

Retail Opening Hours: Regulation That Fails



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Out of thirty European countries, sixteen allow retail trade on Sundays, whereas fourteen do not limit retail opening hours on public holidays.

The countries which regulate retail trade on Sundays and/or public holidays apply a range of exemptions, suggesting that navigating among the varying interests of workers, consumers, and businesses poses a challenge. In recent years, many European countries have chosen to deregulate, acknowledging that the regulation has failed to a lesser or greater extent.

Since 2012, nine European countries have taken measures to liberalize the regulation of retail opening hours: Denmark, France, Finland, Italy, the Netherlands, Portugal, Spain, and Malta. Meanwhile, Hungary and Poland introduced restricting regulations in 2015 and 2018 respectively¹. Yet, in response to public backlash, Hungary removed its fresh restrictions on retail opening hours a year later.

The European Commission too is sounding the alarm bells and urging member states to abandon the regulation of retail opening hours before e-commerce destroys brick-and-mortar stores and forces their employees to protest on the streets. The European Commission has warned that a tightening competition between traditional retail and e-commerce is already challenging the labor market to adapt to rapidly changing conditions in the retail sector.

Lithuania has recently seen vigorous proposals to ban retail trade on Sundays and public holidays, seemingly trying to catch the train from which Europe is rushing to disembark. If retail companies were forced

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¹ ESTEP (2018) *Mažmeninės prekybos įmonių darbo laiko reguliavimo poveikio vertinimo studija*. Available [online]: <http://estep.lt/index.php?id=1213> [in Lithuanian]



THE EUROPEAN COMMISSION HAS WARNED THAT A TIGHTENING COMPETITION BETWEEN TRADITIONAL RETAIL AND E-COMMERCE IS ALREADY CHALLENGING THE LABOR MARKET TO ADAPT TO RAPIDLY CHANGING CONDITIONS IN THE RETAIL SECTOR

to close one Sunday per month (thirteen Sundays) and on all fifteen public holidays², this would make 28 days off per year. If the ban were extended to all Sundays and public holidays, the number of closing days would go up to 64. Opinion polls show that this would affect 75% of Lithuanian consumers

who do their shopping on Sundays and 70% who do their shopping on public holidays. The retail sector with 10,000 companies and 120,000 employees would have to bear its costs too.

In the meantime, data suggest that the regulation of retail opening hours has serious implications for consumers, workers, businesses, public finances, and the economy at large. Therefore, it is worth investigating what the implications are for all these agents.

IMPLICATIONS FOR WORKERS

An analysis of thirty OECD countries suggests that liberalization of retail opening hours contributes to a growth in the number of retail workers and creates additional possibilities to work part-time, e.g. for youth or people taking care of children³.

A ban on retail opening hours on Sundays or public holidays would reduce jobs and wages in the retail sector.

If retail workers were prohibited from working on Sundays and public holidays, it is very unlikely that this working time would be transferred to other workdays. If Lithuania, for example, banned retail trade on one Sunday per month and on all public holidays (28 days per year in total and 2.5 days per month on average), the average number of hours worked per worker would decrease by 224 hours per year. The annual wage of a statistical average (full time) retail worker could go down by the amount of money that approximately corresponds to a 1.5-month salary, given the double pay rate applicable on public holidays as prescribed by the Labor Code. The number of job vacancies in the retail sector might fall by about 5%. 28 days a year account for 7.7% of the total working

² Vilmorus (2018) *Retail Opening Hours on Sundays and Public Holidays*. A representative opinion poll was conducted in Lithuania on June 8-17, 2018.

³ ESTEP (2018) *Mažmeninės prekybos įmonių darbo laiko reguliavimo poveikio vertinimo studija*. Available [online]: <http://estep.lt/index.php?id=1213> [in Lithuanian]

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time, although it is likely that some Sunday workers would do less work than usual, or their working hours would be shifted to other days.

Research shows that the introduction of restrictions on retail opening hours in Lithuania would negatively affect more than 2,000 retail units and service providers, and

more than 6,000 employees (in pharmacies, hairdressing salons, repair shops, specialized stores, etc.)⁴. The regulation would particularly hurt the regional workforce. According to the 2018 data of the Lithuanian Labour Exchange, seventeen out of sixty Lithuanian municipalities reported a surplus of shop assistants⁵. Losing a job would make it even harder to find another one in the same sector.

Reconciling family and work would become more difficult. Those who work on Sundays have days off during the week. A rolling work schedule means that not all Sundays are workdays. For example, four consecutive workdays with 10 working hours a day may be followed by four consecutive days off. Under such work schedules, people work only half of all Sundays and not on all public holidays.

Some people appreciate rolling work schedules which allow them to have free days during the week and to better reconcile work and family or personal needs, e.g. taking children to extracurricular activities, going to the doctor, performing household chores, etc. If retail opening hours were restricted, workers would have to work longer hours on other workdays in order to maintain their usual level of income. This would diminish the benefits that rolling work schedules involve.

The ban would only apply to some workers. The retail sector in Lithuania employs 120,000 workers, but not all of them work on Sundays and public holidays. What's more, the share of people who do work

⁴ ESTEP (2018) *Mažmeninės prekybos įmonių darbo laiko reguliavimo poveikio vertinimo studija*. Available [online]: <http://estep.lt/index.php?id=1213> [in Lithuanian]

⁵ Lithuanian Labor Exchange (2018) *Profesijų žemėlapis*. Available [online]: https://www.ldb.lt/Informacija/DarboRinka/Puslapiai/Profesiju_zemelapis.aspx [in Lithuanian]



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on Sundays is considerably higher: 141,300 working people in Lithuania usually work on Sundays, while another 149,500 sometimes work on Sundays, according to Statistics Lithuania (2018)⁶. It should be noted that the

proportion of the working population who usually work on Sundays is steadily decreasing. It has fallen from 15% in 2015, to 10% in 2018 [See Table 1]. A ban on retail opening hours on Sundays and public holidays might act as a discrimination towards workers in other sectors.

