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Towards a European Regulation of Traineeships? The EU Proposal for a Directive on Working Conditions and Fictitious Traineeships

Giorgio Impellizzieri *

Abstract. This article examines the 2024 EU traineeships package against the broader problem of the legal status of traineeships in European labour law. It argues that the package is significant not only because it seeks to improve the protection of trainees, but because it brings to the surface a more fundamental issue that many national systems have long left underdefined: whether, and under which conditions, a traineeship can remain legally distinct from employment while taking place within a productive organisation and involving activities of clear economic value. The article first reconstructs the fragmented legal status of traineeships in EU law and in the Member States, showing how traineeships occupy a structurally unstable position between work and training. It then analyses the Commission proposal of 20 March 2024, with particular attention to its legal basis under Article 153 TFEU, its scope, and its attempt to combine an equal-treatment logic for trainees who are already workers with an enforcement strategy against fictitious traineeships. The article next examines the subsequent positions of the Council and the Parliament, showing that the legislative process has made explicit a deeper tension already present in the original package: the Council seeks to clarify that the directive targets fictitious traineeships and employment-related protections, while the Parliament seeks to extend the directive toward the positive regulation of traineeship quality as such. The article concludes that the main difficulty of the reform lies in the mismatch between the Union's competence to regulate working conditions and the hybrid legal nature of many traineeships.

Keywords: *traineeships; internships; EU labour law; equal treatment; enforcement*

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1. Introduction

EU labour-law initiatives do not attract the same degree of attention among labour scholars. In recent years, proposals touching issues that were already central to the domestic political and trade-union agenda – such as adequate minimum wages or platform work – generated immediate and dense commentary. By contrast, the traineeships package presented by the Commission on 20 March 2024 moved for a long time below the radar, notwithstanding its potential importance. That package combined two different instruments: a proposal for a directive on improving and enforcing the working conditions of trainees and combating regular employment relationships disguised as traineeships (¹), and a parallel proposal for a Council recommendation on a reinforced Quality Framework for Traineeships². The first was conceived as a binding intervention on working conditions; the second as a soft-law intervention on the broader educational and formative dimension of traineeships.

This initial relative indifference is surprising. Traineeships are not a residual phenomenon, but a structural feature of contemporary school-to-work transitions. At EU level, the most widely cited estimates suggest that every year there are more than three million traineeships and that traineeships are likely to keep growing as an entry route into the labour market³. The quantitative relevance of the phenomenon is therefore beyond doubt.

The growth of traineeships has been closely intertwined with European activation policies. Their spread has been strongly supported by the Youth Guarantee framework, financed by the European Social Fund, which made it possible in many cases for host organisations to receive public support covering the trainee allowance⁴. This mechanism undoubtedly

¹ Proposal for a Directive of the European Parliament and of the Council on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships ('Traineeships Directive') – COM/2024/132 final/2.

² Proposal for a Council Recommendation on a reinforced Quality Framework for Traineeships – COM/2024/133 final.

³ C. ALCIDI, C. ASTARITA, H. CRICHTON-MILLER, T. KISS-GALFAVI, A. OUNNAS, L. WESTHOFF, L. LECHARDOY, G. STAZI, *Study exploring the context challenges and possible solutions in relation to the quality of traineeships in the EU*, Publications Office of the European Union, 2024, p. 11.

⁴ A. ELEVELD, T. BAZZANI, A. DE LE COUR, E. STASZEWSKA, *Implementation of the European Youth Guarantee and the Right to Work: A Comparative Analysis of Traineeship*

facilitated access to work experience for many young people. At the same time, it also amplified the incentives to use traineeships as a cheap, flexible, and weakly contested source of labour. The risk, well documented in the literature, is that the traineeship may cease to function as a transitional learning device and become instead a low-cost substitute for regular labour. This risk has been reinforced by the specific way in which extracurricular traineeships have been regulated in many countries: formally classified as non-employment relationships, but at the same time inserted into labour-market policies and embedded in productive organisations in ways that can make them functionally close to work⁵.

