European Commission

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

- Annex "C77 - Medical Examination of Young Persons (Industry) Convention" -

Employment, Social Affairs and Inclusion

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SUMMARY	
Convention	• **C077 - Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)**
Subject	• Provides for the protection and health assessment of young people working in industry by providing for regular (Article 2) and free (Article 5) medical examinations, and for a minimum age of 18 (Article 3) and 21(Article 4) in order to undertake certain types of dangerous industrial work.
Member State uptake	• Forty-three states have ratified C077, of which **thirteen are Member States**: • Belgium (10 Apr 1979); Bulgaria (29 Dec 1949); Czech Republic (01 Jan 1993); France (28 Jun 1951); Greece (28 Aug 1981); Hungary (08 Jun 1956); Italy (22 Oct 1952); Luxembourg (03 Mar 1958); Malta (18 May 1990); Poland (11 Dec 1947); Portugal (23 May 1983); Slovakia (01 Jan 1993); Spain (05 May 1971);
Relevant EU *acquis* engaged	• C077 is classified under the ILO category of protection of young people, and engages the EU chapter on social policy. • C077 engages Articles 4(2)(b) and 153(1)(a) TFEU. • C077 engages: - Council Directive 92/104/EEC on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) - Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) - Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile constructions sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) - Council Directive 94/33/EC on the protection of young people at work - Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work
Summary of compatibility analysis	• C077 is entirely compatible with the EU *acquis*. • C077 is more stringent than the *acquis* on the frequency of medical re-examinations for young people (Convention Articles 2(1), 3 – 4); that an examination must be carried out by a physician (Convention Article 2(2)); health documents (Convention Article 2(3)-(4)); physical and vocational rehabilitation of young people (Convention Article 6); certificates for inspectors (Convention Article 7).
Assessment of	• C077 falls under Union and Member State shared external competence.

external competence		
Ranking criteria	• **Compatibility:** C077 is entirely compatible with the EU *acquis*. • **Value added: High** • C077 would significantly improve the protection afforded to young people through health inspections and contribute to their rehabilitation. • **Importance to the EU and the ILO: High** • C077 concerns the protection of young workers.	
Implications	***Compatibility***	There are **no significant compatibility concerns**. This means that the EU can promote ratification.
	Competence	• C077 falls under shared competence, and Member States do not require Council authorisation to ratify it.
	Priority	• **High**

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 medical examination for fitness for employment in industry of children and young persons, which is included in the third item on the agenda of the Session, and			
PART I. GENERAL PROVISIONS ***Article 1***	Council Directive 94/33/EC on the protection of	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive**

1. This Convention applies to children and young persons employed or working in, or in connection with, industrial undertakings, whether public or private.	young people at work *Article 2* Scope 1. This Directive shall apply to any person under 18 years of age having an employment contract or an employment relationship defined by the law in force in a Member State and/or governed by the law in force in a Member State. 2. Member States may make legislative or regulatory provision for this Directive not to apply, within the limits and under the conditions which they set by legislative or regulatory provision, to occasional work or short-term work involving: (a) domestic service in a privat household, or (b) work regarded as not being harmful, damaging		**94/33/EC:** The Directive sets minimum requirements.

	or dangerous to young people in a family undertaking. *Article 3* Definitons For the purposes of this Directive: (a)'young person' shall mean any person under 18 years of age referred to in Article 2 (1);		
2. For the purpose of this Convention, the term ***industrial undertaking*** includes particularly:			
(a) mines, quarries, and other works for the extraction of minerals from the earth;	Article 153(1)(a) TFEU Council Directive 92/104/EEC on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directives 92/104/EEC and 92/91/EEC :** The Directive provides for minimum requirements in the area of social policy, which under Article 4(2)(b) TFEU is an area of shared competence.