Students would have less opportunity to work and earn an income.

The regulation of Sunday work in the retail sector would make reconciling study and work more difficult. The possibility to work on weekends is particularly appreciated by students. According to the 2018 eurostudent.eu survey, almost half of Lithuanian students (47%) combine study and work and have jobs related to their field of study⁷. The situation is very similar in other European countries, with the EU average standing at 45% [See Figure 1]. Restrictions on retail opening hours may force lower-income students to switch to working on workdays, which may negatively affect their learning outcomes or even force them to drop out of education.

IMPLICATIONS FOR CONSUMERS

On average, seven in ten people in Lithuania go shopping on Sundays or public holidays. The majority of the population would not mind if stores were closed on four public holidays, including Christmas, Christmas Eve, Easter, and New Year, but they would want to be able to do their shopping on the other eleven out of fifteen public holidays [See Table 2]⁸. Additionally, only 4.3% of people in Lithuania think that retail opening hours should be regulated by politicians⁹.

tics/ Working Population/Atypical Forms of Work/Usually Work on Sundays and Sometimes Work on Sundays. Available [online]: <https://osp.stat.gov.lt/>

⁷ Eurostudent.eu (2018) *Combining Studies and Paid Jobs.* Available [online]: https://mosta.lt/images/leidiniai/TR_paid_jobs.pdf

⁸ Vilmorus (2018) *Retail Opening Hours on Sundays and Public Holidays.*

⁹ Ibid.

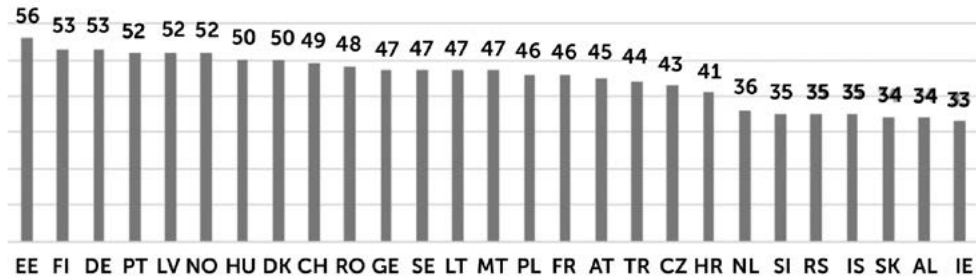
⁶ Statistics Lithuania (2018) *Population and Social Statis-*

Table 1: Dynamics of working population who work on Sundays (2014 to 2018)

Working population		2014	2015	2016	2017	2018
	thousands	199.1	157.9	174.6	153.8	141.3
Usually work on Sundays	%	15%	12%	13%	11%	10%
	thousands	184.5	124.6	135.8	138.7	149.5
Sometimes work on Sundays	%	14%	9%	10%	10%	11%
Total working population	thousands	1319	1334.9	1361.4	1354.8	1368.4

Source: Statistics Lithuania (2018) *Population and Social Statistics/Working Population/Atypical Forms of Work/Usually Work on Sundays and Sometimes Work on Sundays*

Figure 1: Working students with jobs related to field of studies [in %]



Source: eurostudent.eu (2018)

Regulation of retail opening hours would complicate everyday life. According to Statistics Lithuania¹⁰, a total of 71% of the working population in Lithuania work full-time (40 to 44 hours per week). In larger cities – including the capital city of Vilnius, which accounts for 30% of Lithuania's population – going to shopping centers or stores at the end of a working day is quite problematic. Many choose to shop during the weekend. For some shopping centers, weekends make

up about 30% of the buyers' flow. A ban on retail opening hours on Sundays and public holidays would cause inconveniences in terms of the time it takes to shop due to increased customers flows.

Merchandise on Sundays and public holidays would become more expensive. Restrictions on retail opening hours usually come with a number of exemptions. In many countries that apply such regulations, some stores are allowed to operate on Sundays and public holidays, depending on retail surface area, number of employees, location and product range. With such exemptions in

¹⁰ Statistics Lithuania (2018) *Population and Social Statistics/Working Population/Normal Hours Worked a Week (40-44 hours)*. Available [online]: <https://osp.stat.gov.lt/>

Table 2: The percentage of Lithuanian population supporting the closing of retail stores on public holidays [in %]

New Year's Eve (January 1)	83.5 %
Christmas Day (December 25)	82.4 %
Easter	80.5 %
Christmas Eve (December 24)	54.1 %
All Saints Day (November 1)	41.5 %
2 nd day of Easter	37.1 %
2 nd day of Christmas (December 26)	36.8 %
Restoration of the State Day (February 6)	31.7 %
Mother's Day (first Sunday of May)	28.3 %
Lithuanian Independence Day (March 11)	28.0 %
St. John's Day (June 24)	27.6 %
Father's day (first Sunday of June)	25.7 %
Virgin Mary Assumption Day (August 15)	25.1 %
King Mindaugas Coronation Day (July 6)	24.4 %
International Workers' Day (May 1)	22.9 %
Don't know	5.0 %

Source: Vilmoris (2018) *Retail Opening Hours on Sundays and Public Holidays*. A representative opinion poll was conducted in Lithuanian on June 8-17, 2018



A BAN ON RETAIL OPENING HOURS ON SUNDAYS AND PUBLIC HOLIDAYS MIGHT ACT AS A DISCRIMINATION TOWARDS WORKERS IN OTHER SECTORS

place, goods that can be sold on those days become more expensive, just like a bottle of water costs more at petrol stations than in regular stores.

