial conformity, in five Member States legislation is modestly conform and in one Member State not at all. On the other hand, 18 Member States' legislation is fully/mostly aligned for ALMP, while in nine Member States there is partial conformity. This shows that though progress has been made, not all Member States have been able to integrate the QFT principles in their national legislation or frameworks. Yet, all national authorities consulted in the evaluation agreed on the added value of the QFT in setting out a common EU framework. Section 2.3.3 (and Annex 10) show in detail that quality issues also exist for ECT and MPT, though to a lesser extent than for OMT.

Based on the views of various stakeholders, including the Conference on the Future of Europe, the European Parliament, public authorities, trade unions and youth organisations, the evaluation also pointed out **important areas for complementing the QFT with essential principles** to improve the quality and accessibility of traineeships, including in particular remuneration and access to social protection. For example, according to the data presented in Section 1.2, around half of trainees in the EU do not receive a remuneration. Employers have referred to the consideration of the impact of remote forms of working as part of an update of the Council Recommendation.

Another key finding of the evaluation related to the **need to strengthen the practical application and enforcement** of the 2014 QFT's principles in Member States' labour markets. Diverse regulatory approaches at national level are generally accompanied by weak monitoring and enforcement mechanisms, which had already been described in the Impact Assessment underpinning the 2014 QFT[98]. The evaluation also highlighted substantial variations in the existence and functioning of monitoring and enforcement mechanisms across Member States and found that, in particular for OMT, even where such mechanisms exist, they have a limited impact on ensuring the practical application of regulations. The lack of enforcement of rights and working conditions under EU and national law, as laid down in principle 6 of the 2014 QFT, is also compounded by the trainees' fragile labour market situation. It results in obstacles for trainees to effectively access their rights and hampers the effectiveness of EU law and of national measures implementing the 2014 QFT. Section 2.1.1 shows relevant evidence of unlawful practices whereby trainees in situations of disguised employment or in non-compliant

[98] SWD(2013) 495 final.

traineeships lack effective access to the protection guaranteed by EU law (where they are workers under EU law), national legislation and collective agreements.

3.3 Subsidiarity: Added value of EU action

The **main added value** of EU action is to create a consistent framework of principles and minimum standards across all Member States to improve the use, quality of and access to traineeships to contribute to better labour market outcomes of traineeships. **Promoting employment and improved living and working conditions** are objectives which are clearly set in the EU Treaties. This initiative can also be seen as part of the **EU's commitment to implement the European Pillar of Social Rights and to improving working conditions and living standards**, especially of younger people, while taking into account the needs and constraints of enterprises, particularly SMEs.

EU action would therefore bring particular added value in the 12 Member States with a high prevalence of trainees (see Section 6.5 for more details) and in Member States with a limited or fragmented regulatory framework for traineeships. It would also aim to support those Member States with weak enforcement mechanisms. For the Member States that already have effective measures to tackle the identified problems in Section 2 of this Impact Assessment, the direct impact of the EU initiative might be smaller, but they would benefit from the coherent and better coordinated approach across the EU (see Annex 9 for a detailed overview per Member State and type). Companies in these Member States could also benefit from a more diverse pool of trainees (and future workers) with an innovation-ready mindset.

The initiative would support Member States' upward regulatory convergence and better enforcement of existing labour rights, contributing to a level- playing field for trainees and traineeship providers in the EU. Such a level playing field is increasingly relevant to both **social inclusion and business competitiveness**, given existing **skills mismatches in the EU and the significant increase of cross-border traineeships** within the EU (see section 2.1.4). The evaluation illustrated the importance for trainees of reduced regulatory fragmentation, common quality requirements and transparent information about applicable rules to further facilitate their cross-border mobility in the Single Market.

From the perspective of employers, and provided that EU action avoids imposing undue burdens on businesses, especially SMEs, EU action can yield substantial advantages by **ensuring a level playing field across various economic operators investing in and benefitting from traineeships,** by preventing employers/ traineeship providers from lowering costs through the problematic use of traineeships, as well as helping mitigate issues related to skills mismatch, one of the drivers of labour shortages[99]. Indeed, notwithstanding the relatively small prevalence of trainees compared to the overall working population, business competitiveness does require companies to have easier access to young talent, in order to foster growth and innovation.

Given the diversity of national systems and rules on work-based learning and the diversity in types of traineeships described in Section 1 and Annexes 7 and 9, the form and content of EU action would need to **strictly respect the principles of subsidiarity and proportionality** by

[99] European Commission (2023). Employment and Social Development in Europe (ESDE) 2023 – Addressing labour shortages and skills gaps in the EU. EURES (2023). Report on labour shortages and surpluses 2022.

allowing Member States to adapt the measures taken to the specificities of their national systems, in particular when it comes to regulatory enforcement and the independence of labour inspectorates, (vocational) education and training and (access to) regulated professions. Moreover, possible unintended consequences of EU action need to be carefully considered, including as regards the supply of quality traineeships and potential shifts from paid to unpaid traineeships. Therefore, particular attention is consistently paid in Sections 5, 6 and 7 to the necessity, added value and proportionality of legislative options to address the identified problems at EU level, compared to the baseline and non-legislative options.

4 OBJECTIVES: WHAT IS TO BE ACHIEVED?

4.1 General objectives

The **general objective** of this initiative is to **improve the use, quality of and access to traineeships across the EU**, so that they provide a genuine learning and work experience which will result in successful education-to-work or job-to-job transitions.

4.2 Specific objectives

The **specific objectives** through which the general objective will be addressed are to:

1. Facilitate and strengthen the enforcement of applicable legislation and support trainees in accessing their labour rights;
2. Prevent the problematic use of traineeships;
3. Support fair working conditions for traineeships, including remuneration and access to social protection;
4. Improve the learning component of traineeships;
5. Foster inclusiveness and improve access to traineeship opportunities.

5 WHAT ARE THE AVAILABLE POLICY OPTIONS?

This section presents policy options to achieve the specific objectives (SO). The policy options are structured under 4 different areas in order to establish a clear link between the identified problems and policy options and to simplify the assessment and comparison of options. The chosen structure derives from the different personal and material scopes of the initiative as well as the legal constraints that limit the possibility for EU action.

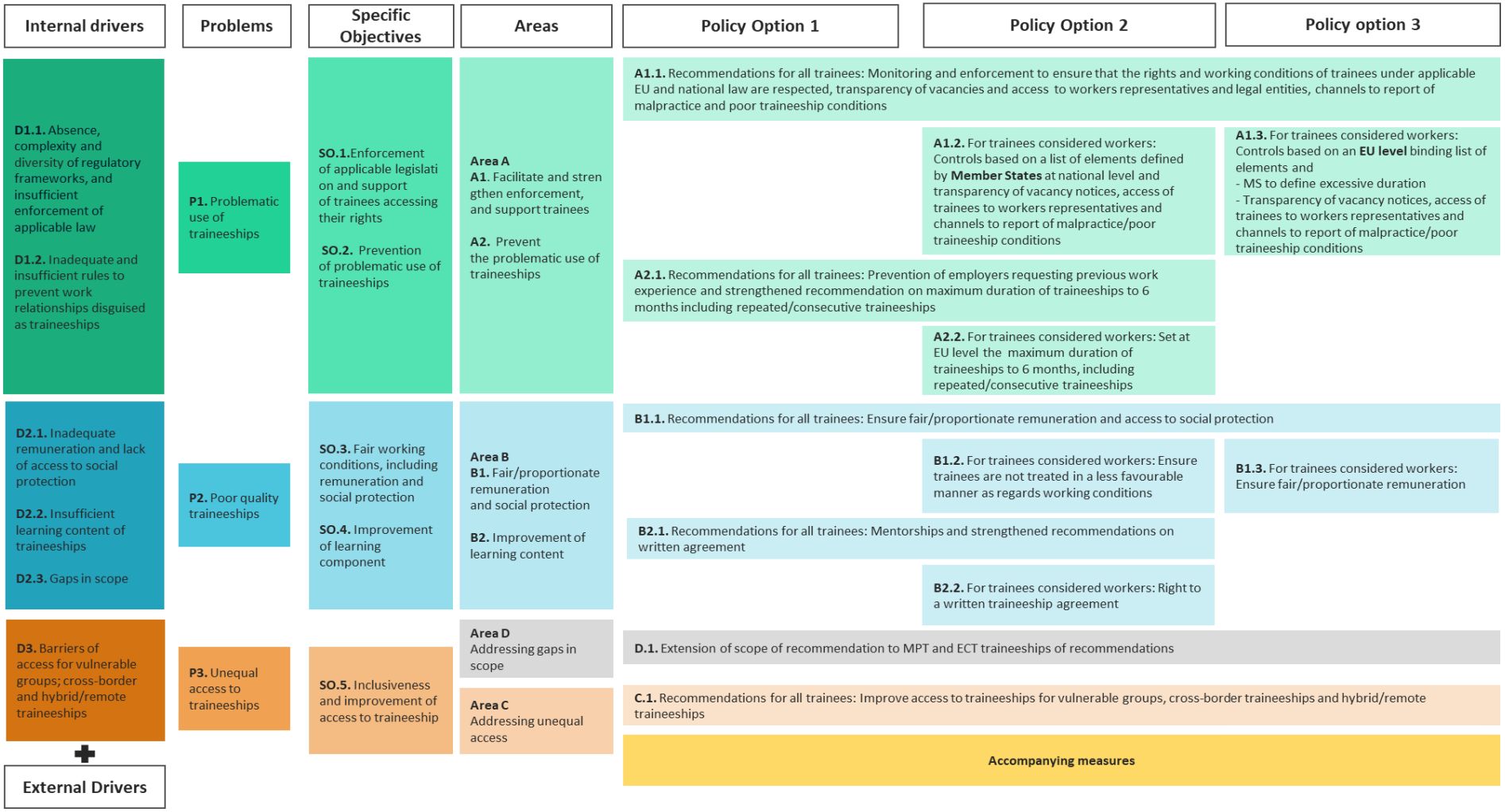
- Policy Options under Area A aims to achieve SO1 and SO2 and to address the problem of problematic use of traineeships (P1). They are also expected to indirectly contribute all other specific objectives.
- Policy Options under Area B correspond to SO3 and SO4 and to the problem of poor quality traineeships (P2). They are also expected to indirectly contribute to SO5.
- The Policy Option under Area C corresponds to SO5 and aims to address the problem of unequal access to traineeships (P3).
- The Policy Option Under Area D aims to achieve SO3, SO4 and SO5 and to address the problems of poor quality traineeships (P2) and unequal access to traineeships (P3).

For each area, alternative policy options were identified[100] to achieve the specific objectives which are assessed individually against the baseline scenario (see section 6) and then compared

[100] For Areas C and D only one policy option was considered.

to identify one preferred option per area (see section 7). These four preferred options were combined to form the preferred option for the overall initiative for which the combined impacts are assessed in section 8. Therefore, no other combinations of options were assessed. This was considered to be the most appropriate approach given that the three problems are independent of each other and thus the policy options to address them are mutually exclusive (even though the policy options under one area could indirectly contribute to achieving the specific objectives corresponding to other areas). The intervention logic is presented in Figure 1**Error! Reference source not found.**. The scope of each measure is described in sections 5.3-5.6.

Figure 1 Intervention Logic



5.1 Personal and material scope within the limits of EU action

The **scope of all the options is all (paid and unpaid) trainees in the EU.** Also, all options (non-legislative and legislative) cover all **types of traineeships in all economic sectors**, i.e. open market traineeships (OMT), those that are part of active labour market policy (ALMP), those that are part of formal education and training (ECT) and those mandatory to access a certain profession (MPT). The scope of the existing framework (2014 QFT) is thus extended.

Regarding the types of traineeships and sectors, **one single regulatory approach** is adopted in all options. While the different types of traineeships may have different objectives and characteristics, specific to the relevant circumstances in the Member States, the main quality principles are valid for all of them (see section 2.1). Overall, similar problems have been identified in all types of traineeships (OMT, ALMP, ECT and MPT), although to varying degree in the different Member States (see Annex 10) and across economic sectors (see Annex A7.4). To take all this into account, while promoting a consistent approach regarding the overarching quality principles, a single regulatory approach across all types of traineeships constitutes the rule, but policy options have in-built flexibility, where relevant, which allows for a differentiated approach depending on the specificities of the various types of traineeships, taking into consideration their objectives and characteristics, as well as specific national conditions. For example, as discussed in section 2.3.2 while an excessive long duration could be an indication of a work relationship disguised as a traineeship, this is not the case for MPT which warrant a longer learning experience. Therefore, the proposed policy options on duration (see section 5.3.2) allow Member States to define exceptions for cases where a longer duration is justified by objective grounds, taking into account national practices. More generally, this consistent approach with built-in flexibility was considered more suitable than proposing different regulatory provisions for different types of traineeships. The latter approach would make the initiative more complex and difficult to implement considering the diversity of national regulatory traineeship systems (see Annex A9.1).

Regarding paid and unpaid trainees, different regulatory approaches are necessary. This is due to the fact that the **EU competence in the area of working conditions, including for trainees, is subject to strict legal limitations** (see section 3.1). EU action could **set minimum standards regarding the working conditions of people doing traineeships**. However, under Article 153(1)(b) TFEU, the EU can only take legally binding measures by means of a Directive for trainees considered as "workers" within the meaning of EU law. Article 153(5) TFEU excludes an EU measure that would directly require that an activity such as a traineeship has to be performed for remuneration.

Therefore, **legislative options are limited to trainees considered as workers under EU law**[101]. The aim of the initiative is to make proportionate use of the available measures within the legal constraints. The EU acquis already provides for many rights for workers. As long as trainees fulfil the legal definition of "worker", these rights should be afforded to this group of trainees. Therefore, the legislative option for only part of the trainees is considered as an appropriate and, in fact, the only legally feasible approach to ensure that all trainees considered as a worker under EU law have the same access and protection under the EU law. As a result,

[101] See section 2 for more details on the concept of "worker" as developed in CJEU case law.

the option of proposing legally binding measures for trainees not considered as workers under EU law has to be disregarded upfront (see section 5.8 on discarded options).

In the sections below, for each proposed option/measure it is clarified whether it applies to all trainees, or those who are considered workers under EU law ("worker trainees"), or those who are not considered workers under EU law ("non-worker trainees"). Since most issues, except for remuneration, affect both paid and unpaid trainees in similar ways, the options include mostly the same measures for paid and unpaid traineeships, although be it in different legal instruments, to respect the legal basis. These different instruments have the potential to reinforce each other through on the one hand targeted binding measures applicable to worker trainees, complemented by a wider range of non-binding measures applicable to all trainees. Full implementation of non-binding measures (in a non-legislative option) may be difficult to ensure (the evaluation assessed the overall implementation of the 2014 Recommendation as moderate). However, if flanked by a binding instrument, renewed political commitment and ownership, and together with accompanying measures, the implementation of (reinforced) non-binding measures could be strengthened.

Concerning possible trade-offs, it can be expected that the enforcement measures help to prevent the problematic use by sending a signal to traineeship providers, thus creating synergies between SO1 regarding enforcement and SO2 regarding prevention. Also, more costs for employers might reduce the aggregate number of traineeships offered, and therefore result in fewer opportunities to access traineeships. This could indicate a possible trade-off between SO3 regarding remuneration and social protection and SO5 regarding access. Some of these trade-offs could lead to potential unintended consequences, which are recognised but can reasonably be expected to be of limited impact, and are discussed in more detail in section 6.9.

While these interrelations exist, the main contribution to any specific objective comes from a measure/set of measures targeting this specific objective. This is why the options are presented per problem/specific objective. This approach also aims to reduce the complexity of the intervention logic.

5.2 What is the baseline from which options are assessed?

This section depicts the 'no-policy change' scenario against which the proposed policy options are compared (see Annex A12.1 for more details). Two scenarios are considered: a linear growth scenario and a high growth scenario).

Assuming that between 2021 and 2030 the number of traineeships in the EU will follow the same linear growth rate as during the 2014-2019[102] period **(linear growth scenario)**, by 2030 **the total number of trainees is expected to increase by 16.3%** (increase by 36% and 5.3% for paid and unpaid traineeships respectively). An increase is expected for ALMP traineeships, ECT and MPT, while OMT are expected to decrease driven by a decline in paid OMT (see Annex A7.5 for more details and Annex A4.2 for methodology)

Moreover, evidence shows that there are trainees who are wrongly classified as non-workers (see section 2.1.1), which would continue to be deprived from the full set of their labour

[102] The time-period 2014-2019 was selected for 2 reasons. It allows 1) to obtain estimates that are not influenced by the shock caused by the COVID-19 crisis and 2) to capture the trends in traineeship prevalence that occurred since the introduction of the 2014 Council Recommendation on a Quality Framework for Traineeships.

rights. In the **absence of EU action, the identified problems and their drivers (see section 2) are expected to persist**. Work relationships disguised as traineeships found in several countries would continue to create unfair market competition. Job-seekers, in particular young people due to their weak position in the labour market, could still be inclined to engage in work relationships disguised as traineeships, non-compliant or poor quality traineeships (including those without remuneration) in order to secure access to the labour market. This might happen especially in highly competitive sectors (e.g. science and technology, engineering, ICT). Such practices constitute an obstacle to the successful transition of young people to the labour market with a long-lasting impact on their future career trajectory and exert a downward pressure on wages and opportunities of entry-level workers in the coming years, also negatively affecting skills mismatches and, notwithstanding the relatively small prevalence of trainees compared to the overall working population, business competitiveness[103].

At the same time, the EU is facing labour shortages with several drivers, including the **shrinking of the EU working age population**[104], **skills mismatches** driven by the twin green and digital transition, **gender segregation** in certain sectors, contributing to them[105]. This, in turn, could increase competition among traineeship providers (a "race for talent") leading to the reduction of work relationships disguised as traineeships or non-compliant traineeships and/or the increase in the provision of good quality traineeships by traineeship providers (including pay or working conditions).

