

Reflections on the First European
Conference for the Protection of a
Work-Free Sunday

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Introduction

On Wednesday 24th March 2010, a conference was held to relaunch the debate on the protection of a work-free Sunday in the European Parliament in Brussels. What follows is only an overview of the day's proceedings. An in depth analysis of the legal issues surrounding a work-free Sunday, and the upcoming working time directive review will follow.

The conference was organised by Thomas Mann MEP, EEP Group (Germany), Patrizia Toia MEP (Italy) and Konrad-Adenauer-Stiftung (Germany) along with '72 organisations, including 13 churches, 24 unions of the civil society and 35 trade unions from all EU member states'.¹ It was an open conference with seventeen speakers and approximately three hundred preregistered participants from across the European Union.

Purpose of Conference

The promotion of the first European Free Sunday Alliance by way of a five pronged appeal:

- i. The establishment of a common weekly rest day for the improvement of social cohesion through the following: protection of workers' health, the reconciliation of work and family and the preservation of the life of civil society.
- ii. To call upon the Heads of State and Government of the 27 EU Member States, to firmly '*resist the growing economic pressure to liberalise the laws providing for a work-free Sunday and to commit themselves to safeguard and promote a work-free Sunday as a pillar of the European Social Model within the laws of their respective nations.*'
- iii. To the European Commission to reinforce the European Social Model by harmonising EU legislation and internal market rules to '*guarantee the central place of a work-free Sunday in the life of workers and of society and to guarantee that no new pressure is placed on the principle of a work-free Sunday*'.

¹ Protection of a Work-free Sunday: Joint Press Release booklet. Mann, Thomas

- iv. To the Members of the *'European Parliament to ensure that all relevant EU legislation both respects and promotes the protection of Sunday as a weekly day of rest for all EU citizens'*.
- v. To all *'European citizens to sign a future Citizens' Initiative to be expressed in favour of the protection of a work-free Sunday'*.²

Reflections of the Press Conference

Panel:

- **Thomas Mann MEP, (EPP/CDU)**, Germany, Vice-Chairman of the Committee on Employment and Social Affairs (Introduction and moderation)
- **Ingrid Sehrbrock**, Germany, Vice-President of DGB (Confederation of German Trade Unions)
- **Prof. Dr. Friedhelm Nachreiner**, Germany, Research Society for Industrial and Organisational Psychology (GAWO)

The press conference started at 2.15pm with a brief introduction to the panellists by the chairman Thomas Mann, and concluded at 2.50pm. After brief statements by each of the panellists the floor was opened for questions and statements. It quickly became apparent, that out of the nine questions put forward, the majority were supportive of a work-free Sunday and concerned with: the social, health and safety, and economic arguments; of which the social argument was predominant.

The first question about whether there were any figures showing the economic effects of working on Sunday in Germany and Europe, was put to Professor Nachreiner who responded by stating that there were none. He then went on to stress the need of conducting what could be termed, a cost benefit analysis of the economic impact of a work-free Sunday.

Ingrid Sehrbrock commented later, in response to a statement on longer Sunday opening hours in France and the current economic crisis,³ that, the German argument for a relaxation of Sunday opening hours to facilitate job creation is *'unconfirmed'*. She further stated that, longer opening hours are *'likely to increase*

² Protection of a Work-free Sunday: Call for a Work-Free Sunday booklet, pp. 1-2

³ The Deputy Secretary General of the French Confederacy of Christian Workers, who is also the Vice President of the Collective Friends of Sunday in France stated the following with regards to Sunday opening hours in France: 'we believe that employment would be destroyed particularly among small and medium sized businesses and also shops in the centre of towns, and we think that would weaken the economy'.

costs and therefore, have a negative effect’; this effect will not only be economic but social and psychological.

There were however, two questions worthy of special attention. The first was from a representative of the Italian Press Agency, who stated that *‘in times of economic crisis...the problem isn’t the amount of free time on Sundays but the amount of work’*, and then asked *‘what specific opportunities are there for this issue of a work-free Sunday to be a priority at European level? Secondly, is there a possibility of a European law becoming binding at a national level?’*⁴ Thomas Mann responded by saying that discussions in this area are still in its infancy, and that László Andor (newly appointed Commissioner for Employment, Social Affairs and Inclusion) will be discussing the working time directive with the social partners after the conference. However, the mood is *‘optimistic’* and if interest permits there may be a need to launch a public consultation hearing.