Consumers would tend to hoard products.

Restrictions on shopping hours may lead consumers to obtain and hold products in quantities greater than needed for one's immediate use, with a likelihood of increased waste and spending.

A range of products would diminish¹¹.

Commercial tourists and foreigners coming to Lithuania – mostly from non-EU countries (e.g., Belarus and Russia) – are estimated to constitute from 5 to 50% of buyers at weekends¹². If Lithuania introduced a ban on Sunday retail hours, the country would become less attractive as a shopping destination. Stores which generate a significant share of revenues from commercial tourists would be likely to close down. This would

¹¹ Data provided by Gold Blue Lietuva.

¹² Ibid.



ONLY 4.3% OF PEOPLE IN LITHUANIA THINK THAT RETAIL OPENING HOURS SHOULD BE REGULATED BY POLITICIANS

reduce the range of products available to consumers.

More consumers would likely start shopping online, but not all have access to e-commerce. Goods are available online 24/7, so some consumers would likely switch to online shopping. However, e-commerce would not solve the problem for all. Not all consumers have access to the Internet. In 2017, only 75% of Lithuanian households had access to the Internet. This is the sixth lowest indicator in Europe. Bulgaria ranked the lowest, with 67%, while Spain topped the ranking with 98%¹³.

IMPLICATIONS FOR BUSINESS

There are 10,000 retail entities (excluding motor vehicles and motorcycles) in Lithuania¹⁴. This accounts for almost 10% of all operating entities. Regulation of retail open-

ing hours would have an impact on competition in this market judging not by the strength or efficiency of market participants, but by government intervention. In addition, it should be taken into account that retail stores compete not only in the traditional market, but also with e-commerce, while regulation only applies to traditional retailers. These circumstances will lead to unjustified distortions of competition.

Shopping centers and stores in shopping centers would struggle.

Generally, larger shopping centers do not only contain grocery stores but also offer various services (such as beauty salons, cinemas, insurance companies, restaurants, banks, etc.). It is likely that entire shopping centers would have to close on the days falling under the ban of retail opening hours. This means that all other service providers would not be able to operate and would likely incur losses, even though the ban would not apply to them. Analysis (ESTEP, 2018)¹⁵ suggests that a ban on Sunday retail opening hours in Lithuania would negatively affect more than 2,000 retail units and service providers (such as pharmacies, hairdressing salons, repair shops, specialized stores, etc.).

Even if businesses stayed open, their revenues would fall considerably due to lower customer flows. In such cases the payback period for businesses that rely on significant investment loans (such as cinemas or restaurants), would extend, affecting the ability to fulfil liabilities.

Business income from commercial tourism would fall.

According to Statistics Lithuania¹⁶, 32% of foreigners come on same-

¹³ Statista (2017) *Share of Households in Selected European Countries with Internet Access in 2017*. Available [online]: <https://www.statista.com/statistics/185663/internet-usage-at-home-european-countries/>

¹⁴ Statistics Lithuania (2019) *Business Statistics/Operating Entities*. Available [online]: <https://osp.stat.gov.lt>

¹⁵ ESTEP (2018) *Mažmeninės prekybos įmonių darbo laiko reguliavimo poveikio vertinimo studija*. Available [online]: <http://estep.lt/index.php?id=1213> [in Lithuanian]

¹⁶ Statistics Lithuania (2017) *Tourism in Lithuania 2017, P79*. Available [online]: http://www.tourism.lt/uploads/documents/Turizmas-Lietuvoje_2017.pdf



GOODS ARE AVAILABLE ONLINE 24/7, SO SOME CONSUMERS WOULD LIKELY SWITCH TO ONLINE SHOPPING

day trips for shopping purposes. In 2017, same-day visitors to Lithuania spent EUR 297.1 million, which is by 3.0% more than in 2016. Almost half (49%) of this expenditure was for shopping purposes. The average expenditure of a same-day visitor totalled EUR 97 (EUR 95 in 2016). Most tourists who come and stay overnight are from Belarus (17%), Latvia (12%), Russia (10%), and Poland (9%)¹⁷. According to Global Blue Lietuva, UAB, commercial tourists who shop on Sundays make up 5–50% of a single store's turnover. If Lithuania banned retail opening hours on Sundays and public holidays, many commercial tourists would likely skip Lithuania in their travels. This would hurt not only retail trade companies, but also restaurants, hotels and other service providers, potentially pushing those who generate the lion's share of their revenues from foreign tourists out of business.

Unfair competitive advantages would be granted to retail businesses unaffected by the regulation. Evidence shows that a ban on retail opening hours on Sundays or public holidays usually comes with a number

of exemptions. After heated policy debates, Poland, for example, ushered in as many as thirty-two exemptions to their recent ban on retail opening hours on Sundays. If some types of products (e.g. bread, gas, flowers, tobacco, medication, household goods, etc.) or retail units (markets, petrol stations or family businesses) are exempted, they naturally enjoy more advantageous business conditions. For example, a pharmacy would be able to sell shampoos on Sundays and public holidays, while a store specializing in beauty products would not.

IMPLICATION FOR PUBLIC REVENUES, ECONOMY, AND COMPETITION

Restrictions on retail opening hours have negative implications for public revenues, foreign investment flows and the competitive environment.

