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# The Effects of Employment Protective Legislation (EPL) on Spain's Youth Unemployment Crisis

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# The Effects of Employment Protective Legislation (EPL) on Spain's Youth Unemployment Crisis

## Nathalie Rodriguez\*

"People only accept change when they are faced with necessity, and only recognize necessity when a crisis is upon them. Make men work together, show them that beyond their differences and geographical boundaries there lies a common interest." -Jean Monnet, 1979

#### Introduction<sup>1</sup>

Economic theory tells us that unemployment is a demonstration of economic and social imbalance in an economy. We can agree that the European Union is an entity that offers many benefits to its constituents such as peace and security, a single market, and respect of human rights; however, there is one crisis that has affected the constituents of one specific E.U. member state for over 25 years: unemployment, particularly youth unemployment in Spain. Youth employment is crucial to any functioning state. High rates of youth unemployment show that a state is lacking from the unpopular private sector, rising social unrest, low quality of education, slow economic growth, and a dependence on the public sector. In other words, the state is not allocating resources effectively to address this constant disparity among its citizens. Youth unemployment is an issue that affects a nation as a whole, even though it only specifically targets one demographic. World employment social outlook trends from, organized by the International Labor Organization, show that youth unemployment affects the regional peace, gender disparities, and overall economic prosperity of a state. In the summer of 2019, the Eurostat analysis showed that the youth unemployment rate for Spain was 32.2%, the second highest among all the European member states other than Greece. Through further analysis of the youth unemployment crisis in Spain, I will be able to delve into some of the factors involved in this economic emergency.

Keywords: youth unemployment, Spain, European Union, member states, job security

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<sup>&</sup>lt;sup>1</sup> Appendix B offers Spanish Introduction

### I. Background

The severity of the youth unemployment crisis in southern European states is a multifaceted problem and is one that must be dealt with immediately. Not only does youth unemployment affect the youth displacement, but an entire nation's economy. Through significant analysis of economic data, I have found that one of the principal factors driving the youth unemployment emergency in Spain is labor laws, more specifically Employment protection legislation (EPL). These high levels of youth unemployment are clearly explained by labor market causes and are resulting in a lack of economic and social growth and development in a nation. Employment protection refers both to regulations concerning hiring (e.g. rules favoring disadvantaged groups, conditions for using temporary or fixed-term contracts, training requirements) and firing (e.g. redundancy procedures, mandated prenotification periods, and severance payments, special requirements for collective dismissals and short-time work schemes)<sup>2</sup>.

EPL restricts the extent to which employers can resort to labor reductions as a cause of market and economic changes. It makes it costly for an employer to lay off a worker because additional compensation is required, thus, diminishing the number of funds to be allocated towards future employees and development. By regulating employers' hiring and firing choices, they violate the fundamental principle of market flexibility, which economic theory has intricately linked to healthy economic performance and which has shaped the debate over labor market reform in recent decades<sup>3</sup>. This factors into youth unemployment explicitly because it reduces youth's chances of being hired by an employer due to their lack of experience and thought of being less economically efficient than an employee who has worked in the field for a number of years. EPL was set in place as a way to address Spain's growing job insecurity and gaps, but it has done more harm than good, especially to the group that was already disadvantaged. The rates of youth unemployment as a result of this factor have risen and maintained that at an extremely high level, not resolving anything. These job security provisions have been and continue to exert countervailing effects on youth unemployment as it prolongs the transition to first employment. The primary form of EPL which I will be analyzing is commonly known as the severance payment.

#### II. Analysis

Across Europe, youths experience increased risks of labor market exclusion in terms of unemployment<sup>4</sup> and increased risks of insecure, temporary jobs<sup>5</sup>. Among institutional factors,

<sup>2</sup> OECD Employment Outlook, June 1999, Chapter 2, *Employment Protection and Labour Market Performances*, page 50.

<sup>&</sup>lt;sup>3</sup> Scarpetta, Stefano. "Employment Protection." *IZA World of Labor*, 1 May 2014, wol.iza.org/articles/employment-protection/long

<sup>&</sup>lt;sup>4</sup> Dietrich H. (2013). Youth unemployment in the period 2001-2010 and the European crisis - looking at the empirical evidence. *Transfer*, 19, 305 – 324, https://journals.sagepub.com/doi/abs/10.1177/1024258913495147. <sup>5</sup> Blossfeld H.-P. et al. (Eds.) (2008). Young Workers, Globalization and the Labor Market. Cheltenhen: Edward Elgar, https://www.e-elgar.com/shop/usd/young-workers-globalization-and-the-labor-market-9781847209528.html.

