

The Effects of Regulating Shopping Hours

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Abstract

The paper deals with a recent strongly discussed topic in the Czech Republic, which is a restriction of shopping hours. The ways of restrictions in the EU are discussed as a starting point, for assessing the reasons of the Czech political will to regulate opening hours in supermarkets. Positives and negatives of such a regulation are shown together with its economic, social and political effects, with special accent on the Czech case.

Although the issue of opening hours in the supermarkets seems to be solved in many states, it is a hot topic in the Czech Republic. The Czech Senate deals currently with a legislative proposal of restriction of shopping hours. Let us look at the international experience to get to know the ways of possible regulation and then think about the Czech environment and the Czech political scene in relation to this topic. We will then discuss the positives and negatives of regulating shopping hours and also its effects and relate them to the Czech Republic. The international experience may help us in assessing the Czech individual case and vice versa, some general conclusions may be derived in the end.

Current situation in the Czech Republic concerning shopping hours

First of all, we will introduce the situation in the Czech Republic, as it was the incentive that made us deal with such a topic. Thirteen senators proposed a bill that should regulate shopping hours both in retail and wholesale¹ in the Czech Republic in February 2013. The shops should be closed at seven enumerated public holidays plus at Christmas Eve in the afternoon. However, only bigger shops are involved (more than 200 sqm) and some of them are not concerned at all (pharmacies, shops at airports and bus and train stations, petrol stations etc.). This bill was later approved by the Senate in June 2013. (The Czech Senate, 2013) Nevertheless, the bill did not get to the House of Commons, as there were early elections.

The same proposal came into the Senate after relative stabilisation of our political scene in spring 2014. The reasoning of restricting shopping hours are as follows: The workers cannot fully dedicate themselves to their families, as they have to work, while their children have holidays. The family should be together at holidays and have time for family affairs, apart from others. (The Czech Senate, 2014a). The reconciliation of work and family life is therefore the main reason of the proposal.

The bill counts on a minimum effect on the state budget: On the one hand, some money will be needed for administrative supervision over the compliance with the law. What is more, the revenues of the state budget are supposed to be lowered by the taxes from the profit not gained at those public holidays. On the other hand, some of the turnover will be made by smaller shops on those days and some of them will be realised in standard shopping hours, the impact on the state budget should therefore be very low. Moreover, higher incomes from tourism and free-time services are to be expected. (The Czech Senate, 2014a).

Big entrepreneurs will have limited sales on the days of public holidays; however, they save wage costs and part of overhead costs. The law should also help small and medium enterprises, as the competition from the big supermarkets will be eliminated at public holidays. (The Czech Senate, 2014a). The bill counts on favourable social effects, as people will have more free time to spend with their families and doing hobbies, which is accented from the EU.

¹ We mainly use the word "retailers" in the article (as they would be regulated by this act above all) meaning every subject regulated, i.e. also wholesalers.

International experience

It is necessary to state that the issue itself is not regulated at international level. An appropriate framework could be considered within the multilateral trading system of the World Trade Organization; this international organization does not deal however, with labour standards from any perspective (Štěrbová, 2013). We do not find either any limitation to time of production or selling within the rules of International Labour Organization. Thus the regulation of opening hours internationally differs very much. We will focus on the EU, as the Czech Republic is its member and as the EU countries are culturally more closed to our country. We may divide the ways of regulation into three main types:

- no regulation
- self-regulation/ common practice
- regulation

The first one is recently to be found in the Czech Republic, but also in Croatia or in Italy. However, there are some countries, where there is *no restriction*, with the exception of alcohol, the sale of which is limited some days (Estonia, Ireland, Latvia, and Lithuania). In Sweden, there is also no restriction of shopping hours, however night work is generally regulated. Nevertheless, there may be a collective agreement with trade unions that permits night work. In Slovenia, shopping hours are also not regulated but the retailers must adhere to rules about work on Sundays, public holidays etc. (Eurocommerce, 2012).

Non-written rules about shopping hours that are generally accepted and adhered, may be included in self-regulation. Bulgaria is one of the examples of a common practice, where Sundays are closed or open only from 10 a.m. till 2 p.m., opening hours on Saturdays are normally shorter as well (closed at 5 p.m.). However, there may be supermarkets and hypermarkets running even non-stop (Eurocommerce, 2012). Within *self-regulation*, some voluntary written/oral agreement of retailers comes also into consideration that would protect the workers, by limiting opening hours on public holidays/Sundays. However, we have not come across a codex like this. Nevertheless, it is obvious that one should be careful not to breach European law (competition and antitrust policy).

