European Commission

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

- Annex "C124 - Medical Examination of Young Persons (Underground Work) Convention" -

Employment, Social Affairs and Inclusion

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SUMMARY	
Convention	• **C124 - Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)**
Subject	• C124 provides for regular health inspections for underground workers below the age of 21.
Member State uptake	• Forty-one states have ratified C124, of which **sixteen are Member States**: • Austria (08 Dec 1971); Belgium (06 May 1977); Bulgaria (03 Oct 1969); Cyprus (18 Jan 1967); Finland (23 Sep 1968); France (05 Aug 1971); Greece (28 Aug 1981); Hungary (08 Jun 1968); Italy (05 May 1971); Malta (09 Jun 1988); Netherlands (08 Apr 1969); Poland (26 Jun 1968); Portugal (02 May 1985); Slovakia (01 Jan 1993); Spain (30 Nov 1971); United Kingdom (13 Dec 1966).
Relevant EU *acquis* engaged	• C124 falls under the ILO category of protection of young people, and engages the EU chapter on social policy. • C124 engages Articles 4(2)(b) and 153(1)(a) TFEU. • C124 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 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work
Summary of compatibility analysis	• C124 is wholly compatible with the EU *acquis*. • C124 is more stringent than the *acquis* on: the at least annual health re-examination of workers under the age of 21 who work in mines (Convention Article 2(1)); the nature and thoroughness of the examination required (Convention Article 3); enforcement, penalties for non-compliance and records of young people at work in mines (Convention Article 4).
Assessment of external competence	• C124 falls wholly within shared competence.
Ranking criteria	• **Compatibility:** C077 is entirely compatible with the EU *acquis*. • **Value added: High** • C124 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** • C124 concerns the protection of young workers.	
Implications	***Compatibility***	• There are **no significant compatibility concerns**. This means that the EU can promote ratification.
	Competence	• C124 falls wholly within shared competence, and therefore 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 of young persons for fitness for employment underground in mines, which is included in the fourth item on the agenda of the session, and			
Article 1 1. For the purpose of this Convention, the term ***mine*** means any undertaking, whether public or private, for the extraction of any substance from under	Article 153(1)(a) TFEU Council Directive 92/104/EEC on the minimum requirements for improving the safety and health protection of	**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.

the surface of the earth by means involving the employment of persons underground.	workers in surface and underground mineral-extracting industries (twelfth individual Directive within the 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;		
2. The provisions of this Convention concerning employment or work underground in mines include employment or work underground in quarries.	See above.	**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.
Article 2 1. A thorough medical examination, and periodic re-examinations at intervals of not more than one year, for fitness for employment shall be required for the employment or work underground in mines of persons under 21 years of age.	Directive 92/104/EEC *Article 8* **Health surveillance** 1. To ensure that workers receive health surveillance appropriate to the health and safety risks they incur at work, measures shall be introduced in accordance with national law and/or practices. 2. The measures referred to in paragraph 1 shall be such that each worker shall be entitled to, or shall undergo, health surveillance before being assigned to duties related to the activities referred to in Article 2	**Convention more stringent than the Directive, but compatible regulation:** The Directive does not provide for re-examination of workers above 18 years of age.	**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.

	and subsequently at regular intervals. 3. Health surveillance may be provided as part of a national health system. Directive 92/91/EEC *Article 8* **Health surveillance** 1. To ensure that workers receive health surveillance appropriate to the health and safety risks they incur at work, measures shall be introduced in accordance with national law and/or practices. 2. The measures referred to in paragraph 1 shall be such that each worker shall be entitled to or shall undergo health surveillance before being assigned to duties related to the activities referred to in Article 2 and subsequently at regular intervals. 3. Health surveillance		

	may be provided as part of a national health system. Council Directive on the protection of young people at work ***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); (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; *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 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. Alternative arrangements for medical supervision of young persons aged between 18 and 21 years shall be permitted where the competent authority is satisfied on medical advice that such arrangements are equivalent to or more effective than those required under paragraph 1 of this Article and has consulted and reached agreement with the most representative organisations of employers and workers concerned.	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.
Article 3 1. The medical examinations provided for in Article 2--			
(a) shall be carried out under the responsibility and supervision of a	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**

qualified physician approved by the competent authority; and		The *acquis* makes no reference to health documents in this context.	**policy:** Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
(b) shall be certified in an appropriate manner.	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.
2. An X-ray film of the lungs shall be required on the occasion of the initial medical examination and, when regarded as medically necessary, on the occasion of subsequent re-examinations.	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.
3. The medical examinations required by this Convention shall not involve the young person, or his parents or guardians, in any expense.	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.
Article 4 1. All necessary measures, including the provision of appropriate	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:**

penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.			Social policy is an area of Union and Member State shared competence under Article 4(2)(b) TFEU.
2. Each Member which ratifies this Convention undertakes either to maintain an appropriate inspection service for the purpose of supervising the application of the provisions of the Convention or to satisfy itself that appropriate inspection is carried out.	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.
3. National laws or regulations shall define the persons responsible for compliance with the provisions of this Convention.	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.
4. The employer shall keep, and make available to inspectors, records containing, in respect of persons under 21 years of age who are employed or work			

underground--			
(a) the date of birth, duly certified wherever possible;	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.
(b) an indication of the nature of their occupation; 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.
(c) a certificate which attests fitness for employment but does not contain medical data.	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.
5. The employer shall make available to the workers' representatives, at their request, the information mentioned in paragraph 4 of this Article.	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.
Article 5 The competent authority	Council Directive 89/391/EEC	**Compatible regulation.**	**Union and Member State shared competence as to international**

in each country shall consult the most representative organisations of employers and workers concerned before determining general policies of implementation and before adopting regulations in pursuance of the terms of this Convention.	on the introduction of measures to encourage improvements in the safety and health of workers at work *Article 11* Consultation and participation of workers 1. Employers shall consult workers and/ or their representatives and allow them to take part in discussions on all questions relating to safety and health at work. This presupposes: — the consultation of workers, — the right of workers and/ or their representatives to make proposals, — balanced participation in accordance with national laws and/ or practices.		**agreements that engage Directive 89/391/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.
Articles 6 – 13 ***Finals 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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