rigid EPL has been particularly blamed for youths' integration problems. Empirical studies mainly confirm this view by finding higher youth unemployment rates<sup>6</sup>, higher youth temporary employment risks<sup>7</sup>, longer job search periods for youths<sup>8</sup>, and lower chances of getting a job for unemployed youth9 in countries with strict EPL. Most E.U. member states have relatively low rates of unemployment, especially youth unemployment. However, this is not the case for Spain. Spain is unlike other European nations in that it has some of the strictest employment protection legislation in all of the E.U. Spain has had above average youth unemployment rates compared to other western European states since the seventies. However, following the 2008-09 global recession the Spanish government enacted individualized employment protection legislation in hopes of protecting employees and domestic industries. Spain experienced one of the largest falls in employment and also one of the largest increases in unemployment of all EU member states 10. Since 2010 and into 2012, the Spanish government has implemented reforms in order to have 'structural reforms' on the labor market. These reforms hoped to reduce the difficulty for employers in paying additional costs during the recession and to address the idea of fair dismissals in the workplace<sup>11</sup>. It is not necessary to perform an exhibition of the history of the regulation, but it should be understood that this is the moment in which the distinction between the fair dismissal (despido procedente), i.e. which is according to the legal causes and proceedings, and the non-legal one became consolidated, with the latter being qualified as unfair or invalid<sup>12</sup>. A change in the severance payment portion of EPL was a meaningful change that resulted as part of the Spanish laboral reforms of 2010 and 2012. Even though these reforms aimed at reducing costs for employers by minimizing the high costs of severance payment, these costs still coincided with a major economic recession. The results of these Employment Protective Legislation reforms were not as positive as they hoped to be; especially on the rate of youth unemployment. In fact, a few years following the 2010 labor reform, Spain witnessed the highest rate of youth unemployment at 56.1%<sup>13</sup>.

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<sup>&</sup>lt;sup>6</sup> Esping-Andersen G. (2000). Who is harmed by labour market regulations? Quantitative evidence. In Esping-Andersen G. Regini M. (Eds.), Why Deregulate Labour Markets? Oxford: Oxford University Press, pp. 66 – 98, https://books.google.com/books?hl=en&lr=&id=LQVEA3i7yVIC&oi=fnd&pg=PR11&ots=v8uXS3Q\_Fl&sig=IzlS 2UEwufEkKi-2tSTqyDUuTF0#v=onepage&q&f=false.

<sup>&</sup>lt;sup>7</sup> de Lange M. Gesthuizen M. Wolbers M. H. J. (2014). Youth labour market integration across Europe. The impact of cyclical, structural, and institutional characteristics. European Societies, 16, 194 – 212, https://www.tandfonline.com/doi/abs/10.1080/14616696.2013.821621.

<sup>&</sup>lt;sup>8</sup> Wolbers M. H. J. (2007). Patterns of labour market entry. A comparative perspective on school-to-work transitions in 11 European countries. Acta Sociologica, 50, 189 – 210, https://journals.sagepub.com/doi/pdf/10.1177/0001699307080924?casa\_token=A0oVyG771U8AAAAA:PC2yuLQdB-9hfWQyvc4pJ1aQ1fwZ61XrVOjGc VgNxroDXypMNuIb3YDU975dTaMlAw9 oYgGhX8bw.

<sup>&</sup>lt;sup>9</sup> Russell H. O'Connell P. J. (2001). Getting a job in Europe: the transition from unemployment to work among young people in nine European countries. Work, Employment and Society, 15, 1 – 24, https://journals.sagepub.com/doi/pdf/10.1177/09500170122118751?casa\_token=mHnVEBp7GYgAAAA:0dMd\_UQNqICUklGHVEskXODTRpPLvKVYlAXSDFg9QtkmeV-1J6BWuUH6NyrQ8a8BKnHyEqofJHeZFA.

<sup>&</sup>lt;sup>10</sup> Horwitz, Laszlo, and Martin Myant. Spain's Labour Market Reforms: the Road to Employment – or t to Unemployment? 2015, 5-8,

www.etui.org/sites/default/files/15%20WP%202015%2003%20Spain%20labour%20market%20EN%20We%20version.pdf.

<sup>&</sup>lt;sup>11</sup> *Imid*.

Diaz de Atauri , Pable Gimeno. The Cost of Dismissals in Spain before and after the Labor Reforms. Carlos III
 University of Madrid, 2015, e-revistas.uc3m.es.

<sup>&</sup>lt;sup>13</sup> Horwitz, Laszlo, and Martin Myant. Spain's Labour Market Reforms: the Road to Employment or to Unemployment?,2015.

The results of the EPL reform proved to be ineffective as it diminished the amount of money domestic industries were left with thus, were not able to invest as much into development and labor. More importantly, the main issue it was meant to address actually exacerbated: youth unemployment.