Investment attractiveness would diminish. A ban on retail opening hours does not apply in sixteen – and, on public holidays, in fourteen – out of 30 European countries, including Latvia, Estonia, Bulgaria, the Czech Republic, Slovenia, Slovakia, Croatia, Romania, Finland, Switzerland, Ireland, Italy, and others. Countries that limit retail opening hours compete for foreign investments with those which do not. It is likely that restrictions on retail trade would reduce Lithuania's attractiveness, and divert foreign investments to the other countries.

The competitive environment would be distorted. Some retail companies welcome the idea of limiting retail opening hours. While concerns for the employees might be one of their motives, working hours can be negotiated regardless of whether any legal restrictions are in place or not. It is likely that a restriction on retail opening hours is seen as a means to weaken the position of stronger or more effective competitors. Political decisions rather than market forces

¹⁷ Ibid.

would cause competition distortions and affect performance outcomes of business players.

Stores and shopping centers can adjust their working hours according to consumer flows, which may vary on different days depending on circumstances (e.g. weather conditions, ongoing festivities or events). Shorter working hours in one supermarket would inevitably lead to larger consumer flows in other shopping units.

Just like any other business entity, shops and supermarkets make estimates of how shorter working hours would affect their performance in terms of consumer flows and financial outcomes. Such competitive mechanisms ensure the best price to quality ratio for the consumers. It is likely that restrictions on retail opening hours would help improve the financial situation of less efficient businesses, but this would come at the expense of better performing competitors and their consumers.

Traditional retail stores would be discriminated against by e-commerce. As e-commerce is bringing fundamental changes in shopping habits, traditional stores are now facing growing competition from e-commerce.

The growth of e-commerce in Lithuania is evidenced by a rapidly increasing number of postal parcels – since 2011, it almost doubled, reaching 12 million in 2016 (a 25.3% increase on year, according to the Communications Regulatory Authority of the Republic of Lithuania¹⁸).

¹⁸ Communications Regulatory Authority of the Republic of Lithuania (2016) *Lietuvos ryšių sektoriaus ataskaita 2016 m.* Available [online]: http://www.rrt.lt/download/23025/lietuvos_rysiu_sektorius_2016.pdf [in Lithuanian]



COUNTRIES THAT LIMIT RETAIL OPENING HOURS COMPETE FOR FOREIGN INVESTMENTS WITH THOSE WHICH DO NOT

Online shopping is not limited to one country, so applying analogous restrictions on e-commerce is impossible. A ban on retail opening hours would result in a growth of Internet buyers. It would discriminate against brick-and-mortar stores and undermine their competitiveness, pushing many stores out of business, together with jobs they create.

The European Commission notes that a ban on retail opening hours would be justifiable in conditions when all retail trade took place in traditional stores, but not online.¹⁹ However, with the current trends, the introduction of such restrictions would bring disastrous consequences for competition and jobs. The ongoing market changes are much faster than the labor market could possibly adjust and reflect.

¹⁹ European Commission (2018) *A European Retail Sector Fit for the 21st Century*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions, April 19. Available [online]: <https://ec.europa.eu/docsroom/documents/28681/attachments/1/translations/en/renditions/native>



IT IS LIKELY THAT RESTRICTIONS ON RETAIL OPENING HOURS WOULD HELP IMPROVE THE FINANCIAL SITUATION OF LESS EFFICIENT BUSINESSES, BUT THIS WOULD COME AT THE EXPENSE OF BETTER PERFORMING COMPETITORS AND THEIR CONSUMERS

Government revenue would experience shortfalls. Non-EU citizens are eligible to VAT refunds on purchases above a certain required minimum [See Table 3]. While this money does not go into the state budget, commercial tourists make other expenses that are not subject to VAT refund (e.g., hotels, catering, and other services).

Statistics on VAT revenues²⁰ show that the balance from non-EU buyers in Lithuania

²⁰ Data provided by Global Blue Lietuva.

is positive. This means that every refunded euro attracts EUR 1.3 to the state budget, according to Global Blue Lietuva, UAB. A likely decline in commercial tourism would reduce budget revenue flows. A decline in retail trade would also cause a fall in profit margins and in government proceeds from corporate income taxes and labor taxes. In addition, contraction of retail businesses would increase the demand for unemployment benefits and put more pressure on public finances.

LEGAL ASSESSMENT OF THE PROHIBITION OF SUNDAY RETAIL TRADE

A ban on retail opening hours on Sundays and public holidays should be evaluated in the constitutional context. Article 46 of the Constitution of the Republic of Lithuania states that "Lithuania's economy shall be based on the right of private ownership, freedom of individual economic activity, and economic initiative". Freedom and initiative to engage in an economic activity refers to a set of legal possibilities that creates conditions for individuals to make independent decisions necessary to engage in an economic activity, as stated in a series of rulings of the Constitutional Court of the Republic of Lithuania²¹. Regulation of economic activity refers to the rules and conditions as well as restrictions of an economic activity²². Therefore, a ban on retail opening hours should be considered as a restriction on the freedom of economic activity and initiative in the jurisprudence of the Constitution and the Constitutional Court.

²¹ Constitutional Court of the Republic of Lithuania, the rulings of May 13, 2005; May 13, 2006; March 5, 2008; and January 6, 2011.

²² Constitutional Court of the Republic of Lithuania, the rulings of May 13, 2005; March 5, 2008; October 8, 2009; February 26, 2010; January 6, 2011; and June 21, 2011.