Regulation may have different shapes (Eurocommerce, 2012):

1. Some countries regulate *only larger stores*; the size may be given by turnover (Denmark), number of employees (Belgium) or floor space (Finland, the United Kingdom except for Scotland).
2. The regulation may depend also on the *commodity sold*. There are exceptions for butchers, bakers, newsagents and tobacconists, florists, petrol stations, dairy products, museums, convenience stores, pastry shops, photography shops, antiquaries, Lotto receivers etc.
3. In some countries, the regulation is determined by *local authorities* (Hungary on working days, Poland on Sundays, Romania except for selected public holidays), or by *regions* (Germany, Spain – there is newly a central regulation; however, ignored by some regions). In other countries, the regulation is fully *centralised*. Nevertheless, we may find countries with central regulation, where local authorities may grant exceptions of modify it (France, Greece, the Netherlands, and Portugal).
4. In some countries, there are also *exceptions*/different regulation for *tourist areas* (Belgium, Austria, Cyprus, France, Malta, the Netherlands etc.), railway stations and airports (Spain, Germany, Portugal etc.), resorts and places of pilgrimage (Germany), big cities (France, Malta).
5. Regulation also differs in *days regulated*. Whereas somewhere, only some public holidays are regulated (Denmark, Hungary only Christmas Eve, Romania, Slovakia), some countries regulate also Sundays (France), others regulate even working days (Luxembourg, the Netherlands, Malta etc.).
6. Austria regulates *maximum opening time* per week (72 hours).
7. Regulation may also be dependent on *summer or winter season* (Cyprus, Greece).
8. There are also *special provisions to the regulation*, like the possibility to choose an alternative closing day to Sunday (Belgium), possibility to open on exceptional Sundays (before Christmas in Greece), possibility to choose few Sundays open during the year (France), longer opening hours if the following day is a public holiday (Belgium), early closing Wednesdays and extended shopping hours on Fridays (Cyprus) etc.
9. Regulation may also be softened by an agreement of social partners (Luxembourg).

Reasons of regulation

Let us now shortly look at the reasons of such a regulation in international context. There are two main incentives to regulate opening hours (or shopping hours or working hours in general):

- religious
- social

We may find regulation of working hours many thousand years ago in the Bible. “Remember the Sabbath day, to keep it holy. Six days you shall labour and do all your work, but the seventh day is a Sabbath of the LORD your God; in it you shall not do any work, you or your son or your daughter, your male or your female servant or your cattle or your sojourner who stays with you.” (Bible, Exodus 20, 8-10) *Religious* reasons were at the origin of regulation and still dominate in some countries (Germany, Austria).

Social reasons of limiting opening hours are tightly linked to the religious ones. However, wellbeing of people is in the centre here, not respecting the Ten Commandments. This “wellbeing” may have various forms (free time, being with family, time to celebrate, relaxation). These reasons also prevail in the Czech Republic. The proposal wants to encourage not only the employees of the supermarkets, but also other people, to live their family life more intensively those days (cultural activities, family trips, sports, other activities) instead of spending time by shopping (The Czech Senate, 2014b). Also “respect and tradition” have been named among social reasons of introducing such a law (The Czech Senate, 2014b).

If we now focus only on regulation of shopping hours in big shops, we will find another reason of regulation (a *political/economic* one): “the opportunity for some small businesses to trade without competition from larger retailers” (Productivity Commission of Australian Government, 2014). This reason has also been named in the Czech Senate when discussing the proposal (The Czech Senate, 2014b). However, the social motivation prevails.

Effects of the regulation

The above named reasons of regulation bring us to the positives and negatives of such legislation. Its proponents claim that it increases *health and well-being* of people, their feeling of tradition, history and respect to religion (The Czech Senate, 2014b). These are more or less intangible *positives*. However, we may find also more tangible ones, represented by the above named *support of small and medium sized enterprises*, on which such a regulation could have positive economic impact, as they would be protected from competition of larger shops those days (The Czech Senate, 2014b)²

To sum it up, regulation of shopping hours positively influences:

- employees of the retailers regulated
- customers (spending time in a more valuable way than shopping)
- small and medium size enterprises

