

# Valentin Bou-Franch\*

## Article 32 of the Charter of Fundamental Rights of the European Union on the Prohibition of child labour and protection of young people at work

### SLIDE 1

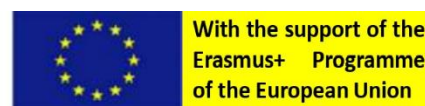
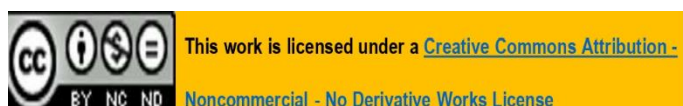
Hello, welcome. I am Valentín Bou and in this video I am going to talk to you about article 32 of the Charter, concerning the Prohibition of child labour and the protection of young people at work.

### SLIDE 2

Article 32 of the Charter of Fundamental Rights of the European Union, entitled "Prohibition of child labour and protection of young people at work", states the following:

Child labour is prohibited. The minimum age for admission to employment shall not be less than the age at the end of compulsory schooling, without prejudice to more favourable provisions for young persons and subject to limited exceptions.

Young persons admitted to work shall be provi-



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ded with working conditions appropriate to their age and shall be protected against economic exploitation or any work which may be harmful to their safety, health, physical, mental, moral, or social development, or which may jeopardise their education.

According to the Explanations to Article 32 of the Charter, this Article is based on Directive 94/33 on the protection of young people at work, as well as on Article 7 of the European Social Charter and points 20 to 23 of the Community Charter of the Fundamental Social Rights of Workers.

### **SLIDE 3**

The rationale behind the prohibition of child labour and the special protection of young people in the workplace lies in the fact that both groups are particularly vulnerable and require enhanced protection.

On the one hand, in the case of children, this article: (first) introduces an exhaustive prohibition of child labour; (second) requires public authorities to expressly establish rules on the minimum age for entry into working life; and (third) the minimum working age is linked to another fundamental right regulated in the Charter, such as the right to education provided for in Article 14.

On the other hand, in the case of young people, this provision requires public authorities to adopt

rules to ensure: (i) that young people admitted to work are provided with working conditions appropriate to their age; (ii) that they are protected against economic exploitation or any work that may be harmful to their safety, health, physical, mental, moral or social development; and (iii) that their education is not jeopardised.

## **SLIDE 4**

Regarding the prohibition of child labour, Member States must ensure that the minimum age for admission to employment or work is not lower than the age at which compulsory full-time schooling under national law ceases, and in any case not lower than 15 years. It is worth mentioning that, in Spain, compulsory education is until the age of sixteen.

"Child" shall mean any young person under the age of fifteen or who is still subject to compulsory full-time schooling imposed by national legislation. In the case of Spain, "children" means persons up to 16 years of age.

There are two possible "limited derogations" from the prohibition of child labour. The first possible derogation for certain types of child labour is that Member States may exclude from the scope of this Directive, by law or regulation, within such limits and under such conditions as they may stipulate, occasional or short-term work relating to:

(one) domestic service in family households, and (two) work which is not considered harmful, harmful, or dangerous to young people in the family business.

## **SLIDE 5**

The second possible derogation from certain types of child labour is that Member States may provide, by law or regulation, that the prohibition of child labour does not apply: (one) to children engaged in cultural, artistic, sporting or advertising activities, provided that they have the necessary prior authorisation from the competent authority; (two) to children of at least 14 years of age working in the context of work-linked training or work experience schemes, provided that such work is carried out in accordance with the conditions laid down by the competent authority; and (three) to children of at least 14 years of age engaged in light work other than cultural or similar activities.

I must, however, make the following two clarifications. First, light work is all work which, by reason of the very nature of the tasks involved and the particular conditions under which it is to be performed: (one) is not likely to harm the safety, health or development of the children; and (two) is not likely to affect their school attendance, their participation in vocational guidance or training programmes approved by the competent authority,

or their ability to benefit from the education they receive.

Light work is not work that is unsuitable because of the physical effort involved, the working conditions (noise, heat, etc.) or the possible psychological repercussions that may have harmful consequences not only on the child's health and development, but also on his or her ability to make the most of school education and, more generally, on his or her ability to integrate satisfactorily into society.

## **SLIDE 6**

Regarding the protection of young people at work, we must begin by stating that a young person is any person aged fifteen or over, but under eighteen, who is no longer subject to compulsory full-time schooling imposed by national legislation. Therefore, for these purposes, in Spain, young people are persons between 16 and 18 years of age.

It should be noted that, according to the Charter, first of all, young people admitted to work must be provided with working conditions appropriate to their age. Therefore, to protect young people, the States undertake: (one) to take the necessary measures to prohibit adolescents from working between 10 p.m. and 6 a.m. or between 11 p.m. and 7 a.m.; and (two) that the time devoted to

their training by young people working in the context of theoretical and/or practical training, alternating training or work experience will be included in their working time.

## **SLIDE 7**

Secondly, young people admitted to work must be protected against economic exploitation or any work which may be harmful to their safety, health, physical, mental, moral, or social development, or which may jeopardise their education.

Therefore, on the one hand, Member States shall ensure that young people are protected against specific risks to safety, health and development resulting from lack of experience, lack of awareness of existing or virtual risks, or the incomplete development of young people.

On the other hand, Member States shall prohibit the employment of young people in work: (one) which objectively exceed their physical or psychological capacities; (two) which involve harmful exposure to toxic agents, carcinogens, agents which produce hereditary genetic alterations, which have harmful effects on the unborn child during pregnancy or which have any other harmful and chronic effects on the human being; (three) which involve harmful exposure to radiation; (four) which present a risk of accidents for which it may be assumed that young people are at

risk of injury; (three) which involve harmful exposure to radiation; (four) which present accident hazards which young people, because of their lack of safety awareness, experience or training, cannot be expected to identify or prevent; or (five) which endanger their health by exposure to heat or cold, noise or vibration.

## **SLIDE 8**

That is all I had to say to you. Thank you very much for your attention.