

# Improvement of the Legal Framework for the Regulation of Traineeships in the Republic of Serbia



SOCIAL INCLUSION AND  
POVERTY REDUCTION  
UNIT



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## SUMMARY

High youth unemployment and difficult transition from education to stable employment is linked to an increase in the number of internship programmes aimed at **improving the employability of youth through the acquisition of work experience and practical knowledge and skills** in demand on the labour market. One in five young persons have participated in an internship programme. However, **there is no adequate legal protection for young people participating in these programmes, or standards to ensure their quality.** A large number of young people participate in internship programmes not in line with key quality elements (2015):

- 50% of young people participated in at least one internship programme without mentorship;
- 68% of young people participated in at least one internship programme without programme evaluation;
- 82% of young people participated in at least one internship programme without a signed contract;
- 83% of young people participated in at least one internship programme without receiving a certificate.

The problem with traineeships in the labour market is particularly evident. Traineeships involve short-term work experience programmes involving learning and training, open both for persons within and outside the formal education system. Traineeships rely on one's own initiative – they are not a mandatory part of education and training, and are not regulated by law or rulebooks as a requirement for practising a certain profession and/or trade, but are important for skills and further employment.

- **There is no adequate contractual modality** for regulating the relationship between “traineeship providers” and young people in such programmes. The existing solutions in the Labour Law governing professional training and development contracts do not encompass all forms of traineeships and discourage the organization of such programmes for unemployed persons.

- **There are no mechanisms for ensuring the quality of traineeships.**

Three options were considered for improving the legal framework, and thus increasing the number of quality traineeships to increase youth employability. These are: 1) amendments to the Labour Law that would adapt the existing Article 201 of the Labour Law; 2) addition of a new Article 200 to the Labour Law and 3) adoption of a special law on traineeships.

The option most likely to improve the legal framework is **adding a new Article 200 to the Labour Law**, since the existing Article 201 still has a purpose under certain cases of training and development, precisely as regulated at this time. A unified registry of traineeships needs to be provided, quality standards that would apply to all forms of traineeships need to be regulated, youth, employers and competent institutions should be better informed and motivated to organize traineeships as an important instrument in combating unemployment.

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The number of young people participating in internship programmes has been increasing during the past several years across a large number of European countries. Programmes for the acquisition of practical knowledge and skills are seen as a tool for breaking the “vicious circle of inexperience” for youth lacking enough work experience due to not having a job, while on the other hand being unable to find a job because they lack enough experience.<sup>1</sup>

This mechanism is particularly important in the context of high youth unemployment rates and difficult transition from education to the labour market. These are precisely the characteristics of the current situation in Serbia. The youth unemployment rate (15-29) for 2015 was 34.5%, twice the general unemployment rate for the working-age population (17.7%), while one fifth of young people (15-24) are neither employed, in education, nor in training.<sup>2</sup> The youth unemployment rate (15-24) during Q3 2016 was 28.5, representing a decrease compared to Q3 2015, when it was 38.1. The youth inactivity rate for this quarter was 68.7, similar to the value for the given period of the previous year, when it was 69.6.

The transition of youth to satisfactory employment is not easy, and lasts relatively long. Half a million young people are undergoing the process of transition from school to work, two fifths of young people have not started the transition yet, while only one fifth have completed it. A young person, on average, needs two years (23.4 months) from graduation to a first job that is either stable and/or satisfactory.<sup>3</sup> In this context, and particularly having in mind the insufficient readiness of young people for employment following formal education, which fails to sufficiently develop practical knowledge and skills among youth, internship programmes gain a lot of importance. According to research by the Association of

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<sup>1</sup> In Search of Benchmarks for Quality Internships — Gianni Rosas, [http://www.youtheconomicopportunities.org/sites/default/files/uploads/resource/un\\_world\\_youth\\_report\\_youth\\_civic\\_engagement.pdf](http://www.youtheconomicopportunities.org/sites/default/files/uploads/resource/un_world_youth_report_youth_civic_engagement.pdf)

<sup>2</sup> Statistical Office of the Republic of Serbia (2015). Labour Force Survey.

<sup>3</sup> Tranzicija mladih žena i muškaraca na tržištu rada Republike Srbije, Dragana Marjanović; International Labour Office – Geneva: ILO, 2016.

Employers, only 4% of young people believe the knowledge they acquire during formal education meets the needs of practical work, 46% believe it only partially meets them, while 48% believe this knowledge does not meet the needs of practical work.<sup>4</sup> A survey of employers implemented as part of the “Careers” project shows that 67% of them believe the educational system does not match labour market needs, while 25% believe it meets them partially.<sup>5</sup> The issue of mismatch between knowledge and skills acquired by young people in the formal education process and the labour market has been recognized across a number of strategic documents in the Republic of Serbia, including the Strategy for the Development of Education in the Republic of Serbia by 2020 and the National Youth Strategy for 2015-2025.<sup>6</sup>

## Identification and types of traineeships

Several different terms are used in the Serbian language to describe programmes for the acquisition of work experience and practical knowledge and skills in a working environment – literally translated, these would be “vocational practice”, “work practice”, “professional practice”, “apprenticeship”, “internship”, etc. The term “volunteering” is also sometimes used to this end, but it bears noting that the goals of internship programmes and volunteering are completely different and should thus by no means be interchangeable. Volunteering is done for the good of the community or another person. The acquisition of new knowledge and skills (usable on the current labour market) may be an outcome of volunteering, but in no way is it its key goal, as

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<sup>4</sup> Bolji uslovi za zapošljavanje mladih, Unija poslodavaca Srbije, 2013, p. 40.

<sup>5</sup> Univerzitet u Beogradu. (2013). Šta i koliko poslodavci znaju o reformi visokog obrazovanja u Srbiji.

<sup>6</sup> Likewise, one of the goals set out in the Employment and Social Reform Programme, adopted in 2016, is the improvement of the status of youth in the labour market, including the measure of the improvement of the internship and apprenticeship programme, similar to vocational practice programmes aimed at providing the first work experience for young people completing schools.

is the case with internships. Therefore, although internships are sometimes unpaid, it is important to avoid confusing them with volunteering, since their purposes are completely different.

The difficulties with the myriad terms in use are not specific to Serbia. A similar situation is found in other countries, where terms such as “*apprenticeship*”, “*traineeship*” and “*internship*” are in frequent use, although their meaning is not always harmonized (Table 1).

*Table 1: Overview of various English-language terms*

English language term	Identification in European Commission documents <sup>7</sup>
<b>“Apprenticeship”</b>	<ul style="list-style-type: none"> <li>- Formal professional education and training programmes;</li> <li>- Combine training in companies and learning in educational institutions or training centres;</li> <li>- The goal is the acquisition of a nationally recognized qualification upon completing the programme;</li> <li>- Last for three years on average, and often include a financial compensation or salary.</li> </ul>

<sup>7</sup> The following sources have been used: 1) European Union (2013). Apprenticeship and Traineeship Schemes in EU27: Key Success Factors. A Guidebook for Policy Planners and Practitioners, 2) Analytical document: towards a quality framework on traineeships (SWD(2012) 407 final) / European Commission, 2012.



<b>“Traineeship“</b>	<ul style="list-style-type: none"><li>- A programme for the acquisition of work experience during formal education or upon its completion, limited in time;</li><li>- Involves learning and training in a working environment;</li><li>- The goal is the improvement of employability and transition to stable employment;</li><li>- Most frequently last up to six months or at most up to one year, and sometimes involve financial compensation, sometimes not.</li></ul>
<b>“Internship“</b>	A term most frequently used synonymously with the term “ <i>traineeship</i> ”.

Beyond the terminological inconsistencies, there are significant differences between various forms of internship programmes. The following forms of traineeships have been, *inter alia*, identified in the analysis of internship programmes in European Union countries:<sup>8</sup>

- a) **Internship programme as a mandatory part of the educational process** – Implemented in vocational secondary schools or as part of the study programme curricula (formal education). Internship is part of the educational process in many European states.
- b) **Traineeship programme as part of active employment measures** – Public policies and programmes in certain countries contain, as a leading part, measures effectively

<sup>8</sup> Study on a comprehensive overview on traineeship arrangements in Member States Final Synthesis Report (31/05/2012). This study also identified “transnational traineeships”, i.e. traineeships aimed at, in addition to the above, geographic mobility of young people. The issue of regulating and controlling the quality of such traineeships is becoming increasingly important with the opening of the Erasmus+ programme for Serbia, and the work of AISEC can certainly serve as an excellent example for sending our students abroad and receiving foreign students for traineeship programmes in Serbia.

increasing youth employability through the acquisition of practical experience in a working environment, aided by the state through financial and non-financial incentives.<sup>9</sup>

- c) **Internship programme** as a requirement for practising certain professions, such as law, medicine and teaching.
- d) **Traineeship programme on the labour market** – During recent years, an increasing number of employers are advertising the need for trainees on their own or with the assistance of intermediaries outside educational institutions or employment services.

