



Rue Stévin 42  
B-1000 Bruxelles



Evangelische Kirche  
in Deutschland  
Rue Joseph II 166  
B-1000 Bruxelles

KOMMISSARIAT DER  
DEUTSCHEN BISCHÖFE  
Katholisches Büro in Berlin

Hannoversche Str. 5  
10115 Berlin



Rue Joseph II 174  
B-1000 Bruxelles

## Why Sunday should be included as a weekly rest day in the revised Working Time Directive

The initial Working Time Directive of 23 November 1993<sup>1</sup> made provision in Article 5 for a minimum weekly rest period, which “**shall in principle include Sunday**”.

On 12 November 1996 the European Court of Justice (ECJ) annulled this provision. The Court found “**that the Council has failed to explain 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.**”<sup>2</sup> It follows from the Court’s reasoning, that the protection of Sunday *as such* does not fall outside the scope of the Directive, but simply that there had not been *sufficient reason* to explain why Sunday as a weekly rest day contributes more than any other day of the week to the health and safety of workers. An amendment aiming at including Sunday, as a weekly rest day, in the revised Working Time Directive can therefore be successful if it delivers on the ECJ’s tacit invitation to demonstrate that Sunday is **more closely connected with the health of workers** than any other day of the week.

“Health” does not only encompass the physical, but also the mental health of workers. In its Green paper on mental health of 14 October 2005 the Commission states that “mental and physical health is closely inter-related”<sup>3</sup>. Furthermore, the Commission adopts the World Health Organisation’s definition of mental health according to which mental health is “a state of well-being in which the individual realizes his or her abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community”. A more recent study issued by the DG for Health and Consumers on 13 June 2008<sup>4</sup> states that mental health

- is affected by policies that influence family life,
- includes concepts such as our ability to initiate and sustain relationships and to play a part in our social world,
- encompasses the ability to develop spiritually.

These findings give strong support to the argument that a free Sunday is of unparalleled importance for the health of workers:

### 1. More than any other day of the week a free Sunday offers the opportunity to meet one’s family.

Sunday is the day of the family. More than any other day of the week a free Sunday serves the aim of reconciling work and family life: As childcare facilities, schools and universities are usually closed on Sundays, parents and children can spend time with each other. Sunday is, moreover,

<sup>1</sup> Directive 93/104/EC of the Council of 23 November 1993 concerning certain aspects of the organization of working time, OJ L 307, p. 18.

<sup>2</sup> See ECJ, Case C-84/94, UK v. Council of the EU, Judgment of 12 November 1996, para. 37.

<sup>3</sup> Commission, Improving the mental health of the population: Towards a strategy on mental health for the European Union, COM(2005) 484, p. 4.

<sup>4</sup> DG for Health & Consumers, Mental Health in the EU, A Background Paper, 13 June 2008, p. 5.

the weekly rest day for children and adolescents according to EU law<sup>5</sup>. If the father has the weekly rest day on Monday, the mother on Wednesday and the children on Sunday, a situation is created that is contrary to the aim of fostering a reconciliation of work and family life as emphasised in recitals 5 and 6 as well as in Article 2b of the current version of the draft directive.<sup>6</sup>

**2. More than any other day of the week a free Sunday offers the opportunity to meet friends, to establish and maintain social ties.**

Sunday is of great importance for the social, cultural, sportive and other involvement of workers in society. Without a free Sunday there is no free weekend. Sunday is therefore of particular importance for the maintenance of European-wide friendships and social ties. Quite apart from their religious traditions, several Member States consider Sunday as being a part of their *cultural* heritage. A report issued by the Commission in 2007 notes that “**it is arguable that having Sunday off is not a religious accommodation granted only to Christians, but merely the acceptance of a cultural norm.**”<sup>7</sup>

Moreover, a free Sunday is an essential pillar of the **European Social Model**, the best example of which is given by the European institutions themselves insofar as they act as employers: Despite the diversity of religious, cultural and ethnic backgrounds of EU officials and decision-makers, the European institutions, bodies and agencies did, since their creation, not work on Sundays and do not intend to do so in the future.

**3. More than any other day of the week a free Sunday offers workers the opportunity to pursue their spiritual needs.**

For many Europeans – not only Christians – Sunday offers the opportunity to pause for a while in order to become aware of the fundamental questions of life: Who am I? Where am I going? Which goals do I want to achieve? Human beings need time for what cannot be calculated, measured or expressed in economic terms. In the light of the great significance of Sunday for the spiritual life of many EU citizens and taking due account of the religious and cultural factors prevailing in the Member States, the minimum weekly rest period shall in principle include Sunday.