The above could explain certain improvements between 2013 and 2023 in the Eurobarometer findings such as an increase in the number of respondents who were paid or offered financial compensation for their last traineeship. Indeed, firms with higher labour shortages tend to pay higher wages to keep incumbent and attract new workers.[106] Extending this finding to traineeships, however, should not be done automatically: where shortages increase the pressure on workers' work-life balance, employers could hire trainees to perform administrative and repetitive tasks and reduce the work-burden on the rest of the workforce, which could lead to an increase in the number of poor quality traineeships.

It is important to consider that the emergence of labour shortages is concentrated in certain sectors (healthcare, STEM / ICT, construction, and certain service occupations) and that in certain occupations, especially those characterised by more manual skills and lower literacy, poor working conditions do not seem to be offset by the "race for talent"[107]. For example, 28 surplus occupations were identified in 24 EU countries in 2022. These include both clerical occupations and professional occupations requiring third-level qualifications (especially in

[103] According to the 2023 Strategic Foresight Report, poor quality jobs, in terms of poor working conditions are one of the drivers of skills mismatches.
[104] The share of people in the 15-29-year-old age range decreased from 18.1% in 2011, to 16.3% in 2021. This trend is expected to continue and become even more pronounced in rural regions. European Commission (2023), The impact of demographic change – in a changing environment (SWD(2023) 21 final).
[105] European Commission (2023). Employment and Social Development in Europe (ESDE) 2023.
[106] The results are based on firm-level data spanning 27 EU countries found. The wage growth premium was more pronounced among fast-growing or labour-intensive firms. Groiss, Martin & Sondermann, David (2023). Help wanted: the drivers and implications of labour shortages, Working Paper Series 2863, European Central Bank.
[107] European Commission (2023). Employment and Social Development in Europe (ESDE) 2023.

humanities or creative arts)[108]. These are sectors of the economy in which cases of problematic use of traineeships have been reported to be particularly common[109].

In a **foresight perspective[110]** it is clear that these structural drivers will continue to play a significant role, and to the extent that they can drive a skills-based competition among traineeship providers, they should not be underestimated. However, based on past labour market dynamics, it seems too optimistic to conclude that an increase in the quality of traineeships will materialise quickly enough and evenly across sectors and Member States, in the absence of improvements to the current QFT. In any case, given the transformation of the labour market due to the twin transitions and the emergence of new skills needs[111], there will be an increasing need for high quality traineeships to address labour and skills shortages and maintain the EU's competitiveness.

To reflect the above trends, a **high growth scenario**,[112] different from the linear growth scenario outlined above, is also considered which assumes an increase in OMT, resulting in an increase in the overall number of traineeships by 17.1% (see Annex A4.2 for more details on the methodology and Annex A7.5 on a discussion of expected trends).

In the **absence of EU action**, the **2014 QFT will continue to be the EU framework the quality of traineeships**. As Member States do not have a legal obligation to apply or enforce its principles, the gradual improvement in the degree of conformity of national regulatory systems with the principles of the 2014 QFT seen in recent years[113] can be expected to continue at a slow pace. Further gradual improvements do not concern ECT and MPT, nor issues which are not covered by QFT principles (e.g. access to remuneration and social protection, inclusiveness and accessibility). Furthermore, the 2014 QFT does not address several aspects such as the potential abuse of consecutive traineeships. While the EU acquis sets minimum rights for workers, including trainees considered as workers under EU law[114] (see Annex A12.1 for overview), **these initiatives are not sufficient to address all the challenges identified in section 2.1**.

The persistence (or even acceleration) of the 'job-hopping' phenomenon[115] **can further disincentivise traineeship providers from offering quality traineeships**, as they could consistently face the negative human capital externality of losing out on the investment made on trainees. The increase in remote forms of work triggered by the pandemic could improve access to traineeship, including for cross-border trainees or those residing in remote areas. Nonetheless, certain individuals, such as persons from a disadvantaged socio-economic background or persons with disabilities, may not benefit from the increase in remote forms of work, if not properly adapted to their needs. Due to the persistent intergenerational transmission

[108] EURES (2022). Report on labour shortages and surpluses.
[109] In Spain cases of fraudulent traineeships were evident in the media sector, in the UK fraud was especially prevalence in politics, fashion, creative industries and journalism (Eurofound, 2017).
[110] Joint Research Centre (2023). Towards a fair and sustainable Europe 2050: Social and economic choices in sustainability transitions.
[111] The 2023 Strategic Foresight Report: Sustainability and people's wellbeing at the heart of Europe's Strategic Autonomy and 2022 Strategic Foresight Report Twinning the green and digital transitions in the new geopolitical context.
[112] Yearly growth rate of 2.3% for paid OMT and a 0.4% for unpaid OMT, which implies an increase in the number of paid OMT (22%) and a small increase for unpaid OMT (3.4%), Everything else kept constant.
[113] According to the results of the evaluation, between 2016 and 2021, the number of Member States fully or mostly aligned with the QFT increased from four to seven and from 15 to 18 for OMT and ALMP traineeships, respectively.
[114] For instance, Minimum wage Directive, TPWC directive, pay transparency directive, working time directive etc.
[115] Pattern of moving from one job to the next in a brief amount of time.

of educational disadvantage, the most vulnerable groups will not benefit from the opportunities offered by the transitions under the baseline scenario.

5.3 Policy options for addressing the problematic uses of traineeships (Area A)

This section presents the policy options corresponding primarily to **Specific Objective 1** and **Specific Objective 2** while also indirectly contributing to the 3 other specific objectives (see section 4.2).

5.3.1 Options to facilitate and strengthen enforcement of the rights of trainees and support trainees (Area A1)

All options concern measures to ensure that the rights of all trainees, irrespective of their legal status (workers and non-workers) under applicable EU and national law, are respected. For trainees who are considered as workers under EU law, the options also include binding rules on **effective controls and inspections** to detect work relationships disguised as traineeships and non-compliant traineeships and take **enforcement measures** to ensure full access of individuals who are workers under EU law (persons in disguised employment and genuine trainees) to the labour rights enshrined in EU law (see section 2.1.1).

[Fully non-legislative] Option A1.1 provides recommendations to Member States to **put in place effective monitoring and enforcement** to ensure that the rights and working conditions of all trainees under applicable EU and national law are respected. The applicable EU law for trainees who are considered workers is the whole EU labour acquis, while for trainees considered as non-workers this includes rights stemming from EU occupational health and safety legislation and where applicable, national law (see Annex A12.1). It also entails recommendations to Member States to promote access to workers' representations and other legal entities to defend their rights as well as to ensure channels for trainees to report malpractice and poor conditions. These measures would support trainees in enforcing their labour rights (existing rights and any possible new material rights conferred by the EU initiative). Finally, this option foresees reinforcing Principle 14 of the 2014 QFT on transparency of vacancies (baseline) by adding the level of remuneration, working conditions, the coverage of social protection, the expected tasks and learning and training component. This option would apply to **all trainees (workers and non-workers) as well as to all types of traineeships** (OMT, ALMP, ECT and MPT) as the need for improvements was identified for all.

Option A1.2 would include the **non-legislative option A1.1** combined with a **top-up legislative measure** targeted only to **trainees considered as workers across all types of traineeships**. It would require Member States to provide for **effective controls and inspections** by competent authorities to **detect and take enforcement action** against work relationships disguised as traineeships and non-compliant traineeships. The measure would entail ensuring adequate human, technical and financial resources and developing the capability (in particular through training and guidance) of competent authorities; imposing effective, proportionate and dissuasive penalties, and putting an obligation to employers to provide (upon request) relevant information to the competent authorities. To determine whether a traineeship constitutes a work relationship disguised as a traineeship, competent authorities would need to make an **overall assessment** of all relevant factual elements. This option would require **Member States to define a set of elements at national level** (in accordance with

national practices) which may point at the risk of work relationships being disguised as traineeships. In addition, this option would oblige **employers to improve transparency of vacancies** by providing in the notices information on the working conditions of the trainees who are considered workers across all types of traineeships, including expected tasks, learning content, working conditions, and remuneration and social protection. This would empower trainees to take informed decisions and could contribute to address work relationships disguised as traineeships. It would also make the following measures legally binding: **ensuring that workers' representatives**, or other actors with a legitimate interest, **may engage in procedures to enforce the rights of trainees;** as well as ensuring **channels for trainees to report malpractice and poor conditions** for trainees who are considered as workers across all types of traineeships.

Option A1.3 would include the **non-legislative Option A1.1 and the same legislative measures as in Option A1.2** targeted to **trainees who are considered as workers across all types of traineeships**. However, differently from Option A1.2, the **elements to detect work relationships disguised as traineeships** would **be defined at EU level**. They would rely on existing case law[116] and regulatory approaches in the Member States. These elements would be formulated broad enough in view to respect existing legislation in Member States and allowing Member States' competent authorities to consider the specificities of certain types of traineeships when evaluating the parameter, for instance in the case of MPT which might warrant a longer duration than other types of traineeships. This approach would contribute to developing a common understanding at EU level of the main features of work relationships disguised as traineeships, specifically building on the following indicative elements:

- the absence of a significant learning or training component in the traineeship.
- excessive duration of the traineeship or multiple and/or consecutive traineeships with the same employer by the same individual. The excessive duration for the purpose of controls by national authorities is to be set at Member States level to take into account national circumstances;
- the fact that the employer requires candidates for traineeships to have previous work experience in the field of activity;
- a high ratio of traineeships compared with regular employment relationships at the same employer;
- equivalent levels of tasks, responsibilities and intensity of work for trainees and regular employees at the same employer;
- the fact that the trainee had completed two or more traineeships or held regular job positions in the field of activity, prior to taking up the traineeship.

The presence of one or more of these elements **would not automatically lead to determining the existence of a work relationship disguised as a traineeship**, as the overall assessment itself and the subsequent decision remain entirely in the competence of Member States' authorities. Likewise, the absence of those indications should therefore not automatically preclude a situation from being a work relationship disguised as a traineeship by competent national authorities.

[116] See e.g. European Youth Forum (YFJ) v. Belgium (Complaint No. 150/2017).

In addition, this option would make the following measures legally binding: **ensuring that workers' representatives**, or other actors with a legitimate interest, **may engage in procedures to enforce the rights of trainees;** as well as ensuring **channels for trainees to report malpractice and poor conditions** for trainees who are considered as workers across all types of traineeships.

Stakeholders' views: The EP resolution stresses the importance of reporting malpractice and poor working conditions through established channels and highlighted cooperation with the national labour inspectorates and other relevant authorities. During the two-phase social partners' consultation, trade unions called for binding EU-level action to combat work relationships disguised as traineeships and underlined the need for a dedicated complaint channels and for the possibility to report malpractice and poor working conditions through established channels**.** Trade unions also stressed the importance of strengthening labour inspectorates**.** Employer associations argued that work relationships disguised as traineeships are best addressed at national level while most agree that having an indicative common understanding at EU-level would be useful to ensure that all relevant actors (e.g. employers, trainees and regulatory authorities) have an objective set of criteria to assess the conducts of traineeships. Employer associations also highlighted that national authorities should carry out dedicated checks and inspections without increasing reporting obligations for employers. Stakeholders interviewed under the supporting study agreed that strengthening reporting channels could have benefits, including enforcing trainees' existing rights, increasing trainees' awareness of their rights and providing avenues for legal redress.

5.3.2 *Options to prevent the problematic use of traineeships (Area A2)*

The options in this section concern rules regarding duration of traineeships and previous experience, which were identified as important drivers of the problematic use of traineeships. On duration, alternative measures were considered which were discarded (see section 5.8). While recognising that the optimal duration might vary by type of traineeship (see section 2.3.2), the problem analysis shows that a duration longer than 6 months could be an indication of a work relationship disguised as a traineeship, if not justified by the nature and purpose of the specific type of traineeship. In order to respect subsidiarity considerations while promoting a consistent approach at EU level, both options set out below allow Member States to define what would justify a longer duration, while proposing the same maximum duration across all types of traineeships.

[Fully non-legislative] Option A2.1 would provide recommendations to Member States to establish and/or reinforce national regulation on traineeship as regards **duration** and requirements on **candidate trainees' previous experience**. Rules on these two aspects would help prevent the problematic use of traineeships. On duration, Principle 10 of the 2014 QFT[117] (baseline) would be strengthened by recommending that the duration of repeated, including consecutive[118], traineeships with the same employer is limited, in principle, to 6 months. Though the recommendations on duration would apply to all types of traineeships, and – given

[117] Ensure a reasonable duration of traineeships that, in principle, does not exceed six months, except in cases where a longer duration is justified, taking into account national practices.

[118] For clarity, *consecutive* traineeships are referred to, in addition to *repeated* traineeships, as *repeated* might carry the connotation of a repetition of traineeships that are identical in content, while the limit in duration would also apply to a cycle of traineeships that may be (slightly) different in content.

the instrument – be legally non-binding by definition, the recommendations would provide additional flexibility to Member States by catering for exceptions for cases where a longer duration is justified by objective grounds and taking into account national practices. As there are trajectories whereby acquisition of skills and knowledge benefit from a longer duration across different types of traineeships,[119] in its guidance to Member States, the non-legislative option would provide examples of exceptions to the duration recommendations, notably as regards MPT and certain ECT, whilst leaving room to Member States to provide further exemptions, if objective grounds exist. Recommendations preventing employers to require previous work experience from candidate trainees would be added as a new principle. This option would apply to **all trainees (workers and non-workers) as well as to all types of traineeships** (OMT, ALMP, ECT and MPT).

Option A2.2 would include a combination of the non-legislative Option A2.1 with a legislative measure which would **define at EU level that the maximum total duration of traineeships,** including the sum of repeated/consecutive traineeships with the same employer, **should not exceed 6 months**, **unless a longer duration is justified by objective grounds**. Principle 10 of the 2014 QFT already recommends a maximum duration of 6 months to limit distortions to the labour market, particularly in terms of the risk of substituting regular jobs with traineeships and it would be strengthened by Option A2.1. Option A2.2 makes this strengthened Principle 10 legally binding for **trainees who are considered as workers across all types of traineeships** as using traineeships to replace regular jobs remains a concern. Given that the evaluation pointed to divergent views of stakeholders on the exact length and in order to take into account diverse national situations, this option provides for an in-built flexibility allowing Member States to envisage **exceptions justified on objective grounds**. Decisions would be left to Member States, while non-exhaustive and non-binding guidance/examples of potential exceptions would be provided (e.g. specific types of mandatory traineeships which warrant a longer duration, such as those related to formal education curricula (ECT) or access to certain (regulated) professions (MPT)[120] and/or some other traineeships e.g., under the Erasmus+ programme).

Stakeholders' views: The EP resolution calls for 1) a minimum duration of 1 month for OMT, ALMP and MPT and 6 months for ECT, 2) ensuring that (long) duration does not result in replacing regular jobs and 3) traineeship providers to not require previous working experience for traineeships. During the two-phase social partners' consultation, trade unions underlined the need for a maximum duration of 6 months and in exceptional circumstances one year. Employers also agree that candidates for traineeships should in principle not be required to have previous work experience in the field of activity. Employer associations support the reasonable maximum duration of traineeships as set out in the 2014 QFT, but do not support a legally binding limit. SMEunited also states that enterprises having to provide justification for longer traineeships would generate additional burden for SMEs. In the survey conducted under

[119] For example, traineeships that are mandatory to access a certain profession (MPT) typically have a longer duration, to allow the trainee to acquire the minimum specialised knowledge, skills and competences needed for a certain profession (e.g. doctors or lawyers). There are also examples of ALMP traineeships for persons from a vulnerable situation facing multiple barriers to integration that have a longer duration (such as in IT, where the maximum duration of traineeship schemes is extended for trainees with disabilities). Finally, some ECT traineeships may have a longer duration up (e.g. such as those in the Erasmus+ programme, which can be up to 12 months).

[120] The supporting study found that, in general, there are justified grounds for MPT to have a duration exceeding six months. This is needed to acquire specific and specialised knowledge, competences, skills and work experience required to being able to practice certain professions (such as doctor, lawyer, and architect).

the supporting study, a majority of national stakeholders at least somewhat agrees that a limit on the maximum duration of traineeships can help reduce the risk of work relationships being disguised as traineeships[121]. During the evaluation, employer organisations, national authorities, and some national PES argue that a limited duration can prevent work relationships being disguised as traineeships. Youth organisations, trade unions, and other national PES argue that a longer duration might in certain cases allow employers to see trainees as an investment in their future workforce or a way to transmit specialised skills.

5.4 Policy options for addressing poor quality traineeships (Area B)

This section presents the policy options corresponding primarily to **Specific Objective 3** and **Specific Objective 4**; it also indirectly contributes to achieving **Specific Objective 5** (see section 4.2). Options to improve access to remuneration and social protection (Area B1).

5.4.1 Options to improve the working conditions of trainees (Area B1)

[Fully non-legislative option] B1.1 would consist of recommendations to Member States to ensure fair/proportionate remuneration and provide guidelines to Member States on determining fairness/proportionality, such as the respective weight of learning and work components, the trainee's tasks and responsibilities and the value and the intensity of the trainee's work. Member States would be recommended to compare these elements to those of other entry-level workers in the same establishment, in accordance with national law, collective agreements or practice. This option would also entail recommendations to ensure that trainees have access to social protection. These recommendations would thus complement the 2019 Council Recommendation on access to social protection for workers and self-employed, which is not applicable to trainees who are not considered workers. It would be up to Member States to decide whether and how to implement these recommendations, in respect of subsidiarity and proportionality. The option would apply to **all trainees (workers and non-workers) as well as to all types of traineeships** (OMT, ALMP, ECT and MPT).

