



Fourth Study Commission  
Public and Social Law

Meeting in Vienna, 9-13 November 2003

Conclusions

**WORKING CONDITIONS FOR CHILDREN**

General report

This topic was chosen by the Fourth Commission during the former congress of Madrid.

Written reports have been transmitted, in a first time, by: Germany, Australia, Austria, Belgium, Brazil, Canada, Cyprus, Greece, Ireland, Israel, Italy, Japan, Lithuania, Mexico, Holland, Slovenia, Switzerland, Sweden, Taiwan, Uruguay. During a second time, Argentina, Georgia, Malta, Puerto Rico, Ivory Coast, have distributed their reports.

They were asked to answer three questions :

1. Has your country foreseen a protective legislation or measurements in the field of child work?

If yes, please specify the aims as well as the guiding lines, in particular:

the minimum age required to work, possibly applicable distinctions according to age, working conditions reserved for the child.

2. What are the applicable and/or applied sanctions, in case that the rights of children at work are broken?

Did the courts of your country have recently experienced such cases of breaking of the rights of children who work?

3. Please specify, if necessary, concrete measures likely to improve the working conditions of children in your country.

The general character of the questions was required in order to allow each country to explain its situation, its specificities, characteristics, etc... without being obliged to answer a not suitable rigid questionnaire for interpretation and moreover, far from reflecting reality.

*1. Regulations quoted in the reports.*

At the international level are aimed in particular at:

The Convention of the United Nations about the rights of the child (especially article 32).

The Convention nr. 138 of the W.I.O. concerning the minimum age of admission to employment.

The Convention CO nr.182 of June 17th, 1999, concerning the prohibition of the worst forms of children work and the immediate action for their elimination.

The International Convention CO138 of the W.I.O. from June 26th, 1973 related to the minimum age of admission to employment;

The Conventions CO79 and 90 concerning the night work of young people.

The international pact of 16th December 1966 related to the economic, social and cultural rights, from which the article 10, chapter 3 deals with the protection of children and teenagers against economic exploitation.

At the European level, it is referred to:

The directive 94/33 of the European Union related to the protection of young people at work, adopted on the basis of article 118 A of the Treaty of Rome. It is an instrument of execution of the directive - 89/391 of June 12th, 1989 related to "the implementation of measures aiming at promoting the improvement of safety and health of workers at work".

The European social Charter, in particular article 7 paragraph 8, concerning the rights of children and young people.

At the national level, the Constitutions and/or the internal laws that regulate the work of children. Inside a country, the legal provisions can vary from a State or a territory, or an area to the other, like in Australia and in Canada.

## *2. Surveillance and control organs.*

Several countries set up various execution, surveillance and control organs of legislation for instance: in Australia, Lithuania, Holland, Sweden, Mexico, Brazil, Canada, Israel.

The Ivory Coast has taken spéciales laws to protect children at work coming from other countries bordering on Ivory Coast.

## *3. Distinction: children/young workers.*

In most countries, a distinction is made between children for whom exist a general prohibition to often work in correlation with school obligations and young workers. The threshold of this distinction varies: 12 years in some countries, but up to 20 years in others , sometime in connection with the school periods (see reports of Belgium, of Canada, of Mexico and of Taiwan).

However, exceptions are numerous.

Especially for artist children (cinema, theatre, music, radio, television) or sportsmen, exceptions are allowed provided that certain conditions are fulfilled, more particularly that these activities do not cause damage to the physical or mental health of children. In a few countries, age limits are also specified above (in Japan, in Lithuania). Moreover, an authorization must often be granted (in particular in Australia, Germany, Austria, Belgium, Holland, Slovenia, Mexico, Canada, Israel).

Working is also allowed to younger children in case of apprenticeship contracts that are generally strictly regulated (Germany, Austria, Cyprus: at 14 years; Ireland: at 14 or 15 years depending on the case; in Slovenia, in Brazil, at 16 years; in Belgium, (from 15 to 18 years).

Working in a farm is also an exception (Germany, Australia, Austria, Israel).

For light and occasional work at home or in the company of the family like in Austria, Japan, Ireland, Israel, Australia.

Working during school holidays is allowed, but regulated: in particular in Belgium, Ireland.

For light work outside the house or the company of the family linked to the physical and mental capacities of young people, often according to a well determined list, and in so far as education does not suffer from it: Australia, Lithuania, Holland, Sweden, Mexico (authorization coming from the parents or surrogates and proper authorities), Israel, Switzerland, Portugal.