If we seek for the *negatives*, we could also divide them into groups according to the subject influenced, thus, the following ones may be negatively affected:

- the state
- retailers regulated
- employees of the retailers
- customers

First and foremost, *the state* may gain lower taxes (VAT, tax on profit of the retailers and tax on employee’s income). However, the Czech proposal says that it is probable that the sales from the days regulated will only transfer to the smaller retailers or to other shopping days. Moreover, as people will have more free time those days, an increase in taxes from tourism and other leisure time services may be expected (Senat 2014a). It is not the shopping hours, but the purchasing power of people, that limits the sales in retail (Senat 2014b). However,

² Nevertheless, according to the KPMG study closing also wholesale stores like Makro Cash & Carry may even harm the small and medium enterprises. As the speaker of Makro said, retail stores up to 200sqm represent one third of its customers. Another third is formed by the restaurants and other gastronomic facilities, which are very busy at the weekends and on public holidays. As freshness is stressed very much recently, it would paradoxically harm them as they would not be able to serve their customers those days. (Tyden 2014)

we expect rather transfer of the shopping to some other days than to leisure time activities. The structure of expenditures of households (see the table below) will not change only because some act prohibits shopping on a few days a year.

Table 1 Structure of expenditures of the Czech households in % in 2013

01 Food and non-alcoholic beverages	20,2
02 Alcoholic beverages, tobacco	2,8
03 Clothing and footwear	4,7
04 Housing, water, electricity, gas and other fuels	22,3
from that: basic housing	20,6
05 Furnishing, household equipment and routine maintenance of the house	5,5
06 Health	2,6
07 Transport	11,0
08 Communication	4,3
09 Recreation and culture	9,3
10 Education	0,6
11 Restaurants and hotels	5,2
12 Miscellaneous goods and services	11,6

Source: Czech Statistical Office (2013)

Retailers lose their revenues from the days regulated. A retailer forced to close earlier than desired suffer from excess capacity, since capital investment (for example, plant and equipment) is not fully utilised (Productivity Commission of Australian Government, 2014, p. 278). However, as it was already mentioned earlier, many people only go shopping some other day, and therefore, the gap in total sales may not be too big.

A study of Tanguay et al. (1995, p.521) says that specialists think that it is “expensive to close on Sundays. Since most operating costs other than wages (electricity, insurance, maintenance, etc.) are fixed and independent of the number of working hours, the average fixed costs per unit sold are reduced by opening on Sundays if sales increase (at worst they stay constant). Moreover, opening on Sundays allows stores to manage their stocks better, especially those of highly perishable goods like fruits and vegetables... less produce is wasted and last minute sales are less frequent (i.e., by staying open on Sundays, managers do not have to sell products at very low prices on Saturday afternoon to get rid of whatever could not last until Monday morning).”

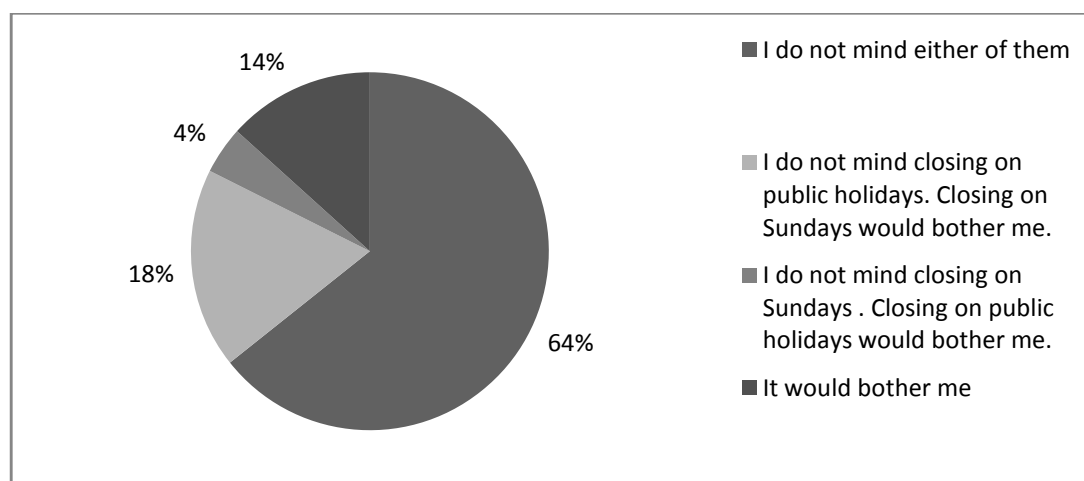
Employees of the retailer should have been benefited by limiting their work on holidays. However, the opposite may occur: they lose money, they could have get paid for working on holidays, which is normally paid even better. On the whole, there are fewer jobs then. Employment reduction appears to come at the cost of part-time employment (Burda, Weil, 2005, p. 1)³. Whether the employees are benefited by such an act or not, depends on what they actually want: They are benefited only in case, they do not want to work these days and they are forced by their employer to do so (e.g. by a threat of job loss). Nevertheless, if they prefer working more and working on better paid days, they may suffer from such a regulation.