All these forms of internships are currently present in the Republic of Serbia. Practical training and practical instruction are implemented as part of secondary education, while study programmes can include internships that carry a certain number of ECTS credits (European Credit Transfer System). The National Employment Service is implementing traineeships as an active employment policy. As for the third form of internships, laws and rulebooks define the requirement for professional training and development for certain professions. Finally, employers themselves, or by way of intermediaries, post public advertisements for traineeships. In Serbian, these traineeships are sometimes called “working practice” and sometimes “professional practice”. In this document we opted to call them traineeships, representing a broader term that includes “professional practice” when implemented on the open labour market, as well as forms of traineeships that need not be directly related to the trainees’ formal educational background. This is a new term that was not used consistently up to this point, therefore we will now take the opportunity to define it.

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<sup>9</sup> For example, the professional internship programme in Portugal helps young people who completed secondary or higher education to acquire practical experience in their profession. This programme lasts for nine to 12 months and is regulated by law, the relationship between employer and intern are regulated by contract, and its implementation controlled by organizations/offices for employment.

The Recommendation on a Quality Framework for Traineeships adopted by the Council of Ministers of the European Union gives the definition of traineeships that the recommendations relate to, identified 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”. Likewise, it emphasizes that the document does not relate to internships that are part of the curriculum of formal education or professional education and training, or internships whose content is regulated by national laws and representing a mandatory condition for practising a certain profession (e.g. medicine, architecture, etc.). The Recommendation on a Quality Framework for Traineeships is related to “work practice” in the labour market and traineeships that are part of active employment policies.

In accordance with this definition, this document proposes the following identification of **traineeships**:

- They represents programmes for the acquisition of work experience **that involve learning and training, implemented with the aim of improving employability and transition to employment;**
- **They are short-term**, i.e. limited in duration;
- They are organized **on one’s own initiative**, i.e.:
  - **They are not a mandatory part of formal education and training,**
  - **They are not prescribed by law or rulebooks** as a requirement for practising a certain profession, and/or trade (they do not represent professional training and development);
- **They may, but do not have to be directly related to the formal educational background** of the person attending a traineeship;

- These programmes may include both persons who are, and those who are not in the formal education system.

The subject of this document are traineeships (“work practice”) on the labour market. The goal of this document is to produce an analysis of the legal framework of traineeships implemented on the labour market and to propose measures for the improvement of the legal framework in order to increase the number of quality traineeships.

The proposed solution regarding traineeships on the labour market is directly relevant for traineeship programmes that are part of active employment policy, which could be amended during the forthcoming period, in accordance with the newly established legal framework.

### Examples of traineeships unrelated to the formal educational background of trainees – case studies<sup>10</sup>

→ *Milica* is a final-year student of Ethnology and Anthropology at the Faculty of Philosophy. After a selection process, she was accepted for a four-month traineeship programme for the post of Marketing Associate in a company working with communication and video security equipment. The requirements for this post included higher education, as well as familiarity with web marketing, website editing and administration of social network accounts. Milica is interested in the field of digital marketing, and through previous participation in projects in parallel with studies, she is familiar with social network marketing and has independently acquired certain initial skills in this field. She wishes to participate in this traineeship in order to additionally develop her knowledge and skills regarding digital marketing planning and implementation, since she plans to continue to work and seek employment in this field.

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<sup>10</sup> All cases have been presented based on real experiences of the Belgrade Open School in organizing traineeships. The names of trainees have been altered, and the names of companies left out.

→ *Nevena* is a master student of “Public Administration, Local Self-Government and Public Policy” at the Faculty of Political Science. She was accepted for a traineeship programme at a consulting agency engaged in the development of people and companies. The advertisement stated that the traineeship was open to final-year students, students of master studies and graduates. The type of education was not stated, noting only that having experience in the field of human resources and psychological activities is desirable (but not necessary). Nevena had not had experience in this field up to that point, but during the selection process she displayed a lot of interest and knowledge in the field of human resources, acquired independently, as well as a readiness for professional and career development in this field. Her motivation set her apart from other candidates and she was accepted for the traineeship programme.

→ *Jovana*, a graduate research and development chemist, applied for a traineeship programme in the field of food technology in a company where this is the primary business activity. The advertisement stated that the condition for applications was higher education in the field of technological sciences, but due to the extreme motivation she showed, Jovana was accepted for a traineeship for the post of Technologist-Shift Leader. The tasks she completed in practice exceeded her formal education and required additional training organized by the company at the start of the programme, involving familiarization with the documentation and production parameters, as well as a check of the acquired knowledge through testing. Following a successful four-month traineeship programme, Jovana was employed at the company, in the post of Shift Technologist of Daily Products, where she has been working for one year.

Milica, Nevena and Jovana were included in traineeship programmes – internships that are not mandatory at the study programme they attended and not prescribed by law or rulebooks as a requirement for practising professions in the fields of marketing, human resources and food technology. Milica and Nevena are in the formal education system, since they are still studying, but Jovana has graduated and was not in the formal

education system at the moment she started the traineeship programme. However, in all three cases the traineeship was not directly related to their education.

### Example of traineeship related to the formal educational background of the trainee – case study<sup>11</sup>

→ *Marija* graduated from the Faculty of Organizational Science and was accepted for a traineeship in the field of project and process management. A requirement for the post was a degree in the field of organizational or similar sciences. *Marija* was very interested in getting involved with the programme. Following the completion of the traineeship, she received an offer of employment for the same post.

*“I believe a traineeship is a good step towards creating a career and an opportunity to experience the application of everything I have studied. The technical conditions were excellent, I received equipment for use, like the other members of the team, facilitating my work and research. As for the organization of work, I worked in a team with another two members and a mentor, who directed us and gave us tasks, included us in meetings on projects that were in the implementation phase. The traineeship was designed so that we would cover whatever was current during the week and get introduced to activities during meetings with our mentor, once per week. I believe that this method is excellent, because it ensures freedom to express one’s opinion and enough time for research. Likewise, I had time for professional development in the field of process management and participated in the training for the use of process mapping software, which I found very useful”.*

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<sup>11</sup> All cases have been presented based on real experiences of the Belgrade Open School in organizing traineeships. The names of trainees have been altered, and the names of companies left out.

Marija was included in a traineeship programme as a graduate – an internship not prescribed by law or rulebooks as a requirement for practising her profession, but directly related to her formal education.

## Traineeships on the labour market in the Republic of Serbia

### How often are traineeships implemented on the labour market?

One in five young persons in Serbia have participated in an internship programme. In approximately two thirds of the cases, these programmes were organized by educational institutions (schools and faculties), in 11% of the cases by the National Employment Service, and in 18% of the cases by the companies themselves, indicating the presence of traineeships on the labour market.<sup>12</sup>

These traineeships are organized by a large number of intermediaries, as well as the employers themselves. Intermediaries in these traineeship programmes are career development centres at universities and faculties, the faculties themselves, regional development agencies, youth offices, local administrations (through employment action plans) and civil society organizations. A large number of such traineeships is organized every year. The number of young people having participated in traineeships organized through calls by the Ministry of Youth and Sports for the implementation of the National Youth Strategy during the period 2014-2016 is 1459 (taking into account the number of young people planned to be included in 2016, since the projects are still ongoing).<sup>13</sup> Likewise,

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<sup>12</sup> Ministarstvo omladine i sporta Republike Srbije. (2016). Položaj i potrebe mladih u Republici Srbiji. Ministarstvo omladine i sporta: Beograd.

<sup>13</sup> According to data by the Youth Sector of the Ministry of Youth and Sports.

university career development centres in Belgrade, Kragujevac, Novi Sad and Niš implement traineeship programmes as one of their regular activities. The Career Development and Counselling Centre of the students of the University of Belgrade implemented 157 calls for traineeships, with the total number of traineeship positions amounting to 2512. In addition to university career development centres, faculty centres have been set up at numerous faculties, organizing internship programmes independently from those of the universities (e.g. the faculties in Belgrade having career centres are the Faculty of Philosophy, Faculty of Economy, Faculty of Organizational Sciences, Faculty of Electrical Engineering etc.). Precise and aggregated data on the number of traineeships implemented through all the above intermediaries are currently lacking, although a large number of intermediaries keep records of the number of calls and trainees.