Option B1.2 would include a combination of the non-legislative option B1.1 and a legislative measure **facilitating the application of the principle of non-discrimination** to **trainees** considered as workers under EU law, across all types of traineeships. The legislative measure would require Member States to ensure that trainees are not treated less favourably as regards their working conditions, including remuneration, than comparable entry-level employees in the same establishment. However, objective grounds, such as different tasks and lower responsibilities may justify different treatment. This provision would apply in addition to the principle of non-discrimination laid down in the Fixed-Term Work Directive, which provides for equal treatment of fixed-term workers with comparable permanent workers in the same establishment unless different treatment is justified on objective grounds. The additional provision would be necessary first, as the Fixed-Term Work Directive allows Member States to exclude certain trainees from its scope (see footnote 79) and, second, to ensure that in addition to comparable permanent workers, comparable entry-level fixed-term workers can also serve as comparators to trainees.

[121] 65% or 13 out of 20 business associations, 65% or 13 out of 20 trade unions and 62% or 8 out of 13 youth associations/universities.

Option B1.3 would include the non-legislative option B1.1 but would make the non-binding measure on fair/proportionate remuneration of Option B1.1 a legally binding individual right for **trainees who are considered as workers across all types of traineeships**. The principle of fair/proportionate remuneration would be construed similarly to the principle of "pro rata temporis" (Clause 4 of the Part-Time Work Directive), which applies to ensure the principle of non-discrimination for part-time workers and would have to be applied in line with the Minimum Wage Directive[122]. In practice this option requires Member States to ensure that paid trainees are remunerated at a level that is fair/proportionate, while it recommends to Member States to ensure that also unpaid trainees are fairly/proportionately remunerated. In contrast to option B1.2, option B1.3 would not affect any other working conditions beyond remuneration.

Stakeholders' views: The EP resolution stresses that unpaid traineeships are a form of exploitation of young workers and a violation of their rights and calls for a common legal framework to ensure fair remuneration. The EP resolution also calls for a **directive to ensure minimum quality standards, including access to social protection**. **Multiple stakeholders also call for a ban of unpaid traineeships**. They include the Conference on the Future of Europe, civil society organisations[123] and trade unions[124]. Trade unions express similar views during the two-phase social partners' consultation while they also **raise concerns regarding gaps in access to social protection for trainees**. Employer associations state that trainees who are workers under national law should be subject to the applicable rules on remuneration, social protection and intellectual property, while the learning component of a traineeship may justify a lower remuneration than that of regular workers. In the evaluation on the 2014 QFT, some employer associations state that remuneration is not an element increasing the quality of traineeships while both youth organisations and civil society organisations raise **concerns on access to social protection.**

5.4.2 Options to improve the learning component of traineeships and the written agreement (Area B2)

All options concern strengthened rights to written information. The non-legislative option would recommend ensuring mentorship. These options aim to ensure a proper learning content of traineeships helping training providers and trainees to match tasks and learning objectives to better respond to the rapidly changing skills needs arising from the twin transitions[125].

[Fully non-legislative option] B2.1 would entail strengthening Principle 2 of the 2014 QFT on the written agreement (baseline) by adding the following elements to improve the *learning component*: the tasks to be carried out, the arrangements for mentorship, supervision and evaluation. Recommendations to add information on the following elements to increase transparency on *working conditions* would be made: remuneration and social protection coverage. Addressing the learning content, recommendations would call on Member States to ensure that traineeship providers designate a mentor acting as an advisor to the trainee,

[122] Article 6 allows for variations in the statutory minimum wage for specific groups of workers (who are for minimum wage earners) if they respect the principles of non-discrimination and proportionality, including the pursuit of a legitimate aim.
[123] European youth forum report (2022), "High Quality or Unpaid and Unregulated? Uncovering National Internship Policies in Europe" Statement of Young European Federalists, available here.
[124] ETUC Resolution European Year of Youth – Empowering young workers through actions.
[125] The 2023 Strategic Foresight Report: Sustainability and people's wellbeing at the heart of Europe's Strategic Autonomy.

providing coaching and support. This option would apply to **all trainees (workers and non-workers) as well as to all types of traineeships** (OMT, ALMP, ECT and MPT).

Option B2.2 would also include a combination of a legislative measure with the non-legislative option B2.1. The legislative measure under Option B2.2 would make the strengthened Principle 2 of the non-legislative Option B2.1 legally binding for trainees who are considered as workers across all types of traineeships. This would introduce the right for trainees considered as workers to a **written traineeship agreement**, **for all types of traineeships,** covering the information elements listed in the TPWC Directive and the additional elements listed in Option B2.1.

Stakeholders' views: The EP resolution states that a directive should include a written traineeship agreement covering the rights and obligations of the trainee and the traineeship provider, including learning and educational objectives. The EP resolution also states that the directive should also contain transparency requirements for vacancies, including information on the terms and conditions of the traineeship (e.g. remuneration, working conditions, expected tasks). During the two-phase social partners' consultation, trade unions advocated for mandatory written traineeship contracts covering learning objectives, mentoring, and supervision and stated that these written contracts must be registered with national authorities, allowing transparency, control and data collection. Employer associations opposed obligations on written learning objectives or learning agreements and called for transparency requirements to be non-binding, especially to reduce administrative burdens on SMEs. Youth organisations also argue for written agreements and transparency requirements. In the evaluation of the 2014 QFT, national PES and national authorities highlight that the written agreement, reflecting the transparency on the rights and obligations, is a "bedrock" of the traineeship. Furthermore, several stakeholders underline the importance of the provision of adequate mentorship, even more so in the context of digital traineeships, including youth organisations, trade unions, PES, and national authorities from a number of countries. However, some employer associations and other national authorities warn about additional costs, especially for SMEs.

5.5 Measures for addressing unequal access to quality traineeships (Area C)

This section presents the measures which aim to achieve **Specific Objective 5:** Foster inclusiveness and improve access to traineeship opportunities.

In this section **only one (fully non-legislative) option** is considered which is recommendations aiming to address the barriers to access to 1) traineeships for vulnerable groups, 2) quality cross-border traineeships and 3) remote/hybrid traineeships. These measures build on the results of the evaluation on the 2014 QFT. **No alternatives are considered to the measures described below,** apart from the baseline option, in line with the findings of the evaluation (see Annex A12.2 for more details on the measures).

With a view to **ensuring equal access to traineeships for groups in vulnerable situations** this option would make recommendations to Member States to ensure inclusive traineeship opportunities, in terms of outreach to and equal treatment of all people belonging to vulnerable groups and to ensure that workplaces are adapted to be accessible to trainees with disabilities.

To **ensure equal access to cross-border traineeships**, this option would give recommendations to Member States to improve information provision on cross-border

traineeships and to facilitate cross-border traineeships using the European cooperation network of employment services (EURES). Member States would also be encouraged to ensure that the quality principles are applied in traineeship mobility agreements with hosting organisations outside the EU.

Finally, in order to **ensure equal access to remote and hybrid traineeships**, this option would give recommendations to Member States to facilitate remote and hybrid traineeships through an appropriate working arrangement and environment including equipment, infrastructure and mentoring and by ensuring that the quality criteria apply also to remote and hybrid traineeships.

Stakeholders' views: The EP resolution stresses the need for new principles to ease the transition of all young people into the labour market, particularly people in vulnerable situations, including persons with disabilities. Regarding cross-border traineeships, the EP resolution suggests further development of EURES and that the Commission and Member States facilitate cross-border recognition of skills. During the two-phase social partners' consultation, trade unions highlight the importance of the principle of reasonable accommodation for trainees. Trade unions also state the need for quality principles on cross-border traineeships, while creating an EU-level platform could improve transparency and allow for the exchange of experiences. Employer associations welcome support in facilitating access to traineeships for persons with disabilities. However, SMEunited notes that employers, though supporting inclusiveness measures, may not be best placed to actively reach out to vulnerable groups and that this would be better left to actors such as national PES. Employer associations also argue for the need for more data on remote and hybrid traineeships while stating that they see an added value in supporting information provision on cross-border traineeship opportunities and in the simplification of procedures, in particular through the EURES portal.

5.6 Measure for addressing gaps in scope (Area D)

In this section **only one fully non-legislative option** is considered, which is to extend the scope of the QFT recommendation to ECT and MPT, rendering the existing, revised and additional quality principles applicable to all traineeships. The extension of the scope to only one of the two types was discarded at an early stage, as explained in section 5.8. The issue of scope is irrelevant for the binding instrument as, due to its legal basis, it would be applicable to all trainees who are workers, regardless of the type of traineeship they are undertaking.

The extension of the scope of the non-binding instrument to ECT would be supported by the sheer prevalence of ECT amongst the total number of traineeships, and the quality issues and gaps in national legislation that came to light in the study supporting this initiative. The analysis shows that MPT represent a smaller share of the total number of traineeships, quality issues are perceived to be fewer and gaps in legislation are less substantial compared to the other three types of traineeships. However, like the other types of traineeships, MPT were also found to lack channels for trainees to report malpractice. To safeguard the relevance and the coherence of the non-binding instrument for all trainees(hips), an extension of the scope to include both ECT and MPT is envisaged.

The extension to ECT could lead to an overlap with rules for apprentices, depending on national definitions of traineeships and apprenticeships. As apprenticeships are covered by the Recommendation on a European Framework for Quality and Effective Apprenticeships, the non-binding option would provide flexibility to Member States to assess which of the two

quality frameworks should apply to VET work-based learning experiences, depending on their national and regional specific features. When doing so, to ensure that all learners in work-based learning receive the highest level of protection, Member States would be encouraged (as relevant) to apply the framework conditions which are more protective among the two frameworks, in line with national circumstances.

Stakeholders' views: The EP resolution calls for a directive covering OMT, ALMP traineeships and MPT. ECT should be covered in a decision. During the two-phase social partners' consultation, trade unions stated that a directive should cover OMT, ALMP traineeships and MPT, while a recommendation should cover all types of traineeships. On the other hand, employer associations did not support enlarging the scope, based on the view that ECT and MPT are already subject to structured and regulated governance systems.

5.7 Accompanying measures

All policy options in the four areas presented above could be introduced in combination with the (fully) non-legislative accompanying measures presented below, which were selected following the results of the evaluation. These correspond to other factors hampering the use, quality and access to traineeships, as identified in the evaluation and they are expected to contribute to all the specific objectives. Their main purpose is to enhance the effectiveness of all policy areas. Member States would be able to decide at national level on how to implement these measures:

1. Improving monitoring and data collection on prevalence and quality of traineeships.
2. Ensuring the effective involvement of social partners and other relevant stakeholders, in the implementation and monitoring of the rights and obligation arising from this initiative.
3. Strengthening awareness raising, partnerships between relevant stakeholders and the exchange of best practices, also between Member States and stakeholders, in the area of high-quality traineeships, including on cross-border traineeships.
4. Supporting employers (financial and/or practical guidance), in particular small and micro enterprises, to provide high quality traineeships.

Several of these accompanying measures would be used to mitigate potential negative impacts for SMEs. Notably, measure #2 could be implemented in collaboration with SME representative organisations, as to ensure the participation of SMEs. Measure #3 could be implemented via information campaigns and guidelines, in cooperation with SME representative organisations. Measure #4 would operate in the broader context of, and supporting the goals of the 2020 SME Strategy, including via the provision of financial support – under the ongoing Multiannual Financial Framework (2021-2027) and under the NextGenerationEU, the Commission expects more than 200 billion euro to be made available to SMEs under its various funding programmes[126].

Given the above, the introduction of specific exemptions for SMEs was not considered appropriate, as they could inadvertently set up barriers for the further growth of companies. Furthermore, such exemptions would be difficult to justify, without compromising the goal of ensuring a level-playing field among traineeship providers and fair competition, and avoiding an indirect encouragement towards a competition based purely on labour costs – which,

[126] See COM(2023) 535 final of 12.9.2023, SME Relief Package.

independently of the relative prevalence of trainees compared to the overall working population, would be a suboptimal business and societal behaviour.

It is expected that these measures would have a positive impact on achieving the objectives of the initiative, however, it is not possible to quantify this impact due to the non-binding nature of these measures and due to the flexibility allowed for Member States on how to implement them**.** Thus they do not feature in section 6. Nevertheless, in Section 8 their positive effects are considered in combination with the measures under the Preferred Option.

5.8 Options discarded at an early stage

Including all trainees in the personal scope of a new legislative initiative was discarded at an early stage. It is not possible to include in the personal scope of a legislative initiative adopted under Article 153(1)(b) TFEU trainees who are not considered workers under EU law, including unpaid trainees, given that "pay" constitutes an essential element of the definition of a "worker" in the jurisprudence of the Court of Justice of the European Union (CJEU) (see also section 3.1). Also, Article 153(1)(h) TFEU on the integration of persons excluded from the labour market, without prejudice to Article 166 TFEU, can only be invoked as a legal basis for measures specifically intended to facilitate access to the labour market and cannot be used to enlarge the personal scope of measures based on Article 153(1)(b) TFEU. Moreover, Article 153(5) TFEU explicitly excludes any EU action on pay, such as requiring remuneration for unpaid trainees in order to ban unpaid traineeships.

Setting mandatory limits to the maximum duration of traineeships by Member States instead of setting them at EU level was discarded on the grounds of effectiveness. While this measure could be considered proportionate by giving Member States the possibility to consider national particularities, it could maintain or even increase the duration and divergencies among trainees in the EU. This could also go against the 2014 QFT principle 10.

Increasing the maximum duration for traineeships to more than 6 months was discarded since this would weaken (or be perceived to weaken) the prevention of problematic use of traineeships, which was one of the main goals of principle 10[127]. Though the evaluation found divergent views on the relevance of this principle, the issue of using traineeships to replace regular jobs is still very much a concern. Also, the existing rules as well as the options proposed for analysis in this report allow for exemptions in duly justified cases (for example in cases for the ECT and MPT).

Requiring mandatory access to social protection for trainees in a Directive was discarded at an early stage on the basis of Article 153(1)(c), Article 153 (4) and Article 153(2)(b) TFEU. These Articles imply that measures may be adopted in the field of social protection for trainees who are considered as workers under EU law, under the condition that they (1) shall not affect the right of Member States to define the fundamental principles of their social security systems, (2) they must not significantly affect the financial equilibrium of Member States' social security systems and (3) shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized

[127] Impact assessment accompanying the proposal for a Council Recommendation on a Quality Framework for Traineeship (SWD(2013) 495 final).

undertakings. Furthermore, trainees who are workers under EU law are already covered by the Council Recommendation on access to social protection[128]. Implementing the Council Recommendation with regards to trainees with worker status would ensure access to six social protection branches[129]. As discussed in the impact assessment accompanying the Council Recommendation on access to social protection, support for a legislative instrument in this domain was limited, including among Member States.

A mandatory requirement for ensuring equal access to traineeships for groups in vulnerable situations was discarded at an early stage. The issues of equal treatment / non-discrimination in accessing traineeships is already sufficiently covered by the Employment Equality Directive[130] (2000/78/EC), the Race Equality Directive (2000/43/EC)[131] and the Gender Equality Directive (2006/54/EC)[132]. In addition, it should be noted that the concept of "disability" was established by the CJEU in Case C 354/13[133]. The Court emphasises that this concept must be understood as referring not only to the impossibility of exercising a professional activity, but also to a hindrance to the exercise of such an activity. The protection under the Directive is already very broad. It covers not only cases where access to a traineeship is not made possible but also when the access is made difficult.

Extending the scope of the non-binding instrument to MPT but not to ECT was discarded at an early stage. ECT's prevalence among the total stock of traineeships is high (31.1% of paid traineeships in 2019) and has been increasing over the years (see Annex 4). Evidence from the supporting study highlighted issues regarding quality for these types of traineeships (particularly with respect to working conditions, remuneration and social protection), despite the view that some stakeholders have expressed as regards national educational frameworks and institutions acting as safeguards to the quality standards of ECT. Furthermore, the Erasmus+ Charter[134], which provides the general quality framework for European and international cooperation activities, was analysed in detail against the 2014 QFT principles as well as possible future principles. The analysis found no contradicting principles that would lead to confusion amongst trainees, traineeship providers or educational institutions, with the exception of duration. In Erasmus+, the traineeship duration may be between 2 and 12 months, while the initiative would maintain the recommendation for duration to be in principle 6 months, unless duly justified on objective grounds (no minimum would be recommended). The 2023 Eurobarometer results indicate that as regards the recommendation on duration, only 11% of ECT trainees responded to having done a traineeship longer than 6 months. Therefore, it seems that only a small share would not be conform with the recommended duration and could therefore be expected to provide due justification. The comparison between the Erasmus+ Charter also brought to light that less emphasis is placed on adequate working conditions

[128] Council Recommendation on the access to social protection for workers and the self-employed (2019/C 387/01).
[129] Unemployment, sickness, healthcare, maternity/paternity, accidents at work and occupational diseases, disability, old age.
[130] Council Directive (2000/78/EC), 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
[131] Council Directive (2000/43/EC), 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
[132] Directive (2006/54/EC) of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.
[133] Which within the meaning of this Directive must be understood as referring to a limitation which results in particular from long-term physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers.
[134] Erasmus Charter for Higher Education | Erasmus+ (europa.eu).

compared to the 2014 QFT and the possible future initiative. Therefore, ECT could benefit from inclusion in the QFT when it comes to improving working conditions for ECT trainees.

Extending the scope of the non-binding instrument to ECT but not to MPT was discarded at an early stage. Due consideration was given to the perception of MPT being less exposed to quality concerns and accounting for a smaller share of total number of traineeships (9.2% of paid traineeships in 2019). Nevertheless, the 2023 Eurobarometer did find that 35% and 26% of MPT trainees were unpaid and were not subject to the same working conditions as other (regular) workers. Regarding the learning component, despite doing MPT, 24% claimed not having a mentor to turn to and finally, still 23% (compared to 27% for OMT, which performed worst in this aspect) found that their traineeship, despite being mandatory to access a certain profession, brought no or limited learning content.