Customers do not have the possibility to shop on the restricted days. Especially if they have to work during the “normal” not regulated hours (they have “normal” working week and are tired in the evenings), they could welcome the possibility to shop on Sundays/public holidays. By narrowing the range of time available for shopping, they also force consumers to shop at the same time as everybody else (Productivity Commission of Australian Government, 2014, p. 279). This leads to “congested car parks, traffic jams in and around retail precincts, longer queues at checkouts and more crowded retail outlets” (ibid). At the same time, negative externalities may result from coordinated leisure or synchronized economic activity. Anyone who has visited Central Park or the Jardin du Luxembourg on a sunny weekend can appreciate this claim (Burda, Weil, 2005, p.2).

However, KPMG has conducted a research concerning this topic in the Czech Republic. A representative sample of 1000 people responsible for shopping in their household were asked in March 2014, whether they would mind if the shops were closed on public holidays and Sundays. The results are shown in the following chart:

Chart 1 What is your opinion about closing shops on Sundays and public holidays?

³ For an evidence of increasing employment by deregulation of opening hours see e.g. Skuterud (2005).



Source: KPMG (2014)

The chart shows that more than a half of the population would not mind any regulation of shopping hours on Sundays or public holidays. The majority of young people would not like to accept such a decision, whereas older people used to this kind of regulation are mostly indifferent.

We may also divide the effects into:

- economic
- social
- political

We have already discussed the former two above. The *economic* effects involve an impact on small and medium size enterprises (increased revenues), retailers (lower sales), state budget (VAT, tax on retailers' income, tax on income from leisure time services, tax on income of the workers in retail and free time services) and retailers' employees (lower income). *Social* effect means an enhanced well-being of retailers' workers, due to more free time spent with their families at the time when the children have days off.

Political effect has not been mentioned so far. It is not to be discussed that every legislative proposal has some political interlinks and relations. There are many acts that are results of lobbying which not always is honest and sometimes may be linked to corruption. Some bills are only proposed because elections are near and voters want them, regardless of their effect in future. Populism influences political decisions very much. We have to be aware of the fact that many political decisions are adopted because they bring advantages to the politics, not to general public.

Effects of the regulation in the Czech Republic

Political effects (and grounds) of the Czech proposal to close supermarkets on selected public holidays are disputable. On the one hand, there are trade unions fighting for the rights of retailers' employees. Passing such a law means to ingratiate oneself with them. On the other hand, there are customers (representing more voters than retailers' employees) and many of them want to go shopping on public holidays. At first sight, it seems that such a proposal should not be a populist step as much more voters should be against.

However, there is the Olson paradox (Olson, 1965) saying that smaller groups further their interests much better than larger groups. One of the reasons is that if you get a small benefit for a small group of people exchanged for a relatively big cost of a very big group of people, the cost of the individuals will be tiny compared to the benefit of individuals from the small group. In other words, doing well to the trade unions may be advantageous for the politics, as the members of the trade unions will notice the change, contrary to the general public which will not recognise any lowering of the state budget income. Closing the large stores only on seven and a half days should be insignificant for many people (compared to closing e.g. every Sunday) and therefore the politicians may expect that their popularity will rise with trade union members and will not be too much affected with other voters. To make a concession (to trade unions) regarding opening hours is much easier than to satisfy them in their other demands that may represent much bigger problem for the state budget.

Moreover, even the general public could be satisfied with such a law. Retailers have a very bad reputation in the Czech Republic (because of their own mistakes and sometimes "predatory" behaviour, but also because of

some groups of agrarians and food producers which try to use bad hearsay of retailers to support their own interests). Therefore, it may be a populist step to point at the Public Enemy and disable it to exploit the poor Czech employees.