The second question was asked by Brighton Kavaloh, Legal Researcher for Advent Religio-Legal Perspectives. He asked, *‘Is there now a convincing case for the protection of Sunday [as a work-free day as opposed to any other day]?’* This question was not convincingly answered. The background to the question was, the European Court of Justice Decision after a legal challenge from the UK government on 12 November 1996 to annul the Working Time Council Directive 93/104/EC (Directive) of 23 November 1993. Included in paragraph two of Article 5 of the Directive, was the stipulation that a minimum weekly rest period *‘shall in principle include Sunday’*.⁵ The Court applying Article 137 of the European Treaty stated that *‘the connection between the health and safety of workers and the requirement that the weekly rest period “shall in principle include Sunday” in the second sentence of Article 5 of the Directive, had not been established’*.⁶ Moreover, there was insufficient evidence presented as to *‘why Sunday, as a weekly rest day, is more closely connected with the health and safety of workers than any other day of the week’*.⁷ The reply to the question only addressed the detrimental social welfare effects of working on a Sunday. It did not address whether there were now any new convincing arguments for why Sunday over any other day has to be the only protected work-free day.

Over all, the work-free Sunday press conference had a strong emphasis on the social welfare and cohesion of the European Union, with particular interest in the

⁴ The second question is of particular interest, because any European law imposed on member states with regard to a work-free Sunday may conflict with the European Treaty.

⁵ Official Journal of the European communities, Vol.36, L307, 12 December 1993

⁶ Case-84/94 United Kingdom v Council of the European Union, Industrial Relations Law Reports, Vol.26, No.1, January [1997] IRLR 32.

⁷ Case-84/94 United Kingdom of Great Britain and Northern Ireland v Council of the European Union. Court of Justice of the European Communities Reports of case before the Court of Justice and the Court of First Instance. ECR 1-5805 and 1-5806, para, 37.

health and safety of workers (physical and psychological), and the preservation of family and recreational time.

Reflections of the Main Conference

Supporting Partners

- **Jørgen Hoppe**, *President UNI europa commerce*
- **Bishop Dr. Ludwig Schwarz**, *SDB*
- **Elmar Brok**, *MEP (EPP/CDU), President of EUCDA*
- **Michael Trend**, *Keep Sunday Special, United Reformed Church*
- **Franz Georg Brantner**, *Austrian Free Sunday Alliance, ÖGB*
- **Françoise Nicoletta**, *EEC Force Ouvrière*
- **Philip Büttner**, *German Free Sunday Alliance, KDA*

Members of the European Parliament

- **Csaba Óry**, *EEP (Hungary)*
- **Richard Falbr**, *S&D (Czech Republic)*
- **Nathalie Griesbeck**, *ALDE, (France)*
- **Philippe Lamberts**, *Greens, (Belgium)*
- **Ilda Figueiredo** *GUE/NGL, (Portugal)*

The main conference started after 4.30pm and terminated at 7.30pm. The panel was the same as for the press conference, with the inclusion of László Andor, the Commissioner for Employment, Social Affairs and Inclusion. There were four sections to the conference: Voices of supporting partners, Statements of members of the European parliament, audience questions, and a concluding address.

Thomas Mann gave the opening address, highlighting the growing interest in Europe for the development of a Common Alliance for a work-free Sunday. He further stated that there is wide ranging support from all member states not only through parliament, embassies, consulates and institutions but also at local, regional and national level.

László Andor was the keynote speaker; he was introduced by Thomas Mann and was received with a rousing round of applause. His address was well calculated and concise. The essence of his address was the assurance of a fresh and comprehensive review of the working time directive, taking into account all contributions. He stated that the review is much needed as the world of work has changed, and that there is a *'need to find balance solutions for workers, business*

and public services to meet the challenges they face'.⁸ The review will be conducted in consultation with the European Social Partners and on the basis of a '*thorough social and economic impact assessment of the existing directive and its application in practice*'. It will also have '*a strong social dimension*' prioritising the health and safety of workers.⁹ Andor further commented on the effects of the review on the work-free Sunday in light of the current working time directive; stating that legislation for one free working day is to be decided at member state level for reasons of subsidiarity, and that at least sixteen member states so far have legislated Sunday as the weekly rest day. In conclusion, Andor reassured conference delegates that many would have an opportunity to take part in the social partner's replies to be held in six weeks time, and that he would '*consider all contributions in review of the working time directive*'.

Following the keynote speech, time was given for presentations by the supporting voices and MEPs. Most of the presentations were similar in their content; stressing the need for Sunday as the only work-free day for improved work life balance, recreation and family time, which will have positive effects on the wider society. These themes were also repeated in the question statements from the floor during the question and answer section of the program.