The issue, therefore, is not merely whether trainees should be paid more or protected better. The more fundamental issue is the legal status of the traineeship itself⁶. The traineeship occupies a blurred area between work and training. It ordinarily takes place within the productive environment of the host organisation, not in a simulated setting. The trainee may perform tasks that are organisationally useful and economically valuable. Yet the normative exchange at the core of the arrangement is not, at least in principle, the exchange of labour for wages. It is rather the exchange between the activities carried out by the trainee and the learning opportunities, supervision, and gradual professional socialisation that the host organisation is expected to provide⁷. This is precisely why traineeships cannot be fully assimilated to employment without conceptual loss; but it is also why they are constantly at risk of being converted into employment-like arrangements stripped of employment protections.

From this perspective, the present article has a double aim:

- (i) First, it seeks to reconstruct the legal status of traineeships in EU law and to show why that status remains conceptually fragile, oscillating between work and training and resisting full assimilation to either field.

Programmes Under the Eu Active Labour Market Policy, in *International Journal of Comparative Labour Law and Industrial Relations*, Volume 38, Issue 3, 2022, pp. 269-298.

⁵ A. PAZ-FUCHS, *Trainees – the new army of cheap labour: Lessons from workfare?*, in A. STEWART, R. OWENS, N. O'HIGGINS, A. HEWITT (a cura di), *Internships, Employability and the Search for Decent Work Experience*, Edward Elgar, 2021., pp. 255-268.

⁶ J. HELME, *The Problems and Paradoxes with the EU's Regulation of Traineeships: a Way Forward*, in *Industrial Law Journal*, 2024.

⁷ In A. STEWART, *The nature and prevalence of internships*, in A. STEWART, R. OWENS, N. O'HIGGINS, A. HEWITT (a cura di), *Internships, Employability and the Search for Decent Work Experience*, cit., pp. 17-34.

- (ii) Secondly, it analyses the 2024 traineeships package, and in particular the proposed directive, in order to assess whether the Union can strengthen the protection of trainees without either exceeding the limits of Article 153 TFEU or emptying the traineeship of its specific formative rationale.

On that basis, the article also examines the subsequent positions of the Council and the Parliament and argues that the legislative process has progressively transformed a proposal on trainees' protection into a broader controversy over the legal construction of traineeships themselves.

2. In Search of the Legal Status of Traineeships in EU Law

At present there is no fully fledged, uniform legal definition of “traineeship” in EU hard law. The main reference point long remained the 2014 Council Recommendation on a Quality Framework for Traineeships⁸, where a traineeship was described 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»⁹. That definition was deliberately broad. It was designed to accommodate the diversity of national regimes rather than to resolve it. As a consequence, the label “traineeship” covers very heterogeneous factual and legal situations, whose meaning depends heavily on national legislation, institutional settings, educational traditions, and labour-market policies.

Comparative work commonly distinguishes at least four broad categories¹⁰. First, there are open-market traineeships, typically activated through a bilateral arrangement between the host organisation and the trainee in order to provide initial work experience and on-the-job learning. Secondly, there are active labour market policy traineeships, usually embedded in triangular schemes involving public employment services and designed as activation tools for unemployed or inactive persons. Thirdly, there are education curricula traineeships, traineeships that are part of formal education and training curricula. Fourthly, there are

⁸ Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships (2014/C 88/01).

⁹ Recital 27 of Council Recommendation 2014/C 88/01.

¹⁰ C. ALCIDI, C. ASTARITA, H. CRICHTON-MILLER, T. KISS-GALFAVI, A. OUNNAS, L. WESTHOFF, L. LECHARDOY, G. STAZI, *Study exploring the context challenges*, cit., p. 1.

mandatory professional traineeships required for access to regulated professions. Each type is characterised by different aims, different institutional sponsors, different beneficiary profiles, and different regulatory expectations. Even more importantly, the relationship between those types and labour law is highly uneven across Member States¹¹.

Some national systems treat traineeships, or at least some forms of traineeship, as employment relationships (e.g. in Belgium, Slovenia). Others reserve worker status to particular sub-types, such as mandatory professional training (e.g. Netherlands, Hungary, Poland), or recognise worker status only when classic indicators of employment are present, such as subordination, the exercise of managerial and disciplinary powers, integration into the undertaking, and remuneration (e.g. Germany, Denmark, Lithuania)¹². The result is a highly fragmented map. What counts as a traineeship in one legal order may be an employment contract in another; what is regulated as a public activation measure in one country may be left largely to private ordering in another.