**4. According to a EUROFOUND survey, the likelihood of sickness and absenteeism problems in establishments that work on Saturdays and Sundays is 1.3 times greater compared to establishments that do not require staff to work on the weekend.<sup>8</sup>**

The inclusion of Sunday, as a weekly rest day, in the revised Working Time Directive would, finally, **strengthen the idea of a Europe of citizens**, since a large majority of Europeans back the idea of a free Sunday. It would therefore be a concrete **example of how the EU can make a tangible contribution to the quality of life of citizens.**

<sup>5</sup> See Article 10 of the directive 94/33/EC of the Council of 22 June 1994, OJ L 216, p. 12.

<sup>6</sup> See Council document n° 10583/08 of 11 June 2008.

<sup>7</sup> See *Lucy Vickers*, Religion and Belief Discrimination in Employment – the EU law, p. 15 with further references; [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/07relbel\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/07relbel_en.pdf).

<sup>8</sup> See European Foundation for the Improvement of Living and Working Conditions (EUROFOUND), Extended and unusual working hours in European companies, Establishment Survey on Working Time 2004-2005, Dublin (2007), p. 30; <http://www.eurofound.europa.eu/pubdocs/2006/105/en/1/ef06105en.pdf>.

<b>Annex 1: Amendments tabled by Members of the European Parliament for vote in the EMPL Committee</b>
--

**Amendment 22 (and 23)**

Thomas Mann, Gabriele Stauner, Ruth Hieronymi, Anja Weisgerber, Marie Panayotopoulos-Cassiotou (all **EPP**), Jean Marie Beaupuy (**ALDE**), Richard Falbr (**PSE**)

**Council common position – amending act**  
**Recital 6 a (new)**

*Council common position*

*Amendment*

***(6a) The likelihood of sickness in companies that require staff to work on Sundays is greater than in companies that do not require staff to work on Sundays. The health of workers depends, among other factors, on their opportunities to reconcile work and family life, to establish and maintain social ties and to pursue their spiritual needs. Sunday, as the traditional weekly rest day, contributes to these objectives more than any other day of the week.***

*Justification*

*Recent EUROFOUND findings demonstrate that absenteeism and sick-leave increase significantly in companies working on Sunday. This negative impact on workers' health is mainly due to the consequences for social, especially family life. Sunday is the natural choice for family related activities, as childcare facilities and schools are closed. Also, Article 10 § 2 of Directive 94/33/EC on the protection of young people at work prohibits minors from working on Sunday. Thus protecting this day practically advances reconciliation of work and family life and enhances worker's well-being.*

**Amendment 47 (and 48)**

Thomas Mann, Gabriele Stauner, Ruth Hieronymi, Anja Weisgerber, Marie Panayotopoulos-Cassiotou (all **EPP**), Jean Marie Beaupuy (**ALDE**)

**Council common position – amending act**

**Article 1 – point 2 a (new)**

Directive 2003/88/EC

Article 5 – paragraph 2 a (new)

*Council common position*

*Amendment*

*(2a) In Article 5, paragraph 2a shall be added:*

***"The minimum rest period referred to in the first paragraph shall in principle include Sunday."***

*Justification*

*Recent EUROFOUND findings demonstrate that absenteeism and sick-leave increase significantly in companies working on Sunday. This negative impact on workers' health is mainly due to the consequences for social, especially family life. Sunday is the natural choice for family related activities, as childcare facilities and schools are closed. Also, Article 10 § 2 of Directive 94/33/EC on the protection of young people at work prohibits minors from working on Sunday. Thus protecting this day practically advances reconciliation of work and family life and enhances worker's well-being.*

<b>Annex 2: Provisional calendar of the European Parliament's 2<sup>nd</sup> reading on the working time directive</b>
--

Debate on the draft report	20 October 2008
Deadline for amendments	22 October 2008
Amendments sent to translation	22 October 2008
Debate on amendments (+ compromises)	4 November 2008
Vote in Committee for Employment and Social Affairs	5 November 2008
<b>Deadline for amendments</b>	<b>10 December 2008 (to be confirmed)</b>
<b>Vote in the Plenary of the European Parliament</b>	<b>16 December 2008</b>