

AN OVERVIEW OF THE CONCLUSIONS DRAWN BY THE EVALUATION COMMITTEE

February, 2015

The law on economic growth and activity (“*Loi pour la croissance et l’activité*”) is designed to create the conditions for a rebound in French economic and employment growth. Assessing the potential effects of its main legal provisions is thus important to ensure that the debate -including in Parliament- is conducted in an objective manner.

Emmanuel Macron, Minister of the Economy, Industry and the Digital Sector asked Jean Pisani-Ferry, France Stratégie’s Commissioner-general, to set up an ad hoc temporary evaluation committee to assess the law; this committee was chaired by Anne Perrot, Professor at Paris-I University and ENSAE, Partner at the MAPP consulting firm, and former Vice-President of the *Autorité de la concurrence* (France’s competition authority).

The evaluation committee worked on five issues: Sunday work, mobility, reform of prud’hommes (the Labour Court), regulated law-professions and commercial real estate. The committee was composed of French and foreign independent experts with acknowledged competence in the evaluation of public policies. It investigated the experience of other countries that have enacted similar laws. It considered, in particular, the works of international institutions and the theoretical and empirical academic literature.

Beyond the impact of these measures on growth and employment, the committee evaluated, as far as possible, their environmental and social dimensions, using a multi-criteria approach.

THE EVALUATION COMMITTEE,
WHOSE MEMBERS SERVED
IN FULL INDEPENDENCE,
WAS COMPOSED OF:

Antoine Bozio,
Director of the Institute for Public Policy (Institut des politiques publiques, IPP), Research Fellow at the Paris School of Economics (École d’économie de Paris) and Professor at the School for Advanced Studies in the Social Sciences (École des hautes études en sciences sociales, EHESS). Member of the Council of Economic Analysis (Conseil d’analyse économique, CAE).

Pierre Cahuc,
Director of the Macroeconomics Laboratory at the Centre for Research in Economics and Statistics-National School of Statistics and Economic Administration (Centre de recherche en économie et statistique-École nationale de la statistique et de l’administration économique, CREST-ENSAE), Professor at the École Polytechnique. Member of the CAE.

Philippe Choné,
Professor at the ENSAE.

Anne Epaulard,
Professor at Paris-Dauphine University, Scientific Advisor to France Stratégie.

Marc Ferracci,
Professor at the University of Nantes-LEMNA (Laboratoire d’Économie et de Management de Nantes-Atlantique, Nantes-Atlantic Economics and Management Laboratory), member of CREST Microeconomics Laboratory, Scientific Advisor to France Stratégie.

Giuseppe Nicoletti,
Head of Structural Policy Analysis Division, Economics Department, OECD.

Anne Perrot (chair),
Professor at Paris-I University and ENSAE, Partner at the MAPP consulting firm.

Jérôme Philippe,
Barrister, Partner at Freshfields Bruckhaus Deringer.

André Sapir,
Professor at the Université Libre de Bruxelles, member of the Bruegel Think Tank.

Étienne Wasmer,
Professor at Sciences-Po Paris and Co-Director of the Interdisciplinary Laboratory for Evaluation of Public Policies (Laboratoire interdisciplinaire d’évaluation des politiques publiques, LIEPP). Member of the CAE.

REFORM OF SUNDAY WORK

In countries liberalising Sunday work, this seems to have led to an increase in hours worked and/or employment. In Canada, following deregulation (which took place between 1985 and 1993), increased employment was observed in the retail trade (+3.1%); weekly hours worked remained nearly unchanged. In the US, over the period 1969-1993, employment in the retail trade was lower by 2 to 6% when shops were not open on Sunday. However, the commission found no unequivocal results concerning the effect on consumer prices: some authors do not detect any effect, while others observe a slight reduction in their growth.

The liberalisation of Sunday work changes how the employees concerned, those close to them (e.g. family, friends, members of the same association) and consumers use their free time. In the case of consumers, it is intuitive to assume that Sunday openings of retail businesses led to improved well-being, as it provides them more choices. As for employees affected by Sunday work and those close to them, there is intuitively a negative effect on well-being related to free time because Sunday work makes it more difficult to coordinate schedules (allowing individuals to have free time simultaneously). A study of the liberalisation of Sunday work in the USA shows that it leads to a reduction of religious community activities. That study also observed other negative social effects, including an increase in risk-taking behaviours.