6 WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

The **policy options** under the Areas considered in section 5 may have different social and economic impacts on stakeholders (trainees, traineeship providers and Member States). No environmental or climate impacts are expected. Impacts of the baseline scenario are included in section 5.1. Details regarding potential costs and benefits are presented in Annex A13.3 and on Member States mostly affected in Annex A13.1.

Limitations and robustness of data: The analysis of impacts is subject to a certain degree of uncertainty, given the general scarcity of data available on traineeships. Attempts were made to provide quantification and monetisation of the benefits and costs arising from the policy options. However, these estimates are subject to several assumptions and limitations (Annex 4). The limitations described under section 2.1 and Annex 4 are also applicable to the estimated proxies for the number of beneficiaries. Therefore, estimates should be considered as rough proxies and should be interpreted carefully given the underlying assumptions (see Annex 4).

Options under Area A and B may have low to high costs for businesses, offset by low to high benefits for traineeship providers, public authorities and trainees. These benefits are particularly important for trainees, often at the start of their professional career and for whom benefits can have positive lifelong effects. In addition, employers will benefit from fairer competition based on common minimum social standards.

6.1 Common impacts for all measures

The legislative measures are expected to have a stronger impact in the Member States and sectors of economic activity with the highest prevalence of paid trainees (proxy for trainees who are considered as workers). Overall, this concerns 12 Member States (BE, DK, DE, IE, EL, ES, FR, HR, IT, AT, PL and FI[135]) and five sectors (manufacturing; wholesale and retail; health; education; and real estate and professional, administrative and support activities[136]) which concentrate the largest share of trainees (see Annex A7.4). Furthermore, the impact for ALMP traineeships will be stronger in the sectors of mining, quarrying and manufacturing, and wholesale and retail trade were 40% of these traineeships are concentred and in Italy and Poland which account for about two thirds of total ALMP traineeships in the EU. Regarding, MPT the impact is expected to be stronger in the sectors of education, health and real estate

[135] See Annex 7.4.1 for details, source: supporting study.
[136] See Annex 7.4.2 for details, source supporting study.

and professional sectors where 85% of trainees is concentrated. ECT and OMT are quite spread across sectors, with a high share of OMT in the manufacturing sector (ca. 20%). The impact for ECT is expected to be stronger in Germany and France where 60% of ECT are concentrated. Regarding measures affecting all trainees (i.e. both legislative and non-legislative measures), the impacts would be higher in DE, ES, FR, IT and PL, where around 75% of all trainees (i.e. both paid and unpaid) are concentrated[137]. Finally, it can be expected that the initiative will have a stronger impact in sectors where traditionally working conditions were suboptimal, especially those characterised by more manual skills and lower literacy, where despite persistent labour and skills shortages the quality of traineeships cannot be expected to improve without EU action, following the trend for the general workforce (see section 2.4 and 5.2).

All measures considered have common economic costs for **traineeship providers:** these are small transversal one-off adjustment costs for familiarisation with all new provisions (according to the supporting study between EUR 53 for SMEs and EUR 39 for larger companies, see Annex A4.5), for **public administrations**, these are one-off enforcement costs related to the integration of new provisions into national law.

The measures under the non-legislative option leave the implementation to the Member States and give flexibility to Member States and traineeship providers to adapt to their specific contexts and needs accordingly. As a consequence, not all impacts could be quantified and/or monetised. Nevertheless, three scenarios were considered to provide proxy estimates (33%, 66% and 100% of implementation)[138]. The non-legislative option would in principle apply to all trainees (workers and non-workers) as well as to all types of traineeships (OMT, ALMP, ECT and MPT). Where possible, the impacts per type of traineeship are described.

6.2 Impacts of options under Area A

The policy options under Area A are likely to result in an increased number of trainees who will enjoy the rights they are already entitled to under EU or national law, and as such in fewer non-compliant traineeships. Also, for trainees who are considered as workers they will also result in fewer work relationships disguised as traineeships. This could happen either because the employer would ensure compliance with the law or because work relationships disguised as traineeships would be identified and then reclassified as employment relationships. It is not possible to quantify the extent of this impact due to the lack of reliable data on the prevalence of non-compliant traineeships and work relationships disguised as traineeships. The impact is expected to be strong in the sectors of tourism and catering where, according to the 2016 Eurofound survey[139], significant fraudulent use of traineeships and apprenticeships can be identified (see section 2.1.1).

6.2.1 Social impacts

<u>Benefits for trainees:</u> The non-legislative policy option (policy option A1.1) on enforcement and support for trainees is expected to have benefits for trainees by ensuring

[137] Data is not available by sector of economic activity.

[138] Following the experience from the implementation of the 2014 QFT, where since its adoption 12 Member States introduced changes to their national legislation / frameworks for ALMP and 5 Member States for OMT. Taking the average, we are assuming that partial implementation would thus correspond to one third of Member States implementing the non-legislative option.

[139] Eurofound (2016) Exploring the fraudulent contracting of work in the European Union, and Eurofound (2017.).) Fraudulent contracting of work: Abusing traineeship status (Austria, Finland, Spain and UK).

that their rights and working conditions under applicable EU and national law are respected, which, according to the evaluation, could contribute to reduced levels of exploitation of trainees. The strengthened recommendations on **transparent information in vacancies** would help trainees understand their rights, the working conditions and the learning and training component of the traineeship, helping them make an informed decision. This non-binding option could benefit up to 1.02-3.1 million trainees depending on implementation (33%-100%, see section 6.1).

In addition to the benefits under policy option A1.1, the legislative measures under policy options **A1.2 and A1.3 are expected to bring additional benefit**s **for trainees considered as workers (i.e. paid trainees). These would be larger under option A.1.3** due to the concrete EU-level guidance for carrying out controls and inspections could, in particular, support Member States with low capacity and resources. While it is not possible to quantify the number of trainees affected due to a lack of data on work relationships disguised as traineeships, a rough proxy can be obtained for some specific categories of paid trainees being at risk of doing such traineeship. For example, 370,000 paid trainees (rough proxy) could benefit. This is calculated by taking the sum of paid trainees who did long traineeships (230,800) and those who did consecutive/repeated traineeships with the same employer (138,700). Out of these 370,000 trainees, it can be estimated that around 100,000 (rough proxy) did a long-duration traineeships with a poor learning content (see section 2.1.1, Annex A4.3, A8.6 and A13.3.1)[140]. While not all "trainees" in work relationships disguised as traineeships will be reclassified as workers, the impact will be stronger in Member States which do not have specific systems of inspections or guidance for inspectorates for traineeships[141]. In the long term, both legislative policy options are likely to also deter the problematic use of traineeships while they can have, in practice positive spill-over effect on trainees who are non-workers where Member States step up enforcement action against work relationships disguised as traineeships and non-compliant traineeships. As for the impact of the legislative measures under policy options A1.2 and A1.3 on the even level playing field between “worker trainees” and “unpaid trainees”, a distinction needs to be made between the impact of detecting employment relations disguised as traineeships versus detecting non-compliant traineeships. In the case of the former, the person involved in the employment relationship is in fact not a genuine trainee. Therefore, no (positive or negative) impact on the level playing field between “worker trainees” and “unpaid trainees” is expected in this regard. As for non-compliant traineeships, the legislative measures applying only to “worker trainees” imply a higher protection in terms of enforcement of existing rights compared to “unpaid trainees”. Although this potentially contributes to an uneven level playing field in favour of “worker trainees”, the rights to be enforced under the legislative measures are mostly already existing rights.

The measures on **transparent information in vacancies** would result in legal certainty for trainees considered as workers and regulatory clarity for traineeship providers which can also bring benefits in terms of better enforcement and compliance as well as trust in the rule of law. In this light, the legislative measures would bring higher benefits for “worker trainees” compared to “unpaid trainees”, who however, would also benefit in terms of being able to make

[140] Supporting study. Estimates subject to limitations, methodological information provided in Annex 4. The figures in this paragraph do not include MPT (see section **Error! Reference source not found.**).

[141] OMT: CZ, DK, DE, EE, IE, ES, HR, IT, CY, LV, MT, NL, AT, PL, PT, RO, SI , ALMP: DE, CZ, EE, EL, ES, HR, CY, LV, NL, AT, PL, RO, ECT: CZ, DE, EE, ES, CY, LV, NL, AT, PL PT, RO, SI and MPT: CZ, DE, EE, EL, ES, CY, HR, LV, NL, AT, PL, PT, RO, SI, , see Annex A13.1

better informed decisions if the transparency of information in vacancies were to increase. The impact on the level playing field between "worker trainees" and "paid trainees" would in that sense be minimal.

Additional benefits for all trainees would come from the measures on **ensuring that workers' representatives** and other actors with a legitimate interest can engage in procedures to defend trainees' rights and from **establishing channels for reporting of malpractice and poor traineeship conditions** (part of both options), thereby contributing to empowering trainees in addressing (risks of) mistreatment and/or unlawful practices. Stakeholders interviewed under the supporting study agreed that stronger reporting channels could facilitate enforcing trainees' existing rights, increasing trainees' awareness of their rights and providing avenues for legal redress. In the case of partial implementation of the non-legislative option, the benefits of option A1.1 would be stronger for trainees who are considered workers. In terms of impact on the level playing field between "worker trainees" and "unpaid trainees" (with the legislative measures applying to the former and the equivalent non-legislative measures applying to the latter), the "worker trainees" would be better protected and have a stronger position in defending their rights. This could have a positive effect on the compliance of traineeships for "worker trainees" (thus paid trainees), while this effect might be smaller for unpaid trainees, as for the latter, the level of compliance will depend on the level of Member States' implementation of the (non-binding) recommendations. The impact will be stronger in Member States with no procedures for registering complaints and reporting malpractice for trainees[142].

In **Area A2**, both options could help break the vicious cycle of being trapped in long and repeated/consecutive traineeships with the same and/or different employer, with modest to medium impact. With regard to long duration, under option A2.1 up to 117,000 - 355,400 (depending on implementation) trainees could benefit. Option A2.2 would benefit 230,800 paid trainees and 42,000 -124,600 unpaid trainees depending on implementation (2019 data, see Annex A8.2 and A13.3.1). For repeated/consecutive traineeships with the same employer under Option A2.1 up to 68,000-207,800 trainees could benefit (depending on implementation). Under option A2.2, 138,700 paid trainees would benefit and 23,000 - 69,000 unpaid trainees depending on implementation. Therefore, in case of likely partial implementation the benefits of **option A2.2 are expected to be stronger for trainees considered as workers**. For example, only few Member States have a 6-month legal restriction on the maximum duration for some types of traineeships[143] (see Annex A9.3.1). Both options would also contribute to reducing the number of trainees doing repeated/consecutive traineeships with different employers by recommending to Member States to prevent employers from asking previous working experience from candidate-trainees[144]. However, this potential may not be fully achieved: while trainee providers may be prevented to request previous experience in the vacancy notice, they could still decide to hire someone with previous experience. As regards the level playing field between "worker trainees" and "unpaid trainees", the legislative measure A2.2 on duration would provide higher protection to "worker trainees" against cycles of repeated/consecutive

[142] OMT: CZ, DK, DE, EE, EL, HR, IT CY, LV, MT, HU, NL AT, PL, PT, RO, SI; ALMP: CZ, DE, EL, ES, HR, CY, NL, AT, PL, RO; ECT: CZ, DE, EE, ES, CY, NL, AT, PL, PT, RO, SI; MPT: BG (medical, legal), CZ, DE, EL, ES, HR, CY, AT, PL, PT, SI (see Annex 13.1).

[143] OMT: BE, BG, CZ, LT, LU, PL, RO, ALMP: BE, BG, CZ, EE, EL DK, FR, IT, LT, LU, PT, PL, RO, SK, ECT: BG, HU, IT, LU and MPT: IT and SI (see Annex 13.1).

[144] No quantification possible. A rough estimate obtained by combining the results of the Eurobarometer and LFS data show that in 2019 around 1.1 million trainees (out of which 500,000 paid trainees) stated that they had done multiple traineeships with different employers at some point in their life.

traineeships as well as lower the risk of engaging in an employment relation disguised as traineeship.

6.2.2 Economic impacts

Benefits for traineeship providers: All policy options in **Area A** are likely to bring **moderate direct economic benefits** for traineeship providers, mainly in terms of a potentially **more level playing field/fairer market competition, increased productivity and competitiveness of businesses**[145]. The extent of the benefits related to the level playing field between traineeship providers is difficult to quantify and will depend on the number of trainees in problematic traineeships. Usually, trainees are a small proportion of the total workforce of a traineeship provider. Therefore, a high share of trainees may be an indicator of the existence of work relationships disguised as traineeships. Where work relationships disguised as traineeships are successfully detected and tackled, the overall benefits in terms of level playing field/fair competition would be proportionate to the number of "trainees" reclassified as workers. The **non-legislative** option (A1.1) could decrease the number of non-compliant traineeships and could enhance the employer's reputation and capacity to attract traineeship candidates as traineeships offered comply with the applicable EU and national law. The extent of this impact would depend on Member States' implementation. **The benefits would be larger under options A1.2 and A1.3,** stemming from the additional legislative measures for trainees considered workers in work relationships disguised as traineeships and non-compliant traineeships, with measure A1.3 expected to affect a higher number of trainees. The level playing field would be achieved through the alignment of the labour costs to the level of compliant traineeships. Additionally, employers who hire regular employees instead of trainees and those who offer quality traineeships will enjoy the **productivity and competitiveness gains** deriving from a **more qualified, motivated and competent workforce** and potentially a better matching of trainees' skills to the needs of their company in the context of the twin green and digital transition[146]. Traineeship providers would also avoid the potential reputational damage of having their traineeship policies questioned. Benefits of increased transparency as regards their vacancies (specifically by adding information on level of remuneration, working conditions, the coverage of social protection, the expected tasks and learning and training component) could include having well-informed and motivated candidate trainees applying for a traineeship opportunity with the same expectations as the traineeship provider.

The **non-legislative** option (A2.1), included in all policy options, on preventing traineeship providers requiring previous work experience in the same field of activity as well limiting the duration of repeated/consecutive traineeships to 6 months (with exceptions allowed on objective grounds) may also benefit traineeship providers. These two measures would contribute to traineeship providers offering genuine traineeships (with no intention of replacing entry-level work), thereby attracting and employing motivated trainees (in search of genuine traineeships). The recommendations could contribute to clarity on the expectations of both parties, including on duration and level of performance (with no previous work experience required).

Costs for traineeship providers: For the **non-legislative** option (A1.1) on effective monitoring and enforcement**,** the costs cannot be quantified, as there are no figures on the

[145] This impacts both employers who provide traineeships and those who do not.
[146] See European commission (2020) A SME Strategy for a sustainable and digital Europe (COM(2020) 103 final.).

number of non-compliant traineeships nor on the magnitude of the gap that would need to be bridged in order to make those traineeships compliant to the applicable EU and national laws. In addition, such costs would depend on the extent of implementation by Member States.

Both legislative measures in policy options A1.2 and A1.3 on enforcement (Area A1) are likely to imply **recurrent adjustment costs**, **but only for companies where work relationships disguised as traineeships or non-compliant traineeships are identified during implementation or during controls and inspections**. These include possible labour costs for offering regular employment and costs related to potential administrative or judicial procedures and penalties. Such costs are therefore necessary to comply with the existing legal framework. The costs for traineeship providers would be higher under option A1.3 as they will relate to a higher number of trainees. **It is not possible to quantify the extent of the costs due to a lack of relevant data**. Given that on average the share of trainees in a company is low (even though their positive impact for the competitiveness of the company, particularly from an innovation perspective, might still be significant[147]) the possible increase in costs would still constitute a small share of the overall costs of a company.[148] These costs could be relatively higher for SMEs as they may face greater capacity constraints and may not be able to benefit from economies of scale as much as larger companies. In addition, some small **costs** could arise from the **inclusion of traineeships in existing controls and inspections** and **administrative costs** from having to provide competent authorities (upon request) data and information regarding trainees and their contracts. The **additional costs** are expected to be negligible and are minimised by only obliging traineeship providers to provide information **only upon request,** thus meaning that no systemic reporting is required. This takes into account employers' concerns on reporting obligations (Annex 2).

The costs of measures improving the **transparency of vacancies,** included in all 3 policy options, cannot be monetised. The study supporting the evaluation estimated that on average it takes 1 to 2 hours for a traineeship provider to draft a vacancy notice[149] under the baseline scenario (2014 QFT). The measure would add the following elements: the overall working conditions, coverage of social protection, and the learning and training component. Conservatively, one could estimate an additional hour per vacancy notice in order to cover these new elements. This would amount to an estimated cost of EUR 15-46 million depending on the level of implementation (see Annex A4.7.1).

In **Area 2**, the **non-legislative measures on duration (Area A2.1)** is likely to imply **small adjustment costs** from revising traineeship contracts in line with the new maximum duration limits. It could also entail adjustment costs from more frequent recruitment and onboarding processes. Such recruitment costs can be very roughly estimated as supporting evidence is scarce (see Annex A4.7.2). The available evidence suggests that the recruitment of one trainee takes on average 19.7 hours. This would lead to a rough proxy for total recruitment cost of EUR 22-68 million in the EU (depending on implementation). Large companies could be more affected than SMEs as evidence from the 2023 Eurobarometer shows that large organisations (more than 250 employees) tend to have a higher share of traineeships lasting longer than six

[147] See footnote 8.
[148] A high share of trainees in companies has been identified as an indication of work relationships disguised as traineeships. Also, more than half of the respondents to the SME Panel survey which had trainees in the past five years (n = 124) said that they constituted less than 5% of the total number of employees.
[149] Specifying the following elements: whether remuneration and health and accident insurance are applicable as well as the employer's recruitment policy.

months, for all types of traineeships. For companies requiring previous work experience, both policy options could result in modest additional costs for training inexperienced trainees. In the case of option A2.2, the costs would be the highest (68 million EUR) as full implementation would be required for trainees considered as workers (for details on the methodology, see Annex A4.7.2).

