

Prof. Dr. iur. Jens Lowitzsch SoSe 2019

Kelso Professorship of Comparative Law, East European Business Law and European Legal Policy, Faculty of Business Administration and Economics; Visitor address: Logenstraße 9-10, PG 202

Employee Ownership in the EU 28 as of 2019 – Focus: “Sociedades Laborales”, Reactivating the Unemployed

Content

- 2019 update of Employee Financial Participation (EFP) in the EU 28;
- The key to success of SLs: Survival rates, secondary employment, access to capital;
- Focus: New empirical data on “Sociedades Laborales” in the Basque Country
 - o The capitalisation of unemployment benefits as a lump sum for start-ups
 - o The problem of disqualification – SLs becoming “victims of their success”
- Overview: Low-threshold limited liability companies in the EU-28 - Overview: ALMP start-up incentives in the EU-28.

Dates

Compact course/Blockseminar: Fridays/Saturdays 11-14hrs, 15-18hrs

- Introduction: 09/04 15-16h;
- LV1: 12/04 ; LV2: 13/04 ; LV3: 26/04 ; LV4: 27/04

Background

Introduction

Spanish Sociedades Laborales (SLs) – mostly small and micro enterprises – are a qualified form of conventional corporation, majority-owned by their permanent employees. Unemployed persons can capitalise their unemployment benefits as a lump sum to start a new SL or to recapitalise an existing SL by joining it. This makes SLs similar to start-up subsidies for the unemployed, an established instrument of active labour market policy across the EU. The new Law on Worker-Owned and Participatory Companies of November 2015 substantially modernised the concept of SLs 30 years after its inception.

The concept of Sociedades Laborales is probably the only employee share ownership scheme across the EU applying to small and micro enterprises. Benefiting only from insignificant fiscal incentives, SLs have flourished over the past 15 years. By the end of 2013, there were over 11,300 SLs providing over 63,000 jobs. However, these official employment figures do not capture independent workers, which according to new CIRIEC data are estimated to account for between 15 and 25 per cent of overall employment.

Against a 2019 update of Employee Financial Participation (EFP) in the EU 28 this seminar investigates the potential of SLs as an instrument of ALMP for returning the unemployed to the labour market and also the transferability of the scheme to other EU Member States.

New empirical data on “Sociedades Laborales” in the Basque Country and Spain

One of the key reasons for the steady growth of the population of SLs is that since 1985, unemployed persons can capitalise their unemployment benefits as a lump sum (instead of monthly payments) either to start a new or to recapitalise an existing SL by joining. Prerequisites to using this mechanism when creating a new worker-owned company are: (1) To present a viable business plan and; (2) that the new business agrees to be monitored for three years after its founding. In this regard, the setting up of SLs has some similarity with start-up subsidies for unemployed, which is an established instrument of active labour market policy (ALMP) practised in many countries. It is estimated that about a third of SLs involve the capi-

talisation of unemployment benefits when being founded; however this proportion needs to be investigated more closely using new empirical data.

Unlike the start-up subsidies for unemployed, however, SLs are not only set up by unemployed persons but by normal entrepreneurs and typically involve external investors. New data from the Basque Country will be used to calculate the proportion of unemployed as well as regular entrepreneurs in newly founded SLs. As such they are a means of creating social capital and provide an unemployed person joining an existing SL or the setting up of an SL with expertise, entrepreneurial experience as well as with access to capital and not only with a job. This is important as the scarcity of entrepreneurial skills and knowledge, lack of business and financial support as well as insufficient access to finance or capital resources are among the main barriers to entrepreneurship (European Commission 2014). In this sense support for SLs differs significantly from start-up subsidies employed exclusively in the context of ALMP.

Finally, unlike the majority of classical ALMP start-up tools these enterprises have the potential for creating additional jobs.

Literature

- Lowitzsch, J., Dunsch, S., Hashi, I. (2017), „*Spanish sociedades laborales: activating the unemployed, a potential new EU active labour market policy instrument*”.
- European Commission (2014), „European Employment Policy Observatory Review - Activating jobseekers through entrepreneurship: Start-up incentives in Europe“ Directorate-General for Employment, Social Affairs and Inclusion Unit C.1, Brüssels.
- German Federal Ministry of Labour and Social Affairs, BMAS (2010), *From unemployment to self-employment: Facilitating transition in the recovery*, International Conference organised by the Federal Ministry of Labour and Social Affairs (BMAS), in cooperation with the OECD (ELSA and LEED), Berlin, 7–8 October, http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Publikationen/a809e-unemployment-to-self-employment.pdf?__blob=publicationFile.
- European Parliament (2018), Own-initiative report on the role of employee financial participation in creating jobs and reactivating the unemployed, http://www.europarl.europa.eu/doceo/document/A-8-2018-0293_EN.html

Formalities

Study programs

5/6/9 ECTS / MES modules: ZB Wirtschaft, ZB Politik, ZB Recht, WPM 1, WPM 6 // IBA modules: S-Module (old SPO also E-Module); Faculty of Law: Master of German and Polish Law (Module 3); SPB 5 (European Law) (without ECTS)

Performance test and credits

ECTS: 6/9. Regular attendance; oral presentation; term paper: first draft of the term paper by 19/07/2019 (optional, only if feedback wanted), finalized term paper by the end of the semester 30/09/2019

Registration

Until 22/04 at kelso-professorship@europa-uni.de including immatriculation number