

WORK SHARING: AN EMERGING FORM OF EMPLOYMENT - ROCA JUNYENT

Posted on 22/06/2017



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The labour market is still widely dominated by traditional forms of employment, although various economic crises, new market needs and international movement have led us to move away from

the traditional notion of jobs for life.

In Spain, as a general rule, the current work structure is based on a two-way, employee-employer relationship – workers lend their services to a company which pays them in exchange for their services.

But there are innovations in sight. There has been a remarkable increase in new forms of employment that seek to bring business' need for flexibility into line with the workers' enduring need for security and stability. Consequently, terms such as 'employee sharing' or 'work sharing' are already in use in some countries such as Belgium, France and Germany, although they still remain uncommon.

The terminology most frequently used for this form of labour in France is *Groupements d'employeurs* and *Arbeitgeberzusammenschluss* in German-speaking countries. A group of companies form a network with a separate legal identity (which we might call the 'employer's group') which hires one or more workers who are sent to lend their services to companies participating in the employer's group.

The group therefore acts as a sole employer and is responsible for meeting legal obligations, coordinating the posting of workers within the participating companies and establishing lines of action for the cooperation between companies. The individual companies are responsible for providing work to the shared workers. They must ensure adequate working conditions for employees under the "equal salary, equal treatment" principle with non-shared workers and pay the group for managing human resources.

In short, the structure is similar to temporary work agencies with three major differences: the employer group manages human resources without obtaining profit for doing so; the participating companies do not only have a client-provider relationship with the group, but they are also jointly and severally liable for the workers' salaries and social contributions; and the workers regularly rotate between the participating companies and work exclusively for those companies.

The best-known model for work sharing is in France, which incorporated this concept for the first time in Law 85-772 (of 25 July 1985), which has undergone various amendments. It always ensures that the shared workers have the same working conditions as the workers with an equivalent position in each of the companies in all cases. Normally, the legal concept used has been that of an association or a cooperative, without the need for administrative authorisation. Simply informing the Labour Inspectorate is sufficient.

In Belgium, this concept was introduced into labour legislation in the year 2000. At first, it was established exclusively as a tool to reintegrate long-term unemployed workers into the labour market, and was subsequently extended to cover the hiring of all types of employees.

Despite the fact that, in Spain, a concept such as this would require profound legislative changes, it could be an additional formula for reducing high unemployment and improving highly-qualified young people's access to employment, by making it easier for companies to cover vacancies with very specific and demanding career profiles, and offering better working conditions since certain costs are shared with other participating companies.

This category could also be suitable for carrying out employment projects specifically within the tertiary sector, which would require the involvement of the Public Administration through subsidies for creating the groups. Furthermore, the collaboration of start-ups in work sharing could help consolidate their business projects.

The legislative reform required should create a specific “employers’ pool” which in turn, would enable the hiring of shared employees. At the same time, it would enable the legal concept to work without the risk of illegally posting workers, perhaps under a type of authorisation equivalent to that of temporary work agencies, while providing guarantees for employees in all cases of the joint liability of participating companies and of equivalent working conditions within the group of companies.

In any case, this is still a marginal legal concept, with many aspects that are difficult to reconcile in countries with a highly regulated labour market such as Spain’s. Nevertheless, it gives us a clear indication of the labour relations that will govern the twenty-first century.

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