	meaning of Article 16 (1) of Directive 89/391/EEC) *Article 2* **Definitions** For the purpose of this Directive: (a) *surface and underground mineral-extracting industries* shall mean all industries practising: — surface or underground extraction, in the strict sense of the word, of minerals, and/or — prospecting with a view to such extraction, and/or — preparation of extracted materials for sale, excluding the activities of processing the materials extracted Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of		

	workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *Article 2* **Definitions** For the purpose of this Directive: (a) *mineral-extracting industries through drilling* shall mean all the industries practising: — extraction, in the strict sense of the word, of minerals through drilling by boreholes, and/or — prospection with a view to such extraction, and/or — preparation of extracted materials for sale, excluding the activities of processing the materials extracted;		
(b) undertakings in which articles are manufactured, altered, cleaned, repaired,	Articles 151 and 153(a) TFEU	**Convention broader than the acquis, but compatible regulation.**	**Union and Member State shared competence as to international agreements than engage EU social**

ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;			**policy:** Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;	Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile constructions sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *Article 2* **Definitions** For the purposes of this Directive: (a) 'temporary or mobile construction sites' (hereinafter referred to as 'construction sites') means any construction	**Compatible regulation.**	**Union and Member State shared external competence as to international commitments that engage Council Directive 92/57/EEC:** The Directive provides for minimum requirements.

	site at which building or civil engineering works are carried out; a non-exhaustive list of such works is given in Annex I;		
(d) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports.	Articles 151 and 153(a) TFEU	**Convention broader 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.
3. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.			
Article 2 1. Children and young persons under eighteen years of age shall not be admitted to employment by an industrial undertaking unless they have been found fit for the work on which they are to be employed by a thorough medical examination.	Directive 94/33/EC *Article 6* **General obligations on employers** 1. Without prejudice to Article 4 (1), the employer shall adopt the measures necessary to protect the safety and health of young people, taking particular account	**Convention more stringent than the Directive, but compatible regulations, but compatible regulation:** While Directive 94/33/EC provides for the continued examination of the health of young people where the work might pose a risk to their health, it does not provide for at least annual re-examination.	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.

	of the specific risks referred to in Article 7 (1). 2. The employer shall implement the measures provided for in paragraph 1 on the basis of an assessment of the hazards to young people in connection with their work. The assessment must be made before young people begin work and when there is any major change in working conditions and must pay particular attention to the following points: (a) the fitting-out and layout of the workplace and the workstation; (b) the nature, degree and duration of exposure to physical, biological and chemical agents; (c) the form, range and use of work equipment, in particular agents,		

	machines, apparatus and devices, and the way in which they are handled; (d) the arrangement of work processes and operations and the way in which these are combined (organization of work); (e) the level of training and instruction given to young people. Where this assessment shows that there is a risk to the safety, the physical or mental health or development of young people, an appropriate free assessment and monitoring of their health shall be provided at regular intervals without prejudice to Directive 89/391/EEC. The free health assessment and monitoring may form part of a national health system.		

2. The medical examination for fitness for employment shall be carried out by a qualified physician approved by the competent authority and shall be certified either by a medical certificate or by an endorsement on the work permit or in the workbook.	Articles 151 and 153(a) TFEU	**Convention more stringent than the Directive, but compatible regulation:** The Directive does not stipulate that the health assessment must be carried out by a qualified physician.	**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.
3. The document certifying fitness for employment may be issued-- (a) subject to specified conditions of employment;	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation:** The *acquis* makes no reference to health documents in this context.	**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.
(b) for a specified job or for a group of jobs or occupations involving similar health risks which have been classified as a group by the authority responsible for the enforcement of the laws and regulations concerning medical examinations for fitness for employment.	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation:** The *acquis* makes no reference to health documents in this context.	**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.
4. National laws or regulations shall specify the	Articles 151 and 153(a)	**Convention more stringent than the acquis, but compatible**	**Union and Member State shared competence as to international**

authority competent to issue the document certifying fitness for employment and shall define the conditions to be observed in drawing up and issuing the document.	TFEU	**regulation:** The *acquis* makes no reference to health documents in this context.	**agreements than engage EU social policy:** Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
Article 3 1. The fitness of a child or young person for the employment in which he is engaged shall be subject to medical supervision until he has attained the age of eighteen years.	See Convention Article 2.	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
2. The continued employment of a child or young person under eighteen years of age shall be subject to the repetition of medical examinations at intervals of not more than one year.	See Convention Article 2.	**Convention more stringent than the Directive, but compatible regulation:** While Directive 94/33/EC provides for the continued examination of the health of young people where the work might pose a risk to their health, it does not provide for at least annual re-examination.	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
3. National laws or regulations shall-- (a) make provision for the special circumstances in which a medical re-examination shall be required in addition to the	See Convention Article 2.	**Convention more stringent than the Directive, but compatible regulation:** While Directive 94/33/EC provides for the continued examination of the health of young people where the work might pose a risk to	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.

