European Commission

Analysis – in the light of the European Union acquis – of ILO up to date Conventions

- Annex "C182 - Worst Forms of Child Labour Convention" -

Employment, Social Affairs and Inclusion

This report was financed by and prepared for the use of the European Commission, Directorate-General for Employment, Social Affairs and Inclusion. It does not necessarily represent the Commission's official position.

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Luxembourg: Publications Office of the European Union, 2014

ISBN 978-92-79-35584-4
doi: 10.2767/60921

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SUMMARY	
Convention	**C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)**
Subject	The Convention prohibits the worst forms of child labour, including slavery and human trafficking, sexual exploitation, prostitution and pornography, and the use of children for drugs trafficking. It provides for the identification of children at risk of engaging in these activities, and for their protection and social and educational rehabilitation.
Member State uptake	• One hundred and seventy-seven states have ratified C182, **including all Member States.**
Relevant EU *acquis* engaged	• C182 is classified under the ILO category of child labour, and engages the EU chapters on social policy, the area of freedom, security and justice, free movement of goods and fundamental rights. • C182 engages Articles 4(2)(b), 35, 74, 77, 78, 82, 153(1)(a) TFEU. • C182 engages Articles 3, 5, 23 and 32 of the European Charter of Fundamental Rights. • C182 engages: - Council Directive 94/33/EC on the protection of young people at work - Council Decision 2006/619/EC on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community - Council framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography
Summary of compatibility analysis	• C182 is wholly compatible with the *acquis*. • C182 is more stringent than the *acquis* on the social and educational rehabilitation of children; the identification of children at special risk; special measures for the protection of girls (Convention Article 7), and the development of enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education between Member States (Convention Article 8).
Assessment of external competence	• C182 falls wholly under Union and Member State shared competence.
Ranking	**Fundamental Convention – of highest priority.**

criteria		
Implications	***Compatibility***	• There are **no significant compatibility concerns**. This means that the EU can promote ratification.
	Competence	• C182 falls wholly under Union and Member State shared competence, and Member States do not require Council authorisation to ratify it.
	Priority	• The Convention is fundamental and therefore of the highest priority. However, all Member States have ratified it.

SUBSTANTIVE ANALYSIS:

Convention Provisions	**EU *acquis* engaged by Convention's provisions, and relevant EU instruments**	**Compatibility of Convention's provisions with relevant EU standard**	**External competence in relation to the Convention's provisions**
Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and			
Article 1 Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.	EU Charter of Fundamental Rights Article 32 The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and expect for limited derogations. Young people admitted to	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.

	work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education. Article 153(1)(a) TFEU Council Directive 94/33/EC on the protection of young people at work *Article 1* **Purpose** 1. Member States shall take the necessary measures to prohibit work by children. They shall ensure, under the conditions laid down by this Directive, that the minimum working or employment age is not lower than the minimum age at which compulsory full-time schooling as imposed by national law ends or 15 years		

	in any event. 2. Member States ensure that work by adolescents is strictly regulated and protected under the conditions laid down in this Directive. 3. Member States shall ensure in general that employers guarantee that young people have working conditions which suit their age. They shall ensure that young people are protected against economic exploitation and against any work likely to harm their safety, health or physical, mental, moral or social development or to jeopardize their education. *Article 7* **Vulnerability of young people — Prohibition of work** 1. Member States shall ensure that young people are protected from any specific risks to their safety, health and development which are a		

	consequence of their lack of experience, of absence of awareness of existing or potential risks or of the fact that young people have not yet fully matured. 2. Without prejudice to Article 4 (1), Member States shall to this end prohibit the employment of young people for: (a) work which is objectively beyond their phyiscal or psychological capacity; (b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health; (c) work involving harmful exposure to radiation; (d) work involving the risk of accidents which it may be		

	assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or (e) work in which there is a risk to health from extreme cold or heat, or from noise or vibration.		
Article 2 For the purposes of this Convention, the term **child** shall apply to all persons under the age of 18.	(a) 'young person' shall mean any person under 18 years of age referred to in Article 2 (1); (b) 'child' shall mean any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law;	**Compatible regulation:** Although the Directive defines a child as a person of less than 15 years of age, the protection conferred by the Directive on young people below 18 years of age meets the requirements of the Convention.	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
Article 3 For the purposes of this Convention, the term **the worst forms of child labour** comprises:			
(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or	EU Charter of Fundamental Rights Article 5 Prohibition of Slavery No one shall be held in slavery or servitude. No one shall be required to perform forced or	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.

compulsory recruitment of children for use in armed conflict;	compulsory labour. Trafficking in human beings is prohibited. Directive 94/33/EC Articles 1 and 7 Article 77 TFEU Article 78 TFEU Article 74 TFEU Article 218 TFEU Council Decision 2006/619/EC on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community Article 2 Statement of purpose		**Union and Member State shared competence as to international agreements engaging Decision 2006/619/EC:** The area of freedom, security and justice is an area of shared competence under Article 4(2)(j).

