URUGUAY
PROGRAMME FOR JOB PRESERVATION BY REDUCING WORKING HOURS, COMBINED WITH TRAINING

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By interpreting and streamlining existing legislation in terms of unemployment insurance, and combining this with other tools available for training, the Uruguayan Government designed a programme specifically intended to prevent companies affected by the global economic crisis from discharging workers or sending them to unemployment insurance. Simultaneously, the programme helps to prevent human capital at organizations from deteriorating and loss of worker competencies. The programme is based on the legal definition of partial unemployment insurance, used to offset the wage loss ensuing upon reduction of working hours. In addition, it provides a way to utilize unemployed working hours in training activities under collective agreement.

1. Introduction

The effect of global economic crisis on the labour market in Uruguay was fairly restricted until mid-2009. In general terms, no significant deterioration can be seen in the main labour indicators, compared with the significant improvements of 2004-2008. Specifically, the unemployment rate remains in the single-digit range (around 8%).

Notwithstanding, impacts have been observed, focusing on particular sectors of the economy, more specifically, on certain highly export-oriented organizations. The heavily affected sectors include leather, textiles and garments, wood and wood products, and metalworking.

The challenge here was to design a programme capable of preventing lay-off or referral to unemployment insurance for workers of organizations undergoing market-related difficulties considered situational (limited in time). The aim is to avoid, not only rising unemployment but also loss of human capital at the organizations involved, together with worker competencies becoming outdated.

Another aim was to reduce to a minimum the loss of worker income for time not worked, through benefits covered by the definition of partial suspension insurance. The programme provides a chance for the same unemployed time to be employed in training.

This solution was designed by a team of technical staff from various Ministries and public agencies responsible for employment policies and who, starting from the initial idea, pursued the most appropriate regulatory solutions.

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2. Programme description

The programme was first designed within the framework of Law 15,180 of August 20th 1981, which provided for a benefit regime to cover the contingency of forced unemployment among private employees. Under Article 10 (Special Unemployment), this Law empowered the Executive, for reasons of general welfare, to declare a total or partial unemployment subsidy for highly-specialized professional workers in specific working categories or economic activities. The law further provides that, in each case, the Executive Branch may determine the amount of subsidy payable to workers suspended, discharged, or in a situation of reduced work, which may not exceed 80% of the monthly average of qualifying compensations, and may not extend beyond one year.

Law 18,399 of October 24th 2008 amended the wording of several articles of the previous Law, including Article 10 above, however not substantively altering their meaning. The most notable provisions of this recent amendment cover the possibility, for identical reason and period, of extending the benefits contemplated. In addition, Law 18,399 explicitly provides that use of the benefit does not affect a worker's right to claim severance pay after completing the maximum period contemplated.

As a result, the Uruguayan Government issued a Decree in July 2009 creating a special subsidy for partial unemployment, for a term of one year, applicable to hourly, daily, or monthly workers employed in leather, textiles and garments, wood and wood products, and metalworking.

To access the above subsidy, the following simultaneous requirements should be met:

- Reduction of company economic activity in the quarter before submitting the application for the special regime, by 15% or more compared with the average for the same quarter in the two previous years. This requires proof that sales for the quarter prior to submission of the application were at least 15% less, in constant prices, than the simple average for sales during the same quarter of the two previous years.

- Reduction of the number of working days for each worker involved by one working day per week as a minimum, and two working days per week as a maximum.

- That the company has not discharged more than 5% of its personnel in the quarter before submitting an application for coverage under the special regime (lay-offs on account of outright misconduct not included).

- Where there are workers covered by insurance against business interruption owing to suspension, the organization shall reinstate them before submitting the application.

- While the benefit is in effect, the organization shall not suspend or discharge workers, except in the event of disciplinary suspensions or outright misconduct.

- Execution of a collective agreement covering all workers for the duration of the special regime, containing the provisions set forth above, distribution of labour, and, where applicable, workers' obligation to attend training courses or return to the formal education system.

The Law further provides for the creation of a technical advisory committee composed of representatives of various Ministries and coordinated by the Ministry of Labour and Social Security (*Ministerio de Trabajo y Seguridad Social – MTSS*), entrusted with defining how sales at constant prices are to be measured, overseeing compliance with requirements under the Law, and reporting to the MTSS on the relevance of granting the benefit.

Other than the MTSS, two institutions play a key role in the Programme. On the one hand, the Social Security Bank (*Banco de Previsión Social – BPS*), responsible for materializing benefits once compliance with legal requirements has been verified. On the other hand, the National Institute for Employment and Professional Training (*Instituto Nacional de Empleo y Formación Profesional – INEFOP*), created recently and under tripartite leadership, which manages the so-called Labour Retraining Fund (*Fondo de Reconversión Laboral*) made up of contributions by workers, organizations, and government. This Fund is to finance training activities, supplementing the earlier benefit (partial unemployment insurance), in cases approved through collective bargaining. The Fund currently handles close to 30 million US$.

The number of workers to benefit from this measure was initially estimated at 4,000; today, however, the Fund is likely to cover a higher number.

Programme characteristics provide four additional advantages. i.e.:

- When the Government's fiscal margin is tight, the programme does not imply –at least not immediately– added pressure on national finance
- The programme has a counter-cyclical effect to the extent that it encourages retention of workers at a time of economic constraint, avoiding a rise in unemployment
- It is also an innovative case combining passive policy (unemployment insurance) and active policy (training)
- It contributes to social dialogue, to the extent that collective bargaining and employer-worker agreement on submission of applications is a mandatory requirement to access benefits, simultaneously fostering division of working time among all workers in the organization.

3. Conclusions

Since the degree was only issued recently, no assessments of decree results and impacts have yet been made.

Worker organizations have expressed their agreement with the measure, understanding that it strengthens worker protection mechanisms in current circumstances, by safeguarding their job sources and their income, in addition to providing a chance to improve worker skills. They further appreciate its contribution of new content to collective bargaining –traditionally more focused on wage-related issues– and what this means in terms of worker participation in the adoption of measures simultaneously safeguarding the viability of organizations and jobs.

Employer organizations, on the other hand, have reacted with some scepticism, arguing the difficulty for organizations simultaneously to comply with all the requirements involved. However, recent instances of company-wide collective bargaining agreements, whereby reduced working hours are negotiated together with a proportional reduction in wages, should provide fertile ground for applying the programme.

Comparative international experience discussed by ILO in the framework of technical assistance provided to Uruguay to face the present crisis, identified several experiences similar to the above: in Germany, the *Kurzarbei*t (short work) programme; in Mexico, the Job Preservation Programme (*Programa de Preservación del Empleo – PPE*); in Japan, the "Employment Adjustment Subsidy Programme" (JEASP); in the UK, the *Train to Gain* programme; and in Korea, extension of employment subsidy programmes during the 1997 crisis. This overview provided input to feed the design process for the Uruguayan programme, while drawing attention to what appears to be a critical factor in these experiences: the need to define clear eligibility criteria for subsidies and to oversee clause compliance.

Consequently, special attention must be given during programme follow-up to the relevance and usefulness of access criteria, together with executability and effectiveness of the mechanisms designed to implement the two programme components. At times when both organizations and workers are facing complex and urgent situations, possible delays –in studying specific situations as well as in the benefit-approval processes and training programmes– could critically affect programme effectiveness.

Another issue to be considered is the temporary nature of the measure and whether or not it should be retained past the current crisis, or whether it could be officialized to respond to particular problem situations.

References

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