Benefits and costs for public administrations: All policy options under Area A are likely to bring **moderate benefits to public authorities**. First, competent authorities will be more effective in detecting and combatting work relationships disguised as traineeships. Secondly, increased taxes and social security contributions from trainees on regular employment or genuine traineeship contracts and proceeds from sanctions may benefit public revenue. While proceeds from sanctions cannot be predicted, evidence suggests that they could be significant[150]. The impacts will be stronger in Member States with no systems of inspections or guidance for inspectorates (see section 6.2.1 and Annex A13.1 for the list of Member States per traineeship type).

All legislative policy measures entail small **recurrent enforcement costs** from including traineeships in existing controls and inspections and strengthening the capacity of competent authorities. The costs under Options A1.2 and A1.3 in the EU of implementing these provisions are estimated to vary from around EUR 27,000 (only training provided to existing inspectors) to around EUR 1.2 million (Member States decide to hire and train additional staff in line with the ILO recommendations on the optimal number of inspectors per/10,000 employees) (see Annex A4.6 and A13.3.2 for details). The costs are expected to be higher in Member States where traineeships are not covered by labour inspection systems and in those with inadequate capacities (see section 2.2.2 and Annex A13.1). In the long term, enforcement costs could decline as the prevalence of problematic traineeships would decrease over time. Also, costs might arise from the **requirement to set up / designate channels to report malpractice** and from increased inspections due to more complaints. However, according to the results of the legal analysis conducted for this study such channels already exist in most Member States for employees and some categories of trainees. Hence, the provision would mostly entail costs connected to awareness campaigns to inform trainees about the existence of such mechanisms. Finally, if traineeship providers decide to reduce the total number of (contributory) positions due to increased labour costs, this would lead to a decrease of public revenues from social security contributions, but this cost is expected to be small. The benefits and costs of the non-legislative option are the same as those described for the legislative options. However, it is not possible to provide a quantification due to the uncertainty on the implementation by Member States. According to rough estimates the cost from controls and inspections could be, depending on implementation, in the range EUR 9,000 – 27,000 (if only training will be provided) to EUR 363,000 - 1.2 million (if the optimal number of inspectors is hired).

6.3 Impacts of options under Area B

All policy options under Area B are likely to result in more trainees doing quality traineeships, with a positive impact on their employability[151]. Indirectly, they are likely to lead to fewer work

[150] Heyes, J., & Hastings, T. (2017) The Practices of Enforcement Bodies in Detecting and Preventing Bogus Self-Employment. For instance, the Dutch National Labour Authority (Inspectorate SZW) collected a total of EUR 2.2 million from issuing 60 fines for cases of false self-employment after an inspection of 230 employers.
[151] Impact Assessment accompanying the Commission proposal for the 2014 QFT.

relationships disguised as traineeships. In view of the green and digital transitions, policy options in Area B2 aimed at improving the learning component will help companies to make the most of their investment in trainees to cover their rapidly evolving skills needs and will allow trainees to acquire the necessary skills to benefit from the transitions[152]. Any quality traineeship will also contribute to a better skilled workforce and will thus benefit employers.

6.3.1 Social impacts

Benefits for trainees: Under Area B1 all options are expected to improve the working conditions of trainees. The **non-legislative option (B1.1)**, recommends that all trainees receive remuneration which would be fair/proportionate to that of a comparable entry-level worker with the level determined on the basis of a number of objective elements (see 5.4.1). This could potentially benefit 840,000-1.8 million trainees which corresponds to the sum of unpaid trainees and lower bound for paid trainees[153] (depending on implementation)[154] (2019 data, see section 2 and Annex A13.3.1). The evaluation highlighted that remuneration is an important element for ensuring the quality of traineeships: not only is remuneration an incentive for trainees to remain in and complete a traineeship, thereby contributing to guaranteeing equal access to traineeships, but, if set at a proportionate level rather than a low level, it would help avoid driving labour standards down.

The **recommendations on social protection, which are included in all options in Area B**, could benefit trainees by reducing gaps in access to social protection, leading to better protection as regards their welfare and health. In addition, if implemented, improved access to social protection would contribute to future entitlements to social benefits, alleviating trainees' economic uncertainty as well as their risk of poverty. Overall, the 2023 Eurobarometer found that 35% of respondents had no access to any branches of social protection which means that these trainees could potentially benefit from these recommendations. Furthermore, in terms of types of traineeships, trainees in OMT would be most impacted in case of (full) implementation as OMT show the largest gap in access to social protection (25% of paid OMT trainees have no access to social protection versus 11% of MPT trainees at the lower end). This amounts to up to 256,000 - 770,000 unpaid trainees and up to 100,000 - 300,000 paid trainees, depending on implementation (2019 data, see Annex A13.3.1) who do not have access to full social protection. Furthermore, in terms of types of traineeships, trainees in OMT would be most impacted in case of (full) implementation as OMT show the largest gap in access to social protection (25% of paid OMT trainees have no access to social protection versus 11% of MPT trainees at the lower end).

Option B1.2 provides additional benefits to trainees considered workers due to the binding measure protecting them from less favourable treatment than comparable entry-level workers in **terms of working conditions, including remuneration**, that is not justified by objective grounds. If no objective grounds can be identified to justify a different treatment trainees would

[152] Traineeships with good learning content can help to overcome two challenges identified in the 2023 Strategic Foresight report: deteriorated basic competences of youth and worse learning outcomes due to the pandemic.
[153] The lower bound correspond to the 22% of respondents who stated that their compensation was not at all sufficient to cover basic living expenditures (trainees' survey, evaluation). For estimates under the other scenarios/bounds see Annex A13.3.1.
[154] Evidence from the evaluation show that while following the 2014 QFT Recommendation some Member States introduced legislative changes not all provisions were implemented equally. See section 6.1 for scenarios on implementation considered.

be entitled to the same rights as comparable entry-level workers, including in terms of remuneration.

However, due to the specific features of traineeships it is likely that in most cases objective grounds for different treatment would be identified. These features could include e.g., the learning content of the traineeship, lower responsibilities or lower intensity of the work performed. Where such objective grounds are identified, trainees may be treated less favourably than comparable entry-level workers in terms of working conditions, including remuneration. Under option B1.1, Member States would in these cases still be recommended to ensure that trainees receive a fair/proportionate remuneration. This could amount to either the minimum wage or a proportion of the average wage of comparable entry-level workers. Employers would on their own initiative have to ensure compliance. Cases against non-compliant employers could be brought to court. In terms of estimates and assuming that objective grounds would be identified for all paid trainees, the number of trainees that could potentially benefit in terms of remuneration amount to 353,000 - 870,000[155] paid trainees (rough proxy) and 500,000-1.5 million unpaid trainees (depending on implementation). It is not possible to quantify the expected impact on other working conditions.

Benefits under option B1.3 are expected to be stronger regarding remuneration, as it directly entitles trainees considered as workers to a fair/proportionate remuneration, compared to other/entry-level workers. However, this option does not provide for protection against less favourable treatment of trainees who are workers than comparable entry-level workers based on objective grounds in terms of other working conditions.

Both legislative options B1.2 and B1.3 would thus benefit "worker trainees" more than "unpaid trainees", either providing them equal treatment as regards working conditions (unless there are objective grounds for a differential treatment) or providing them with a direct entitlement to fair/proportionate remuneration. While "unpaid trainees" could enjoy the latter as well, the extent of the benefits would be dependent on the willingness of Member States to implement the relevant recommendations. In this sense, legislative options B1.2 and B1.3 could potentially contribute to an uneven level playing field between "worker trainees" and "unpaid trainees".

Overall, **all policy options** would indirectly benefit particularly trainees in vulnerable situations, making traineeships more accessible and help fight against work relationships disguised as traineeships. They could also, indirectly, reduce the downward pressure of poor-quality traineeships on the working conditions of **regular workers**, in particular entry-level workers. **Under Area B2,** the impact of the **non-legislative** option (B2.1) is expected to be moderate. The recommendations for additional elements to strengthen the written agreement which would benefit trainees by providing them 'contractual' certainty on what to expect from the traineeship in terms of the learning and training component, the tasks to be carried out, the arrangements for mentorship, supervision and evaluation, remuneration, and social protection. This strengthens trainees' position, as the rights and obligations of the traineeship provider are clear. Up to 203,000–609,000 trainees (rough proxy) could benefit from getting a written agreement, depending on implementation (see Annex A4.4.2 and Annex A13.3.1). The impact

[155] The lower bound corresponds to the 22% of respondents who stated that their compensation was not at all sufficient to cover basic living expenditures (trainees' survey, evaluation) and the upper bound to the 54% who stated that their financial allowance/compensation was below the minimum wage. See Annex 4 and A13.3.1 for details.

is expected to be stronger in Member States where there is a lack of lack of legal requirements for written agreement/written information indicating that tasks allow trainees to work towards their learning and training objectives[156]. Trainees would also benefit from the support of a mentor who could provide advice and coaching, while not necessarily having a hierarchical relation with the trainee. Such support could help integrate the trainee into the organisation, lead to more structured traineeships as learning experiences and facilitate practical guidance on matters related to the traineeship content and beyond. The number of trainees that would benefit is estimated at 212,000-637,000 trainees (rough proxy)[157] depending on implementation which corresponds to the 22% of respondents to the 2023 Eurobarometer who stated that they could not turn to a mentor during their traineeships. The impact is expected to be stronger in Member States where there is a lack of legal provisions on a supervisor and/or mentor for trainees[158].

The legislative option B2.2 is expected to result in stronger benefits for trainees considered as workers due to its legislative nature of the measure on the written agreement. The extent of the impact on the level playing field between "worker trainees" and "unpaid trainees", with the latter benefitting from equivalent measures under the non-legislative option B2.1, would depend on the Member States' level of implementation of the non-legislative option. On the contrary, "worker trainees" would in principle be entitled to a written agreement. It is expected to bring increased transparency of information for trainees considered as workers which would mitigate the information asymmetry vis-à-vis traineeship providers and lead to more structured traineeships which will raise awareness among trainees about their rights and their (expected) tasks and can ensure a better learning experience which is likely to ease trainees' entry into the labour market[159]. Up to 265,000 paid trainees (rough proxy) could benefit and 115,000 – 343,000 unpaid trainees (rough proxy) could benefit from getting a written agreement, depending on implementation (see Annex A4.4.2 and Annex A13.3.1). In the survey carried out under the supporting study, a majority of national stakeholders at least somewhat agreed that a written traineeship agreement helps reduce the risk that traineeships are used to replace regular employment[160]. Also in the same survey, the majority of business associations (22 out of 26) considered that traineeships with a proper learning component ensure that trainees acquire the skills needed by the companies.

6.3.2 Economic impacts

Benefits for traineeship providers: All policy options **under Area B** are likely to bring **moderate direct economic benefits** to traineeship providers in terms of **increased productivity as well as more motivated trainees**. The **productivity-enhancing potential of good quality traineeships** was highlighted by all stakeholders during the interviews conducted under the supporting study. Benefits in terms of productivity include a **larger and more diverse pool of skilled candidates** (as those belonging to vulnerable groups will be more likely

[156] OMT: DK, EE, IE, IT, CY, LV, MT, AT, HU, PL, SK; ALMP: CY; ECT: CZ, EE, CY, PL, SI and MPT: BG, EL, CY, see Annex 13.1.
[157] Source: supporting study. Combination of date from the 2023 Eurobarometer and the EU-LFS 2019 data.
[158] OMT: DE, EL, IE, IT, LV, MT, AT, PL, SK; ALMP: BG, DE, AT; ECT: DE, EE, CZ, PL and MPT: BG and EL, see Annex 13.1.
[159] Section 3.2 in O'Higgins, N., & Pinedo Caro, L. (2021). What makes for a "good" internship?. Internships, employability and the search for decent work experience, 35-54.
[160] 79% or 11 out of 14 public authorities, 77% or 10 out of 13 business associations, 70% or 14 out of 20 trade unions, 77% or 10 out of 13 youth associations/universities.

to apply to traineeships) and **improved labour market matching, and higher retention rates** which could decrease employers' search, matching and recruitment costs of regular workers.[161] Averaging across Member States, trainees who received compensation are more likely to start working with the same employer under a fixed or permanent contract[162]. The companies surveyed in the supporting study mentioned a better performance of subsequently retained trainees compared to new hires (10 out of 13) and improved reputation and attractiveness of the company (9 out of 13) as important or very important benefits of having trainees. Under partial implementation under option B1.1, the **benefits will be likely higher for options B1.2 and B1.3.** Regarding the option in Area B2 on a strengthened written agreement and recommending mentorship, traineeship providers would benefit from the increased clarity on the traineeship's content and conditions, as it increases the likelihood that a trainee has made a 'conscious' choice in the uptake of a particular traineeship and is committed to the traineeship description as set out in the written agreement. Assigning a mentor could benefit traineeship providers, as the guidance and coaching to trainees has a productivity-enhancing potential. These benefits can however not be quantified. Under partial implementation of option B2.1, **benefits will be likely higher for option B2.2.**

Costs for traineeship providers: In particular for large companies, all policy options under Area B1 imply **adjustment costs** to modify existing contracts, which are **expected to be small**, as well as **higher labour costs.** For **all options,** various scenarios were investigated in the supporting study to provide estimates (see Annex A4.8 And A13.3.2). However, these estimates are subject to serious limitations of the underlying data, while different assumptions have been considered for different scenarios (see Annex A4.8). Moreover, it should be noted that **for individual traineeship providers these costs could be expected to be relatively small, especially for SMEs,** in relation to their overall labour cost. This is because trainees represent a small fraction of the labour force, even though their positive impact on productivity and innovation can be significant[163]. For example, according to the SMEs panel this share amounts to 5%.

It is nonetheless clear that costs for SMEs might be proportionally higher than for larger enterprises, due to well-known scale and optimization effects. Accordingly, the initiative envisaged a series of accompanying measures (see sections 5.7 and 6.8) which are either specifically focusing on SMEs, or can be adapted to the specific needs of SMEs in different Member States and sectors.

To calculate the costs resulting from the measures on remuneration, under all policy options **two benchmarks were considered** for fair/proportionate remuneration: 1) **minimum wage scenario**: all trainees would get the minimum wage except unpaid ECT and 2) **60% of the wage of a comparable entry-level worker scenario**: all OMT and MPT trainees (paid and

[161] Notably, the Flash Eurobarometer on "Skills shortages, recruitment, and retention strategies in SMEs" of September 2023 highlighted that skilled workers are key to the success of small and medium-sized enterprises (SMEs) in Europe. High-quality traineeships can be an efficient and effective way for SMEs to access a larger pool of skilled candidates and ensure better matching with their needs, as also evidenced by the SME Panel survey (see Annex 2).

[162] The difference was larger for individuals who did ECT compared to other types of traineeships. In particular, 68% of paid ECT trainees started working with the same employer, against 40% of those who were unpaid. Similarly, 75% of those who received remuneration under a MPT started working with the same employer against 62% of those who were unpaid. In contrast, the difference was of 7 percentage points for ALMP (69% paid against 62% unpaid) and 6 percentage points for OMT (70% paid versus 64% unpaid).

[163] See footnote 8.

unpaid) would get the benchmark, all ALMP trainees and paid ECT would get the minimum wage and one fifth of unpaid ECT would get the minimum wage[164]. Also, it is assumed that 22% of the paid trainees would benefit (lower bound proxy for trainees getting less than fair/proportionate remuneration)[165] (see Annex A4.4.1, A4.8 for methodology and A13.3.2 for results).

Under the **non-legislative option (B1.1)** if the **minimum wage** is used as the benchmark, the **cost** would amount to EUR 745 million – 2.23 billion (depending on implementation)[166]. If the **60% of a remuneration of a comparable entry level worker benchmark** is used the cost would be similar: EUR 732 million - 2.19 billion (depending on implementation).

In the case of **option B1.2** the cost for traineeship providers to ensure that in respect of working conditions trainees are not treated in a less favourable manner than comparable entry-level workers of the same category in the same establishment cannot be quantified. First, the measure concerns all working conditions, not only remuneration. Second, it is likely that in most cases objective grounds for different treatment would be identified. Nevertheless, the interplay between the legislative option in B1.2 and the recommendations (under option B1.1) would mean that for remuneration a (proxy) quantification can be provided. Assuming that the different treatment of trainees compared to other entry-level workers would be proportionate to the grounds, it can also be assumed that the guidance on fair/proportionate remuneration provided by option B1.1 would benefit most paid trainees. In this case, under the **minimum wage benchmark** the cost for paid trainees is estimated to EUR 41 million and for unpaid trainees to EUR 731,2 million - 2.19 billion (depending on implementation). In the case of the **60% of the remuneration of a comparable entry-level worker benchmark,** the respective costs are up to EUR 81 million for paid trainees and EUR 704.2 million - 2.11 billion for unpaid trainees (depending on implementation). These costs refer to the assumption whereby objective grounds for different treatment would be identified for all paid trainees. Hence, under this assumption the costs of option B1.2 as regards remuneration (estimated above) would be very similar to the costs of **option B1.3** which gives a direct right to fair/proportionate remuneration to paid trainees. Unlike option B1.2, option B1.3 does not entail other costs or benefits related to other working conditions beyond remuneration.

The costs arising from the **recommendations on access to social protection, which are included in all options,** were estimated in the supporting study on the basis of Eurostat data on the share of the non-wage costs in the total labour costs, which include but are not restricted to employers' social contributions. Therefore, the costs are likely to be overestimated. Nevertheless, a sensitivity analysis on the average non-wage costs (LFS) combined with data on the share of trainees with no access to social protection and the average traineeship duration (2023 Eurobarometer), provides the following estimates EUR 2.8 billion - EUR 8.4 billion depending on implementation (see Annex A4.8 and Annex A13.3.2 for details).

