Prof. Dr. iur. Jens Lowitzsch

Uprooting World Poverty – A job for Business? Social Europe and Employee Participation / Part III

- European Legal and Social Policy after the Lisbon Reform Treaty
- The financial crisis and its implication for the welfare state
- Focus Financial Participation for Non-Employees

Seminar: Zentralbereich Wirtschaft, Zentralbereich Politik, Zentralbereich Recht, Wahlpflichtmodul 1, Wahlpflichtmodul 6

Termin(e): Mittwoch 14-16 Uhr + 1 Blockseminar
Vorlesungsbeginn 26.10.2011 Raum GD 311

This course is the continuation of the Seminar Social Europe and Employee Participation (Summer 2011) – for new participants a block seminar at the beginning of the semester will give an introduction to the topic.

In the European Reform Treaty of Lisbon, entered into force on 1 December 2009, the EU for the first time expressly commits itself to the European Social Model as one of the pillars of its policy. Summarizing the alterations introduced by the Reform Treaty in the field of social policy the seminar specifically addresses policy instruments and the associated decision-making processes. The example of employee participation, in this case specifically of a European concept for employee financial participation, will be used to develop options for implementing similar concepts in the political sphere.

One of the core questions is, how to open up economic opportunity to the majority of citizens enabling them to become owners of productive assets. Interestingly, the catastrophe of 2008 has occasioned very little demand for radical financial, fiscal or ownership reforms. Against this background the financial crisis and its implication for the welfare state are examined.

The “Building block approach” to employee financial participation presented in this context takes into consideration existing national participation models and best practice with regards to both the type of participation scheme and the incentives that may be granted based on the principle of voluntaryness. As an alternative to the creation of a European Recommendation or Directive on financial participation, the application of existing national Company Law rooted in the 2nd Council Directive on Company Law is looked upon in the context of the "Open Method of Coordination" (OMC). Further, the amendment of existing European Company Law, i.e., the European Company Statute is considered.

The bottleneck is access to capital credit

For the past 100 years the traditional way to asset formation for the poor was savings through forgone consumption. That obviously did not work – for what can you save when you have barely enough to make ends meet? If we agree that – when financing business activities, i.e., productive property – the bottleneck is access to capital credit why do we give micro-credit to the poor while macro-credit is only available to the rich? We are flooded with consumer credit at 0% interest, but try to get, let’s say 10,000 Euro, to set up a business instead of financing your new car … That’s when the trouble begins.

It’s a paradox: Financial markets, an ocean of liquidity, eagerly search for profitable investments, yet the income of consumers needed to generate the necessary consumption declines as automation increases. To put it simply, machines don’t buy cars! In the end capital sits on offshore bank accounts generating interest but is cut off the economy and, being ever more concentrated, becomes sterile. So, how many yachts can you possess? How many kilos of caviar can you eat?

The eye of the needle thus is financing productive property ownership for the many. This is what the Employee Stock Ownership Plan (ESOP), invented more than 50 years ago by Louis O. Kelso does. The ESOP uses the borrowing power of the company to acquire shares of that very company for its employees. The cost of credit financing is covered from the future earnings of the shares.

Employee Stock Ownership Plan, General Stock Ownership Plan, Consumer Stock Ownership Plan

An ESOP usually involves a loan to an employee benefit trust, which acquires company stock and allocates it through periodic contributions to each employee's ESOP account. The loan may be serviced by payments from the company out of company profits, out of dividends paid on the stock held by the ESOP or (in rare instances) from employee salary reductions.

But in the future also less common financial tools as the General Stock Ownership Plan (GSOP) or the Consumer Stock Ownership Plan (CSOP) must be taken into consideration. The difference to the ESOP is the smallest common denominator of the plan participants: Employees = ESOP, Consumers of a Utility = CSOP, Citizens of a region = GSOP. In the case of the latter two plans, instead of the value of the company, it is usually government programs that back the capital acquisition loan.

All plans are based on the same financial logic, i.e., to finance the acquisition of productive property out of the future earnings of the object of acquisition. Instead of using savings, the cost of financing the investment is covered from the proceeds of that very investment. In other words it is auto-financing. As to the feasibility of the concept, Wall Street employs these techniques, its prototype being the leveraged buy-out, successfully for many decades now – but of course mostly for the already wealthy.

Literatur – register for dropbox (http://www.intercentar.de/de/forschung/schwerpunkt-mitarbeiterbeteiligung/):

◘ Jens Lowitzsch (et al.) Financial Participation for a New Social Europe [DE / EN / FR / IT / PL] Berlin/Rome 2008/09, 144 p.

◘ Jens Lowitzsch, Iraj Hashi, Richard Woodward (Eds.) The PEPPER IV Report: Benchmarking of Employee Participation in Profits and Enterprise Results in the Member and Candidate Countries of the European Union, Berlin 2009, 250 p.

Hinweise zur Veranstaltung: Anmeldung unter lowitzsch@europa-uni.de / Sprache: Englisch

Leistungsnachweis: 6/9 ECTS: Regelmäige Teilnahme; Seminararbeit; kurze mündliche Präentation (10 min.) des Konzeptes der Seminararbeit bis Mitte des Seminars; erste Fassung der Seminararbeit bis 20.12.2011, ausformulierter Fassung bis Semesterende.