Study on child labour and protection of young workers in the European Union

EXECUTIVE SUMMARY
FINAL REPORT

European Commission DG Employment, Social Affairs and Equal Opportunities



Study on child labour and protection of young workers in the European Union

EXECUTIVE SUMMARY

This study is aimed to obtain an objective and detailed overview and assessment of the situation in practice relating to child labour and the protection of young people at work in the European Union as a complement to the Commission's monitoring of the implementation of the directive 94/33/EC on the protection of young people at work.

The focus, particularly at national level, has more of a sociological than juridical approach. Compliance with national legislation transposing the directive is a starting point, but the aim of this study goes further than this, identifying, where applicable, events of potential lack of protection of young workers. The target group to be analysed is persons under 18 years of age. According to Directive 94/33/EC, this includes young persons meaning any person under 18 years of age; children under 15 years of age (in some MS 16, taking into account the compulsory schooling condition) and adolescents between 15 and 17 years of age (15 and 17 year-old adolescents included) who may be working in unclear situations, from a labour perspective.

The study has been undertaken on two levels. Firstly, based on the collection of national information regarding the situation of child labour and young people at work. The main source of information found to date has been in documents, through studies – official and private – undertaken in some MS as a consequence of specific campaigns against child labour. Secondly, given the differences in the quality of the information obtained in the MS, the analysis has been completed with other European and international sources, mainly statistical information and other studies.

Some remarks on the Directive 94/33/EC on the protection of young people at work

From the perspective of the legal asset to be protected, the Directive is structured around two central axes: the age of the young person and the right and obligation to obtain education. The relationship between the labour activity of young people and children and the education system is the first axiom. The Directive's objective is to protect the attendance of young persons to compulsory schooling, in such a way that carrying out a labour activity, temporary or stable, does not prejudice or prevent this right. The Directive is guided to obtain this objective, using to this aim an internal play of standard provisions, repeals and exceptions.

Furthermore, the Directive applies to those having an employment contract or an employment relationship, under contract or not, derived from labour activity. In the case of young workers, those jobs that are undertaken without a formal contract are also included. The definitions of

labour activity, its length per week or per day, or the wage requirement are elements which are difficult to assess. Finally, European legislation is implemented territorially and hence it also applies to the employment of young immigrants, regardless of whether they are Community or extra-Community citizens, as long as they have an employment contract or employment relationship. In this case, the difficulty to analyse this particular group of workers is large as a consequence of the legal schemes of the MS to admit immigrant workers from outside the Community and of the specific characteristics of illegal immigration.

Child labour does exist in the UE

To a certain extent, the work carried out by children and young people in the EU is by and large unknown. In many MS, from an official point of view, child labour is considered to be "non existent" or, at least, it does not to give rise to conflict. In contrast with other places around the world where child labour in itself constitutes an international concern that has given rise to permanent campaigns to eradicate at least its most extreme and terrible manifestations, social perception in the EU is not alarmed for this reason.

In many MS there is deep rooted acceptance of child labour. Child labour in the under 15 year-olds and young people aged 15, 16 to 17 inclusive does take place everywhere in the 27 EU MS, although in different ways. Children and young persons under 18 often have contacts with the labour market at an early age (under 15) and in the 16-17 year-old age group, in which labour is governed by the laws in force. The phenomenon of child labour takes place in the EU under different guises and a significant number of children and young people under 18 years of age are involved in the world of labour in all MS.

Lack of research and statistics

In general, not much attention has been paid to the under-18 age group in other studies, at a national or European level. The reasons for this general lack of interest may be caused, on the one hand, by the difficulty in obtaining homogenous statistics for this under-18 age group, rendering this specific category of workers almost invisible; and on the other hand, it may be caused by the widespread perception that this is not a particularly socially-sensitive issue.

Only a few MS have analysed this phenomenon in depth and have published some articles on the subject. In other MS, a global perspective is largely absent and studies that are undertaken refer only to partial aspects of this issue e.g. young people in the labour market, the relationship between school drop-outs and the young workers, etc.. Furthermore, the studies are undertaken with different methodologies, in principle pursuant to the specific national problems. The definitions and concepts used also vary, as well as the age groups used as a sample.