Several countries authorize the work or the voluntary help of children to the profit of their school, the church, sporting clubs, cultural organizations, charitable organizations.

In Australia, several "states" particularly regulate the work of children who, even under 15 years practice trading in the streets.

#### *4. Differences of wages according to the age.*

For children: the working hours are generally limited. They are included between 4H.to 8 H. a day, according to the age of children, but also the countries concerned and the type of work requested. They cannot exceed 20H.to 40H a week.

For young people: it is the same but the authorized working hours are generally longer and can even extend till 45H a week...!

Resting hours are generally taken into account (in Australia, Austria, Belgium, Ireland, Israel, Greece, Lithuania, Holland, Slovenia, Taiwan, Mexico, Portugal).

#### *5. School obligations.*

As soon as the work of young people is regulated, it is in correlation with the respect of school obligations. The more the child is young, the more this obligation has to be strictly fulfilled. If exceptions exist, for artists in particular, they are strictly organized and generally subjected to the authorization of the proper authorities and to their control.

If education takes place at the same time as work, particular conditions are also envisaged like a lighter work adapted to education.

#### *6. Total or partial prohibitions.*

Prohibition to have the children work under the most painful conditions is pointed up in all existing legislations.

The prohibition of working by night exists, in particular in Australia, Austria, Germany, Belgium, Israel, Portugal. The practices and restrictions are however extremely variable from one country to another; no general rule can be drawn of it.

Prohibition of work including too heavy or dangerous tasks or exceeding the physical or mental capacities often adjusted according to age, is stressed, in particular in Australia, Switzerland, Austria, Taiwan, Mexico, Brazil, Belgium, Israel.

Prohibition to be put in contact with dangerous, toxic, ionising substances being able to cause genetic changes and imply a high risk of accidents or occupational diseases, at extreme temperatures or in immoral activities is frequently quoted,; for example in Australia, Japan, Greece, Lithuania, Slovenia, Sweden, Taiwan, Mexico, Brazil, Belgium.

Working in bars or night clubs is generally prohibited under a certain age, (for example 15 years in Japan).

The prohibition of working on certain days of the week, like Saturdays and/or Sundays, also exists in Germany, Switzerland, Mexico, Belgium, Israel.

Prohibition to have somebody work on one legal day off is taken into account: in Belgium, Taiwan, Mexico.

The prohibition to work overtime (except absolute necessity) is underlined in Belgium and in Portugal.

### *7. Granting of additional rights or setting up of specific obligations dedicated to young people.*

In Switzerland, workers up to 20 years completed are entitled to benefit from 5 weeks of holiday per year instead of 4 weeks for adult workers. In Lithuania, like in Slovenia, the holidays of young people are also longer.

In Mexico, the holidays are paid by the employer and when they are 16 years, the young workers can act at law to claim their rights.

In Austria, like in Belgium and in Israel, for the young workers, the time spent at school is regarded as working time and must be paid.

In Portugal, vacation must be granted without remuneration in order to follow professional trainings.

In some countries like in Australia, Greece, special measures of protection on working place are taken into account.

The recruiting as well as the maintenance at work are often conditioned by a medical examination and a medical follow-up, like in Lithuania, Mexico, Belgium, Israel.

Administrative formalities like: to obtain an authorization, to respect education, to ensure safety measures, (general or special), are often required, and obligations to give trainings and required practical experiences are imposed on the employers.

In Brazil, new measures were taken to oblige certain employers to take on young people aged between 14 and 18 years and train them. Moreover, education was encouraged for children who do not work any more.

In Israel, if the wages are not too high, the young worker benefits from tax exemption. The employer must pay the social security and the transport charges, to take out an health insurance and to inform the young person of legal provisions.

In Australia, the authorizations of the parents, but also of the qualified administration and school, are necessary.

### *8. Payment.*

The remuneration of young people is often fixed, at least in texts, by reference at the minimum sum guaranteed, like in Australia, Greece, Holland.

In Belgium, if the child is less than 15 years, it must be paid on an individualized savings account of which the child only will dispose of when he reaches his majority. Any other mode of payment is null. After 15 years, the young person perceives himself his remuneration.

Many children work without any payment for instance in Brazil, but also elsewhere.