Policy options related to improving the learning component and strengthening the written agreement (Area B2) imply **costs** across both policy options for traineeship providers. As regards the **non-legislative option (B2.1),** the written agreement is already a 2014 QFT

[164] Given that the majority of ECT traineeships are likely to be students it is not reasonable to assume that all unpaid ECT will get the minimum wage, therefore 2 scenarios are considered: 1) around one fifth of unpaid ECT to get the MW (presented here) and all unpaid ECT to get 60% of MW.
[165] Estimates were also calculated under the scenarios where 38% and 54% of paid trainees would benefit (see Annex A13.3.2).
[166] See Section 6.1.

principle. However, this baseline principle would be strengthened by adding more elements and also it will be extended to a wider scope of traineeships (i.e. including ECT and MPT). Quantification of costs on the addition of these additional elements were estimated in the supporting study at being in a range of EUR 27 – 80 million, depending on implementation (see Annex A4.9 and A13.3.2). As for the extension of the written agreement to ECT and MPT, estimates range from EUR 44 for micro companies, to EUR 57 for SMEs, and are lowest for large companies at EUR 25 (average annual costs per written statement per employee, see Annex A4.9). The costs of assigning a mentor to a trainee could not be quantified. However, the study supporting the evaluation provided the information for one Belgian company as regards the hours spent by a supervisor on a six-month traineeship, in particular in explaining the tasks to a trainee, amounting to six hours per trainee(ship). This could give an indication of the labour hours for a mentor per traineeship (of six months). Regarding **policy option B2.2**, employers are already obliged to provide information to workers in the baseline according to the TPWC Directive[167] the additional a cost which would derive from the need to provide information on additional elements were estimated in the supporting study to around EUR 30 million for paid trainees and EUR 17-50 million for unpaid trainees depending on implementation (see Annex A4.9 and A13.3.2). The cost for combining and formalising all information in a written traineeship agreement is considered negligible.

Benefits and costs for public administrations: Policy options under Area B1 could produce a positive impact on the tax revenues and the level of social security contributions and reduce social expenditure. In particular, if some of the currently unpaid traineeships were to be remunerated, this would increase the tax revenues and the level of social security contributions, which would correspond to the costs mentioned above for traineeship providers – though as explained, there are overestimations (EUR 2.8 billion -EUR 8.4 billion depending on implementation). In addition, the policy options could reduce public expenditure on last resort safety nets (such as social assistance) by supporting the integration of people, especially those in vulnerable situations, into the labour market. Thus, they can also reduce the burden for public finances through reduced need for public support during and after traineeships. Furthermore, a decline in the number of poor-quality traineeships could reduce enforcement costs in the longer term. In terms of **costs for public authorities**, there is a risk of decreased public revenues in terms of tax and social security contributions in the case that traineeship providers decide to lower the number of (contributory) positions.

6.4 Impacts of non-legislative option under Area C

The measures under this option are recommendations to improve access to traineeships, which give flexibility to Member States in terms of implementation and approach. Consequently, the impacts can only be described qualitatively. The proposed measures would have a particularly strong impact in Member States, which are reportedly lacking measures in this area (see Annex A13.1).

Benefits and costs for trainees: The measures would support the equality in access to quality traineeships and contribute to a level playing field for all (candidate) trainees, regardless of their background, on the labour market. Increased access to quality and cross-border traineeships would ultimately contribute to the increased employability of trainees, including

[167] The cost under TPWC cost was estimated to EUR 44 for micro enterprises, EUR 57 for small and medium companies and 25 for large companies, source: supporting study.

those from vulnerable groups. Considering that the objective of ALMP traineeships is reintegration and activation of the unemployed and the inactive, including those harder to reach, it could be deduced that the impact of the recommendations on access for those belonging to vulnerable groups would be smaller for ALMP traineeships compared to the other types of traineeships as ALMP traineeships in principle are targeting vulnerable groups already. Improved access to quality remote/hybrid trainees would facilitate the uptake of such traineeships for all (candidate) trainees and help overcome barriers related to costs caused by physical distance, with an expected larger impact on vulnerable groups with limited financial resources. In the 2023 Eurobarometer, around 50% the EU trainees said that they did not have adequate equipment or did not receive adequate guidance to carry out their traineeships remotely, with unpaid traineeships performing worse than paid traineeships. If this percentage were applied to the total number of trainees in the EU (using EU-LFS), this would correspond to roughly 1.5 million trainees[168]. The benefits of the recommendations on remote/hybrid traineeships would likely be greater for trainees in Member States where large shares of trainees reported (to the 2023 Eurobarometer) that they did not have adequate equipment or did not receive adequate guidance to carry out their traineeships remotely. While there is some variation in this share across Member States, it is at least 19% in all countries. The highest levels of dissatisfaction were found in SK, IT, DE, BE and NL. The highest shares of respondents who reported a lack of guidance were found in IT, DE, BG, NL and ES.

Benefits and costs for traineeship providers: Traineeship providers would benefit from a wider and more diverse pool of candidates. An inclusive approach could have a positive impact on the organisation's reputation and its capacity to attract candidates. As for costs, pro-active outreach implies costs related to campaigning/advertisements. The provision of equipment, infrastructure and ensuring an appropriate work organisation (including mentorship) to facilitate access to remote/hybrid traineeships may also bear costs. Tailoring traineeship programmes and workplaces to specific needs, such as those of trainees with disabilities, could imply (likely one-off) costs. In general, all costs could be proportionally larger for SMEs, though quantification of such costs was not possible.

Benefits and costs for public administrations: Benefits include a decreased spending on social protection and activation, as these measures would benefit in particular those who tend to be furthest away from the labour market. Costs are involved issuing guidance to traineeship providers on quality principles as well as on specific inclusion measures. Any financial support (incentives) to traineeship providers would entail costs. Regarding the improved use of EURES to facilitate cross-border traineeships, adjustment costs could be involved for the European Labour Authority and competent national authorities.

Benefits and costs for society: The policy options improving the access to traineeships have the potential to reduce inequalities and foster the integration of disadvantaged individuals into the labour market, thereby contributing to overall youth employment, social cohesion, and productivity whilst contributing to decreasing (the risk of) poverty.

[168] However, as stated before, Eurobarometer surveys have limited representativeness and their results should be interpreted with caution.

6.5 Impacts of the non-legislative option under Area D

Benefits and costs to trainees: The extension of the scope of the (baseline) non-binding instrument to ECT and MPT could increase both the relevance and coherence of the initiative for all trainees. It would support adequate working conditions and improve the learning component for all types of traineeships and strengthen support for trainees in case of malpractice or poor working conditions. The impact on ECT is expected to be greater as more quality issues were identified for this type (for details, see Annex 10). As ECT represent about 57% of the total number of traineeships (2019), the impacts of extending the scope to this type of traineeships are expected to be larger than extending it to MPT, which represent about 4.9% of all traineeships. While both ECT and MPT lack procedures for complaints and reporting malpractice, national legislation on ECT often allows unpaid traineeships and lacks provisions on mentorship as well as on ensuring that tasks are aligned with learning and training objectives. Extending the scope to ECT would also increase the coherence of the initiative with Erasmus+, which offers traineeships abroad in particular for students currently enrolled in higher education, but also recent graduates. In terms of costs, the extension of the scope of the non-binding instrument to ECT and MPT could have a disincentivising impact on the offers of these types of traineeships, as conformity with the quality principles may entail additional costs for traineeship providers (see below). However, the reduction of low quality traineeship offers could also be regarded as a positive impact.

Benefits and costs to traineeship providers: Benefits would include more clarity as the quality principles would apply to all types of traineeships. Costs at first instance would seem to possibly affect a large majority of ECT traineeship providers, as based on LFS data and its definition of remuneration, ECT represent 85% of all unpaid traineeships. As for MPT traineeship providers, the prevalence of unpaid traineeships seems to be lower (no LFS estimate is available, but in the 2023 Eurobarometer, 35% of respondents having done a MPT stated to be unpaid). However, costs linked to remuneration cannot be quantified. Though the non-binding instrument would strongly recommend trainees to be fairly and proportionately remunerated, the EU has no competence to oblige this for unpaid trainees. The CJEU has taken a wide approach to the concept of remuneration (see footnote 37) and ECT trainees who receive grants or scholarships can be considered as paid trainees under CJEU case law. However, such cases cannot be captured by LFS, therefore the number of unpaid ECT is overestimated (even if not all paid ECT will be considered as workers under EU law as pay is only one of the criteria considered). For both ECT and MPT it can be stated that if the recommendations on remuneration were complied with as regards currently unpaid ECT and MPT, this would entail a cost in terms of recurrent labour costs. However, any other costs related to the non-binding instrument would be equally difficult to quantify, as the level of implementation cannot be estimated. In the evaluation, though, the most often held perception of stakeholders was that the total costs related to the implementation of the 2014 QFT are proportionate to the benefits. However, the implementation of the quality principles is also likely to be less efficient in small companies and micro-enterprises than in larger firms. Similar expectations for the new initiative are held.

Benefits and costs for public administrations: Benefits include increased coherence across all types of traineeships when it comes to the recommendations on quality principles. Costs may be involved in designing new or updating existing guidance and issuing such guidance to

a wider range of traineeship providers. Any financial support (incentives) to traineeship providers to implement these measures would entail costs.

Benefits and costs for society: Extending the scope of the non-binding instrument would contribute to improving the quality of and access to all traineeships. This would in turn have the potential to reduce inequalities and contribute to overall youth employment, social cohesion, and productivity.

6.6 Territorial impacts

The impacts of the **policy options** would differ across Member States and would depend on national regulatory frameworks (see Annex 9 and Annex A13.1 for details). Also, the benefits and costs would be larger for trainees and organisations in sectors and Member States in which work relationships disguised as traineeships or non-compliant traineeships are more pronounced[169]. Policy options under Area B are likely to have a stronger impact on 12 Member States where the prevalence of trainees considered as workers under EU law (proxied by paid trainees) is high[170]. Also, the impact is expected to be **higher in cities**, where almost half of paid traineeships is concentrated (45%) as compared to 22% in rural areas (see Annex A7.4.1)[171]. As for Area C, the impact could be larger on those Member States where vulnerable groups are perceived to face unequal access to traineeships[172] as well as those Member States where persons with disabilities seem to not receive adapted office equipment and reasonable adjustments[173]. Regarding remote/hybrid traineeships, the ten Member States without any provisions on teleworking arrangements are likely to be most impacted[174]. Under Area D, the extension of the scope to ECT and MPT is likely to impact those Member States where these two types are particularly prevalent (see Annex 7).

6.7 Impacts of all options on fundamental rights and SDGs

All policy options proposed under this initiative are expected to have a strong positive impact on ensuring fundamental rights in the EU. In particular, policy options under policy areas A, B, and D by preventing and combating the problematic use of traineeships and ensuring fair working conditions are expected to contribute to ensuring the right to equality before the law (Article 20 of the Charter of Fundamental Rights of the EU), the right to fair working conditions (Article 31), access to adequate social protection (Article 34) and healthcare (Article 35). These measures could also contribute to reducing the gender pay gap among trainees. Evidence from the Eurobarometer shows that only 52% of female respondents were paid compared to 65% of male participants. The policy options in Areas C and D are expected to contribute to ensuring the right to equal opportunities and treatment of under-represented groups and non-discrimination (Article 21). The policy option to facilitate cross-border traineeships also promote the freedom of movement within the EU (Article 45), while

[169] Eurofound (2016): significant fraudulent use of traineeships/apprenticeships in EL, FR, IT, CY, NL, AT, PT, RO, SI.
[170] BE, DK, DE, IE, EL, ES, FR, HR, IT, AT, PL and FI, proxied by paid trainees, above 10,000 per Member State (2019 data), see Annex 7 for details, source: supporting study.
[171] 39% of the population is concentrated in cities and 25% rural areas.
[172] Member States above EU average in terms of respondents disagreeing that the following vulnerable groups have equal access: those with a migrant background (BE, BG, EE, IE, EL, FR, HR, IT, CY, LV, MT, NL, AT, SI and SE (15)), those with a disadvantaged socio-economic background (BG, EE, IE, EL, ES, FR, HR, IT, CY, NL, AT and FI (12)), those with disabilities (BE, BG, CZ, DK, EE, IE, EL, FR, HR, CY, LV, LU, HU, NL, AT, PT, SI, and FI (19)) – 2023 Eurobarometer.
[173] Above EU average in 2023 Eurobarometer: BE, BG, DE, IE, EL, ES, FR, HR, IT, LV, LT, HU, NL, AT and FI (15).
[174] DE, EE, EL, CY, LV, NL, AT, PT, RO, NL, see Annex A9.8.

the policy option on hybrid/remote traineeships is expected to facilitate the right to family life (Article 7).

All policy options are expected to **contribute to the SDGs** on poverty (SDG 1), quality education (SDG 4), decent work and economic growth (SDG 8) and reduced inequalities (SDG 10) and to their respective targets.

6.8 Impacts of accompanying measures

The accompanying measures are expected to reinforce the effectiveness of the initiative by improving the overall quality of traineeships, through improved implementation of the updated and strengthened QFT. Most importantly, the supporting measures for companies, e.g. on financial and non-financial support and guidance, can act as mitigation measures by supporting SMEs to implement this initiative, which would imply costs for public authorities.

The introduction of specific exemptions for SMEs was not considered appropriate, as they could inadvertently create barriers to the further growth of companies. Furthermore, such exemptions would be difficult to justify, without compromising the goal of ensuring a level playing field between traineeship providers and avoiding incentives to compete on the basis of labour costs alone, which could be damaging for aggregate business competitiveness.

6.9 Unintended consequences of policy options

Labour costs to employers arising from the initiative are relatively limited in so far as they do not comprise mandatory remuneration. Making remuneration mandatory was discarded upfront for lack of a legal basis. Therefore, costs of the binding measure on remuneration only refer to the gap between the current remuneration of trainees and a benchmark set for fair/proportionate remuneration. Potentially higher costs for providing remuneration where it is currently not at all provided and for social protection coverage is only part of the non-binding measures, which can be implemented in a proportionate way as deemed appropriate by Member States.

The legislative policy options could potentially result in fewer traineeship opportunities including paid ones and a decrease in overall employment, because of higher costs for traineeship providers (see section 6.3.2). In general, these impacts can be expected to be small given that trainees only represent a small fraction of the workforce. For example, more than half of the respondents to the SME Panel survey which had trainees in the past five years (n = 124) said that trainees constituted less than 5% of the total number of employees. At the same time, the measures to prevent and combat work relationships disguised as traineeships and the measures to improve the quality of traineeships could drive some employers to offer more regular (entry-level) employment positions to cover the needs of their companies.

Importantly, it can be expected that a majority of the lost traineeship offers as a result of the measures under Policy Area A will be work relationships disguised as traineeships, i.e. unlawful work arrangements given that their detection and reduction through improved controls and inspections is one of the objectives of this initiative. Thus this cannot be considered as a cost/negative consequence given the harm to trainees and long-term business competitiveness. While it is difficult to quantify the precise impact of the measures on the offer of traineeships and regular employment, it can be expected that most work relationships disguised as traineeships will be converted in regular employment relationships. Some may

however not be replaced by regular positions, leading to the (unlawful) trainee's unemployment or inactivity in the short term, or may be replaced by legally compliant traineeships. Such short-term costs would however not outweigh the benefits of ensuring fair competition between traineeship providers and proper enforcement of workers' rights under the EU acquis.

The policy options in Policy Area B are expected to further contribute to an increase in the number of quality traineeships. Employers are expected to either choose to adhere to the updated quality requirements in Union law (which is the intended consequence) or to no longer offer poor quality traineeships. It is also difficult to meaningfully quantify the potential impact of the policy options as there are no studies investigating the elasticity of traineeships in particular with respect to the levels of remuneration. However, available evidence (outlined below) suggests that an increase in labour cost would not necessarily and directly lead to decreased traineeship opportunities:

- The impact assessment of the Minimum wage Directive showed that the impact of the Minimum wage Directive on overall employment is expected to be muted[175]. Research has shown that the negative effects of increasing the minimum wage on employment are small, and significantly smaller than was believed years ago[176].
- Evidence from prior studies[177] investigating the consequences of extending access to social protection to all forms of employment suggest that these initiatives would not change the hiring behaviour of traineeship providers.
- The survey conducted under the supporting study showed that only 1 out of 15 companies said they would take fewer trainees in case of a requirement to set remuneration at minimum wage level.

Overall, the risk of a shift from paid to unpaid traineeships appears very limited for MPT and ALMP traineeships, which are subject to detailed regulations and legal obligations on remuneration in most Member States. Regarding OMT, the situation is more complex. In 4 Member States unpaid traineeships or OMT as such are forbidden. In the other Member States, employers currently already have the choice to offer unpaid traineeships instead of paid traineeships (the latter either as employment relationships, subject to full protection under labour law and collective agreements, or as contractual relationships regulated by specific provisions, including on remuneration). The potential additional labour costs stemming from the introduction of a binding measure on fair/proportionate remuneration (option B1.3) could however lead to more providers of OMT opting for unpaid traineeships. While the options in Area B also foresee a non-legislative measure on fair/proportionate remuneration, the Union cannot legally forbid Member States' possibility to allow for unpaid traineeships.

On ECT, legal provisions on remuneration/compensation only exist in 5 Member States. Moreover, it should be stressed that ECT are more likely than other traineeships not to fulfil the notion of "worker" as developed in the case law of the CJEU, i.e. the person (1) pursues

[175] See the Impact assessment of the Minimum wage Directive for a detailed discussion with reference to literature.
[176] popular-economicsciencesprize2021-2.pdf (nobelprize.org).
[177] European Commission (2018) Directorate-General for Employment, Social Affairs and Inclusion, Codagnone, C., Lupiáñez-Villanueva, F., Tornese, P. et al., Behavioural study on the effects of an extension of access to social protection for people in all forms of employment. In a sample of more than 600 employers, only 9% of the participants reported that they would reduce their demand for self-employed individuals if they were given access to social protection.

activities that are real and genuine which are performed (2) under the supervision of another person (3) in return for remuneration.