Invisibility of child labour and young people at work: some data and estimations in the EU

It is difficult to quantify child and young workers under the age of 18 because they have a number of unique features. Child labour under the age of 15 is extremely difficult to estimate. Indeed, there are no exact figures that accurately reflect all cases of children at work, mainly

because, first, this kind of work usually takes place in the family environment, through activities in which children help their parents and, second, the line between an activity and a job is sometimes unclear.

According to our estimations, there are 17 million young persons aged 15-17 years in EU-27. This age group accounts for 3 - 4 percent of the total population in the 27 EU MS. The average activity rate for young persons aged 15-17 in all 27-EU is about 21 percent. The activity rate among boys is somewhat higher than for girls but this is not so in all countries. European MS differ greatly with regard to the activity rate of young persons. According to our estimations, a total number of 3.5-4.0 million young persons aged 15-17 undertake work, even for as little as one hour per week, for pay, profit or family gain. However, child labour is only partly reflected in the aforementioned figures.

An unknown but probably quite high number of very young child workers under the age of 15 years must also be taken into account. Provisional estimations suggest that there are about 3.0 to 3.5 million working children under the age of 15. The estimated number of child workers includes a broad definition of child labour, taking into consideration the lack of balance between applications for individual exemption, the resulting authorisations (a few thousands across the EU 27) and this estimated total number.

Type of work and linked economic activities

There is a wide variety of type of work. This variety includes formal and informal agreements, legal and illegal work, domestic and non-domestic work. Given the lack of official statistics, it is hard to provide a clear-cut description of these activities. However, even official statistics have to overcome the difficulty that informal or even illegal types of work do not fall into formal categories.

To provide a general idea about the status of children and young persons under 18 years of age who work in the EU, it can be said that minors are usually employed in commerce and services although in some countries there is a significant number of minors working in agriculture and the manufacturing sector. The broad category of services includes work in hotels, restaurants and all type of supermarket work.

Family work and domestic service as private matters....

One of the hardest aspects with regard to compliance with national and European legislation on child labour is related to the activities undertaken in the sphere of domestic service and so-called family work. The fact that these situations are considered to belong to the private sphere of family relations makes this a very difficult issue to assess. With regard to the domestic service, there is a limited vision of work carried out in the family environment in most MS. According to social perceptions in many MS, children are generally expected to help out at home. It is practically impossible to determine the frontier that separates this contribution to the family household from a more stable activity of a labour nature. Domestic work undertaking by children in the household is considered to be a private matter of every family. The extent of household help provided by children varies at an individual level; families differ in their

requirements of how much children and young people should help. These differences arise from different social and cultural traditions.

With regard to helping in family work, situations where this contribution could lead to a stable labour activity in practice have been observed in some MS. These situations largely depend on which sectors are analysed. Hence, we could say that family work amongst children and young persons is not unusual in rural areas and, specifically, in farming.

Children working in cultural, artistic and sports activities

The nature of this type of labour activity suggests that there are less registered cases in comparison with other spheres or sectors of child labour. Required supervision in the form of authorisation also has an impact on the marginal nature of this type of work. With regard to this type of work, there are only isolated, sporadic cases of abuse.

This type of activity, which is usually undertaken within the family environment, makes it difficult to assess the frequency of non-compliance with legislation on child labour. The example of sports activities is usually discussed in this field. Private regulations are complicated, making it hard to tell whether applicable legislation is always respected in practice, especially with regard to these children getting an adequate education.

Young immigrant workers

Although equal opportunities between national and immigrant workers are promoted, in some MS which receive immigrants from within the Community or elsewhere, young immigrants are in a position of relative weakness in their employment. In Greece, Italy, Spain, United Kingdom and Ireland young legal and illegal immigrants alike are considered to be at a greater risk of having their rights to working conditions violated. This risk is not found in other enlargement countries which are potential producers of emigrants, such as Poland, Bulgaria or Romania. In other MS the immigrant population is very small or negligible. In general, these situations of vulnerability are closely linked to forms of irregular work and the underground economy. In this respect, the problem of migrant children buskers has been mentioned as an increasing concern in some MS.

Informal economy and undeclared work

There are clear signs that the phenomenon of the informal economy is present in a large proportion of young workers (aged 15-17 years olds included) and even amongst children under the age of 15. This cannot be confirmed with irrefutable statistics since the nature of informal work itself prevents it. Nevertheless, most of the qualitative opinions agree with this suggestion. Indeed, even if not all underground activities are related to child and young persons labour, it is clear that this type of work thrives on the economic conditions that distinguish the submerged economy market.