### To what extent are the internships being implemented of good quality and are the rights of the young people attending them being protected?

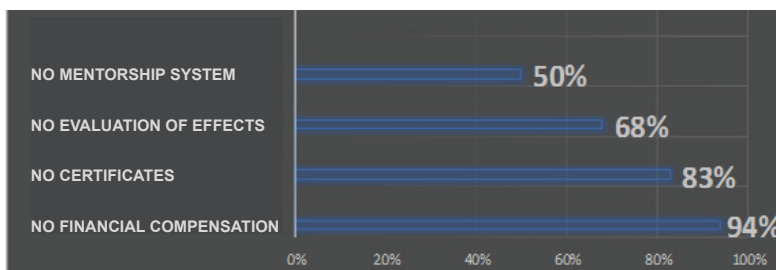
A large number of young people participate in internship programmes without signing internship contracts. A survey implemented in 2016 showed that among the total number of youth having participated in internship programmes, 77% participated in at least one programme without having signed a contract, just under the figure recorded in 2015 (82%).<sup>14</sup> Data collected in 2015 show that, currently, quality elements are frequently lacking in internship programmes joined by young people in Serbia (Diagram 1). Although the above data is summary data for all internship programmes, we may assume that in case of traineeships on the open labour market there is a particular problem, precisely because in those cases there is no need for an intermediary, and they often include secondary or higher education graduates, not only young people from within the education system.

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<sup>14</sup> Ministarstvo omladine i sporta Republike Srbije. (2016). Položaj i potrebe mladih u Republici Srbiji. Ministarstvo omladine i sporta: Beograd.



*Chart 1 – Percentage of youth having participated in at least one internship programme without the stated quality dimensions  
(Source: Status and needs of youth in Serbia, 2015)*



## Adequate legal framework as a key element of traineeship quality and quality assurance mechanisms

Young people joining traineeship programmes on the labour market often face a far worse situation than those joining other internship programmes. In their case, there is no intermediation by universities or state employment services that would advocate their interests, therefore they frequently have weaker negotiation positions. Surveys at the European Union level<sup>15</sup> indicate that **only quality traineeships have positive effects** on employment and the **transition of youth to employment**. Only through quality internships can their goals be achieved.<sup>16</sup> **The goals of a traineeship** for the trainees are accelerating the transition from education to the labour market and improving employability, i.e.: **the acquisition of work experience, development of general and specific competences that can only be developed in a working environment, exploring potential**

<sup>15</sup> Council of the European Union, "Council recommendation on Quality Framework for Traineeships" (Brussels, 10 March 2014).

<sup>16</sup> European Parliamentary Research Service. (2013). Briefing: Quality traineeships. Facilitating young people's transition to employment.

**career development options, introduction to the selection process, as well as networking, i.e. expanding the network of business contacts.** The goals of the traineeship for an employer may be the identification and assessment of trainees as potential employees, benefits from the ideas and knowledge of young team members, strengthening the mentorship capacities of their employees, strengthening the image of a socially responsible company providing quality traineeships in the community, etc.

Due to the effects quality traineeships have on facilitating the transition of youth to the labour market, but also the dangers of having these traineeships abused, i.e. of being used as a replacement for employment and a method to acquire an underpaid/unpaid workforce, the Council of Ministers of the European Union adopted the [Council recommendation on a Quality Framework for Traineeships](#) in 2014.<sup>17</sup> This document emphasizes that the recommendations relate precisely to internships defined in this document as traineeships on the labour market, and not internships mandatory during education and internships that represent a requirement for practising certain professions (internships or apprenticeships in our system of qualifications). In addition to traineeships on the labour market, the Recommendation on a Quality Framework for Traineeships also relates to traineeships that are part of an active employment policy, and the recommendations of this document also relate to those traineeships.

The importance of ensuring the quality of internships has also been recognized as a very important issue by the International Labour Organization and the Organization for Economic Cooperation and Development,<sup>18</sup> as well as a large number of youth organizations. The European Youth Forum, a non-profit organization representing an alliance of umbrella youth associations from European countries, set the issue of quality internships as one of the key areas for their advocacy activities,

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<sup>17</sup> Council of the European Union, "Council recommendation on Quality Framework for Traineeships" (Brussels, 10 March 2014).

<sup>18</sup> E.g. in the document "Promoting better labour market outcomes for youth", 2014.

and used this process to develop the [European Quality Charter on Internships and Apprenticeships](#).

*InternsGoPro (<http://www.internsgopro.com/en/home/>) is an example of an organization striving to improve the quality of traineeships at the international level. Supported by a network of 25 youth organizations and the European Commission, it is the co-author of the “European Label for Quality Internships” and initiated the International Interns Day, celebrated on 10 November. The web portal created by this organization enables young people from across Europe to assess the internship they participated in at a specific company based on detailed criteria. Since this project has the support of the European Commissioner for Employment, Social Policy and Inclusion, the assessments on the platform, as well as the “labelling” of quality internship providers gains additional legitimacy and positions the issue of regulation, i.e. quality, high in media space and on the agenda of decision makers.*

**The basic mandatory elements of quality traineeships, according to the Recommendation on a Quality Framework for Traineeships, include:**

- Signing a “**written traineeship agreement/contract** between the trainee and the traineeship provider stating the educational objectives of the traineeships, the working conditions, whether an allowance or compensation is provided, the duration of the traineeship, the rights and obligations of the parties, including, if relevant, policies on confidentiality and the ownership of intellectual property rights”.
- **Learning and training objectives** – The recommendation notes that these should be stated within a written contract/ agreement, emphasizing it is necessary to “promote best practices as regards learning and training objectives in order to help trainees acquire practical experience and

relevant skills”. Considering the cases of abuse related to trainees doing menial jobs, it is emphasized that the tasks trainees accomplish should provide for the achievement of learning and training objectives.

- **Mentorship, i.e. supervision** – Traineeship providers should be encouraged to “designate a supervisor for trainees guiding the trainee through the assigned tasks, monitoring and assessing his/her progress”.
- **Adequate working conditions** – All trainees should be provided with adequate working conditions, including “limits to maximum weekly working time, minimum daily and weekly rest periods and, where applicable, minimum holiday entitlements”. Likewise, a need is noted for traineeship providers to clarify whether they provide coverage in terms of health and accident insurance, as well as sick leave. The traineeships agreement should clarify whether an allowance or compensation is applicable, and if applicable, its amount.  
An internationally accepted standard is for trainees to have health and social insurance, at least for cases of professional disease or workplace injuries.
- **Limited duration** – Limiting the duration of traineeships is always necessary to prevent young trainees from becoming a replacement for the employed workforce. The Recommendation on a Quality Framework for Traineeships states that traineeships should “not exceed six months, except in cases where a longer duration is justified”. However, at this moment, countries worldwide limit the duration of traineeships to 12 months, or do not regulate their duration.
- A **certificate upon completion of the traineeship** should “promote the recognition and validation of the knowledge, skills and competences acquired during traineeships and encourage traineeship providers to attest them”.

In certain countries, following the completion of traineeships, the trainee should receive a certificate or letter of recommendation stating the duration of traineeships, the tasks performed by the trainee, and the professional skills acquired.

- When **launching a call for a traineeship, the principle of transparency should be respected**. Specifically, the vacancy notices should include “information on the terms and conditions of the traineeship, in particular on whether an allowance and/or compensation and health and accident insurance are applicable, as well as information on recruitment policies”.

The Recommendation on a Quality Framework for Traineeships contains provisions related to traineeships aimed at, in addition to those above, youth mobility (“*transnational traineeships*”), as well as provisions dedicated to the use of European funds related to traineeships.

It is important to note that the issue of compensation, and/or allowance for trainees is very topical. Unpaid traineeship, particularly in cases where, throughout the majority of their traineeships, trainees engage in work tasks the same as or similar to those performed by regular employees, brings into question the character and purpose of work practice, while at the same time it devalues the work engagement of regular employees. Unpaid traineeships are also problematic from the perspective of social inclusion. If all traineeships were unpaid, the consequence would be that only those unemployed youth whose parents can afford to support them during traineeships would gain work experience and, consequently, gain employment, while those unemployed youth who cannot afford unpaid traineeships would remain on society's margins, forced to engage in poorly paid work or to remain in long-term unemployment.