Regardless of the fact whether positives of such a law proposal prevail or whether there are more negatives, we have to be aware of the fact that passing such a law is only the first step, opening the way to further regulations of opening hours on other public holidays, Sundays and maybe even Saturdays and working days. Passing such a law would break a psychological boundary towards further regulations, and this political effect seems to be much more important than social or economic effects of the proposal itself, that are actually negligible, as will be discussed below.

Now, what are *social* effects of the law proposal? The bill states that the shops should be closed on 7 public holidays, plus Christmas Eve after 12 o'clock. As the first day of the year and Christmas Day, the stores are normally closed anyway⁴, the law would really change opening hours on 5 days. What is more, many stores are also closed on Easter Monday and/or Boxing Day without any regulation. To sum it up, the law would influence mainly three days of public holiday, plus partially Easter Monday and Boxing Day. Recently, supermarkets normally close at 2 p.m. or 3 p.m. on Christmas Eve, so the act would have impact on two or three hours that day. Those days, mothers/parents employed in retail would be able to be with their children, who are not at school, instead of going to work. However, there are approximately 700 thousand people employed in retail and wholesale (NACE 45-47, Czech Statistical Office 2014a), and there are 5.3 mil. economically active people (Czech Statistical Office 2014b). So, it is only 13.2% of economically active people who could be affected by the law. Nevertheless, much less people out of those 13% are employed in stores which would be regulated by the law and not every one of them would have to go to work on public holidays. To sum it up, the social effect will occur on 5 days a year by less than 10% of economically active people.

The politicians also talk about an increased respect to the tradition of the whole population that will be able to live the essence of the public holiday, e.g. by laying the wreaths on the graves and monuments of the 2nd World War on 8th May. However, we cannot expect that people will honour the memory of war heroes, only because the supermarkets are closed. They will rather do something else, some free time activities. This is actually also the intent of the law maker, to enable people to spend time doing sports and going for culture. However, they will have to go shopping some other day instead of doing free time activities... To sum it up, we do not expect any big social effect of the law proposed.

Let us look at the *economic* effect now. The opponents of the proposal talk mainly about tax losses. Let us therefore try to estimate the "endangered" taxes. We will count only VAT and tax on income of retailers. As it was already mentioned above, there are much more other consequences, like loss in tax on income of retailers' employees, increased taxes from free time services, lowered excise duty from the sales of the retailers (and maybe even higher increase in excise duty from the sales of the pubs) etc. but we will focus only on the two above named taxes. We will work mainly with data from 2013 (if available). Our estimation may be therefore interpreted as follows: what amount of taxes would have been in danger of non-collection if the proposed law had been in force in 2013.

It is not easy to get data about stores larger than 200sqm purged from all the exceptions named in the law proposal, and define which of them would otherwise be opened unless the law is passed, so we will have to make many rough assessments. We go out of the data from the Czech Statistical Office "Sales in retail trade (excluding VAT) in enterprises with 1 000+ employees in non-specialized stores with food, beverages or tobacco predominating (NACE 47.11)" (Czech Statistical Office 2014c). This data covers the sales of the largest retailers, which normally run stores opened on public holidays. We will not take into account that there are also other stores that are opened on public holidays (mainly those that are situated in big shopping centres). On the other hand, some shopping included in the sales in the table will be done some other day or in smaller stores which may stay opened even on public holidays, so the taxes will be collected, in the end. As the law also applies to wholesale, we will add Makro Cash&Carry into the table. This way we will cover big FMCG sellers with big number of stores.

The sales in the table are divided into food and non-food. We will simplify the case and assume that food is in the group of lowered VAT (15% in 2013) and non-food of normal VAT (21%). Total VAT per year is then divided by 365 to get average VAT per day. We have consulted a retail expert (the ex-CEO of Czech hypermarket Globus, Mr. Vyhnalek) who estimated that at those particular public holidays, the sales will be on

⁴ Not because a law but because very low demand: The sales would be very low those days. (Vyhnalek 2014).

average at 130% of the average day, except for the New Year and Christmas Day, when the sales would be almost zero. As only one quarter (2-3hours) of Christmas Eve shopping hours are influenced, we get the final figure by multiplying the average VAT per day and 130% and 5.25 (for five days plus Christmas Eve). The following table shows the “endangered” VAT that maybe would not be collected due to the proposed legislative regulation. The data is in CZK, only the last column expresses the “endangered” VAT in USD.