The picture is further complicated by the relationship between traineeships and the broader set of youth-oriented legal schemes that combine employability objectives with different forms of work-based learning. Suffice it to consider apprenticeship, which likewise lacks a homogeneous definitional framework at the international level¹³. At EU policy level, apprenticeships are generally understood as a more formal, institutionally structured segment of education and training, in which work-based learning is embedded in recognised curricula, while traineeships, by contrast, are often portrayed as looser arrangements, with a less formalised and more indeterminate training content¹⁴. In some countries (e.g. Italy), however, the relationship is largely reversed. Apprenticeship is primarily conceived as a contract of employment, whereas the curricular traineeship is the main instrument through which

¹¹ A. STEWART, R. OWENS, A. HEWITT, I. NIKOLOUDAKIS, *The regulation of internships. A comparative study*, Working Paper No. 240 (Employment), Employment Policy Department, Ilo, 2018.

¹² C. ALCIDI, C. ASTARITA, H. CRICHTON-MILLER, T. KISS-GALFAVI, A. OUNNAS, L. WESTHOFF, L. LECHARDOY, G. STAZI, *Study exploring the context challenges and possible solutions in relation to the quality of traineeships in the EU*, cit., spec. pp. 125-126.

¹³ D. MCCANN, A. STEWART, *Quality, Formality and the Evolution of International Labour Law: The New ILO Quality Apprenticeships Standard*, in *Industrial Law Journal*, 2024.

¹⁴ J. J. VOTINIUS, M. RÖNNMAR, *Internships and apprenticeships in Sweden, collective bargaining and social partner involvement*, in A. STEWART, R. OWENS, N. O'HIGGINS, A. HEWITT (a cura di), *Internships, Employability and the Search for Decent Work Experience*, The Ilo Future of Work Series, no. 2, Edward Elgar, 2021, pp. 145-162, qui p. 145.

work-based learning is welcomed into the education and higher-education system.

Precisely because of this heterogeneity, several scholars have described the legal status of traineeships as empty, unstable, or even paradoxical¹⁵. Domestic lawmakers often define traineeships negatively, by stating what they are not: they are not ordinary employment, they do not create an employment relationship, and they may not be used to replace workers. Yet these negative definitions coexist with a practical reality in which trainees frequently operate inside productive environments, perform useful tasks, and may depend economically on the continuation of their placement. In many systems, therefore, the trainee's status is "emptied out" twice over: first by excluding the application of ordinary labour protections, and secondly by failing to guarantee, with equal seriousness, the formative guarantees that are supposed to justify that exclusion¹⁶.

This is also why a purely labour-law or purely education-law approach is insufficient. If one looks only at the production side, traineeships risk being assimilated too quickly to employment. If one looks only at the formal learning narrative, the analysis risks obscuring the material reality of productive contribution and power asymmetry. A credible legal account must instead hold together both dimensions. Traineeships are structured learning experiences that take place in productive settings; their specificity lies precisely in the attempt to allow a limited, supervised, and educationally meaningful integration into work without collapsing entirely into the employment contract. That specificity, however, is conceptually fragile and practically easy to abuse.

This difficulty also emerged clearly from the incomplete implementation of the 2014 Quality Framework for Traineeships. In its 2023 evaluation, the Commission found that progress in the uptake of the Framework's principles had been only moderate: since 2014, 14 Member States had introduced changes integrating its quality principles into their legislative or policy frameworks, while open-market traineeships remained much less regulated than ALMP traineeships¹⁷. The same evaluation also stressed

¹⁵ J. HELME, *The Problems and Paradoxes with the EU's Regulation of Traineeships*, cit.

¹⁶ G. IMPELLIZZIERI, *La disciplina dei tirocini extracurriculari in Italia tra finalità formative e torsione lavoristica*, in *RGL*, 2024, n. 2, pp. 242-260.

¹⁷ Commission Staff Working Document "Applying the Quality Framework for Traineeships Accompanying the document Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, The Youth Guarantee and the Youth Employment initiative three years on" (SWD/2016/0324 final).

that the actual application, monitoring, and enforcement of the Framework still left considerable room for improvement, and that stronger stakeholder involvement could be usefully encouraged, especially in light of the more structured governance often associated with apprenticeship frameworks.

It is against this background that the Commission's 2024 package should be understood. The package can be read as an attempt to address the dual nature of traineeships through a differentiated legal strategy: the proposed Directive focuses on working conditions and on combating regular employment relationships disguised as traineeships, while the proposed reinforced Recommendation addresses the broader quality and training dimension and extends its reach to all traineeships, including those forming part of formal education and training and those required for access to regulated professions.