In addition to studying the net effects on employment and well-being resulting from use of free time, it is useful to study what categories of individuals are likely to see their situation improve and which ones will experience, on the contrary, a deterioration or neutral effects. Against other days of the week, more Sunday workers are young people and women. It is therefore reasonable to assume that potential gains in employment will mainly affect these groups. In France, the opening of shops on Sunday is more popular with urban dwellers than people living in rural areas.

The effects of liberalisation of Sunday work would depend on its magnitude. The planned reform in France appears more limited than those, on average, in countries that were the basis for the studies the evaluation committee referred to. We can therefore expect that the effects of liberalisation, both positive and negative, would be more moderate in France.

COACH TRANSPORTATION

The founding of intercity coach lines gives rise to new consumer choices, either by meeting mobility needs that were not previously addressed (because the travel in question becomes affordable) or by allowing individuals to choose the coach rather than the car or train for travel that was already planned.

Foreign experience shows that the effects of liberalisation are significant, are felt quickly and stabilise rapidly. In Germany, coach transportation options doubled in the first year (2013); in the UK, the number of passengers increased by 50% following two phases of liberalisation in 1980 and 1985. However, certain conditions must be met in order to develop coach transport: proper coach stations, satisfactory intermodal connections and regulations promoting competition while allowing certain forms of cooperation and mergers between operators so that they can benefit from network economies. In the UK and Sweden, the shift of train passengers to coaches seems limited, while stronger shifts were observed from cars to coaches. Thus, the coach does not appear to have been a threat to the train in these countries. The law in preparation nevertheless provides that transport organising authorities (*Autorités organisatrices des transports*, AOT) can oppose the creation of a coach line when it threatens an existing railway line.

To our knowledge, there is no quantitative assessment of the effects on employment from the opening of intercity road passenger transport. One would hope for a net positive effect on employment to result mainly from the satisfaction of mobility needs that were not previously addressed and the substitution of the coach for private cars.

It is undeniable that the opening of coach transport gives rise to a decline in the average price of travel by public transport. A decade after the opening of the intercity coach transport market in the UK, a coach trip costs, on average, less than 30% of the price for the same trip by train. In Germany, in 2013, the differential was 50% on average. It seems that coaches particularly satisfy the needs of leisure travellers, as well as those constrained by prices and those who do not have a private car (e.g. families, those with low income, youth, the elderly).

Replacing the car by the coach also allows gains in other areas: improved safety (accident mortality rate is thirty times lower for the coach), less traffic congestion (except near coach stations) and reduced emissions (30 to 40g CO₂ per passenger-kilometre on average for the coach, 75 to 100g for the car). Yet, the coach is not better than the train in these regards: safety is comparable and CO₂ emissions per passenger-kilometre are quite close, although the coach has higher impact on traffic congestion.

REFORMS OF REGULATED LAW-PROFESSIONS

Laws on regulated professions can sometimes lead to the creation of a secure economic status characterised by abnormally high rates of return, without relation to the risk and complexity of the service rendered. There are two primary approaches to moderating this type of status: facilitating entry into certain legal professions and reforming their tariffs.

For example, a reform of regulated professions that promotes lower prices and faster service could have an economic impact, notably *via* B2B services and the real estate market. The literature on reforms in the services sector in general can help assess the effects of the law on the economy. A study shows that aligning rules to those of the least restrictive countries can provide a significant positive effect on the growth of added value, labour productivity and exports. For households, lower notarial fees can promote mobility: a decline of one percent in real estate transaction costs (of which notarial fees admittedly constitute a small part) would increase by about 0.2% the probability of residential mobility.

While there are few econometric studies on the subject, it is interesting to examine European reforms in regulated professions, particularly notaries. In the Netherlands, the reform had little impact on reducing prices and the number of notary offices did not increase (new notaries joined existing offices instead). However, new areas were served. A study concerning Wales and England over the period 1983-1986 shows that liberalisation starting in 1984 led to lower notarial fees, with no observed decline in the quality of service. But, a few years later, some rates increased again in areas with less competition between notary services providers and where collusive behaviour may have taken place to maintain prices higher than in a competitive situation.