School attendance and child labour and young work

It seems that in some Member States such as Romania and Bulgaria, most young people who work are often forced to stop going to school in order to keep working.

In other MS it could be said that that an increased workload (in terms of working hours and working modalities) has a direct (and negative) impact on school performance and grades as well as on school attendance. Only a few MS (United Kingdom and Malta) have studied the impact of hours worked during (and outside) the school year on performance at school. The few results that are available point towards a negative influence, although its potential depends on the circumstances, such as the type and duration of the activity undertaken.

All of the above seems to point to the existence of a circular, cyclical process of child and young labour: although it is acknowledged that school/educational problems come before choosing to start working and not the other way around, it is indeed true that working may influence school performance, thus increasing minors' problems.

Protecting young workers at the workplace: health and safe issues

A limited amount of reliable data has been found with regard to work-related accidents amongst children and young persons. Apart from the known problems of under reporting this type of accidents, there is also the nature itself of the activities undertaken, generally of a seasonal nature and in sectors dominated by small- and micro-enterprises. At an individual level of MS, no comprehensive or permanently established monitoring system was found. Regarding the European level, there are doubts as to whether recent activities can provide valid information on the situation of working children and young persons under the age of 18. In most MS, there is very poor information on accidents at work in the primary sector, in particular in agriculture.

National and European data suggest that young workers are at a greater risk of having a work-related accident. Nevertheless, the majority of MS records show a fall in the number of accidents at work amongst young persons, keeping in mind that the proportion of young workers is also showing a downward tendency in almost all Member States. On the other hand, these accidents are less severe on average.

Workers under 18 years of age are seldom a target group for prevention activities. In addition, available information suggests that the usual preventive approaches are less effective in this age group.

Very little information was found on occupational diseases in almost all MS. There is some information on occupation-related diseases in other contexts for countries such as Denmark, France, Germany, the Netherlands and Spain.

Grouping the Member States

Although work is undertaken by children and young persons in Europe for different cultural, social and economical reasons, with varying levels of intensity and social appraisal, MS can be categorised according to a set of variables. This of course generalises characteristics, which can mean that results are not necessarily valid and need to be qualified. Major regional differences

may even be found within one MS. The influence of the dominant economic sector (or monoculture, as in the case of tourism in certain Mediterranean areas) significantly influences the characteristics of employment of young persons and their working conditions.

With regard to labour activities undertaken by children and young persons, the social and economic context and the relationship between education and employment, MS can be grouped into the following areas:

a) Scandinavian area (Denmark, Finland, Sweden) and the Netherlands

In Northern Europe and most of Western Europe, work is framed within a cultural and social context that is strongly influenced by the education system. Work activity is associated with the building of identity, the meeting of consumer needs and social acknowledgement. Basically, youth employment policies in Scandinavia and the Netherlands have the main objective of guaranteeing compulsory education and promoting the admission of the younger generations into the labour market. There is a well functioning system of free education supported by many legal acts. In this way, institutions try to prevent unemployment and social exclusion. Paid work of young persons outside their schooling hours is considered socially as a positive value that favours the development of personal independence. The aim is to get work through education. Labour activity – during the school year or in the summer holidays – is guided towards gaining knowledge of the world of work and to earn some money for consumer needs. Despite the proportionally high rates of employment of young persons – for instance in Denmark – compared with the *official* European average, labour activity takes place in a normal context.

b) Continental area (Austria, Belgium, France, Germany and Luxembourg)

In this area, the labour activity of young persons is framed within a context of acquiring work experience as a mechanism of insertion into the labour market or to earn money for personal consumer needs. In poverty groups or collectives at the risk of exclusion in urban areas, the labour activity of young persons is detected as a way of contributing to family income. Young immigrants form the group with a higher risk of carrying out labour activities in the area of informal economy. In some countries such as Germany and Austria, the dual training system or learning through work experience in undertakings is very common and constitutes an important formalised core of labour among young persons.

c) Anglo-saxon area (United Kingdom and Ireland)