annual examination or at more frequent intervals in order to ensure effective supervision in respect of the risks involved in the occupation and of the state of health of the child or young person as shown by previous examinations; or		their health, it does not provide for at least annual re-examination.	
(b) empower the competent authority to require medical re-examinations in exceptional cases.	See Convention Article 2.	**Convention more stringent than the Directive, but compatible regulation:** While Directive 94/33/EC provides for the continued examination of the health of young people where the work might pose a risk to their health, it does not provide for at least annual re-examination.	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
Article 4 1. In occupations which involve high health risks medical examination and re-examinations for fitness for employment shall be required until at least the age of twenty-one years.	See Convention Article 2.	**Convention more stringent than the Directive, but compatible regulation:** While Directive 94/33/EC provides for the continued examination of the health of young people where the work might pose a risk to their health, it does not provide for re-examination for workers above the age of 18.	**Union and Member State shared competence as to international agreements that engage Directive 94/33/EC:** The Directive sets minimum requirements.
2. National laws or regulations shall either specify, or empower an	See Convention Article 2.	**Convention more stringent than the Directive, but compatible regulation:**	**Union and Member State shared competence as to international agreements that engage Directive**

appropriate authority to specify, the occupations or categories of occupations in which medical examination and re-examinations for fitness for employment shall be required until at least the age of twenty-one years.		While Directive 94/33/EC provides for the continued examination of the health of young people where the work might pose a risk to their health, it does not provide for re-examination for workers above the age of 18.	**94/33/EC:** The Directive sets minimum requirements.
Article 5 The medical examination required by the preceding articles shall not involve the child or young person, or his parents, in any expense.	Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work 5. Measures related to safety, hygiene and health at work may in no circumstances involve the workers in financial cost.	**Compatible regulation.**	**Union and Member State shared competence as to international agreements that engage Directive 89/391/EEC:** The Directive sets minimum requirements.
Article 6 1. Appropriate measures shall be taken by the competent authority for vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation:** The *acquis* makes no reference to health documents in this context.	**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.

be unsuited to certain types of work or to have physical handicaps or limitations.			
2. The nature and extent of such measures shall be determined by the competent authority; for this purpose co-operation shall be established between the labour, health, educational and social services concerned, and effective liaison shall be maintained between these services in order to carry out such measures.	Articles 151 and 153(a) TFEU	**Convention more stringent than the acquis, but compatible regulation:** The *acquis* makes no reference to health documents in this context.	**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.
3. National laws or regulations may provide for the issue to children and young persons whose fitness for employment is not clearly determined--			
(a) of temporary work permits or medical certificates valid for a limited period at the expiration of which the young worker will be required to undergo re-examination;	Articles 151 and 153(a) TFEU	**Convention broader 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.
(b) of permits or certificates	Articles 151 and 153(a)	**Convention broader than the**	**Union and Member State shared**

requiring special conditions of employment.	TFEU	**acquis, but compatible regulation.**	**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.
Article 7 1. The employer shall be required to file and keep available to labour inspectors either the medical certificate for fitness for employment or the work permit or workbook showing that there are no medical objections to the employment as may be prescribed by national laws or regulations.	Articles 151 and 153(a) TFEU	**Convention broader 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.
2. National laws or regulations shall determine the other methods of supervision to be adopted for ensuring the strict enforcement of this Convention.	Articles 151 and 153(a) TFEU	**Convention broader 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.
PART II. SPECIAL PROVISIONS FOR CERTAIN COUNTRIES	N/A.		
PART III. FINAL ARTICLES		**Compatible regulation:**	

Article 11 Nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions than those provided by this Convention.		The Directives provide for minimum requirements.	
Articles 12 – 19 ***Final provisions***			

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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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