It should be noted that the persistence of entry barriers could greatly limit the impact of reforms. The law therefore provides that a new entrant who would adversely affect an existing notary shall pay him compensation. This limits competition and may favour collusive behaviour intended to keep prices high.

REFORM OF THE LABOUR COURT

The principal measures of the law aim to accelerate procedures and improve the predictability and quality of decisions. The first area of reform is to professionalise the Labour Court by training counsellors, strengthening their ethical obligations, revamping the disciplinary framework and creating a legal defender, belonging to a trade union whose role will be to assist employees. This professionalisation should make decisions less dependent on local conditions and counsellors' affiliations, thus discouraging the least-justified appeals and favouring the most legitimate ones. Empirical studies show, first, that decisions are influenced by local conditions (for example, a high local unemployment rate may encourage judges to more frequently side with employees, all things being equal) and second, that this sensitivity to local conditions decreases with the degree of judges' professionalism (this has been demonstrated in criminal courts and may also be true for labour disputes).

The second area of reform is to accelerate decisions, thereby making it less expensive for both parties to obtain a labour court's decision. This clearly has a positive effect, making the process more accessible. A recent study suggests that improving the conciliation procedure, as observed in Grenoble, allowed increasing the number of appeals, of which some, with particularly uncertain outcomes, might not have been introduced if delays were longer. Improving the predictability of decisions, however, could limit the number of referred cases particularly lacking in legitimacy.

Besides favouring legal certainty and the application of law, the law aims to reduce redundancy costs borne by businesses. Many empirical studies show that redundancy costs usually have an overall negative effect on employment (and also productivity). Improved predictability should reduce these costs. However, a faster process does not necessarily translate into a reduction in redundancy costs if it leads to more frequent appeals by employees, as a recent study suggests. Thus, the law can only have a positive impact on employment if it simultaneously speeds the process and significantly improves the predictability of decisions.

MEASURES AFFECTING COMMERCIAL URBAN PLANNING

The proposed measures seek to lower entry barriers and address concentration in the retail sector. A study addressing the French example (Bertrand and Kramarz, 2002) shows that administrative entry barriers for new stores increase their concentration, serving to increase retail prices.

Studies also show that entry barriers have a negative effect on employment in the retail sector. The study by Bertrand and Kramarz suggests that in the absence of administrative barriers, employment in this sector could have been higher by 3%. Although this remains to be assessed quantitatively, it appears that removing barriers favouring the entry of hard discounters could hurt employment in the long term. Entry barriers also reduce the sector's productivity: by reducing competitive pressure, they depress investment and discourage, for example, existing businesses from adopting innovations in information and communication technologies.

The impact of entry barriers on independent retailers is more uncertain. Intuitively, one might think that entry barriers protect small local shops that are independent of large groups. However, a study in the UK shows that the introduction of entry barriers for department stores in the city centre prompted those large companies to create or acquire smaller shops that compete with existing small shops.

The law, allowing the *Autorité de la concurrence* (France's competition authority) to rule on principal urban planning documents to ensure that they do not constitute barriers to entry or competition, could favour local competition. The magnitude of the repercussions of this law will obviously depend on the frequency of referral or self-referral to the *Autorité*.

The law also provides that the *Autorité de la concurrence* may order the disposal of assets where distribution is highly concentrated and charges high prices. Note that this mechanism is a departure from the "common law" of competition and the traditional missions of the *Autorité*, as the sale of assets may be ordered in the absence of any offense and simply because of the existence of a dominant position and "high prices." This mechanism clearly carries risks regarding legal certainty and freedom of pricing. In the absence of detailed studies on the degree of concentration at local level, it is difficult to state in how many local markets the law is likely to apply. A study should therefore be carried out on the concentration of local markets in the distribution sector.

See also:

Réforme du travail dominical
Ouverture de l'offre de transport par autocar
Réformes des professions réglementées du droit
Réforme de la justice prud'homale
Mesures touchant à l'urbanisme commercial

Find the five assessments on www.strategie.gouv.fr