In the United Kingdom, surveys carried out in the 1980s and 1990s revealed considerable illegal employment, with under-age working, unregistered employment, excessive hours and work in illegal sectors. They also found that the law on child employment was confusing, varying from one local authority to another, and the level of resources allocated to enforcement was also very variable. The eventual implementation of Directive 94/33/EC in 2000, following the UK government's earlier opt-out, provided an opportunity to standardise the law and launch a national information campaign on child employment. However, it remained apparent that there was still a problem of inconsistent local authority regulation and implementation. This means that the legal framework covering working school children still varies from one local authority to another, with many local authorities arguing that they do not have adequate resources or legal rights to enforce the law effectively. In Ireland, a relatively high number of students work during the school term. The migrant child labour is also a relevant problem.

d) Central East area (Hungary, Czech Republic, Slovak, Slovenia, Bulgaria, Estonia, Latvia, Lithuania, Poland and Romania)

In most of the MS that joined the EU in 2004, child and young workers, male and female alike, are likely to be found in rural areas, and this practice is as widespread as the employment of minors in informal and household work. These countries' lower labour standards (with respect to Western Europe) is likely to be a factor in higher rates of child and young workers.

Certain paradoxes are found on the subject of young workers in the new MS. On the one hand, from a legal perspective, national legislations comply with the standards of the European regulation. In practice, compulsory school attendance is highly valued and upheld by society. But there are two important factors that have a negative influence on young workers. First, the presence of a significant informal or parallel economy as a consequence of the effects of a hasty transition to a market economy: undeclared work pools take on young persons with low salaries. Second, the high level of work in the primary sector (agriculture) and the existence of rural nuclei is the reason why young persons remain in employment in the family sphere. In the specific cases of Bulgaria and Romania, there are several reports of young persons carrying out labour activities that are incompatible with compulsory school attendance.

With reference again to Romania and Bulgaria, the minors' conditions in general and with regard to labour conditions in particular are extremely problematic and complex. Furthermore, the situation of the Roma community is of particular note. There are about 2 million Romas in Romania and only 50% of Roma minors aged 7 to 10 attend school regularly, while about a third drop out of school. In cities, minors are often employed in begging, street peddling and prostitution.

e) South area (Cyprus, Greece, Italy, Portugal, Spain and Malta)

In some of these Member States, the informal economy is still a relatively widespread phenomenon and it provides a favourable environment for the development of irregular work carried out by young workers and even children under the age of 15. There are internal regional differences in the large southern European countries such as Spain and Italy. The work of young persons is primarily associated with territorial informal economy pools and work in coastal tourism and the agricultural sector. Compulsory schooling is respected although the figures for dropping out of school are high in proportion, especially in some areas. Young immigrants also represent a risk group as candidates for work.

In Italy, child labour is a phenomenon that has been subject to some study. In Spain, young persons under the age of 16 normally work within the family or in the immediate economic sphere, mostly helping out in domestic work, domestic service or in child care, the latter two mostly undertaken by girls.

During the 90s, Portugal underwent great progress with regard to the eradication of child labour, in particular in certain grey areas (textile, shoe manufacturing and manufacture of leather goods). In Greece, since many children help out in family businesses and farms and with animals, the labour force activity rate for children is relatively high in poorer rural areas. Also, child street labour in at least the two biggest cities in the country, remains a serious problem that is apparently hard to solve.

Some explanations of the use of lawful and unlawful work by young people

Child and young workers must be studied within the social context as a whole: school, family, labour market, lack of resources, the new challenges of complexity, growth and the need for training, labour "culture", territory and one's own living environment. There are multi-factor, multi-dimensional and multi-directional characteristics in child and young workers in both age groups (under 15, and 16-17 years olds).

Families play an essential role in this phenomenon. Even if they do not directly influence entrance onto the labour market, they have an indirect influence by tacitly accepting or pretending to ignore the child's decision to work. Families also play an ambivalent role, on the one hand protecting, but also promoting the work of young people, both in their own family businesses and in domestic work.

On the other hand, the corresponding environmental and economic context, i.e., family poverty and overall economic situation, is a clear factor in whether children and minors start to work. Poverty is obviously at the core of the child labour problem as in so many other countries.

The school and educational context is also a predisposing factor. The school-employment relationship shows that failure at school and academic failure in general are closely connected to starting work at an early age.