Table 3: Minimum Purchase Requirement and VAT Rate in Europe (2017)

Country	Minimum Purchase Requirement	VAT Rate
Austria	EUR 75.01	20%
Belgium	EUR 50.01	21%
Czech Republic	CZK 2.001	21%
Denmark	DKK 300	21%
Estonia	EUR 38.01	20%
France	EUR 175.01	20%
Germany	EUR 25	19%
Greece	EUR 50	24%
Hungary	HUF 54.001	27%
Iceland	ISK 6.000	24%
Ireland	EUR 30	23%
Italy	EUR 155	22%
Latvia	EUR 44	21%
Lichtenstein	CHF 300	8%
Lithuania	EUR 55	21%

Source: Odiseys Unlimited (2017) *Essential Knowledge: How to Claim Your European Vat Refund*. Available [online]: <https://odiseys-unlimited.com/essential-knowledge-european-vat-refund/>

The state cannot intervene in individual economic activity limitlessly: restrictions may not refute the core principles of freedom of economic activity, such as equal treatment and non-discrimination and free competition²³. Freedom of economic activity may be

restricted when it is necessary to protect the interests of consumers, free competition, and other rights, freedoms, and values laid down in the Constitution²⁴. The constitu-

²³ Constitutional Court of the Republic of Lithuania, the ruling of May 9, 2014.

²⁴ Constitutional Court of the Republic of Lithuania, the rulings of October 6, 1999; December 4, 2008; and September 29, 2010.



SHOPPING Center

Grid-patterned sign

Fortune

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tional principle of proportionality must be ensured too²⁵.

It is important to evaluate any proposed restrictions on economic activity by all aforesaid criteria. Given that a ban on retail opening hours would limit consumers' rights, have adverse consequences for workers and businesses, distort competition, and undermine the labor market, it should not be considered as a justifiable and constitutionally legitimate policy measure.

The Lithuanian Constitution states that the state "shall regulate economic activity so that it serves the general welfare of the Nation". The welfare of the nation should not

be contrasted with the welfare, rights or legitimate interests of an economic entity to which a regulation is applied. Nor should it be contrasted with the welfare of founders or managers or other people associated with a regulated economic entity²⁶. It is a constitutional principle that underlies the aims, directions, means, and limits of economic regulation²⁷. No economic regulation which would restrict the rights and legitimate interests of a particular economic entity more than is necessary to ensure the public interest may be justified on the grounds of serving the welfare of the nation. Likewise, the welfare of the nation may not serve as a justification of a regulation which would create unfavourable and unequal conditions for economic entities or would restrain economic initiative²⁸.

Accordingly, while regulating economic activity, the state must observe the principle of reconciling public and private interests²⁹. The above analysis on the implications of a ban on retail opening hours shows that even though this regulation would protect the interests of some segments of employees, it would have negative consequences for many more members of the society – including consumers and employers. It would, therefore, violate the principle of reconciliation of public and personal interests.

Although a ban on Sunday work in the retail sector may formally be intended to ensure the employees' right to rest, analysis shows

²⁶ Constitutional Court of the Republic of Lithuania, the rulings of September 29, 2010; January 6, 2011; and July 7, 2013.

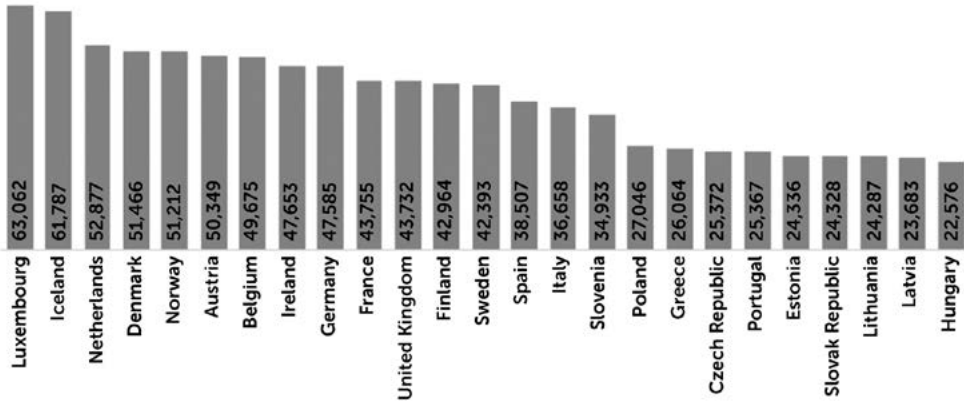
²⁷ Constitutional Court of the Republic of Lithuania, the rulings of October 6, 1999; January 6, 2011; June 21, 2011; May 24, 2013; and July 5, 2013.

²⁸ Constitutional Court of the Republic of Lithuania, the rulings of September 29, 2010 and January 6, 2011.

²⁹ Constitutional Court of the Republic of Lithuania, the rulings of May 13, 2005; January 6, 2011; June 21, 2011; and May 24, 2013.

²⁵ Constitutional Court of the Republic of Lithuania, the ruling of May 31, 2006.

Figure 2: Gross average wages [in US dollars; data from 2017 or latest available]



Source: OECD (2017) *Employment and Labour Market Statistics: Average Annual Wages*. Available [online]: <https://data.oecd.org/earnwage/average-wages.htm>

that it would not only fail to provide a proper protection of the rights of some employees, but in certain respects would disproportionately limit those rights. It may also involve discriminatory consequences. Protection of workers' right to rest may be achieved by other means which are less restrictive with regard to freedom of economic activity and initiative and in line with the constitutional values and the principle of proportionality.

REGULATION OF RETAIL OPENING HOURS IN EUROPE

Retail opening hours are regulated in fourteen out of thirty European countries [See Table 4]. Yet, regulation does not necessarily mean total prohibition. In most cases, countries apply exemptions by products, type of retail, retail surface area, etc. An outright ban on Sunday retail is a rather rare practice in Europe and in the world.