How is the quality of internships regulated? Generally, in most countries quality assurance mechanisms certainly depend on the

specific type of internship. Those performed as part of formal education are mostly organized, coordinated and monitored by the educational institutions, while traineeships organized on the labour market are typically less regulated, therefore they represent greater cause for concern. Generally, the key “critical” areas relate to the rules and conditions for traineeships – unsatisfactory compensation or lack thereof; lack of health and social insurance; working conditions (e.g. overtime, overload and excessively demanding tasks); equal opportunities – particularly regarding traineeships without compensation and non-transparent recruitment procedures; quality of traineeships and work experience acquired by trainees – e.g. scarce or irrelevant learning content, inadequate daily tasks, or handling obligations fully under the competence of employees without mentorship.<sup>19</sup>

There are two approaches to quality assurance – establishing (minimum) quality standards that may be mandatory or voluntary. The voluntary approach is often considered less bureaucratic, is not linked to overregulation, and as such may encourage employers to organize quality traineeships. This approach is particularly important at the local and regional level, where regular, but also harmonized and coordinated activities by networks of local stakeholders in the field of youth employment and employability may ensure traineeships that serve the purpose of learning, acquiring work experience and career guidance.<sup>20</sup> However, for this approach to provide results requires the consensus and efforts of all key stakeholders at the local self-government or regional level. If such a consensus is achieved and joint activities are defined, local/regional initiatives of this type can result in charters or other joint documents and frameworks aimed at providing guidelines for companies and organizations for the implementation of traineeships. Examples of such practical “undertakings” are found in Italy, England, Ireland, as well as other European countries.<sup>21</sup>

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<sup>19</sup> Study on a comprehensive overview on traineeship arrangements in Member States Final Synthesis Report (31/05/2012).

<sup>20</sup> Ibid.

<sup>21</sup> - Italy: Carta dei Tirocini e Stage di Qualità in Toscana (Charter

However, we believe it is necessary to emphasize that ***without mandatory quality standards, a broad and open field is maintained for potential abuse of this form of traineeships (primarily for youth)***, and the increasingly frequent cases of legal regulation of internships in EU countries additionally solidify these claims. ***A legal framework can provide significant support for the application of traineeship quality elements*** and provide a supportive environment for the development of traineeship programmes that truly meet their objectives.

The report [\*Applying the Quality Framework for Traineeships accompanying the document: Youth Guarantee and the Youth Employment Initiative three years on\*](#), published in late 2016, states that certain countries legally regulate traineeships on the open labour market, but this is still not the case with the majority of countries, noted as a challenge in the implementation of the recommendation. A recommendation to do so was noted for those European Union countries where open labour market traineeships are being implemented while lacking legislation for their regulation.

The specific methods of adoption of legal arrangements for traineeships in the open labour market in countries that did so prior to or after the adoption of the Recommendation differ and depend on their labour legislation and education and training systems, which is to be kept in mind during their analysis. Examples of countries regulating traineeships on the open labour market through special documents or within documents related to internships in general are Belgium, Lithuania, Slovenia, Bulgaria, Germany, Poland and Portugal.

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on quality traineeships in the Tuscany region), 2012 - <http://www.giovanisi.it/>, <http://www.inps.it/portale/default.aspx>; Protocol Agreement on Quality Traineeships – Province of Perugia, 2012 - <http://www.inail.it/Portale/>; <http://www.provincia.perugia.it/guidetematiche/sviluppoeconomicoformazione lavoro/stageetirocini/tirocininformativi> - United Kingdom: Internship Charter aimed at promoting quality traineeships in UK, 2010 - [http://www.cipd.co.uk/publicpolicy/\\_promoting-productive-internships-internship-charter.htm](http://www.cipd.co.uk/publicpolicy/_promoting-productive-internships-internship-charter.htm); Code of Best Practice for Quality Internships, 2012 - <http://www.bis.gov.uk/assets/BISCore/higher-education/docs/C/11-1068-common-best-practice-code-for-quality-internships.pdf>

- ❖ **BELGIUM** – The report *Applying the Quality Framework for Traineeships* states that, even before the adoption of the Recommendation, Belgium had a legal framework largely consistent with it. The legal designations within the “*Conventions d’immersion professionnelle*” relate to all internship programmes, and also contain elements contained in the recommendation – objectives, working conditions, duration, rights and obligations, and transparency.
- ❖ **LITHUANIA** – Lithuania adopted new legal documents in 2014, also related to traineeships on the open labour market that involve youth up to 29 years of age. A young person and a company sign a contract, healthcare and social insurance are mandatory, but these traineeships are unpaid and called “volunteering traineeships”. The report *Applying the Quality Framework for Traineeships* notes the plan to adopt a provision in the new Employment Law whereby the same traineeship contracts would be signed for traineeships on the open labour market and traineeships representing part of active employment policy.
- ❖ **PORTUGAL** – Traineeships on the open labour market are legally regulated. There is an obligation for trainees to have mentors, trainees can receive certificates and have relevant insurance. What remains as a challenge is defining the learning objectives for these types of traineeships and limiting their duration, since at the moment they can last longer than six months.
- ❖ **SLOVENIA** – Slovenia has a legal framework that also applies to traineeships on the open labour market and traineeships representing part of active employment policies. The report *Applying the Quality Framework for Traineeships* notes that this framework is generally harmonized with the provisions of the Recommendation on the Quality Framework: contracts are signed, trainees are assigned mentors and learning outcomes



are defined, while trainees can receive certificates. The remaining challenges include limiting the duration of the traineeship, since at this time it can last for one year, or more under certain conditions, as well as increasing the transparency of trainee recruitment.

The comparative overview of legislation in seven national legal systems, with five being EU Member States (Poland, Bulgaria, Croatia, Czech Republic and Romania) and two in the accession process (Montenegro, and Bosnia and Herzegovina) shows that there are significant differences among them in regulating internships. The countries regulating traineeships on the open labour market are Poland, Bulgaria and Romania, while this is not the case with the remaining countries. The Czech Republic does not have a legal framework dealing specifically with traineeships on the labour market, but in order to regulate the rights and obligations within these traineeships, companies and trainees may sign a contractual modality envisaged by the Labour Law – a “labour agreement” defining mutual rights and obligations. For Croatia, the report *Applying the Quality Framework for Traineeships* states that traineeships on the labour market are, in fact, not implemented at all. A specific characteristic of Montenegro is that in 2012 it adopted the Law on the Professional Training of Persons with Acquired Higher Education.<sup>22</sup> This law, accompanied by a Rulebook on the method for publishing the public call, procedure and criteria for professional training<sup>23</sup>, applies to persons with higher education but without work experience at that level of education, registered in the records of the Employment Agency of Montenegro. However, neither Montenegro nor Bosnia and Herzegovina, as countries in the European Union accession process whose legal frameworks for traineeships have been analysed in this document, have resolved the issue of traineeships on the open labour market. As may be concluded based on the report *Applying the Quality Framework for Traineeships*, the situation is similar in the majority of European Union Member States, but the Recommendation,

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<sup>22</sup> Službeni list Crne Gore No 38/12

<sup>23</sup> Službeni list Crne Gore No 46/12

along with the monitoring of its implementation, strives to change this situation and improve the quality of traineeships on the open labour market, as well as traineeships that are part of active employment policies.

## Legal Framework for Traineeships on the Labour Market in the Republic of Serbia

In the Republic of Serbia, there is no legal framework for traineeships on the labour market (Table 2). **In Serbia, there are currently no laws or bylaws governing traineeships as short-term work experience programmes involving primarily learning and training, which are implemented with a view to enhancing employability and transition to employment, are not delivered as part of formal education and training, are not stipulated by a law or rulebook as a requirement for practising a specific occupation, and are not necessarily directly linked to the trainees' formal educational background. The situation is similar with respect to traineeships provided as part of active employment policies.**

Given that the existing legal framework does not recognize traineeships, it is worth exploring the available modalities of regulating the relationship between the “traineeship provider” and the trainee, as well as whether the quality of these traineeships is regulated in any way.

The analyses conducted to date<sup>24</sup> have shown that none of the existing contractual modalities are adequate to regulate the relationship between the “traineeship provider” and the trainee. In the absence of an adequate contractual modality, “traineeship providers” may enter into an inadequate contract (such as a volunteer contract, service contract, scholarship contract, casual

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<sup>24</sup> Pavlović Križanić, T, Velev, B, Đurović, A. (2015). Stručne prakse i stručno osposobljavanje u Republici Srbiji - izazovi sprovođenja i moguće perspektive. Beogradska otvorena škola: Beograd

work contract), or an innominate contract. *An innominate contract* may not constitute the grounds for any entitlements under the social protection or health care systems (e.g. insurance against occupational injuries or occupational diseases). With regard to innominate contracts, which are not grounded in the law, especially when not drafted by a professional, it is very difficult to ascertain the true intent of the contracting parties and ensure the fulfilment of contractual obligations, especially when it comes to the weaker party to the contract, which is always the traineeship participant, i.e. the trainee.