For that very reason, however, the effectiveness of the 2024 initiative depends on the capacity of these two instruments to remain conceptually and institutionally connected. Whether that split is stable, however, is precisely one of the central issues examined below.

3. The Commission Proposal of 20 March 2024: Legal Basis, Definitions and Scope

The Commission proposal for a Traineeships Directive was presented against the broader background of the European Pillar of Social Rights and of the political objective of improving labour-market transitions for young people¹⁸. The explanatory documents place considerable emphasis on youth unemployment, on the persistence of NEET rates, and on the role that traineeships may play as gateways into standard employment—provided they are of adequate quality and do not degenerate into disguised jobs¹⁹.

Yet the most delicate legal question was not the policy objective, but the legal basis through which that objective could be pursued.

The Commission chose Article 153(2)(b) TFEU, read together with Article 153(1)(b), which allows the Union to adopt directives laying down minimum requirements concerning working conditions. This choice was not merely political, but it was also a matter of legal technique. Had the Commission relied on Article 166 TFEU, which concerns vocational

¹⁸ COM (2021) 102, final, § 2.

¹⁹ See § 1 of the *Explanatory Memorandum* of the proposal of directive COM (2024) 132 final/2.

training, the Union would have remained confined to non-binding recommendations. Article 153, by contrast, makes it possible to legislate through minimum harmonisation. The difficulty is obvious: if the Union legislates on working conditions, it must stay within the field of work. It cannot simply use the directive to regulate all aspects of traineeships as though they were a homogeneous labour-law category.

This is why the directive was paired with a proposal for a reinforced Quality Framework for Traineeships based on Article 166 TFEU. The recommendation was intended to carry the broader educational and quality-related ambition of the package—covering issues such as written agreements, learning content, mentoring, fair remuneration, social protection, equal access, and incentives to convert traineeships into jobs. The directive, instead, was formally constrained to address working conditions and the fight against disguised employment relationships. The package thus rests on a deliberate division of labour between hard law and soft law, and between the labour-law and training-law sides of the phenomenon.

The controversial point is the Directive's scope. Recital 16 of the Commission text states that the directive applies to «Union trainees who have an employment contract or employment relationship as defined by national law, collective agreements, or practice, taking into account the case law of the Court of Justice». Article 2 reinforces that structure by distinguishing between “traineeship” and “trainee.” A traineeship is defined broadly as «a limited period of work practice with a significant learning and training component aimed at improving employability and facilitating transition to regular employment or access to a profession» (Art. 2, lett. A). A trainee, however, is only «any person undertaking such a traineeship any person undertaking a traineeship who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in every Member State with consideration to the case law of the Court of Justice» (Art. 2, lett. B).

That distinction is crucial. Properly read, it means that the Commission did not intend to classify all trainees as workers by legislative fiat. Rather, it sought to ensure that where national law already treats a trainee as a worker, the person concerned should not receive lower protection merely because the arrangement is called a traineeship. At the same time, the proposal aimed to combat fictitious traineeships even when the employer labels as a traineeship an arrangement that, in substance, is regular work. The directive therefore contains two layers: an equal-treatment layer for trainees already in employment, and an enforcement layer aimed at

detecting and reclassifying abusive situations across the wider universe of traineeships.

This interpretation is supported by the internal architecture of the proposal. Chapter II on equal treatment is directed at “trainees” and not at “traineeships” in general. Chapter III on enforcement, by contrast, speaks more broadly of the misuse of traineeships to disguise regular employment relationships. Read together with Recital 18, the structure suggests that the Commission accepted the coexistence of genuine non-employment traineeships and traineeships that fall within labour law. The directive does not, at least in its original version, abolish that distinction; it works through it.

That said, the 2024 Directive has also been read in a different way. In particular, the Italian Government, in the report transmitted to European Commission²⁰, argued that the proposal «seems to pull traineeships into the realm of salaried employment» and, in so doing, fails to take sufficient account of legal systems such as the Italian one, in which traineeships, while sharing some features with employment contracts, remain training pathways rather than forms of subordinate work. On that view, the proposal would risk constraining the autonomy of Member States in classifying traineeships under legal categories other than employment.