Table 2 “Endangered” VAT 2013

Thousands CZK	Sales of goods	Food	Non-food	VAT food	VAT non-food	VAT	VAT/day	VAT/days regulated	in thousands USD
Retailers	241 415 028	197 768 556	43 646 472	29 665 283	9 165 759	38 831 043	106 386	726 087	37 112
Makro c&c ⁵	28 304 471	23 187 183	5 117 288	3 478 077	1 074 631	4 552 708	12 473	85 129	4 351
Total	269 719 499	220 955 739	48 763 760	33 143 361	10 240 390	43 383 750	118 860	811 217	41 463

Source: Czech Statistical Office (2014c), Ministry of Justice (2014)

We will now focus on tax on income of retailers. From Mokrejšová (2013) it is possible to count the ratio of profit of big Czech retailers to their sales. The long-term average (2005-2011) of this ratio is 1.76%. The tax on retailers’ incomes (15%) is then expressed in the following table:

Table 3 “Endangered” tax on income of retailers 2013

Thousands CZK	Sales	Profitability	Profit	Tax	in thousands USD
Retailers	241 415 028	1,76%	4 248 904	637 336	32 575
Makro c&c	28 304 471	1,76%	498 159	74 724	3 819
Total	269 719 499	1,76%	4 747 063	712 059	36 395

Source: Czech Statistical Office (2014c), Ministry of Justice (2014), Mokrejšová (2013)

The state budget for 2013 equalled approximately $1 \cdot 10^{12}$ CZK, so the total tax “endangered” (1, 523, 276 thousands CZK) represented 0.14% of the Czech state budget in 2013. Although the calculations above were very approximate, disregarding many other consequences (some of them were mentioned, some remained unattended), we may conclude that the economic impact of the proposal would be very low.

What is more, as it was already said above, the majority of the shopping will be only shifted to some other day. As the amount and value of the items purchased depends mainly on the purchasing power of the people, we are very sceptic about economic impact of the size calculated above, which should only demonstrate its relative inessentiality. Although more than three quarters of the shopping represents impulsive decisions made directly in the stores (POPAI 2012), FMCG items are mostly consumed and do not remain totally unused. People have to eat anything every day, and if they cannot go shopping one day, they have to make the majority of the shopping some other day. It may be truth that there are more opportunities for impulses to buy unnecessary things, if there are more days to go shopping, but on the whole, we suppose that public holiday shopping will be done some other day, if prohibited on the free day.

This depends mainly on the motives of the customers to go shopping on public holidays. If the incentive is: not to be bored, then we may expect “unnecessary” impulsive shopping. Restriction of shopping hours will bring tax losses then. However, if the motive to go shopping is: to buy food and other necessary things, the shopping will only be transferred from free days to working days, if the restriction becomes effective.

Accordingly to the sales, also jobs are “endangered”. Although mainly seasonal workers are employed for public holidays (to avoid paying stable employees extra for working on a free day), there is still the danger of losing jobs (even if mainly part-time jobs), potentially also of increase in unemployment and therefore enhanced expenses of the state budget to support the newly unemployed. However, as we suppose that the shopping will be mostly done only some other day, supermarkets will have to employ these people on the other days to be able to serve increased amount of customers (i.e. the day before the public holiday). In the end, we do not expect any big loss of jobs in the long run.

Conclusion

⁵ The data are from 2011, as there are no official later data available. We seek for rough estimate to get the basic idea about the possible tax loss. The ratio between food and non-food was estimated based on the ratio of the retailers.

As demonstrated above, we do not expect any big negative economic impact of the proposal, as some opponents warn. However, we are sceptic also about any positive economic impact in the form of support of small and medium enterprises. The proponents of the act expect social effects above all. However, as not many people will be affected, we do not suppose to realise any big social impact in the form of “happy families” and well-being. Time spent with the family and at work depends more on the decision of an individual than on acts banning shopping on public holidays. We also do not believe that such a law would teach people to celebrate the essentials of public holidays (like honouring the memory of soldiers died in the 2nd WW). The only one bigger impact will be the political one, as the psychological boundary of regulation of shopping hours will be damaged and we may expect further regulation on other days in future. The problem then transfers into a more deepening issue of the rate of regulation of business and regulation itself. Finally, a question arises, whether it should really be the state that decides how the well-being of the people looks like, and whether it can really influence it by these forms of regulation.

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