The only contractual modality suitable for traineeship programmes on the labour market in terms of its aim is the professional training contract, defined more precisely by Article 201 of the Labour Law. However, the use of this contractual modality is encumbered by two difficulties: One is that the conditions under which this contract may be concluded do not correspond to the conditions of traineeship delivery, i.e. to the actual needs of young people, who are compelled to constantly develop their skills and competencies in the real world of work owing to the labour market dynamics and growing demands. This issue has become particularly prominent since the 2014 amendments to the Labour Law, as discussed in more detail below. The other difficulty is that this law does not regulate all relevant aspects of traineeship quality.

*Table 2: Different types of traineeship programmes and their legal framework*

Type of traineeship programmes	Legal framework for traineeship programmes
<p><b>Internship programme as part of the education process</b></p>	<p>The Law on Secondary Education (Article 26) defines the terms <b>practical instruction</b> and <b>practical training</b>, which refer to the compulsory teaching delivered to full-time students where foreseen by the curriculum.</p> <p>In higher education, internship is a compulsory form of instruction in most graduate academic courses of study at universities<sup>25</sup>, it is regulated by faculty rulebooks (owing to faculty autonomy) and carries a specified number of ECTS credits.</p>
<p><b>(Occupation-specific) traineeship programme as part of active employment policies</b></p>	<p>The Law on Employment and Unemployment Insurance (Official Gazette of RS Nos 36/09, 88/10 and 38/15) specifies the powers of the National Employment Service in implementing active employment policies. The National Employment Service implements its annual programmes on the basis of the National Employment Action Plan, adopted annually by the Government of the Republic of Serbia and containing the employment policy measures and activities to be implemented in the current year. According to the National Employment Action Plan for 2017, the traineeship programme entails <i>“vocational training for unassisted work in a particular occupation for which a person has received adequate formal education (qualification), with a view to completing the internship period as a requirement for taking the professional examination, when this is prescribed by a law or a rulebook as a special precondition for unassisted work in a particular occupation”</i>.</p>

<sup>25</sup> Nacionalni savet za visoko obrazovanje. (2015). Podsetnik za studentsku stručnu praksu u visokom obrazovanju.

<p><b>Internship programme as mandatory professional training and development</b></p>	<p>After the completion of secondary education or university studies, youth are required to complete an internship period where this is stipulated by the law or an employer's internal instrument.</p> <p>For instance, pursuant to the Law on Health Care, all health care professionals and pharmacists employed in hospitals, other health care institutions and pharmacies are required to pass the professional examination after the completion of an internship period in order to enter into an employment contract. Passing the professional examinations is also a requirement for interns in ministries, other public authorities, courts, public prosecutors' offices, state attorney's office, the Government of the Republic of Serbia, autonomous province and local government authorities, pursuant to the Law on Civil Servants, and for school and preschool teachers and teaching associates, pursuant to the Law on the Foundations of the Education System. Passing the professional examination as a requirement for entry into an employment contract after an internship period is also stipulated in some sector-specific laws and bylaws.</p>
<p><b>Traineeship programme on the labour market</b></p>	<p>Not recognized in the legal framework.</p>

**The conditions for entry into a professional training contract and a professional development contract – the effects of the amendments to Article 201 of the Labour Law** (Official Gazette of RS Nos 24/05, 61/05, 54/09, 32/13 and 75/14)

Until 2014, traineeship providers were able to enter into professional training contracts or professional development contracts with trainees; however, the scope for this has been narrowed considerably since the entry into force of the most recent amendments to the Labour Law.

The key changes (Table 3) concern the introduction of two contractual modalities – professional training contract and professional development contract – instead of one (professional

training and development contract). Further, the provisions on the conclusion of professional development contracts have been changed: such contracts can now be concluded where this is stipulated by a specific regulation (meaning a bylaw, decree or rulebook issued by the competent ministry, rather than an employer's internal instrument). As before, professional training contracts are concluded for the purpose of completing an internship period and taking the professional examination, where this is foreseen by a law or (employer's) rulebook as a requirement for practising one's occupation. By the 2014 amendments to the Labour Law, the term of validity of professional training contracts and professional development contracts was limited to the duration of the internship period, or the specialization/professional development programme, as appropriate.

*Table 3: Comparison of Article 201 before and after the 2014 amendments to the Labour Law*

Article 201 before the 2014 amendments	Article 201 after the 2014 amendments
<p>A professional training and development contract may be concluded by an employer:</p> <p>1) with an unemployed person, for the purpose of his/her completing an internship period and taking the professional examination, where this is foreseen by a law or rulebook as a requirement for practising his/her occupation;</p> <p>2) with a person who wishes to develop professionally and attain occupation-specific knowledge and skills, or to pursue a specialization, for the period specified by the professional development/specialization programme.</p> <p>The employer may provide financial compensation and other entitlements to the person referred to in paragraph 1 of this Article, in conformity with the law, internal instrument or professional training and development contract.</p> <p>The financial compensation referred to in paragraph 2 of this Article shall not constitute wages within the meaning of paragraph 2 of this Law.</p> <p>The contract referred to in paragraph 1 of this Article shall be concluded in writing.</p>	<p>A professional training contract may be concluded for the purpose of completing an internship period or taking the professional examination, where this is foreseen by a law or rulebook as a requirement for practising one's occupation.</p> <p>A professional development contract may be concluded for the purpose of professional development and attainment of occupation-specific knowledge and skills or pursuing a specialization, for the period specified by the specialization programme, in conformity with specific regulations.</p> <p>The employer may provide financial compensation and other entitlements to the person pursuing professional training or professional development, in conformity with the law, internal instrument, or professional training or professional development contract.</p> <p>The financial compensation referred to in paragraph 2 of this Article shall not constitute wages within the meaning of this Law.</p> <p>The contracts referred to in paragraphs 1 and 2 of this Article shall be concluded in writing.</p>

It is clear that the rigid provision of the Labour Law (limitation of the scope of professional training and professional development contracts to internship and specialization only, and limitation of their term of validity to the duration of the internship or specialization set by specific regulations) was adopted in order to **end the bad practice of abuse of this contractual modality**. The earlier legal arrangement was not the most appropriate, as it did not limit the term of validity of the contractual relationship, which was exploited by mala fide employers, who resorted to this contractual modality to hire workers without employment contracts. This abuse was particularly prevalent among employers whose core economic activity was physical and technical security services, and the enhanced inspection activities carried out in early 2015 indicated that the number of people engaged on professional training/professional development contracts had decreased by several times relative to the first half of 2014.<sup>26</sup> Naturally, it may be assumed that this was not the only factor behind the decreasing use of this contractual modality for such purposes, especially in view of the high increase in the number of people employed in security and similar jobs through temporary employment, i.e. labour leasing agencies.<sup>27</sup>

However, at this time, there are also numerous problems hampering the use of this contractual modality to regulate traineeships on the labour market. No reliable data are available on the number of professional training/professional development contracts concluded before and after the amendments to the Labour Law; hence, it is not possible to provide direct proof that fewer of these contracts are concluded, or, in particular, that fewer of them are concluded in order to regulate traineeships.

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<sup>26</sup> [http://www.minrzs.gov.rs/files/2016\\_godina/Inspektorat\\_rada/lzvestaj\\_2015/lzvestaj\\_o\\_radu\\_Inspektorata\\_za\\_rad\\_za\\_2015.godinu\\_-\\_konacna\\_verzija.doc](http://www.minrzs.gov.rs/files/2016_godina/Inspektorat_rada/lzvestaj_2015/lzvestaj_o_radu_Inspektorata_za_rad_za_2015.godinu_-_konacna_verzija.doc)

<sup>27</sup> According to the estimates cited in the media by representatives of the Ministry of Labour, as well as the Minister himself – <http://www.svet-bezbednosti.rs/sr/clanak/2014/9/bezbednost-na-lizing,448,14625.html>. It is worth noting the importance of aligning bylaws with the Law on Private Security Services (2013).