That concern cannot simply be dismissed, since the delimitation of the Directive’s scope is not entirely free from ambiguity. The EESC itself recommended that the definitions in Article 2 should not entail any obligation for Member States to classify traineeships as employment relationships where national law does not do so²¹. Yet, on a systematic reading, the overall architecture of the 2024 package points in a different direction. Recital 18 expressly states that Chapter III applies both where employers label a regular employment relationship as a traineeship that is not an employment relationship and where they label it as a traineeship that does constitute an employment relationship, but on inferior terms. This suggests that the Directive presupposes the coexistence of traineeships carried out within an employment relationship and traineeships carried out outside it, while still seeking to combat fictitious traineeships in either form. The same logic is reflected in Article 2: as the EESC noted, the definition of “traineeship” is drafted broadly and refers

²⁰ See Document (Doc. XVIII-bis, No. 38), approved on 12 June 2024 by the 14th Committee (European Union Policies) of the Chamber of Deputies in the context of the subsidiarity scrutiny under Article 6 of Protocol No. 2 annexed to the Treaty of Lisbon.

²¹ See Parere del Comitato economico e sociale europeo “Direttiva sui tirocini e quadro di qualità rafforzato per i tirocini”, SOC/805, adottato l’11 luglio 2024.

to a period of work practice with a significant training component, without being tied to any specific contractual form, whereas the definition of “trainee” is linked to the employment-law notion used by the Directive. In turn, the proposed reinforced Recommendation confirms that broader approach, since it applies to all trainees regardless of their employment status, and to trainees who are workers only insofar as Union law does not already provide equivalent or more favourable rules.

Read together, the two instruments therefore seem designed to cover the whole field of traineeships without imposing their general subsumption under subordinate employment: the Recommendation addresses traineeships as such, while the Directive addresses, on the one hand, equal-treatment issues where the trainee already falls within employment law and, on the other, reclassification where a purported traineeship, whatever its formal label, amounts in substance to a regular employment relationship²².

4. The Principle of Equal Treatment and The Enforcement Strategy in the Commission Proposal

Once the scope issue is understood, the logic of the Commission proposal becomes clearer. Chapter II is built around a principle of non-discrimination: covered trainees should not be treated less favourably than comparable employees in the same establishment as regards working conditions, including pay, unless different treatment is justified on objective grounds. The proposal thus extends to trainees a familiar pattern from EU social law, already visible in the *acquis* on fixed-term work²³ and temporary agency work²⁴. The underlying intuition is straightforward: if

²² See also the speech delivered by the European Commissioner for Jobs and Social Rights, Nicolas Schmit, before the European Economic and Social Committee on 11 July 2024 (speech/24/3748), where he stated that «the directive applies only to trainees who are workers. This means that it does not seek to alter the employment status of traineeships as defined by national laws».

²³ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP. See, in particular, clause 4, which provides that «fixed-term workers 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».

²⁴ Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work. See, in particular, Article 5(1), which provides that «the basic working and employment conditions of temporary agency workers shall, for the duration of their assignment at a user undertaking, be at least those

two persons contribute work under comparable conditions, the mere contractual label should not automatically justify lower protection.

The directive does not, however, formulate equal treatment as an absolute rule. It allows different treatments when justified on «objective grounds, such as different task, lower responsibilities, work intensity or the weight of the learning and training component» (Article 3, par. 1).

On this regard, a more explicit comparison with the existing EU acquis on equal treatment is useful here. Indeed, EU labour law already knows models of equal treatment that operate in a more calibrated way²⁵. In the field of fixed-term work, Directive 1999/70/EC lays down a prohibition of less favourable treatment vis-à-vis comparable permanent workers, while at the same time allowing Member States, after consultation with the social partners, and/or the social partners themselves, to exclude from its scope «initial vocational training relationships and apprenticeship schemes» as well as employment contracts and relationships concluded within the framework of a specific public or publicly-supported training, integration or vocational retraining programme. Seen against that background, the novelty of Article 3 lies elsewhere. First, it extends the equal-treatment discussion to traineeships carried out within employment relationships that need not be fixed-term in form, thereby also potentially covering legal arrangements in which a training phase is embedded in an open-ended employment contract, as in the case of apprenticeship in some national systems. Secondly, the proposal expressly identifies the factors that may justify differentiated treatment, namely the tasks performed, the level of responsibility, the intensity of work, and the weight of the learning and training component. This is an important clarification, because it acknowledges at the legislative level that the distinctiveness of traineeships may justify adjustments, rather than simple assimilation, within the broader framework of equal treatment²⁶.