	The purposes of this Protocol are: (a) to prevent and combat trafficking in persons, paying particular attention to women and children; (b) to protect and assist the victims of such trafficking, with full respect for their human rights; and (c) to promote cooperation among States Parties in order to meet those objectives.		
(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;	EU Charter of Fundamental Rights Article 3 Right to Integrity of the Person 1. Everyone has the right to respect for his or her physical and mental integrity. Article 4 Prohibition of torture and inhuman or degrading treatment No one shall be subjected to torture or to inhuman or degrading treatment or punishment.	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements. **Union and Member State shared competence as to international agreements engaging Decision 2004/68/JHA:** The area of freedom, security and justice is an area of shared competence under Article 4(2)(j).

	Directive 94/33/EC Articles 1 and 7 Articles 35 and 82 TFEU Council framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography Article 1 Definitions For the purposes of this framework Decision: (a) "child" shall mean any person below the age of 18 years; Article 3 Offences concerning child pornography 1. Each Member State shall take the necessary measures to ensure that the following intentional conduct whether undertaken by means of a computer system or not, when committed without right is punishable:		

	(a) production of child pornography; (b) distribution, dissemination or transmission of child pornography; (c) supplying or making available child pornography; (d) acquisition or possession of child pornography.		
(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;	Directive 94/33/EC Articles 1 and 7	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.	Directive 94/33/EC Articles 1 and 7	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
Article 4 1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of	Directive 94/33/EC	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.

employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.			
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.	Directive 94/33/EC	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.	Directive 94/33/EC	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
Article 5 Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the	Directive 94/33/EC *Article 17a* **Implementation report** Every five years, the Member States shall submit to the Commission a report on the practical implementation of	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.

implementation of the provisions giving effect to this Convention.	this Directive in the form of a specific chapter of the single report referred to in Article 17a(1), (2) and (3) of Directive 89/391/EEC, which serves as a basis for the Commission's evaluation, in accordance with Article 17a(4) of that Directive.		
Article 6 1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.	Directive 94/33/EC	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.	**Convention provides for different mode of implementation to the Directive.**		
Article 7 1. Each Member shall take all necessary measures to ensure the effective implementation and	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social policy:** Social policy is an area of Union and

enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.			Member State shared competence under Article 4(2)(b) TFEU.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:			
(a) prevent the engagement of children in the worst forms of child labour;	Directive 94/33/EC Articles 1 and 7	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
(b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social policy:** Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
(c) ensure access to free basic education, and, wherever possible and appropriate, vocational	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social policy:**

training, for all children removed from the worst forms of child labour;			Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
(d) identify and reach out to children at special risk; and	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social policy:** Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
(e) take account of the special situation of girls.	EU Charter on Fundamental Rights Article 23 Equality between men and women Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.	**Convention more stringent than the acquis, but compatible regulation:** In the context of fundamental rights the under-represented sex should be interpreted as including the most vulnerable.	**Union and Member State shared competence as to international agreements that engage fundamental rights.**
3. Each Member shall designate the competent authority responsible for the implementation of the	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social policy:**

provisions giving effect to this Convention.			Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
Article 8 Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social policy:** Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
Articles 9 - 16 ***Final Provisions***			

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KE-02-14-109-EN-C

This annex is part of "Analysis – in the light of the European Union acquis – of ILO up to date Conventions", a study that aims at providing an analysis of ILO Conventions in the light of the EU acquis and at providing a ground for promoting the ratification of ILO conventions by Member States. For this purpose, the study provides a review of literature and legal doctrine in order to develop an adequate methodology: focusing on division of competences, compatibility of ILO provisions with Union acquis, and consequences for ratification of these instruments by Member States. It provides as well a detailed analysis of each of the up-to-date ILO instruments in light of the EU acquis, and an aggregation of this analysis in an accessible summary. The promotion of the ratification of international labour standards by Member States is an essential part of the Decent Work Agenda, to which all Member States have subscribed at international level.

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