However, various other data collected from companies and small and medium-sized enterprises primarily indicate that professional training/professional development contracts are now insufficiently clear, as a result of which they frequently choose not to provide traineeship programmes, or to conclude other, inadequate contracts. The following difficulties have been observed in the use of these contracts:

- 1. Employers are not sufficiently familiar with the application of Article 201 after the amendments**, which has probably contributed to the decrease in the use of these contracts to regulate traineeships. This conclusion is a result of a survey of 143 employer representatives conducted in 2016 by the Serbian Association of Employers.<sup>28</sup> Micro-enterprises accounted for a majority of survey respondents – employers with up to ten employees accounted for almost 60% of the sample. The results indicated that the surveyed employers had numerous doubts with regard to professional training/professional development contracts and that they frequently held views on the use of these contracts that were contrary to the opinion of the Ministry of Labour, Employment, Veteran and Social Affairs. **Almost 80% of the respondents were not certain whether two different contracts were provided for by Article 201 of the Labour Law** (professional training contract and professional development contract). Furthermore, **as many as 56% of the respondents disagreed with the statement that their job classifications had to specify the requirement for an internship period or professional training** for the job in which they wished to hire a trainee.
- 2. Employers often organized traineeship programmes without contracts or with the conclusion of inadequate contracts, or abandoned traineeship programmes.** The data showing that 77% of the youth

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<sup>28</sup> Unija poslodavaca. (2016). Stručna praksa: šansa za mlade; prilika za poslodavce; napredak za društvo.

who participated in traineeship programmes did so without contracts indicate that this is frequently the case. In addition, at a consultative meeting with the business community and AmCham representatives, organized by Belgrade Open School in cooperation with the Social Inclusion and Poverty Reduction Unit on 25 August 2016, representatives of almost 30 large companies and a few large law firms expressed their dissatisfaction with the insufficiently clear and precise legal provisions governing traineeships. Given that the provision of Article 201 is, in their view, insufficiently precise, since the amendments of 2014, many large enterprises providing many traineeships annually (not necessarily occupation-specific) have abandoned professional training/professional development contracts as the means of regulating their relationships with trainees and have started concluding volunteer contracts or innominate contracts with them. Few companies have overcome the issue by concluding fixed-term employment contracts with trainees; however, a concerning development is that some companies have decided to abandon the organization of traineeships altogether, with the exception of internships for final-year university students (in such cases, the employer enters into an agreement on the organization of internships with the faculty concerned).

Similar experiences have resulted from the programme “PRAKSAM – Introducing Youth to the World of Labour through Work Practice”,<sup>29</sup> implemented by the Belgrade Open School for the second consecutive year, with support from the Ministry of Youth and Sport. More specifically, almost all of the nearly 40 small, medium-sized and large enterprises/companies that participated in the programme cited inadequate and overly restrictive legal provisions as one of the greatest challenges in regular organization of traineeships. It is for this reason that, in late February 2016, Belgrade Open School submitted a request to the Ministry of Labour, Employment, Veteran and Social

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<sup>29</sup>

More details are available at: <http://prakse.bos.rs/>

Affairs for interpretation of Article 201 of the Labour Law; the request contained questions concerning professional training and professional development contracts, the requirement to take professional examinations, the requirement for the trainee's position to be specified in the job classification, internship periods, etc.

### A Business Case Study

Until the 2014 amendments to the Labour Law, a large food industry company had a regular traineeship programme, with dozens of young participants. As many as 86% of the young people who completed the programme were subsequently hired by the company. After the amendments to the Labour Law, the company decided to discontinue the traineeship programme, having assessed that it would not be able to comply with the current legal provisions. A leading pharmaceutical company had a similar experience: after the Labour Law was amended, it discontinued the organization of traineeships for graduates, which had also formerly led to the employment of trainees, and proceeded to organize only the internships that were compulsory for students according to the curriculum, in cooperation with faculties and without a direct impact on employment after the completion of such internships.

- 3. Employers with 10 employees and fewer are at a disadvantage.** Where professional training is not foreseen by law, the interested employer is required to have a rulebook on organization and job classification even in cases where, under Article 24 of the Labour Law, this is not obligatory.

According to the Opinion of the Ministry of Labour, Employment, Veteran and Social Affairs<sup>30</sup>, *in order for*

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<sup>30</sup> Opinion No 011-00-150/2016-02.

*an employer to enter into a professional training contract with a person, it must be a job that, according to the law or the employer's rulebook on organization and job classification (Article 24 of the Labour Law), requires an internship period or passing the professional examination corresponding to that person's type and level of educational attainment. An employer that, under Article 24 of the Labour Law, is not required to adopt a rulebook on organization and job classification may adopt such rulebook in order to specify the jobs in which an internship period is completed in order to fulfil the prerequisite for practising a specific occupation. Otherwise, the employer would not be able to hire a person on a professional training contract.*

It should be noted that micro-companies are the most numerous in the Republic of Serbia, with an 89% share in the total number of companies, and that this provision probably discourages those companies from offering traineeship programmes, given that it requires them to adopt rulebooks on organization and job classification, which is otherwise not required of them, and to prescribe in those rulebooks the completion of an internship period or passing the professional examination corresponding to the type and level of educational attainment of the person concerned. Thus, according to the law, in order to use this contractual modality, small enterprises need to invest more resources compared to others, i.e. to hire a consultant to draft a rulebook on job classification, as most small enterprises do not have a lawyer on staff.

4. Contractual relations with a trainee, **i.e. a person who needs to gain practical knowledge and skills, and is not involved in a programme for the completion of an internship period, is not required to take the professional examination according to the employer's job classification or a specific regulation, and is not preparing to take the examination foreseen by specific regulations**, currently cannot be regulated in an appropriate manner. The only option currently

available to those trainees is to enter into an innominate contract, a nominate contract whose purpose does not include the regulation of relationships in the area of professional training/professional development, or not to enter into a contract at all. Employers often face the need to organize traineeships even when no specific regulations or rulebooks governing specific occupations foresee passing the professional examination; in such cases, it is not possible to conclude the abovementioned contracts.

In the Serbian labour market, primarily in the private sector, it is becoming increasingly common to refrain from specifying a particular type of formal education as an essential job requirement. In their job advertisements, employers increasingly emphasize general skills and experiences (transferable between occupations) and specific ones (narrowly related to a specific job type). Requirements in terms of formal education are increasingly stated in very general terms, by specifying a particular educational track, e.g. engineering or social sciences and humanities, or specified as desirable rather than mandatory requirements. For instance, an analysis of job advertisements has shown that, in 17% of the cases, advertisements only list the required competencies (without any reference to formal qualifications), while in 16% of the advertisements, the required competencies are listed above the required formal qualifications.<sup>31</sup> Most jobseekers themselves state they are willing to accept both occupation-specific and occupation-unrelated jobs, and cite prior work experience as the most important factor in job search (the response given by as many as 70% of the respondents in a regional survey conducted by the portal Infostud)<sup>32</sup>.

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<sup>31</sup> Nacionalna asocijacija praktičara/ki omladinskog rada. (2014). Uticaj neformalnog obrazovanja u omladinskom radu na sticanje kompetencija za bolju zapošljivost mladih.

<sup>32</sup> <http://www.najstudent.com/vesti/rezultati-regionalnog-istrazivanja-o-stanju-na-trzistu-rada-47485>

In such circumstances, it is certain that the possibilities for using professional training contracts are very limited with regard to preparing youth without work experience for employment through traineeships, given that the employer is required to train the trainees in occupations in which professional examinations are foreseen. In its internship programme, the National Employment Service includes a requirement for the mentor and the unemployed person pursuing an internship to have the same formal educational background; consequently, this excludes training in numerous occupations where one specific formal qualification is not the necessary and sufficient condition for employment. **The proliferation of new occupations in all spheres, especially information and communication technologies, calls for efforts to enable more flexible contractual modalities for traineeships.**

### A Business Case Study

A small enterprise with about 30 employees, involved in the development of software solutions for the domestic and international markets, regularly organizes traineeship programmes. In view of the shortage of programmers on the labour market, the enterprise has identified the need to organize traineeship programmes even for people whose formal education is unrelated to IT sector occupations. An example of these is a trainee with a degree from the Faculty of Economics, who has learned about programming on his own, and then applied and was selected for the traineeship programme. Having successfully completed the traineeship, he was hired by the enterprise, and has worked there for almost a year. Even after the 2014 amendments to the Labour Law, the enterprise has continued to sign professional training/professional development contracts with all trainees, despite being aware that this practice is not fully consistent with the law. They have expressed the willingness and

desire to regulate mutual rights and obligations with the trainees, but finding an adequate legal arrangement in the existing legal framework is a challenge.