At the same time, the drafting of Article 3 is not entirely convincing. The reference to the learning and training component appears in a disjunctive series, as if it were only one possible factor among others, rather than a necessary element in justifying less favourable treatment. Read literally, the provision could therefore allow Member States to validate lower remuneration or weaker conditions for trainees on the basis of generic

that would apply if they had been recruited directly by that undertaking to occupy the same job».

²⁵ G. KÁRTYÁS, *Recent case law on equal treatment of agency workers: broad interpretation of a limited concept?*, ERA Forum, vol. 24, 2023, pp. 397-417

²⁶ J. HELME, *The Problems and Paradoxes with the EU's Regulation of Traineeship*, cit., p. 690.

lower productivity or lighter responsibilities, even where no sufficiently robust training counterpart is ensured. From that perspective, the formula used in the proposed reinforced Recommendation seems preferable, since it recommends fair remuneration while requiring account to be taken cumulatively of the trainee's tasks and responsibilities, the intensity of work, *and* the weight of the learning and training component (point n. 6).

5. The Legislative Process after March 2024: From the Commission Text to the Council and Parliament Positions

Under the ordinary EU legislative procedure, the Commission's proposal for a directive of 20 March 2024 was subsequently examined by both the Council and the Parliament. As will become clear, the two institutions developed markedly different positions, thereby setting the stage for an interinstitutional negotiation that remains open – the main disputed issues included the scope of the instrument, the possible requirement of a written agreement, and the principle of non-discrimination²⁷.

Scope is, in fact, the most difficult and persistent issue. That issue is closely connected to the legal basis of the directive, grounded in Article 153 TFEU. The legal basis determines the regulatory technique available to the Union and, with it, the internal architecture of the whole package. As already noted in the reactions of several Member States and of the EESC, the Commission text retained a residual ambiguity. It relied on the counterintuitive distinction between “traineeship” and “trainee” and left some uncertainty as to whether its ultimate purpose was to bring every form of traineeship within the orbit of employment law.

The Council's general approach of 19 June 2025 is best understood as an effort to dispel precisely that ambiguity and to align the Directive more clearly with its legal basis. In that respect, the Council does not so much depart from the Commission's regulatory logic as restate it in more definite and restrictive terms. The key move is the insertion of a separate Article 1a on scope. That provision makes clear that Chapters II and IV apply only to trainees “who have an employment contract or who are in an employment relationship as defined by the law, collective agreements or practice in force in the Member State”, whereas Chapter III applies to “any person engaged in a fictitious traineeship”. In parallel, the Council excludes from the directive traineeships carried out within national

²⁷ See the intervention of on. Alicia Homs Giné, member of the Committee on Employment and Social Affairs, at the ordinary meeting of Committee on Culture and Education of European Parliament of the 15th April 2026, available on the web.

education and training frameworks and those carried out as part of active labour market policies. The same clarifying function is served by the replacement of the Commission formula “regular employment relationships disguised as traineeships” with the narrower concept of “fictitious traineeships”, defined as “a disguised employment relationship that is claimed by the employer to be a traineeship but in fact is not a traineeship in the meaning of this Directive”. This shift matters because it presents the directive more clearly as an anti-abuse instrument directed at deceptive uses of the traineeship label, rather than as a measure concerned with the general legal nature of traineeships.

The same logic emerges from the detailed provisions. Article 3 retains the principle of equal treatment for trainees who already qualify as workers, while placing that principle within a more stable and expressly delimited scope. Article 4 requires Member States to provide effective measures, including controls and inspections where appropriate, to identify and combat fictitious traineeships. Article 5 then limits the assessment of abuse to a relatively short list of factual indicators: the absence of a significant learning or training component, excessive duration or repeated placements with the same employer, and equivalence of tasks, responsibilities and work intensity with comparable employees. The enforcement chapter follows the same pattern. The Council keeps duties of information, guidance, inspections, complaint channels, redress, representative action, protection against retaliation, and penalties, yet removes several elements that could have supported a broader reclassification machinery.

Taken as a whole, the Council text reconstructs the proposal around a more controlled conception of Union intervention: equal treatment where employment status already exists, and repression of fictitious traineeships where the placement lacks the essential features of a genuine traineeship.