### *9. Sanctions.*

Sanctions legally envisaged against the employers are generally fines like: in Lithuania, Sweden, Mexico, Brazil, Portugal, matched or not with imprisonment such as: in Australia, Taiwan, Belgium, Canada, Israel.

The amounts of fines and durations of imprisonment are variable but imprisonment penalties do not exceed one year except in Tasmania (Australia) where imprisonment can go up to two years.

The parents or those who take care or are responsible for the children or young workers can also be sanctioned like: in Australia, Belgium, Israel, Italy, Greece, Brazil.

In Belgium, any intermediary, such as for example an investment trust of labour, which break legal provisions, is reprehensible.

Sometimes administrative measurements are envisaged or conditions are imposed for the maintenance of the authorizations of the employer (in Italy, Portugal, Canada, Israel).

In Switzerland, in Israel, buildings or companies can be closed, the driving licence can be withdrawn or the issue of a new driving licence can be denied.

#### *10. Case reported to the Courts.*

Some countries do not mention any one, like: in Lithuania, Slovenia, Taiwan, Canada.

Other countries estimate that their legislation is sufficient to avoid litigations: in Germany, Austria, Cyprus.

Some litigious cases are evoked, in particular in Switzerland, Japan, Greece, Mexico.

It is mentioned that frequent violations take place, but judgments are rare: in Australia, Portugal, Israel.

In Switzerland, the legislation on worker protection does not cover the possibilities of work within the family, which concern the common right. Its activities are regarded as concerning parental authority. Many other countries consider that for this type of work specially in "family factories", exceptions must be allowed and permitted in a much broader way, or even extremely broad, children work.

#### *11. Complementary measures to consider.*

Some countries consider that their legislation and controls are sufficient: in Germany, Austria, Sweden, Taiwan, Canada.

Other countries announce new regulations to reinforce protection or to control it better like: in Cyprus.

Ireland and Italy estimate that more controls are necessary to ensure the application of the legislation.

In Lithuania, projects are considered to better respect the principle of non-discrimination, to prepare a program for the jobs of children during the summer holidays as well as the other vacation and for young people who were sentenced to go to prison or abandoned young people.

In Holland, projects to delay the entry in the army from 15 to 18 years are planned.

Mexico like Brazil, put forward the difficult economic situation for all. Extreme poverty leads to illegal practices. The legal texts have no power against malnutrition, illiteracy, exploitation of workers, the need for having the children work, but measures are taken to try to improve the situation, in particular to increase school attendance.

On the contrary, in countries like in Belgium, the economic crises triggered off the prolongation of education and delay therefore the entry of young people in the world of work in order to limit workforce available on the working market.

In Portugal, in particular, the legislation is sufficient but the reality on site is also the reflect of the economic situation, of the lack of information of the parents, the employers. Problems are related to education, to the prevention of inaction, consequence of school abandonment.

In Israel, more protection measures are wished, especially in the artistic field, with reinforcement of controls by the proper authorities. The work of young people in the public sector should be approached.

In Australia, in reaction to the many problems linked with working in the farm, the wish to have a specific and global legislation is pronounced. This legislation would enable to regulate children work so that each one, families included, would know what is allowed or what is not

In the United States, it is forbidden to import merchandises produced by forced work made by children;

### *12. Conclusions.*

The greatest disparity reigns about the way child work is depicted. It is not a surprise, but an observation that can be sometimes afflicting.

We must admit that where the economic situations are difficult and where, in most cases, a too high demography is a worsening factor, together with a lacking education, children work escapes almost from all controls, if there are some.

In case education is encouraged and controlled, measurements are generally adopted so that child work nevertheless enables to follow existing trainings. Efforts should be accomplished so that they are sufficient and developing.

But it should be noted that even where official organizations of control, of monitoring, are set up, they cannot always overcome the lacks of information of the parents, of those who are surrogates for children, young people, employers.

Several countries recognize the difficulties encountered to respect one or some existing legislations that are more or less inoperative.

Certain countries, very few indeed, affirm to have a sufficient arsenal of legal provisions and organizations charged to take care of their effectiveness to ensure young workers an organization of work not necessarily reduced, at least protected when comparing with adult workers.

### *13. Suggestion of recommendation.*

It is particularly difficult, according to the diversity of the described or implied situations, to make a recommendation applicable to all.

It appears however that each country should tend to an increasingly broad application of children rights defined in the Convention of the United Nations on the child rights.

### *14. Topic for next year.*

Justification and characteristics of entities competent to resolve labour and social security disputes.