Restrictions on retail opening hours are more common in wealthy countries with higher labor productivity. Our analysis shows that a ban on Sunday retail trade is

more often found in countries with a higher level of gross domestic product in PPT per capita. GDP per capita in PPT stands at 78 in Lithuania, 79 in Estonia and 69 in Latvia, as compared to 164 in Norway, 181 in Germany, 128 in the Netherlands, and 105 in the UK (EU28=100)³⁰.

Restrictions on retail opening hours are more common in EU countries with higher wages. If we look at wages, the same trend across countries may be observed. The countries that impose a ban on Sunday retail hours tend to have a higher level of average wages than those which do not. Wages in Lithuania are among the lowest in the whole European Union [See Figure 2]. In less wealthy countries, a reduction of revenues for retail businesses would have more severe consequences for wage-earners and may increase incentives to migrate.

³⁰ Eurostat (2017) *GDP per capita in PPS*. Available [online]: <https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tec00114&plugin=1>



WHILE REGULATING ECONOMIC ACTIVITY, THE STATE MUST OBSERVE THE PRINCIPLE OF RECONCILING PUBLIC AND PRIVATE INTERESTS

Restrictions applicable in other European countries cannot just be copied, turning a blind eye on the local economic conditions and the level of wages or the number of part-time workers.

Since 2012, nine European countries have liberalized the regulation of retail opening hours: Denmark, France, Finland, Italy, the Netherlands, Portugal, Spain, and Malta. Hungary and Poland introduced regulations, in 2015 and 2018 respectively. Yet, in response to public backlash in 2016, Hungary lifted its one-year-old ban on retail trade on Sundays and public holidays. Finland's decision to revoke the restrictions in 2016 was driven by the intention to better satisfy consumers' interests and to counteract the competitive pressure from Sweden's regulation-free retail sector that had attracted a lot of weekend buyers from the neighbouring countries, including Finland. The European Commission notes that Finland's decision has had a positive effect on competition and the country's labor market³¹.

³¹ European Commission (2018) *A European Retail Sector Fit for the 21st Century*, Communication from the Commission to the European Parliament, the Council,

The European Commission has put forward explicit recommendations to lift bans on retail opening hours³². It is considered as one of three key recommendations for strengthening competition in retail trade and providing incentives for a more open single retail market. It is emphasized that restrictions on retail opening hours place a heavy burden on businesses and have adversely affected productivity. Reduced competitiveness is found to be one of the main reasons for low productivity in comparison with e-commerce. Unregulated retail markets have shown positive effects on the labor market, stimulating job creation in functioning and new retail entities³³.

CONCLUSIONS

- A ban on retail opening hours on Sundays and public holidays is not advisable as such regulation is incompatible with the constitutional values and principles of freedom of individual economic activity and initiative. It is unjustifiable with respect to workers in the retail sector. It would negatively affect wages and job creation, possibilities to reconcile family and work, and employment opportunities for students. Importantly, in European countries, all legal prerequisites are in place for workers to negotiate working hours with their employers. It would hurt consumers as it would likely result in price increases, changes in shopping

the European Economic and Social Committee of the Regions, April 19. Available [online]: <https://ec.europa.eu/docsroom/documents/28681/attachments/1/translations/en/renditions/native>

³² European Commission (2018) *Strengthening the Competitiveness of the European Retail Sector*, Press Release, April 19. Available [online]: http://europa.eu/rapid/press-release_IP-18-3377_en.htm

³³ European Commission (2018) *A European Retail Sector Fit for the 21st Century*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions, April 19. Available [online]: <https://ec.europa.eu/docsroom/documents/28681/attachments/1/translations/en/renditions/native>



THE EUROPEAN COMMISSION HAS PUT FORWARD EXPLICIT RECOMMENDATIONS TO LIFT BANS ON RETAIL OPENING HOURS

habits, and the derailing of everyday routine. It is not justifiable with regard to retail companies, shopping centers and service providers operating in shopping centers as it would likely aggravate their financial results, would cripple the competitive environment for traditional stores compared to e-commerce, would undermine economic competitiveness and investment attractiveness for countries competing for foreign investors, would result in government revenue shortfalls, and would put an additional strain on public finances.

Moreover, it shall be noted that:

- fourteen out of thirty European countries restrict retail trade on Sunday and seventeen countries limit retail opening hours on public holidays. Such regulations are more often applied by wealthier countries with higher wage levels. A number of European countries have lifted bans on retail opening hours on Sundays in order to prevent their negative consequences.

- the European Commission has recommended deregulation of retail opening hours on the grounds of the need to protect free competition and jobs.

The main goal of regulating opening hours is to protect the rights to rest of some employees. If such protection is truly necessary, it can be achieved by other means. A ban on retail opening hours on Sundays or public holidays can do more harm than good. More and more countries now recognize that this regulation fails to bring desired results, and many have chosen to remove it. There seems to be little rationale for replacing them. •



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Table 4: Regulation of retail stores and retail opening hours in Europe (March 2017; May 2018 for countries marked with an asterisk *)