Overall, it should also be highlighted that paid traineeship providers would not necessarily switch from offering paid traineeships to unpaid ones, given the consequences in terms of reputational damage as well as the decrease in their attractiveness as employer. Furthermore, as already discussed in section 5.2 demographic challenges as well as labour and skills shortage, in particular in some sectors, lead to a tightening of the labour market and a race for talent. This is an additional factor deterring traineeship providers from switching from offering paid traineeships to unpaid ones – a shift which, however, for the reasons outlined above, cannot be entirely excluded.

Summary table of main benefits and costs

Table 1: Summary table of main benefits and costs

<table>
<tr><th></th><th colspan="8">BENEFITS</th></tr>
<tr><th>Options</th><th>Indicator</th><th>Legislative</th><th>Non-legislative</th><th>Total</th><th>Indicator</th><th>Legislative</th><th>Non-legislative</th><th>Total</th></tr>
<tr><td>A1.1</td><td>1) Number of trainees that could benefit from controls and inspections</td><td colspan="3">up to 1.02 - 3.1 mill (depending on implementation)</td><td colspan="4"></td></tr>
<tr><td>A1.2</td><td rowspan="2">2) Number of paid trainees doing long traineeships incl.. consecutive/repeated traineeships with the same employer (4) + (5)</td><td rowspan="2">up 370,000 but more under A1.3</td><td rowspan="2">NA</td><td rowspan="2">NA</td><td rowspan="2">3) Number of trainees doing long traineeships with a poor learning content (sub-set of indicator 2)</td><td rowspan="2">up 100,000 but more under A1.3</td><td rowspan="2">NA</td><td rowspan="2">NA</td></tr>
<tr><td>A1.3</td></tr>
<tr><td>A2.1</td><td rowspan="2">4) Number of trainees doing traineeships more than 6 months</td><td colspan="3">up to 117,000 - 355,400 (depending on implementation)</td><td rowspan="2">5) Number of trainees doing long consecutive/repeated traineeships with the same employers</td><td colspan="3">up to 68,000 - 207,800 (depending on implementation)</td></tr>
<tr><td>A2.2</td><td>up to 230,800</td><td>up to 42,000 - 124,600 (depending on implementation)</td><td>up to 272,800 - 355,436 (depending on implementation)</td><td>up to 138,700</td><td>up to 23,000 - 69,000 (depending on implementation)</td><td>up to 161,700 - 207,787 (depending on implementation)</td></tr>
<tr><td>B1.1</td><td rowspan="3">6) Number of trainees benefiting from fair/proportionate remuneration</td><td colspan="3">remuneration: up to 840,000-1.8million trainees (depending on implementation)</td><td rowspan="3">7) Number of trainees benefiting from access to social protection</td><td colspan="3" rowspan="3">social protection: 352,000 - 1,07million trainees (depending on implementation)</td></tr>
<tr><td>B1.2</td><td rowspan="2">up to 353,000 to 870,000 paid trainees (depending on scenario)</td><td colspan="2" rowspan="2">up to 500,000-1.5 million unpaid trainees (depending on implementation)</td></tr>
<tr><td>B1.3</td></tr>
<tr><td>B2.1</td><td rowspan="2">8) Number of trainees having access to a mentor</td><td colspan="3" rowspan="2">up to 212,000-637,000 trainees (depending on implementation)</td><td rowspan="2">9) Number of trainees to potentially benefit from a written agreement</td><td colspan="3">up to 203,000 – 609,000 trainees (depending on implementation)</td></tr>
<tr><td>B2.2</td><td>up to 265,000 trainees</td><td>115,000 – 343,000 unpaid trainees could benefit (depending on implementation.</td><td>380,000 – 609,000 unpaid trainees could benefit (depending on implementation.</td></tr>
</table>

	COSTS			
Options	**Indicator**	**Legislative**	**Non-legislative**	**Total**
A1.1	**Enforcement cost**	EUR 9,000 – 27,000 (depending on implementation and if only training) to around 363,000 - 1.2 million		
A1.2		EUR 27,000 (training) -1.2 million (hire optimal number of inspectors hired)	NA	NA
A1.3				
A2.1	**Recruitment costs**	up to EUR 22-68 million (depending on implementation)		
A2.2		up to EUR 68 million	NA	up to EUR 68 million
B1.1	**Labour costs**	Remuneration (paid and unpaid): EUR 745 million – 2.23 billion (MW benchmark);		
B1.2		Remuneration paid trainees: EUR 41 million (MW benchmark); 81 million (60% benchmark) (22% scenario)	Remuneration unpaid trainees: EUR 731,2 million - 2.19 billion (MW benchmark) and EUR 704.2 million - 2.11 billion (60% benchmark, depending on implementation)	
B1.3		Social protection: EUR 2.8 – 8.4 billion (depending on implementation)		
B2.1	**Costs for written agreement**	up to EUR 27-80 million (depending on implementation)		
B2.2		up to EUR 30 million	up to 17-50 million (depending on implementation)	EUR 47 - 80 million (depending on implementation)

7 HOW DO THE OPTIONS COMPARE?

The options for each Area are compared against the baseline for the criteria of effectiveness, efficiency and coherence, based on the indicators set out in the tables below. When rating the policy options, the social and economic impacts (including on competitiveness and SMEs) and on fundamental rights (see section 6) were all taken into account. Based on this assessment, a preferred option is identified for all Policy Areas and then described in section 8. Policy options are scored from "0" to "+++" ("---") depending on the direction of the impact[178]. The baseline scenario is rated 0 (for details see Annex A4.15). A list of the main indicators used for the comparison of options is presented in Table 1. It should be noted that estimates in this table are subject to some data limitations (for details see the introduction to sections 2.1 and 6, and Annex 4), therefore, they should be treated with caution. While this poses certain limitations to the validity of the conclusions on the basis of quantitative data, the analysis was complemented and triangulated with evidence from other sources (e.g., legal analysis, two-stage social partners' consultation, survey of stakeholders and interviews – see Annex 4 for details) to overcome these shortcomings and the risk of biased responses. Such an approach supports the validity of the conclusions. For each of the criteria used for the tables comparing different options, a detailed table on the rating of the options, including a comprehensive list of the criteria used for the assessment, is presented (Tables 2-5). Table 6 provides a summary overview. Annex A13.3 presents tables on benefits and costs of all options (where possible).

7.1 Effectiveness

"Effectiveness" refers to the extent to which the options under all Policy Areas help achieve the objectives of the initiative**, as outlined in** section 5. Table 2 provides a detailed comparison.

[178] "+" ("-") represents a small positive (negative) effect and "+++" ("---") a positive (negative) effect compared to the baseline. 0 means that the option would not constitute a significant deviation from the baseline scenario.

The effectiveness of non-legislative measures depends on the implementation by the Member States and to inform the assessment below, the experience from the implementation of the 2014 QFT is taken into account.[179]

Under Area A1, all three options score positively as they would contribute to ensuring the rights of individuals. Policy Option A1.1 has a small positive effect in view of the expected number of trainees benefiting (partial implementation). In addition, options A1.2 and A1.3 can be expected to effectively improve detecting and combating work relationships disguised as traineeships and can **reduce the number of work relationships disguised as traineeships[180] and non-compliant traineeships**, leading as such to a reduction of the replacement of entry level jobs. **Option A1.3 is the most effective** in terms of paid trainees affected as it defines a list of binding elements at EU level. This would result in a common understanding of the main features of work relationships disguised as traineeships and can ensure that all Member States apply uniformly the same comprehensive list to detect work relationships disguised as traineeships. This provides concrete guidance to competent authorities to carry out effective controls and inspections, resulting in more efficient inspection and enforcement mechanisms. Under Area A2, both policy options score positively as they can prevent work relationships disguised as traineeships and can potentially reduce the replacement of entry level jobs. Policy Option A2.1 is expected to have a small positive effect (under partial implementation) on trainees exposed to either too long-duration or consecutive traineeships with the same employer and can potentially reduce the number of trainees doing repeated traineeships with different employers. **Policy Option A2.2 is the most effective** since it can give more certainty that trainees will be protected, with established binding rules **for trainees considered workers**.

Under Area B1, all policy options score positively. Policy Option B1.1 has a small positive effect in view of the expected number of trainees that could benefit (under partial implementation). Policy Options B1.2 and B1.3 are more effective for trainees considered workers. **Option B1.2 is the most effective for all working conditions** but **Option B1.3 is the most effective for remuneration** due to the direct right for fair/proportionate remuneration. Under Area B2, both options score positively as they can improve the transparency of working conditions through the provision of a strengthened written traineeship agreement clearly specifying obligations and rights and envisage access to mentors. Policy Option B2.1 has a small positive effect in view of the expected number of trainees that could benefit (under partial implementation). **Policy Option B2.2 is the most effective** as it establishes binding rules **for trainees considered workers.**

Under Area C, the recommendations (all identified in the evaluation) to address access for vulnerable groups and to facilitate access to remote/hybrid traineeships will add new elements which are absent from the 2014 QFT. The 2014 QFT has measures facilitating cross-border traineeships, which will be updated and strengthened through revised as well as new measures. Therefore, it is expected that the measures under Area C will be more effective than the baseline in addressing the access to traineeships.

Under Area D, the extension of the scope of the non-binding instrument to all types of traineeships is expected to be more effective than the baseline in improving the quality of

[179] Since the adoption of 2014QFT, 12 Member States introduced changes to their national legislation / frameworks for ALMP and 5 Member States for OMT. Thus, it is assumed that the full implementation is less likely.

[180] Proxy estimate for trainees at risk of doing a work disguised as a traineeship: 370,000 paid trainees doing traineeships of a total duration of more than 6 months, including consecutive/repeated traineeships with the same employer (see section 6.2.1).

working conditions and learning content for an increased number of trainees, as the recommendations would cover not only OMT and ALMP but also ECT and MPT. However, as the baseline option, the recommendations would be non-binding. If flanked by binding measures, as described in the preferred option, the non-binding instrument can be expected to benefit from some spill-over effect in terms of increased awareness of the non-binding quality principles.

Table 2: Effectiveness - detailed comparison of options

Options under Area A: Addressing the problematic use of traineeships	**Baseline**	**A1.1**	**A1.2**	**A1.3**	**A2.1**	**A2.2**
Primary Specific objectives		*SO1: Facilitate and strengthen enforcement of applicable legislation and support trainees in accessing their rights*			*SO2: Facilitate prevention of problematic use of traineeships*	
Effectiveness	**0**	+	++	++/+++	+	+/++
Indicators for comparing policy options		➢ Number of trainees (workers or not) benefiting from inspections and enforcement to ensure their rights. ➢ Reduction in the number of paid trainees doing traineeships of a total duration of more than 6 months, including consecutive/repeated traineeships with the same employer as well as those who also had a poor learning content. ➢ Number of trainees doing traineeships with a duration longer than 6 months as well as those doing long (> 6 months) consecutive/repeated traineeships with the same or different employers				
Options under Area B: Addressing the poor quality of traineeships	**Baseline**	**B1.1**	**B1.2**	**B1.3**	**B2.1**	**B2.2**
Primary Specific objectives		*SO3. Support fair working conditions for traineeships, including remuneration and access to social protection*			*SO4: Improve the learning component of traineeships*	
Effectiveness	**0**	+	+++	+++	+	+/++
Indicators for comparing policy options		➢ Number of trainees to benefit from fair/proportionate remuneration and access to social protection. ➢ Transparency on working conditions, tasks and learning content (trainees benefiting from written agreement and mentorships)				
Option under Area C: measures improving access to traineeships	**Baseline**	**C.1**				
Primary Specific objectives		*SO5. Foster inclusiveness and improve access to traineeship opportunities*				
Effectiveness	**0**	++				
Indicators for comparing policy options		➢ Number of trainees (in particular vulnerable groups) benefiting from increased accessibility to all traineeships, including cross-border and remote/hybrid traineeships				
Option under Area D: Extending the scope to all traineeships	**Baseline**	**D1**				
Specific objectives		*All*				
Effectiveness	0	++				

Indicators for comparing policy options		➢ Number of trainees benefiting from fair/proportionate remuneration, access to social protection, transparency on working conditions, tasks and learning content, inclusiveness of and access to traineeships
All		➢ Expected level of implementation by Member States

7.2 Efficiency

"Efficiency" refers to the ratio of the benefits of each option to its associated costs (see section 6 for an overview of the social and economic impacts of the options). As it is difficult to monetise/quantify benefits, the efficiency is presented as cost-effectiveness. Table 3 provides a detailed comparison.

Under Area A all policy options would imply costs for trainees, employers/traineeship providers and public authorities, with lower costs under A1.1 and A2.1 (assuming partial implementation). However, based on the assessment of the effectiveness of the options, A1.2 and A1.3 are assessed as having small positive efficiency compared to the baseline, with **A1.3 considered as the most efficient.** Policy options A1.1. and A2.1 and A2.2 are assessed to have the same efficiency as the baseline.

Under Area B, **all policy options have the same efficiency as the baseline**. Policy Option B1.1 and B2.1 would imply the lowest additional cost but also the lowest benefits. Options B1.2, B1.3 and B2.2 would have higher costs with proportionately higher benefits, so the efficiency remains the same as in the baseline.

Under Area C, the recommendations are expected to bring benefits to all trainees, but in particular to vulnerable groups. Traineeship providers would benefit from a wider and more diverse pool of trainee candidates as well as increased ability to attract recruits as a result of improved reputation. Costs involved would affect mainly public authorities (related to new or revised guidance) and traineeship providers (related to outreach, the tailoring of traineeship programmes, workplaces and work arrangements, revised recruitment procedures (including vacancy templates)). Most of these would be one-off. Quantification is not possible as this would depend on the level of implementation. With no further data available and building on the evaluation findings on efficiency, where the costs of implementing the 2014 QFT were found to be proportionate to its benefits, it is assessed that the costs of the measures under Area C would be offset by the benefits as well.

Under Area D, the option to extend the non-binding instrument to all traineeships is found to be slightly more efficient than the baseline, with the main benefit being the increased coherence and clarity across all traineeships, which potentially might reduce time and resources of all involved parties for resolving uncertainties. Otherwise, the relation between costs and benefits would remain the same as in the baseline, since potential adjustment costs for in particular traineeship providers and public authorities would be proportionate to the higher number of benefitting trainees. Building on the evaluation findings on efficiency, where the costs of implementing the 2014 QFT were found to be proportionate to its benefits, the revised and strengthened initiative with flanking binding measures is expected to bring higher benefits than the 2014 QFT and therefore, the benefits are more likely to outweigh the costs.

Table 3: Efficiency - detailed comparison of options

Options under Area A: Addressing the problematic use of traineeships	**Baseline**	**A1.1**	**A1.2**	**A1.3**	**A2.1**	**A2.2**
Primary Specific objectives		*SO1: Facilitate and strengthen enforcement of applicable legislation and support trainees in accessing their rights*			*SO2: Facilitate prevention of problematic use of traineeships*	
Efficiency	**0**	0	+	+/++	0	0
Indicators for comparing policy options		➢ Fulfilment of objectives in view of the following costs ➢ Compliance costs on employers/traineeship providers ➢ Enforcement costs on public authorities ➢ Adjustment costs for employers/traineeship providers for more frequent recruitment ➢ Revenue to public sector (fines)				
Options under Area B: Addressing the poor quality of traineeships	**Baseline**	**B1.1**	**B1.2**	**B1.3**	**B2.1**	**B2.2**
Primary Specific objectives		*SO3. Support fair working conditions for traineeships, including remuneration and access to social protection*			*SO4: Improve the learning component of traineeships*	
Efficiency	**0**	0	0	0	0	0
Indicators for comparing policy options		➢ Fulfilment of objectives in view of the following costs ➢ Costs related to fair / proportionate remuneration and access to social protection ➢ Cost to provide written agreement and on mentorship ➢ Enforcement costs on public authorities				
Option under Area C: measures improving access to traineeships	**Baseline**	**C.1**				
Primary Specific objectives		*SO5. Foster inclusiveness and improve access to traineeship opportunities*				
Efficiency	**0**	0				
Indicators for comparing policy options		➢ Fulfilment of objectives in view of the following costs ➢ Compliance costs for traineeship providers and public authorities				
Option under Area D: Extending the scope of recommendations to all traineeships	**Baseline**	**D.1**				
Specific objectives		*All*				
Efficiency	**0**	0/+				
Indicators for comparing policy options		Fulfilment of objectives in view of the following costs ➢ Compliance costs for traineeship providers and public authorities				
All		➢ One-off adjustment costs for business for familiarisation with all new provisions ➢ One-off enforcement costs for public authorities for integration of new provisions into national law				

7.3 Coherence

This section assesses the coherence of each option with the values, aims, objectives of existing and forthcoming initiatives of the EU (for details see Annex A12.1 on Existing EU law and instruments). Table 4 provides a detailed comparison.

Under Area A, **all options score positively and equally on coherence** as they would contribute to the Treaty-based goals of promoting employment and improved living and working conditions (Article 151 TFEU). They are coherent with the implementation of the European Pillar of Social Rights, in relation to fair working conditions and with the UN SDGs, the EU Charter of Fundamental Rights, and the EU labour acquis in relation to fixed-term work which requires Member States to prevent misuse of fixed- term contracts.