This interrelation between school attendance, the family and the socioeconomic environment means that the phenomenon is manifested in different ways within each Member State. That is, child and young labour it is not only due to poverty or to high school-leaving rates: occasional labour activities may take place outside the education system within the same country, or even in the same territory, when a young person only seeks to develop their personal autonomy or obtain some extra money for personal consumer needs.

Acceptance and efficacy of European legislation

It seems that European legislation shows a positive approach with regard to the objectives sought. The problem does not appear to lie mainly in the content of the Directive 94/33/EC, despite its technical complexity and the many exceptions it has to the general rules on the prohibition of child labour. Some elements have been brought up by some MS, and they almost always concern to the need to implement on-going monitoring and control systems and mechanisms, as well as preventive action in the framework of the education system. So, even if national legislation theoretically appears to adapt to real circumstances, and this leads to the conclusion that national legislation and the Directive are necessary and useful, there are not enough data available in order to confirm that national legislation adapts to real circumstances in practice.

National measures adopted by the Member States

Many of the national measures developed by national governments are not aimed specifically at child labour or young workers. They usually form part of Plans or Programmes combining different measures addressed to social goals.

Special initiatives by labour inspectorates have focused on young workers. These have involved information campaigns or monitoring of industries that tend to employ younger workers such as retail, agriculture, leisure and catering.

Very few national measures have been evaluated. Since they involve general information and awareness initiatives these campaigns are difficult to assess in terms of their impact on the working conditions and health and safety of young workers.

Trade unions have been active in a number of countries, taking the initiative in Denmark, the Netherlands and Sweden for example in inspecting workplaces or giving young workers the opportunity to report problems at work. In the United Kingdom, surveys and investigations by trade unions have tried to highlight that there are problems with child employment legislation and that national action by the government is needed.

Proposal of guidelines for Community action

1. The limited data and information found at national and transnational levels on this specific issue would advise the promotion of a detailed study using accepted standards. Indeed, such a study is essential if we are to improve our knowledge of the conditions of young Europeans in a working environment, undertaking labour activities in the very broadest sense of the term. This covers the different manifestations of child labour and the work of young persons, including formal and stable work governed by an institutional framework with administrative and labour control, as well as other work of a seasonal, irregular or sporadic nature.

The shortfall in statistics and other studies is a gap that must be filled if we are to clamp down on abuse and control the implementation of Community and national law. The invisible nature of labour activities of young Europeans and the potential problems that arise thereby must be broken by providing evidence on the quantitative and qualitative dimension of this phenomenon.

First, these shortfalls require efforts at a European level to standardise data collection, processing and presentation with regard to young persons aged 15-17 years and in general under 18 years of age. Second, at a national level, a recommendation should be made for Government agents to include data collection and processing on the labour situation and working conditions at least of the 15-17 year-old age group in their work agenda. And where such data are already available and are regularly obtained in the framework of general data collection, it would be advisable to officially break down and study this data, and publish it separately within the set of labour statistics for each Member State.

...and transparency

2. In the case of some MS, the publishing of specific annual reports on the situation and most relevant facts regarding working young people and, in particular, those under 15 years of age, would increase our awareness and knowledge of the evolution of this social reality. The official publication of this data would enhance and complement social awareness, which in general is not in favour of child labour as it is incompatible with compulsory school attendance.

Institutional visibility

3. In the same way that there are specific bodies in some MS to monitor childhood problems, a specific control of child labour should be considered for children under 15 years of age. Irrespective of the structural or administrative organisation of such bodies, it would be best for the knowledge, monitoring and general control of this phenomenon to be centralised at a national level by a specific surveillance body or mechanism. This form of monitoring would also allow it to be co-ordinated with other public departments and private institutions in charge of specific areas (poverty, social inclusion, health, etc.) in the field of young persons and children. As this study confirms, in many cases child labour amongst persons under 15 years of age is closely related with other phenomena.

Both Community and National action

4. Community and national action should be reinforced by encouraging in-depth research from the public sphere on the different predisposing factors in child labour. The promotion of specific studies and surveys on the origin and consequences of child labour with regard to education, consumer habits, the influence of the family's social, economic and cultural situation, amongst other aspects, would greatly help to assess the implications of this phenomenon and respond to it. The publication of these studies at a national level would generate standards of awareness and common methodologies that would contribute to disseminate transnational measurement systems. This official promotion of research would be of public interest as it would adjust the focus of studies and their variables, modifying estimates that are unreliable because of the difficulty in accessing official data, or do to the lack thereof.