Countries	Sunday and public holidays
AUSTRIA	<p>REGULATED</p> <ul style="list-style-type: none"> maximum opening time per week is 72 hours. <p>Exemptions are allowed in tourist areas.</p>
BELGIUM	<p>REGULATED</p> <p>Exemptions:</p> <ul style="list-style-type: none"> if a retailer chooses an alternative closing day; all retail stores open from 8:00 to 12:00 am.; furniture and gardening shops open on forty Sundays per year from 6:00 am to 8:00 pm; food chains with fewer than five employees, butchers, bakers, newsagents and tobacconists, florists, petrol stations open from 6:00 am to 8:00 pm; on certain conditions shops can open on six Sundays of their own choice per year; tourist areas: Sunday opening May 1 to September 30, on Christmas and Easter holidays, and a maximum of thirteen other Sundays; night shops selling food and household goods can work only from 6:00 pm to 7:00 am; in other cases, shops can open only on Sunday morning between 8:00 am and 12:00 pm.
BULGARIA	<p>UNRESTRICTED</p> <ul style="list-style-type: none"> some supermarkets/hypermarkets are open 24/7; it is a common practice to close on January 1.
CROATIA	<p>UNRESTRICTED</p> <p>The Trade Act prescribes that opening hours are not restricted as long as the rights of workers are ensured. It is a common practice for all stores to close on New Year's Day, Easter Sunday and Christmas Day.</p>
CYPRUS	<p>REGULATED</p> <ul style="list-style-type: none"> Shops are allowed to open from 5:00 am; Retail opening hours in tourist areas are prescribed by regulations issued by the Council of Ministers. The list of tourist areas is also determined by the Council of Ministers. <p>Exemptions:</p> <ul style="list-style-type: none"> unrestricted for bakeries, pastry shops, convenience Stores; flower shops close at 10:00 pm; shops selling alcoholic beverages and tobacco products close at midnight; Christmas period December 1 – December 31 opening hours are 5.00 am to 8.00 pm; on Christmas Eve and New Year's Eve shops close at 6:00 pm; Easter Period – 10 days before Easter; opening hours 5:00 am to 8:00 pm; on Good Friday and Holy Saturday shops close at 6:00 pm.

Countries	Sunday and public holidays
CZECH REPUBLIC	<p>REGULATED</p> <p>Retail opening hours are regulated by the Act on Opening Hours in Retail and Wholesale.</p> <p>Retail and wholesale trade are prohibited on the following public holidays and other holidays:</p> <ul style="list-style-type: none"> • January 1 – Date of Restoration of the Independent Czech State and New Year’s Day; • Easter Monday; • May 8 – Victory Day; • September 28t – Czech National Day; • October 28 – Date of the Establishment of the Independent State; • December 25 and 26 – Christmas Days; <p>Retail and wholesale trade are prohibited on December 24, Christmas Eve Day, from 12:00 pm until 12:00 am.</p> <p>Exemptions:</p> <ul style="list-style-type: none"> • stores with retail surface area below 200 m2; • petrol stations; • pharmacies; • stores at locations with higher concentrations of passengers at airports, railway stations and bus stations; • retail at healthcare facilities, retail and wholesale at times when a state of emergency, crisis situation national state of alert or state of war4 is in effect.
DENMARK	<p>UNRESTRICTED on Sundays</p> <p>Public holidays:</p> <ul style="list-style-type: none"> • Shops close at 3:00 pm on public Holidays, Constitution day, Christmas Eve and New Year’s Eve. <p>Exemptions:</p> <ul style="list-style-type: none"> • unrestricted for the sale of bread, dairy produce, newspapers, flowers, plants, cars, ships, fuel, household items and DIY centers; • unrestricted for stores with turnovers below 33.1 million Dkr selling DIY products, bakeries, grocers, household articles and gardening appliance.
ESTONIA	UNRESTRICTED on Sundays
FINLAND	<p>UNRESTRICTED (from January 1, 2016)</p> <ul style="list-style-type: none"> • sale of alcohol is restricted from 9:00 pm until 9:00 am.
FRANCE*	<p>REGULATED</p> <p>Retail stores are closed on Sundays. Shop owners are allowed to work on Sundays.</p>

Countries	Sunday and public holidays
	<p>Exemptions:</p> <ul style="list-style-type: none"> • food stores bigger than 400 m² can stay open until 1:00 pm if the employees are paid a 30% premium; • non-food stores can open with mayoral permission, but not more than twelve Sundays a year and provided the employees are paid double salaries; • other exemptions for retail food or non-food retail apply in touristic areas, commercial tourism areas and some stations; • exemptions apply to florists, tobacco shops, DIY and garden appliances. • weekly rest can be given by shift to all or some staff; • voluntary staff can work on Sundays. <p>Collective agreement must be signed at the branch, company group or factory level. Collective agreements automatically specify wage aspects.</p>
GERMANY	<p>REGULATED</p> <p>Retail opening hours are regulated by lands. Exemptions apply in case regulations of retail opening hours on Sundays and public holidays.</p> <p>Exemptions:</p> <ul style="list-style-type: none"> • bakery products, flowers, newspapers, dairy products, and museums; • railway and petrol stations, airports, resorts and places of pilgrimage; • in some federal states, shops may open to meet the public interest or in specific circumstances.
GREECE	<p>REGULATED</p> <p>Regulations of retail opening hours may differ for the summer (May 16 to September 30) and winter seasons (from October 1 to May 15).</p> <p>Exemptions:</p> <ul style="list-style-type: none"> • convenience stores, pastry shops; • photography shops, florists, antiques and nut-selling shops; • petrol stations; • local prefects may allow small shops under 250 m² to open; • all shops are open two Sundays before Christmas, on the first Sunday of every sales period (four in total), and on Sunday before Easter.
HUNGARY*	<p>UNRESTRICTED on Sundays</p> <p>REGULATED on public holidays.</p> <p>Exemptions:</p> <ul style="list-style-type: none"> • petrol stations, florists; • restaurants and bars; • small retailers.