The parliamentary position moves in a different direction because it gives greater weight to the view that abuse in the traineeship field cannot be addressed adequately through a directive limited to non-discrimination and misclassification. The EMPL report therefore seeks to broaden both the object and the internal content of the directive. This is already visible in the amended title, which refers to “detecting and combating practices that circumvent the purpose of traineeships”. That move shifts the focus from the binary question whether a purported traineeship is in truth a work relationship to the broader question whether a traineeship, while formally remaining a traineeship, has lost the formative features that justify its legal distinctiveness.

The same reorientation appears in the operative provisions. Parliament broadens Article 1 so that the directive aims not only to improve working conditions and combat disguised employment, but also to promote quality, transparency and accessibility. More importantly, it removes the worker-status filter from the definition of “trainee”, thereby extending the personal scope of the directive beyond persons who already fall within national notions of employment.

Parliament also reshapes the substantive core of the instrument. Chapter II becomes a chapter on traineeship agreements and decent working conditions. Within that chapter, Parliament introduces a written traineeship agreement before the start of the placement, containing at least information on duration, tasks, working conditions, remuneration, and the learning and training component. It adds provisions on mentorship and supervision, access to social protection, a broader non-discrimination framework, inclusion of persons in vulnerable situations, reasonable accommodation for persons with disabilities, and access to information on available vacancies. In Chapter III, Parliament expands the anti-abuse logic as well. The relevant indicators extend beyond the classic signs of disguised employment and include the absence of a real training programme, lack of mentorship or evaluation, prior-experience requirements inconsistent with the entry-level function of traineeships, opaque vacancy notices, and structural patterns suggesting that traineeships are being used as a recurrent substitute for ordinary recruitment. Parliament also supports a more determinate temporal discipline by framing traineeships, in principle, within a one-to-six-month duration.

The overall effect is clear. Parliament seeks to transform the Directive from a targeted labour-law instrument into a denser normative framework governing the lawful use of traineeships themselves.

It is precisely at this point that the issue of legal basis returns with greater force. Once the worker-status filter disappears, and once the Directive starts to prescribe in binding form both anti-discrimination and enforcement guarantees and positive quality requirements for traineeships as such, the question is no longer simply how Article 153 TFEU should be interpreted, but whether it can sustain this type of intervention at all. The Parliament’s position is analytically powerful because it captures something that a narrower labour-law approach may miss: many abuses take shape not only through formal misclassification, but through the legally tolerated existence of traineeships emptied of meaningful training

content and used as cheap, weakly protected labour²⁸. Yet that same insight pushes the directive toward a field that the Commission had tried, at least in part, to keep on the side of soft law. The real divergence between Council and Parliament therefore concerns the legal construction of the traineeship itself. The Council treats the Directive as an instrument whose legitimacy depends on remaining within the field of employment-related protection and the repression of fictitious traineeships. Parliament treats that solution as insufficient because the line between genuine and abusive traineeships requires binding ex-ante conditions concerning the formative structure of the placement.