However, there were three comments that moved away from a predominantly social theme with slight religious undertones, to adopt a more overt religious tone. The first of the three comments was made by Bishop Dr. Ludwig Schwarz.¹⁰ Combining the religious and the social dimensions, Bishop Schwarz, a Roman Catholic, '*referred to the third commandment*' as the '*Day of the Lord and of rest*', and that '*it is the first social rule in our civilisation. It is not just a religious commandment but a social commandment as well*'. Sunday he said, is also a time to recharge, meet friends and family, and God; there is more to life than production and consumerism, we are '*here to interact with other human beings*'. He further stated that Sunday creates space and time for the '*inner life*', and this necessitates the development of social rules to defend that space. Human rights '*should not be violated and should not come second, in fact human rights should be the very basis to establish policies, and rules and regulations*'.

The second comment came from Karel Nowak, a representative of the International Association for the Defence of Religious Liberty. Commending the initiatives

⁸ Part of the changed work environment, according to Landor, is due to de-standardisation practices such as: part time work, flexi time, night work, extended shifts and weekend work.

⁹ The European Commission has started research on atypical working pattern and the manner at which they affect workers health and safety. It will look at all types of non-standard working hours and should be completed by September 2010.

¹⁰ Bishop Schwarz was nominated as the diocesan bishop of Linz by Pope Benedict XVI on 07/06/2005. Professor at the faculty of Classical and Christian literature at the Salesian Pontifical University in Rome from 1985 to 1999.

presented for taking into account the larger aspects of European life, he warned that the same initiatives will raise questions and objections. If the answers are unsatisfactory, these initiatives can be undermined.

'One of these questions concerns minorities that for traditional or religious reasons observe as their weekly day of rest not Sunday, but another day...Saturday or Friday. How will the initiative and resulting legislation include them? How will their rights be (so) guarded?

The initiative however useful and laudable could in the end lead to a sort of discrimination of these minorities. What is the provision to protect these minorities against discrimination?'

The issues raised in this statement though noted, were not addressed during the conference.

The third comment comparable to the second was presented by Brighton Kavaloh. He postulated that the Human Rights Convention entitles all European citizens to freedom of thought, conscience, religion, and the freedom to manifest that right alone or corporately.¹¹ He then asked, *'...where does just one day [Sunday] become a legislation issue'*, and whether there will be within the rule of law consideration for an atheist, Christian, Muslim, or Jew who wants to rest with their family, or worship on an alternative day?

The final conclusion was given by Vittorio Prodi. It was an evocative speech, which highlighted the consequences of: modern living, incorrect notions of sustainability, an urgent need for spirituality, and interpersonal relationships. He said that we inhabit a world where people have been reduced to consumers, and society has become materialistic. Furthermore, Sunday has become the last place or moment in which spirituality can be defended, and that is why the work-free Sunday debate is crucial.

Our civilisation, he says, *'has based itself in recent years on two wrong ideas'*, the Earth's unlimited natural resources, and unlimited capacity to absorb waste. These false ideas are indicators of a dictatorship principle, that the only thing of consequence is the turnover of the material product. Such ideas constrain us to perpetual growth and are highly problematic. Pointing to the criticality of knowing that the earth's resources are limited he said,

¹¹ See Human Rights Act 1998, Article 9 which states,
 '1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of the rights and freedoms of others.'

'...it is important for us to start changing the basis, the very fundamentals of our civilisation and the way we have lead the world so far. That is why it is important to come back to a certain form of spirituality. Commercial growth will not go on forever. Now we have to start protecting Sunday's, start creating a day, a time for the things that are essential for the quality of life.'

Emphasis was placed on interpersonal relationships, as the central pillar to quality of life; not only in terms of relationships between people, but also between human beings and the earth. He said that interpersonal relationships are those things that lead to conscience, awareness of the world, and the correct management of society. In closing he said the following:

'It is important to keep Sunday special, to keep one space in the week that is dedicated to the quality of life...Sunday is the place we can keep this immaterial dimension in our lives. This is the place, time when we can find the right balance between spiritual life and material life...if we want sustainability and preservation of life, we must find the right balance of those values that are essential for the quality of life...sustainability is the ability to understand the limited resources of the earth and to mange those resources...to guarantee equal access to resources to all and for future generations.'

Concluding Reflections

The dominant and pervasive argument for safe guarding the work-free Sunday was the upholding of the European Social Model. That is, the idea that a work-free Sunday will improve social cohesion, interpersonal relationships, and sustainability through restoring a better work life balance. The religious and spiritual aspects though present, was often garbed in social and humanistic language. Furthermore, the legal and discriminatory challenges raised with regards to the protection of a work-free Sunday were not adequately answered. Any attempts made to address these issues, always reverted to the benefits of social cohesion. However, with the growing support at both the European Parliament and at the grass roots level, it is important that a close eye is kept on all the subtle nuances of the continuing work-free Sunday debate.