Countries	Sunday and public holidays
ICELAND	UNRESTRICTED on Sundays REGULATED on public holidays. Sundays: <ul style="list-style-type: none"> shops generally close on Sundays but stores in shopping centers open from 10:00 am until 5:00 pm. Public Holidays: <ul style="list-style-type: none"> stores close from 4:00 pm on December 24 to 6:00 am on December 25.
IRELAND	UNRESTRICTED Restrictions apply to retail trade in alcohol: <ul style="list-style-type: none"> Sundays – from 12:30 pm to 10:30 pm; closed on Christmas Day and Good Friday.
ITALY	UNRESTRICTED Sale of alcohol is prohibited from 10:00 pm until 6:00 am at petrol stations and from 12:00 am until 6:00 am in stores.
LUXEMBOURG	REGULATED Sundays: <ul style="list-style-type: none"> shops can open from 6:00 am to 1:00 pm. Once a year every shop owner can obtain authorization to stay open 24 hours. Exemptions: <ul style="list-style-type: none"> derogations for specific local areas can be adopted; bakeries, butchers, cake shops, kiosks, and souvenir shops can open from 6:00 am to 6:00 pm.
MALTA	UNRESTRICTED <ul style="list-style-type: none"> shops can open on Sundays provided they close on any other day; lottery tickets can be sold 24/7, subject to permission from gaming authorities; employers may not have their employees to work on Sundays unless stipulated in job contracts.
SLOVAKIA*	REGULATED The basic rule applies that employers cannot force their employees to work on the following dates: January 1, January 6, on Good Friday, Easter Sunday, Easter Monday, May 1, May 8, July 5, August 29, September 1, September 15, November 1, November 17, December 24 after 12:00 pm, December 25, and December 26. Sretail at petrol stations, pharmacies, airports, ports, public transport locations, hospitals, sale of transport tickets, and souvenir shops; <ul style="list-style-type: none"> shop owners can open their stores if they work as self-employed individuals; retail sale of flowers is allowed on May 8, September 1, and November 1.



Countries	Sunday and public holidays
LITHUANIA*	UNRESTRICTED Sale of alcohol is allowed on Sundays only from 10:00 am to 3:00 pm. It is common practice for small shops to close on public holidays, but bigger shopping centers open.
LATVIA	UNRESTRICTED on Sundays
NETHERLANDS	REGULATED Closed with exemptions: <ul style="list-style-type: none"> • local authorities can allow Sunday openings; • stores may not open on Good Friday, December 24, and May 4 after 7:00 pm.
NORWAY	REGULATED Closed with exemptions: <ul style="list-style-type: none"> • groceries smaller than 100 m²; • petrol stations smaller than 150 m² and stores in camping site during season.
POLAND	REGULATED New regulations enforced on March 1, 2018. All retail shops and retail units may not open on most Sundays and public holidays. A total of thirty-two exemptions apply: <ul style="list-style-type: none"> • petrol stations, vending machines, bars, taverns and restaurants, post offices, pharmacies, florists, newsagents, premises where cultural, sports or educational activities take place (e.g. stadiums, schools, theaters), shops located in hotels, public transport stations, and self-proprietor's shops; • shops and premises may open until 2:00 pm on two consecutive Sundays before Christmas, Sunday before Easter, and last Sundays in January, April, June, and August, on December 24 and on Saturday before Easter (Holy Saturday). In 2018, all shops and premises could open on the first and last Sunday of every month. In 2019, retailers can open on the last Sunday of every month. From 2020 onward, no Sunday openings will be allowed.
ROMANIA	UNRESTRICTED on Sundays
SLOVENIA*	UNRESTRICTED on Sundays <ul style="list-style-type: none"> • The sale of alcohol is prohibited from 9:00 pm until 7:00 am, with the exception of hotels and restaurants where alcohol can be sold until the closing time but cannot be sold from the opening time until 10:00 am. • Closed on public holidays: January 1, February 8, Eastern Sunday, Eastern Monday, May 1, Pentecost Sunday, June 25, August 15, November 1, and December 25.

Countries	Sunday and public holidays
SPAIN*	<p>REGULATED</p> <p>According to federal government law, sixteen autonomous regions prescribe Sundays and public holidays on which retailers can open. C. de Madrid applies no restrictions.</p> <p>Shops that are completely free to determine their opening hours:</p> <ul style="list-style-type: none"> • shops under 300 m²; • shops selling cakes and pastries, bread, precooked dishes, newspapers, fuel, flowers, and plants; • shops operating in railway stations and on overland, sea and air transport terminals; • convenience stores; • shops located in areas with a large tourist population.
SWEDEN*	<p>UNRESTRICTED</p> <p>Restrictions apply only to night work, from 12:00 am until 5:00 am. Employers and trade union can sign collective agreements and envisage flexible terms of night work. Night work is generally allowed at gas stations, convenience stores, etc.</p>
UNITED KINGDOM*	<p>REGULATED</p> <p>Labor law in England and Wales allows shop-workers to refuse to work on Sundays and to require premium for overtime and work on public holidays.</p> <p>Sundays:</p> <ul style="list-style-type: none"> • England and Wales – unrestricted opening hours for shops smaller than 280 m². Stores larger than 280 m² may open from 10:00 am to 6:00 pm; • Northern Ireland – opening hours restricted for shops larger than 280 m². They can open from 1:00 to 6:00 pm; • Scotland does not restrict retail opening hours. <p>Public holidays:</p> <ul style="list-style-type: none"> • England, Wales, and Northern Ireland – UNRESTRICTED. <p>Exemptions:</p> <ul style="list-style-type: none"> • stores larger than 280 m² may not open on Easter Sunday and Christmas Day.

Sources: Euro Commerce (March 2017). Updated by the Lithuanian Free Market Institute (May 2018)