Within the framework of the implementation of the Lisbon Strategy and with the goal of promoting knowledge, the study of the interaction of child labour and the work of persons under 18 years of age should be the object of special attention. With a few exceptions in some MS, this connection has not been studied sufficiently, in particular with regard to the negative consequences that young people's decision to work may have on school performance and early school leaving.

A specific chapter on young workers should be included in the framework of Community actions that promote the social inclusion of young persons.

Exploring an amendment of Directive 94/33/EC

5. Although the regulation that supports national legislation, Directive 94/33/EC, is considered to be a suitable legal framework as a whole and not directly responsible for some of the problems detected at national level, it is also true to say that there are some elements that have potential for review. These include the time that has lapsed since it was passed fifteen years ago, with the consequences as well as the incorporation of new MS with social and political realities that differ from the standards of the former 15 MS with regard to child labour and the work of young persons. Furthermore, the complexity of the Directive itself, with its intricate system of repeals and exceptions could advocate action aimed at improving it technically within the framework of the *better regulation* political principle. For these reasons, a review of the

Directive could be proposed with the aim of updating its contents, improving some key aspects and to send a message of awareness to society towards a better regulation of child labour and the work of young persons under 18 years of age.

... and reinforcing and controlling the implementation of legislation

6. In some MS child labour amongst persons under 14 years of age is an everyday reality beyond an isolated event. Commission services should encourage and monitor the preparation and execution of specific Integral Plans to curb this problem, not only including control measures but also strategic objectives for the social inclusion of families and to eradicate bad habits and uses in the family work environment.

This situation also occurs not so much in MS, but in specific productive sectors, generally linked to specific areas and territories. The EC should promote a *zero tolerance* criterion or clause with regard to the work of persons under 15 years of age, for instance in activities related to seasonal and non-seasonal tourism, and implement this through current sectoral policies, instruments and programmes. Special attention should be paid to the situation of young persons working in agriculture (perhaps through the CAP) because of its widespread nature and its deep roots in cultural traditions, by means of forceful actions aimed to reinforce compulsory school attendance in the rural environment and to drastically reduce safety and health risks of young persons under 15 years of age who work on family and non-family farms.

Networks and specific monitoring of working conditions

7. Monitoring the rigorous implementation of European and national legislation still seems to be an unresolved issue in most MS. In the same way that specific actions and networks have been promoted by the EU for a better understanding, control and reaction to the phenomenon of child poverty, a programme could be set up to monitor the circumstances and evolution of child labour and the work of young people. This action could be complemented by an assessment of the impact of European and national policies and measures implemented by the use of benchmarking measures created specifically for this phenomenon.

In cases where specific campaigns have been carried out by labour inspectorates, results show poor working conditions of young persons, irrespective of the type of work. It is necessary to promote a political will to carry out specific control and monitoring campaigns of working conditions for this unique group of workers at a European level. This requires inspectors to have specialised knowledge of this casuistry.

8. Young workers under 18 years of age usually lack the training and experience needed to understand the health risks inherent in the workplace. They participate in prevention activities at a very low level since their contracts are usually for a fixed term and no continuity is expected in their job. National institutions in charge of monitoring their safety and health are recommended to design specific work risk prevention tools suited to the conditions of this age group and make them available to companies, workers, their representatives and trade unions. Guaranteeing the active integration of young persons in risk prevention and assessment as much as possible by means of appealing actions that are suited to their idiosyncrasy and their personal and labour circumstances must be a priority objective.

- 9. Certain potential problems have been detected in the working conditions of young persons carrying out cross-border jobs, of a daily nature or based on short time periods. These are usually activities related to construction and services. At a transnational level, the EC could encourage a detailed analysis of the problems of these cross-border workers, where hazardous work could be a constant (including daily travel to their work place).
- 10. Another reality derived from trans-European mobility is au pair work which has been reported by some MS as a reason for complaint. The EC should make a detailed analysis of the regulation of this type of contractual modality in order to identify whether there is an undercover employment relationship, as well as analysing the working conditions of these young persons who have moved to a different MS, and how such contacts and agreements are made and guaranteed.