Under Area B, **all options score positively on coherence**. All options are coherent with the Treaty-based goals of promoting employment and improved living and working conditions (Article 151 TFEU) and with the UN SDGs. They are also coherent with the implementation of the European Pillar of Social Rights regarding wages (principle 6), equal opportunities (principle 3), and social protection (principle 12). Coherence is also observed with the Council recommendation on access to social protection, which covers trainees who are workers. The recommendations, while making reference to the Council Recommendation on social protection, will encourage ensuring access to social protection for all trainees, in line with national legislation. All options are also highly coherent with the EU Charter of Fundamental Rights. Options B1.2 and B1.3 are also coherent with the EU labour acquis in relation to fixed-term and part-time work and minimum wages. Policy options under Area B2 are coherent with the implementation of the European Pillar of Social Rights, as regards training (principle 1), and information about employment conditions (principle 7). All policy options are consistent with the EU labour acquis on transparent and predictable working conditions as they aim to improve the transparency of information provided (in writing) to trainees.

Under Area C, the recommendations are more coherent than the baseline, as they will bring benefits for equal opportunities and inclusion of people with disabilities, in line with the EU Charter of Fundamental Rights, principles 3 and 17 of the European Pillar of Social Rights, and the Strategy for the Rights of Persons with Disabilities 2021-2030. The measures facilitating cross-border mobility are in line with the objectives of the Erasmus+ programme.

Under Area D, the option to extend is found to be more coherent than the baseline with the above-mentioned existing and forthcoming initiatives of the EU, since all trainees, regardless of the type of traineeship, would benefit and the same quality principles would apply to all traineeships. Coherence with the Erasmus+ standards, which apply to transnational ECT in the field of higher education, would be ensured by strengthening working conditions in a complementary way. The recommendations would be sufficiently flexible to allow for the different standards on duration for duly justified cases, which would include MPT and some other traineeships, e.g. in Erasmus+ (which provides a wider range than 6 months).

Table 4: Coherence - detailed comparison of options

Options under Area A: Addressing the problematic use of traineeships	**Baseline**	**A1.1**	**A1.2**	**A1.3**	**A2.1**	**A2.2**

Primary Specific objectives		*SO1: Facilitate and strengthen enforcement of applicable legislation and support trainees in accessing their rights*			*SO2: Facilitate prevention of problematic use of traineeships*	
Coherence	0	++	++	++	++	++
Options under Area B: Addressing the poor quality of traineeships	**Baseline**	**B1.1**	**B1.2**	**B1.3**	**B2.1**	**B2.2**
Coherence	**0**	++	++	++	++	++
Options under Area C: Measures improving access to traineeships	**Baseline**	**C1**				
Primary Specific objectives		*SO3. Support fair working conditions for traineeships, including remuneration and access to social protection*			*SO4: Improve the learning component of traineeships*	
Primary Specific objectives		*SO5. Foster inclusiveness and improve access to traineeship opportunities*				
Coherence	**0**	+				
Options under Area D: Extending the scope of recommendations to all traineeships	**Baseline**	**D1**				
Specific objectives		*All*				
Coherence	**0**	+				
Indicators for comparing policy options		➢ Treaty Objective ➢ Principles of EPSR ➢ Fundamental Rights of the European Union ➢ EU labour acquis ➢ Strategy for rights of persons with disabilities 2021 – 2030 (area C) ➢ Erasmus+ (areas C and D)				

7.4 Proportionality

This section assesses how the approach and the options under consideration match the identified problems and objectives, considering in particular the scale of the problems, the expected benefits and costs, and scope for national decisions. Table 5 provides a detailed comparison.

Under Area A1: all options score positively with respect to proportionality as they respond to the identified need to strengthen the monitoring and enforcement while aiming to keep costs to a minimum. The combination of measures and instruments (Recommendation and Directive) in both options A1.2. and A1.3 give Member States enough scope to put in place monitoring and enforcement arrangements taking into account national systems and prerogatives. When it comes to the criteria for assessment, Option A1.3 with dedicated and effective controls on work relationships disguised as traineeships and non-compliant traineeships as well as the binding EU list of criteria is considered more commensurate to the challenges, as it ensures that in all Member States the applicable rules are implemented appropriately and coherently. Option A1.2 does not go far enough in view of the identified problem of work relationships disguised as traineeships, since it is less likely to ensure a coherent and consistent approach to identifying work relationships disguised as traineeships by giving full scope to Member States to define

the specific elements for controls. With regard to supporting trainees in enforcing their rights, the measures do not impose significant costs for Member States as such structures for employees and some groups of trainees already exist in most Member States, and no costs for businesses, while they have the potential to benefit trainees who are not granted the rights they are entitled to. Options A1.2 and A1.3, strike the right balance as they maximise the benefits by ensuring that all Member States implement the measures consistently, while at the same time limiting additional costs by allowing Member States to use existing structures for reporting malpractice, rather than creating new ones. Option A1.1 leaves all decisions to Member States. However, it has limited benefits and potential to effectively meet policy objectives (under partial implementation). In light of these considerations, **option A1.3 is assessed most positively** in terms of proportionality, followed by option A1.2 and A1.1.

Under Area A2, both options score positively with respect to proportionality as they respond to the identified need to facilitate prevention of problematic use of traineeships, with small costs for traineeship providers. The combination of instruments (Recommendation and Directive) in option A2.2 acknowledges the legal limitations for the EU to act. The EU competencies allow legislative action at the EU level to protect and improve the situation of workers and the choice of a Directive for trainees considered as workers allows for more effective enforcement. However, setting a binding maximum duration at EU level (A2.2) goes too far in view of the uncertainty on the size of problem across Member States and differences across Member States and by type of traineeships, despite the possibility to allow for duly justified exceptions. Option A2.1 strikes a good balance, as the problem varies considerably by type of traineeship and therefore Member States are in the best position to adjust a non-binding principle to the specific circumstances. In light of these considerations**, option A2.1 is assessed most positively** in terms of proportionality, while the proportionality of the option A2.2 is low.

Under Area B1: all options address the challenges trainees are facing and have the potential for strong benefits, albeit at an important cost if implemented evenly in all Member States. This requires striking a proportionate balance regarding the measures, the scope and the choice of instrument. In this light, Option B1.3 combining a Directive and Recommendation would achieve good results towards the objectives and would give scope for Member States' implementation. However, the binding measure of fair/proportionate remuneration would go too far, considering the important costs for businesses, and that it might thus lead to unintended consequences, such as shifts from paid to unpaid traineeships. Option B1.1 with exclusively non-binding measures gives flexibility to Member States without, however, ensuring even implementation across the EU. It would thus not sufficiently reach the intended objectives and Member States could also be hesitant to act first if others might not follow. The option therefore ranks low in terms of proportionality, even though the impact on costs may be lower. Option B1.2's proportionality is considered as good. Its binding rules are focussed on preventing unjustified different treatment of trainees considered as workers while not prescribing to Member States any binding rules, including on remuneration. This leaves space for Member States to implement them according to their specific circumstances in a proportionate way. In light of these considerations, **Option B1.2 is assessed most positively in terms of proportionality**, while both Option B1.1 and Option B1.3 rank lower.

Under Area B2 option B2.1, which reinforces the QFT Recommendation with provisions on more comprehensive written agreement while it highlights the beneficial role of a mentor, can have positive effects without creating binding rules for training providers. Considering that the

QFT Recommendation already promotes the quality of learning content and Member States have started progressing, these additions are commensurate to the remaining challenges. Option B2.2 would result in too prescriptive requirement at EU level. **Option B2.1 is thus considered to rate positively regarding proportionality**, while Option B2.2 is comparable to the baseline.

Under Area C*:* by proposing non-binding guidance, addresses the identified challenges without overregulating traineeship provision. By adding principles regarding access for vulnerable groups, cross-border and remote/hybrid traineeships it is more proportionate than the baseline, which does not address these issues, although clear challenges have been identified. Thus **Option 1 is assessed as more proportionate than the baseline.**

Under Area D extending the scope of the QFT Recommendation to ECT and MPT is considered commensurate to the problems that have also been identified in these types of traineeships. This option keeps unchanged the discretion given to Member States for implementation, while having a potential to improve traineeships currently not covered by the QFT Recommendation. It is therefore considered more proportionate than the baseline. Thus **Option 1 is assessed as more proportionate than the baseline.**

Table 5: Proportionality - detailed comparison of options

Options under policy Area A: Addressing the problematic use of traineeships	**Baseline**	**A1.1**	**A1.2**	**A1.3**	**A2.1**	**A2.2**
Primary Specific objectives		*SO1: Facilitate and strengthen the enforcement of applicable legislation and support trainees in accessing their labour rights*			*SO2: Prevent the problematic use of traineeships*	
Proportionality	0	0/+	+	+/++	+/++	0/+
Options under Area B: Addressing the poor quality of traineeships	**Baseline**	**B1.1**	**B1.2**	**B1.3**	**B2.1**	**B2.2**
Primary Specific objectives		*SO3. Support fair working conditions for traineeships, including remuneration and access to social protection*			*SO4: Improve the learning component of traineeships*	
Proportionality	**0**	0/+	++	0/+	+	0
Options under Area C: Measures improving access to traineeships	**Baseline**	**C1**				
Primary Specific objectives		*SO5. Foster inclusiveness and improve access to traineeship opportunities*				
Proportionality	**0**	+				
Options under Area D: Extending the scope of recommendations to all traineeships	**Baseline**	**D1**				
Specific objectives		*All*				
Proportionality	**0**	+				
Indicators for comparing policy options	➢ Uncertainty of the scale of the problem ➢ Expected benefits and costs ➢ Choice of instrument ➢ Scope for national consideration ➢ Broader subsidiarity considerations					

Table 6: Summary overview of ratings of the options

	Area A					Area B					Area C	Area D
Options/Criteria	A1.1	A1.2	A1.3	A2.1	A2.2	B1.1	B1.2	B1.3	B2.1	B2.2	C1	D1
Effectiveness	+	++	++/+++	+	+/++	+	+++	+++	+	+/++	++	++
Efficiency	0	+	+/++	0	0	0	0	0	0	0	0	0/+
Coherence	++	++	++	++	++	++	++	++	++	++	+	+
Proportionality	0/+	+	+/++	+/++	0/+	0/+	++	0/+	+	0	+	+

8 PREFERRED OPTION

The preferred option is a package combining the below measures under the different Policy areas and consisting of a Directive and an update of the 2014 Council Recommendation (see Table 7). This is regarded as the most suitable combination to deliver on the objectives of the initiative and is also considered to be the most proportionate and effective option. Annex 3 provides a summary of the main combined impacts of the preferred option. As mentioned above, the quantitative evidence on the impacts of the options are subject to some data limitations (for details see the introduction to sections 2.1 and 6, and Annex 4). However, the conclusions in this report are based on triangulated evidence from different sources (see Annex 4 for details) which supports the validity of the conclusions.

Table 7: The preferred package

	Policy Options	**DIR**	**REC**
Area A	**Option A.1.3 and Option A2.1**		
	• Effective controls and inspections to detect and take enforcement action against work relationships disguised as traineeships and non-compliant traineeships and overall assessment based on a list of elements defined at EU level. To assist the assessment: -Member States to define excessive duration of traineeships at national level -Employers to provide in the vacancy notices information on the expected tasks, learning content, working conditions, remuneration and social protection	**X**	
	• Workers' representatives and other actors to be able to engage in procedures to enforce the rights of trainees and channels to report of malpractice and poor traineeship conditions.	**X**	**X**
	• Recommendations -for effective monitoring and enforcement to ensure that the rights and working conditions of trainees under applicable EU and national law are respected -for maximum traineeship duration (6 months) to include consecutive/repeated traineeships (strengthened Principle 10) and to prevent employers from requesting previous work experience in vacancy notices		**X**

	Policy Options	DIR	REC
Area B	**Option B1.2 and B2.1:** • Ensure trainees are not treated in a less favourable manner as regards working conditions, including pay, than comparable entry-level workers of the same category in the same establishment, unless different treatment is justified on objective grounds. • Recommendations on -fair/proportionate remuneration and access to social protection for all trainees - written traineeship agreement to include additional elements to increase transparency and to improve the learning component (strengthened Principle 2) - mentorship	**X**	**X**
Area C	Recommendations to 1) ensure equal access to traineeships for **vulnerable groups.** 2) improve **cross-border traineeships.** 3) improve **remote/hybrid traineeships.**		**X**
Area D	Extend the non-binding instrument to ECT and MPT		**X**
Accompanying measures	• Improving monitoring and data collection. • Involvement of social partners and other stakeholders the implementation and monitoring of the rights and obligation arising from this initiative. • Strengthening awareness raising, and the exchange of best practices. • Financial and/or practical guidance to support employers and in particular SMEs, to provide high quality traineeships.		**X** **X** **X** **X**

Under **Area A**, the preferred options are A1.3 and A2.1. Option A1.3 has the highest score in effectiveness, efficiency and proportionality compared to the baseline. Option A2.1, despite scoring lower on effectiveness it scores more strongly on proportionality. Regarding coherence, all options in this Area rate equally. It should be pointed out the option A2.1 relates to provisions on maximum duration of traineeships, on which stakeholders have expressed divergent views.

Under **Area B**, the preferred options are B1.2 and B2.1. While option B1.2 rates equally with option B1.3 on in effectiveness and efficiency, but better than B.1.1, its score on proportionality is higher. Option B2.1, despite scoring lower on effectiveness, it scores more strongly on proportionality. Regarding coherence, all options in this Area rate equally.

Under **Area C**, all measures are included in the preferred package as the measures build upon the results of the evaluation.

Under **Area D**, the option to extend the scope to all traineeships is included in the preferred package building upon the evaluation findings as regards the possible extension of the scope to ECT, the analysis in the study supporting this initiative on both ECT and MPT, as well as the positive scores in effectiveness, efficiency and coherence, compared to the baseline.

The **accompanying measures** will also be included in the preferred package, as they will improve its effectiveness in reaching the objectives of the initiative.

The impacts will be reinforced by the combination of policy options/areas. The combination under policy areas A and B have the potential to bring cumulative positive impacts to trainees

in terms of better working conditions (in particular fair/proportionate remuneration and access to social protection) and improved learning/training components. The combination of Area A and C is expected to bring cumulative benefits, in particular protecting vulnerable groups from the problematic use of traineeships and improving access to traineeships. The combination of policy options under Area B and C can ensure equal treatment of trainees in terms of working conditions (in particular on fair/proportionate remuneration and access to social protection) and increase transparency, thereby rendering quality traineeships more inclusive and accessible, including cross-border and/or remote/hybrid traineeships. The combination of all policy options and the combination of the preferred instruments have the potential to contribute to levelling the playing field among trainees. While legislative measures will provide stronger protection to trainees who are workers, the proposal for Council Recommendation recommends Member States to ensure good quality traineeships for all trainees. In case of full implementation by Member States, the impact of the Council Recommendation will be the same as legislative measures. Also, trainees who are non-workers could benefit from spill-over effects of the legislative measures.

Some stakeholders were concerned that mandatory provisions could reduce the offer of traineeships, in particular paid traineeships. The majority of these potentially reduced offers are likely to be work relationships disguised as traineeships and/or non-compliant or poor-quality traineeships, in line with the objectives of this initiative. The risk of a reduction in the number of paid traineeships is expected to be further mitigated due to a fairer competition between law-abiding traineeship providers. In addition, employers would benefit from the skills and competences that trainees develop in quality traineeships. This will help addressing skills and labour shortages and increasing productivity and competitiveness.

The **scope of the Directive** would cover all trainees considered as workers under EU law, regardless of the type of traineeship. Covering all trainees (including those who have no worker status) had to be discarded due to limitations imposed by the legal basis (see section 3.1). The **updated QFT Council Recommendation would** replace the 2014 QFT and provide recommendations through an updated and strengthened common policy framework at EU level for quality traineeships, while not setting mandatory requirements. The **scope** of the **updated QFT Council Recommendation** would cover all trainees (workers and non-workers) and all traineeship types, i.e., OMT, ALMP, ECT and MPT. In case of overlapping provisions in the Directive and the updated QFT Council Recommendation for trainees who are workers, the provisions in the Directive would prevail. This would be clearly specified in the updated QFT Council Recommendation.

The Policy options included in the preferred option respect the **principles of subsidiarity and proportionality**. The preferred option, by setting minimum standards regarding the working conditions of trainees who are considered as workers under EU law, and by providing recommendations covering all trainees in the EU, leaves room for the Member States to define the method and form of intervention to achieve the objectives. Thus, it does not go beyond what is necessary to address the problems identified and achieve specific objectives 1-5.

8.1 REFIT (simplification and improved efficiency)

Based on the case studies and targeted consultations under the study supporting the evaluation, the latter found that most stakeholders held the perception that the total costs related to the implementation of the QFT are proportionate to the benefits. Stakeholders highlighted benefits

more often than costs, and, while quantification was difficult, their inability to identify significant costs associated with the QFT in its current form suggests that such costs are unlikely to be large enough to outweigh the benefits. Thus, the evaluation has not identified any significant burden reduction potential.

8.2 Application of the 'one in, one out' approach

The preferred option does not introduce administrative obligations for companies such as notifications, reports submissions, certifications. Some administrative costs might arise for businesses from the need to cooperate with national authorities during reinforced controls and inspections, but as this will be done on request the cost is expected to be marginal. This type of administrative cost does not require offsetting. The adjustment costs for businesses created by the preferred option are presented in Annex 3.

9 HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

Progress towards achieving the objectives of the initiative will be monitored by a series of core indicators related to the objectives of the initiative. These and the related data sources are summarised in Annex A15.2. The monitoring framework will be subject to further adjustment according to the final legal and implementation requirements and timeline.

The initiative could be evaluated some years after it enters into force in line with the Better Regulation Guidelines (see Annex A15.3 for possible evaluation methods). This would take into account a two-year period of transposition by Member States, allowing enough time to evaluate effects on traineeships and traineeships providers, which may need time to adapt to the new rules, but also to gather data in line with the new requirements. To avoid additional administrative burden due to the collection of data/ information, the system should rely on established data sources to the extent possible, such as EU-LFS, the Eurobarometer, the Working Conditions Survey or the European Company Survey. Other input from agencies such as Eurofound or CEDEFOP could also be considered.