5. **At this time, it is not possible to monitor the conclusion of professional training/professional development contracts**, which hampers future evidence-based decision-making in this area. Specifically, it is not possible to collect data about these contracts from the Central Registry of Statutory Social Insurance, as, when it comes to professional training contracts, there is no single code assigned to this insurance basis; in addition, it is impossible to monitor traineeships under innominate contracts or different contracts on work outside an employment relationship. Although, when it comes to filing tax returns for these contracts, there is a designated code for income type (OVP 622) to distinguish them from other contract types, the use of code OVP 999 is still required; however, the latter code also covers some other contracts on work outside an employment relationship (e.g. volunteer contract). It is assumed that the problem lies in the impossibility of entering two social insurance contribution bases in the software.<sup>33</sup> This also raises the issue of taxation of trainees' compensation, as well as the issue of the level of standard costs, which is set at 20%. As traineeships are aimed at learning and training, which implies the design, implementation and monitoring of traineeship programmes and requires additional efforts on the part of staff/mentors, a higher level of standard costs can be considered justifiable.
6. **If “traineeship providers” and trainees decide to conclude professional training/professional development contracts, it is worth raising the question whether this guarantees any traineeship quality elements.** As shown in Table 4, none of the quality elements except traineeship duration are currently regulated. This problem is even more pronounced

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<sup>33</sup> Privredni savetnik, May 2016.

with respect to other contractual modalities that are occasionally used to regulate this relationship, as well as innominate contracts.

*Table 4 – Quality elements and current arrangements in the existing legal framework*

Quality elements	Current arrangement in the existing legal framework
<b>Limited duration</b>	The term of validity of professional training/professional development contracts is currently limited to the duration of the internship period (up to one year, according to Article 47 of the Labour Law, unless otherwise provided by law) or the specialization/development programme.
<b>Supervision and mentoring</b>	Not specified.
<b>Compensation of expenses</b>	Professional training/professional development contracts may be with or without compensation.
<b>Minimum level of social protection and health care</b>	If an employer enters into a contract with a person pursuing professional training or professional development without compensation, the employer is liable to pay only a 2% health insurance contribution and a 4% pension and disability insurance contribution. Contributions are computed on the minimum monthly contribution base. If compensation is stipulated by the contract, the employer is liable to compute and pay 20% individual income tax (computed on the gross compensation less 20% standard costs).
<b>Certificate of traineeship completion and results achieved</b>	Not specified.



## Options for Improving the Legal Framework for Traineeships

**Aim of the legislative intervention.** In view of the abovementioned problems concerning the only contractual modality that corresponds to traineeships in terms of its aim, the best option, in the authors' view, is to amend the legal framework. Indeed, although some of these problems could be addressed by providing more information to employers about the cases in which they could conclude these contracts, the need to increase the number of quality traineeships on the labour market remains, and the provisions of Article 201 are not conducive to meeting this need. The aim is to **establish a clear and functioning legal framework for employers who have the needs, capacities and opportunities to organize traineeships, but currently lack the legal basis for this**, if the person undergoing training does not have the status of intern pursuant to a regulation or the employer's internal instrument (governing job classification). Another aim is to ensure minimum quality elements in line with the practices applied in other European Union Member States and beyond.

### **Who will be affected by the legislative intervention?**

- **Impact on youth:** Given that, without a contract or with an inadequate contract, youth rights are largely unprotected, the legislative intervention will have a considerable impact on their protection. The introduction of an adequate contractual modality will increase the availability of quality traineeships, which is important for youth employment and employability enhancement. The introduction and monitoring of traineeship quality standards will noticeably facilitate and accelerate the transitional period between graduation from school and the first job.
- **Impact on employers:** The legislative intervention will lead to higher legal certainty for employers, thereby influencing their motivation to organize traineeships.

In particular, small enterprises' motivation to organize traineeships will be boosted, given that the incentive provided by the existing legal framework has been especially low for them.

- **Impact on decision-makers:** The National Employment Strategy recognizes youth as a vulnerable group on the labour market and many measures are geared towards enhancing their employability and employment. Different types of traineeships are under the responsibility of the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Youth and Sport and the Ministry of Education, Science and Technological Development. The introduction of an adequate contractual modality will facilitate better regulation and youth protection on the labour market. In addition, given that this intervention will establish certain quality standards, they can serve as a model for other traineeship types, thus supporting the decision-makers' efforts to ensure traineeship quality within and outside the formal education system.

**Overview of options for the legislative intervention:** The following three options for the regulation of traineeships have been considered:

- A. Amendments to the Labour Law: **adapting the existing Article 201**, para. 1, and changing the conditions for the conclusion of professional training contracts in order to adapt them also for employers providing traineeships in cases *where training is not foreseen by a law or rulebook as a requirement for practising a specific occupation*.
  - B. **Adding a new Article 200 to the Labour Law** to regulate traineeships (on the labour market).
  - C. **Passing a separate law.**
- A. **Adapting the existing Article 201.** Amendments to Article 201, para. 1 would extend the possibility of concluding professional training contracts to include **cases where professional training is not foreseen by a law or rulebook as a requirement for practising a**

**specific occupation, with limitations of the term of validity of such contracts;** the term of validity would depend on the educational attainment level. New professional training contracts would thus provide the legal protection afforded by a nominate contract to all employers that have the opportunities, capacities and interest to organize professional training, as well as to all persons without work experience wishing to gain work experience through professional training, with the aim of efficient labour market integration. More specifically, professional training could last up to 12 months for a person with a university degree, up to 6 months for a person with three- or four-year secondary education, and up to 3 months for a person with a one- or two-year education programme or no secondary education. Even under the existing provisions, a professional training contract can be concluded for a term of validity exceeding 12 months only where a specific law foresees a longer internship as a precondition for taking the professional examination.

- B. Adding a new Article 200 to the Labour Law.** This solution would allow retaining the legislators' existing idea to have separate provisions governing internship with a professional examination (Article 201, para. 1) and internship and gaining work experience necessary for taking an examination and obtaining a professional licence under specific regulations (Article 201, para. 2), while introducing a new nominate contract – traineeship contract (future Article 200). **The introduction of a new Article 200 would allow scope for more detailed regulation of contract contents and parties' rights and obligations**, which is of great importance for legal certainty for both parties. It is clear that employers are profoundly and substantively demotivated by the current situation, i.e. by their prevailing view that Article 201 does not provide a reliable basis for the conclusion of traineeship contracts. The separation of traineeships from the contracts referred to in Article 201 would enable

more detailed regulation of the contractual relationship during the traineeship, i.e. the traineeship itself as a form of professional development outside an employment relationship, rather than only the contract with its formal elements.

- C. Passing a new law on traineeships.** Although some countries have regulated traineeships by law (Montenegro, Poland and Romania), this approach could be considered only after an agreement is reached among social partners (line ministries, trade unions, employer organizations) about the planned type, character and scale of legislative interventions.

**Options for improving the traineeship quality assurance framework and mechanisms:** As elaborated above, the traineeship quality framework is regulated in different ways, depending on whether the traineeships concerned represent compulsory elements within the education system, active employment policies, a requirement for practising a specific profession, or traineeships on the labour market. Although there are quality elements that could be common to all these types of traineeships, the extent to which quality is regulated (and by whom it is regulated) still depends on the traineeship type; hence, traineeships on the labour market are usually the least regulated. In addition to the minimum traineeship quality elements that could be regulated through the mandatory elements of traineeship contracts, an increase in the number of quality traineeships could be additionally stimulated by raising awareness of their importance.

The minimum quality elements that could be ensured by the legal framework (law or bylaw) are as follows:

- a) define the mandatory contents of traineeship contracts, prescribe their registration with the Central Registry of Statutory Social Insurance, as well as with the Tax Administration, for the purpose of monitoring fiscal effects;

- b) regulate the obligation to assign a mentor, to agree learning and training objectives and to set mechanisms for their achievement through the traineeship;
- c) set the maximum allowed traineeship duration;
- d) regulate the employer's obligation to issue the trainee with a certificate or attestation stating the traineeship duration, type of work done and competencies gained at the end of the traineeship.

We are of the view that the legal arrangements for traineeships on the open labour market would thus be consistent with the Recommendation on a Quality Framework for Traineeships, adopted by the European Union Council of Ministers. Specifically, a contractual modality for regulating the relationships between trainees and “traineeship providers” would be in place; its contents would be defined; the obligation to assign a mentor would be stipulated, as well as the obligation to set learning and training objectives consistent with the tasks carried out during the traineeship; traineeship duration would be limited; and employers would be required to issue certificates to trainees. Other aspects to be considered comprise:

- How to limit traineeship duration? Traineeship duration should, in theory, be dependent on the time needed to fulfil its objectives in terms of mastering practical skills and knowledge. However, this would be difficult to standardize and oversee, and could lead to abuse. Therefore, a solution to be considered would entail limiting the maximum traineeship duration, as advised in the Recommendation on a Quality Framework for Traineeships. The outstanding issue is whether traineeship duration should be tied to the trainee's educational attainment level, or the maximum traineeship duration should be independent of this factor.
- How to regulate allowance, i.e. compensation to trainees? As shown in this document, this issue remains

unresolved in many countries. Our proposal is to define a non-taxable ceiling for the trainee's costs compensation, following the model of paid volunteering.