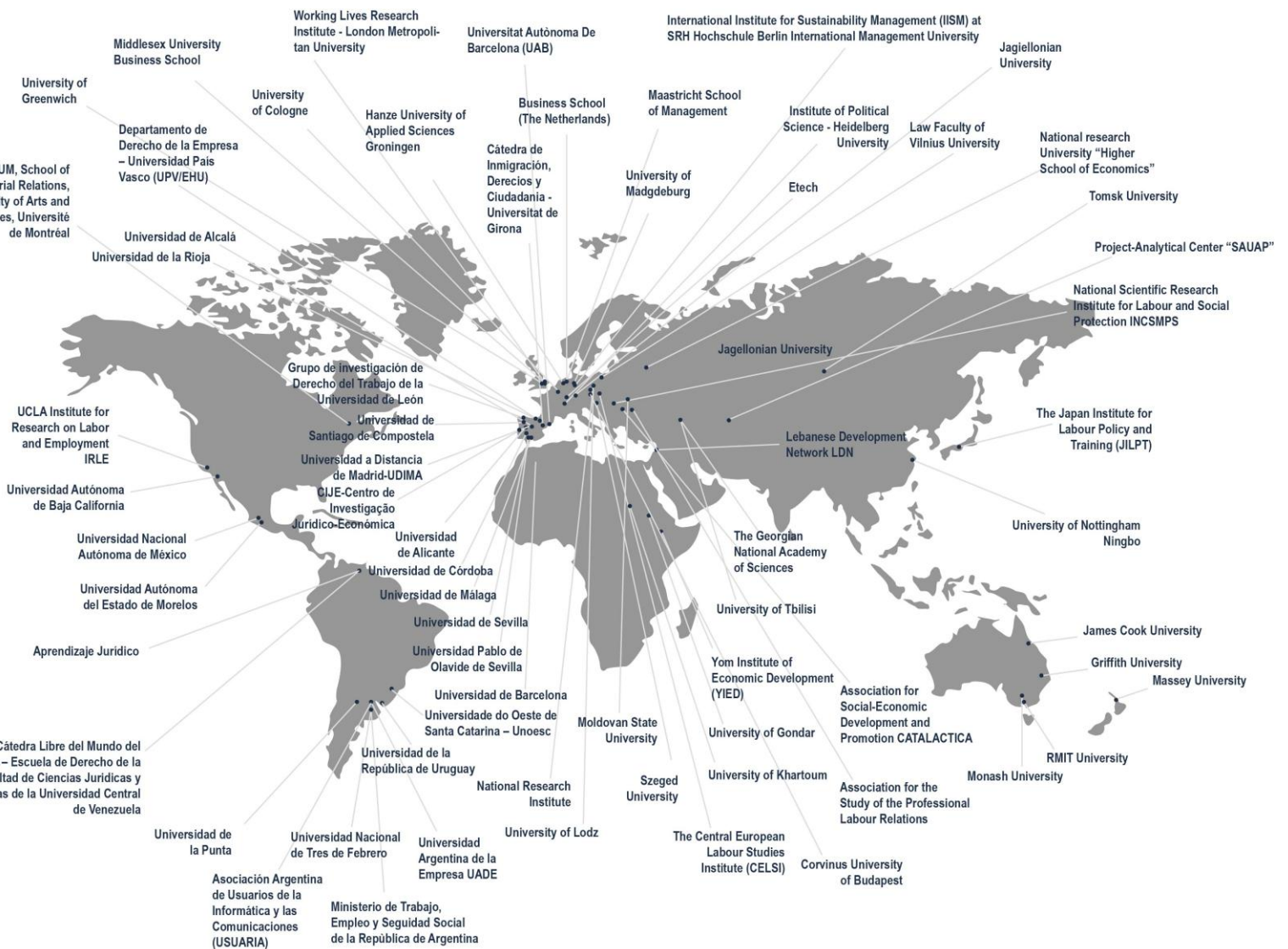
6. Conclusions: Regulating Traineeships Without Collapsing Them into Work

In conclusion, the main difficulty of the entire legislative process lies in a structural mismatch between the policy object and the Treaty basis chosen to regulate it. Article 153 TFEU allows the Union to legislate on “working conditions”; yet working conditions presuppose, in principle, workers or at least relationships that can be brought within the orbit of labour law. For that reason, a directive that seeks to reform traineeships irrespective of worker status runs a real risk of exceeding the Union’s competence, especially once it starts prescribing in binding form the positive content, duration, supervision and quality requirements of placements that national law may continue to classify outside employment. From this angle, the Council’s position appears legally more cautious, because it ties the directive to trainees who already have an employment contract or employment relationship and to the repression of “fictitious traineeships”, whereas the parliamentary position is normatively more ambitious but also more exposed on the level of legal basis. At the same time, the opposite solution also carries its own danger. Pulling traineeships too quickly toward the logic of work may generate forms of regulatory heterogenesis. For example, the Italian experience is instructive. The 2013 State-Regions guidelines, adopted in implementation of the 2012 labour-market reform, made the participation allowance a central element of the national framework for extracurricular traineeships; yet the available Ministry of Labour data show that extracurricular traineeships expanded markedly over the following decade rather than receding. That trajectory does not prove a simple causal mechanism, but it strongly suggests a cautionary

²⁸ A. PAZ-FUCHS, *Trainees – the new army of cheap labour: Lessons from workfare?*, cit.

point: once the placement carries a monetary allowance, host organisations may more easily treat that allowance as the practical counterpart of productive activity and may therefore feel more entitled to demand output from the trainee, without any genuine transition to standard employment. A reform designed to protect trainees may thus, if poorly calibrated, end up legitimising a more work-intensive and more normalised use of traineeships. The core challenge, therefore, is not only to prevent traineeships from functioning as disguised labour, but also to avoid transforming them into quasi-employment relationships whose formal distinctiveness survives only on paper.

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