- How to encourage the observance of the transparency principle in advertising traineeships? This matter may also be addressed through promotional and educational activities, and not necessarily through the legal framework.
- It is necessary to explore the possibilities of and institutional capacities for external monitoring of compliance with traineeship standards (quality, duration, working environment). A minimum prerequisite for monitoring the conclusion of traineeship contracts, which we strongly advocate, is the registration of those contracts with the Central Registry of Statutory Social Insurance.

As for adequate working conditions, which are also emphasized in the Recommendation on a Quality Framework for Traineeships, it should be noted that, according to the Law on Occupational Health and Safety (Official Gazette of RS No 101/05) and the Anti-Mobbing Law (Official Gazette of RS No 36/10), “all types of contracts under the Serbian legislation – nominate and innominate, as well as all forms of engagement – under a contract or without one, ensure and guarantee occupational health and safety for an intern, as well as protection against mobbing, equivalent to the protection afforded to employees”.<sup>34</sup>

All three proposed legislative intervention options could include the establishment of minimum quality standards. If the option of amending the existing Article 201 is chosen, given the conceptual similarities between the new model for professional training

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<sup>34</sup> Tatjana Pavlović Križanić. (2013). Ugovorno uređivanje praktičnog osposobljavanja za rad mladih u Srbiji. [http://www.lokalnirazvoj.rs/upload/YouthEmployment/SrAttachment/2014-03/Ugovorno\\_Uredjivanje\\_Radnih\\_Praksi\\_U\\_Srbiji\\_April\\_2013.pdf](http://www.lokalnirazvoj.rs/upload/YouthEmployment/SrAttachment/2014-03/Ugovorno_Uredjivanje_Radnih_Praksi_U_Srbiji_April_2013.pdf)

contracts (which are, under this proposal, adapted to allow traineeship delivery) and professional development contracts, both contract types should incorporate new elements to improve the quality of both training and development and provide higher legal certainty for both employers and persons pursuing training/development. This would enable introducing the registration of professional training/professional development contracts, oversight, traineeship programme (including learning objectives), mandatory mentoring and issuance of certificates specifying the professional skills acquired. Also, the introduction of a new Article 200 or a new law would allow more detailed regulation of the parties' rights and obligations (mentoring, allowance, certificate), which would somewhat strengthen the trainees' otherwise weak leverage in negotiations with employers.

Table 5 provides a comparative overview of all three legislative intervention options and their possible limitations. The analysis conducted gives rise to the conclusion that the passage of a separate law is not a feasible option at this time, as the associated costs are high and are not justified by the relative benefits of this option. The other two considered options – amending the existing Article 201 and adding a new article to the Labour Law – are possible solutions to the identified problem, especially if their formulation addresses the identified limitations of their application and the possibility of abuse of these contractual modalities by employers. However, based on the analysis conducted, in order to improve the legal framework, we recommend **adding a new Article 200 to the Labour Law**, considering that the existing Article 201 in its present form still has a purpose in specific cases of training/development. A concrete proposal for amendments to the Labour Law should be developed through a consultative process involving all stakeholders.

*Table 5 – Possible limitations to the application of the three legislative intervention options presented above*

Proposal for a legislative intervention	Possible limitations to the application of the legislative intervention
Amendments to the Labour Law to adapt the existing Article 201	<p>Confining a legislative intervention to only one paragraph of Article 201 would hinder the comprehensive regulation of trainee-employer relationships and the clear distinction between professional training/professional development and traineeships on the labour market. In addition, it is clear that Article 201 fulfils its purpose in certain cases of training/development.</p>
Adding a new Article 200 to the Labour Law	<p>If a new Article 200 is added, it is necessary to ensure that the provisions on quality also apply to the internship programmes delivered pursuant to Article 201. Indeed, if a new Article 200 were added without amending the existing Article 201, this would create an insufficiently justified difference in the arrangements and parties' rights and obligations between the entities subject to the current Article 201 and those subject to the future Article 200. It would be difficult to argue for the proposal that a person pursuing a traineeship under the future Article 200 must have a mentor and agree traineeship objectives and future results with him/her, while a person pursuing an internship in order to take the professional examination (Art. 201, para. 1) or a person acquiring experience outside an employment relationship in order to take the licensing examination need not have a mentor (in fact, it is assumed that they will have a mentor, but no such requirement for employers is stipulated by specific regulations). The situation is similar with regard to setting the allowance amount only for traineeships under the future Article 200. It is, therefore, important that the provisions on quality are applicable to all types of traineeships/internships.</p>



Passing a  
separate law

In considering this option, it should be noted that it would imply the introduction of new (and nominally higher) competencies compared to the above options for a number of state authorities and services (such as the National Employment Service, possibly the Serbian Business Registers Agency, inspectorates, the Pension and Disability Insurance Fund etc.), which would probably result in higher initial implementation costs, whose amount would be difficult to estimate at this time.

## Recommendations on Improving the Quality of Traineeships on the Labour Market

To increase the number of quality traineeships on the labour market, which can make a real contribution to the successful transition of youth to stable employment and which will ensure the contractual protection of their rights, it is essential to take action to improve the legal framework for traineeships by introducing an adequate contractual modality, as well as action to improve the traineeship quality framework.

### **1. Recommendations on providing an adequate contractual modality for traineeships**

Given that amendments to the Labour Law are planned for 2018, and that amendments to this very law are required in order to introduce an adequate contractual modality, the following recommendations concern the year 2017.

- Organize and implement advocacy activities concerning amendments to the Labour Law, with consultation and involvement of all stakeholders.
- In anticipation of the possible amendments to the legal framework, organize information dissemination activities to inform the employers and youth about the current possibilities for contractual regulation of traineeships.

- Encourage research aimed at ascertaining the current situation with regard to the conditions in which traineeships are provided, which could serve as the basis for defining recommendations more precisely. Such research could focus on the following topics:
  - Analysis of Serbian case law with regard to the conclusion of simulated contracts (professional training contracts) to disguise dissimulated contracts (employment contracts).
  - Analysis of traineeship advertisements on the open labour market and identification of requirements for youth, traineeship conditions, and similarities and differences relative to job advertisements for positions in similar sectors.
  - Identification of the number of traineeships on the labour market organized through different intermediaries and analysis of their quality (duration, mentoring system, contract types etc.).
- On the basis of research results and consultations with social partners, formulate a proposal for amendments to the Labour Law.
- Initiate the development of solutions for more adequate recording of professional training/professional development contracts by the Central Registry of Statutory Social Insurance (CRSSI) and the Tax Administration, for the purpose of better monitoring of this contractual modality and any fiscal effects thereof.

## **2. Recommendations on improving the quality framework for traineeships**

- In further consultation process, consider the introduction of traineeship quality elements as part of the proposed and advocated legal amendments.
- Establish a link between the initiative to introduce traineeship quality and other advocacy initiatives in

this area, primarily those concerning the introduction of dual education. Consider the introduction of traineeship contracts for students in dual education, as well as provisions guaranteeing traineeship quality in accordance with EU recommendations.

- Organize information dissemination activities to inform employers and youth about the importance and elements of quality traineeships. Since many quality elements are common to different types of traineeships, these activities should focus on all types of traineeships (within and outside the education system) and all interested stakeholders should be involved.
- Promote quality elements through the National Traineeship Programme, envisaged by the Action Plan for the Implementation of the National Youth Strategy.
- Publish and promote the already available Serbian versions of the European Quality Charter on Internships and Apprenticeships and An Employers' Guide to Quality Internships.<sup>35</sup>
- Collect good employer practices and develop case studies.
- Empower youth by providing information on the elements of quality traineeships to enable them to recognize such traineeships on the market and negotiate traineeship conditions more actively.
- Launch an information and *knowledge-sharing* web platform to compile all useful documents, manuals, guides to quality traineeships based on the existing legal framework, instructions for navigating the legal environment, quotes by traineeship providers and trainees, procedures for advertising traineeships and recruitment, domestic and international good practices.

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<sup>35</sup> The documents have been developed by the European Youth Forum and CSR Europe.