A severance payment consists of a one-off lump sum payment to a worker who has been involuntary dismissed... the payment may differ according to the reason for dismissal-justified or not justified<sup>14</sup>. Severance payments are generally paid by the employer, and the rates vary on the employee's tenure in the company and their wage level. Under Spain's severance policies, if an employee has worked for an employer for at least a year, they are eligible for severance payments. The rate of the payments amounts to twenty days' wages per year of service with a maximum of twelve months' wages<sup>15</sup>. The maximum amount that can be earned is twelve months' salary for twenty years of service, which could easily amount to the average yearly salary in Spain which is €28,000<sup>16</sup>. It is commonly known in economic theory that deregulation, especially that of labor restrictions, allows more room for economic freedom and thus, economic growth and investment. Evidence is strong and rising that employment protection legislation and processes have negative effects on worker separation and accession, and therefore on turnover, with consequences for sector composition and economic growth<sup>17</sup>. Additionally, the youth aspect of the labor market was abandoned. The effects of employment protection also extend to a negative effect on unemployment. EPL restrictions make permanent contracts more difficult for new workers to secure, which favors prime-age men at the expense, most consistently, of the young and low-skilled<sup>18</sup>. Employers would rather invest resources into employees with experience to prevent economic inefficiencies and costs. EPL restricts the extent to which employers can resort to workforce reductions in order to adjust to market changes and forces them to resort to alternative strategies of adjustment. EPL includes job security provisions that make dismissals of permanent employees costly as well as restriction on the usage of temporary employments<sup>19</sup>. This leaves a large portion of Spain's population without the ability to gain labor experience and jobs. By lowering turnover from unemployment to employment, EPL constrains employment opportunities for young people, leading to a prolonged absorption of first job seekers into first employment and therefore higher youth unemployment<sup>20</sup>.

The continuation of these high severance payment proved to be counterintuitive in respect to Spain's economic growth and the increasing youth unemployment rate. rates forced domestic industries to cut back the number of employees and overhead costs in order to pay for severance payments. These additional costs, especially during the recession, proved to be detrimental for smaller, family run businesses whom were already struggling to stay open. There is a valid

<sup>20</sup> *Inid*.

<sup>&</sup>lt;sup>14</sup> "Statutory Regulations on Severance Pay in Europe (Info Sheet)." Eurofound,

www.eurofound.europa.eu/publications/information-sheet/2015/working-conditions-labour-market/statutory-regulations-on-severance-pay-in-europe-info-sheet-0.

<sup>15 &</sup>quot;EPLex." ILO, eplex.ilo.org/?p\_lang=en&p\_expandcomments=Y&p\_checkbox=Y&p\_country=ES.

<sup>&</sup>lt;sup>16</sup> Forte, Fernando. "Average Annual Wages Spain 2000-2018." *Statista*, 23 July 2019, www.statista.com/statistics/419513/average-annual-wages-spain-y-on-y-in-euros/.

<sup>17 &</sup>quot;The Motivation behind Severance Pay: Reviewing Hypothesis and Evidence." *Reforming Severance Pay: an International Perspective*, by Robert Holzmann and Milan Vodopivec, The World Bank, 2012, pp. 2–10.

<sup>&</sup>lt;sup>18</sup> Inid.

<sup>&</sup>lt;sup>19</sup> Noelke, Clemens. *The Consequences of Employment Protection Legislation for the Youth Labour Market*. 2011, pdfs.semanticscholar.org/f557/acd7499526375e4d02d4b36520852ebceffa.pdf.

economic claim that deregulation, especially in labor and economic regulation, leads to more growth in an economy. less strict labor laws translate with lower rates of unemployment and therefore, youth unemployment.

The idea of EPL is not a foreign one to the European Union, however, following the global recession in 2008, the E.U. decided to allow each member state to take individualized actions for its economic situation. Following the 2008-09 economic crisis, 28 E.U. countries started a new wave of labor reforms to tackle the effects of the crises. While various European countries focused on lowering employment protection with the explicit goal to overcome segmentation<sup>21</sup>. If we observe that in states like Denmark, Italy, and Portugal, the idea of the EPL and severance pay has long been practiced and was reembodied following the global recession however, the regulations for EPL in these states was nowhere near as rigid as those in Spain. Spain's unnecessarily high rates for severance payments justifies the growing rate of youth unemployment. By looking at other E.U. member states, Sweden and Finland, we can see this claim take effect. In these states, there are no statutory provisions to be entitled to severance payhowever, it can be a collective bargaining agreement between the employer and employee. The youth unemployment rates of Sweden and Finland respectively are 16.19% and 20.90%, compared to Spain's 32.2%, refer to Appendix A. The lowest youth unemployment rate in the E.U. is that of the Netherlands, a meager 12.7% (Appendix A). Although the Netherlands has some form of severance legislation, it is not as strict as that of Spain. In the Netherlands, a worker does not qualify for severance payment until 2 years of service, in which they will receive 0.66 of a months' income<sup>22</sup>. In a 1194 OECD study, it was clear excessive employment and employee protection is one of the causes and driving factors of high unemployment rates. The case of strict Severance payments in Spain is an issue that must be addressed for the prosperity of the business sector and for the youth population that seemingly is unable to find work regardless of their qualifications.

#### III. Conclusion

Young people suffer disproportionately from unemployment and job insecurity across advanced Western countries<sup>23</sup>. Spain is a state characterized by overwhelmingly high youth unemployment rates over the last decades. This such high rate of youth unemployment can be attributed to the nation's strict employment protection legislation that makes it more difficult for employers to invest fund into development and additional labor opportunities, especially for the youth sector. Stricter job security provisions and stricter regulations on temporary contracts both affect aggregate unemployment rates through similar mechanisms<sup>24</sup>. In order for Spain to grow not only economically, but socially, significant labor reforms are needed to address the youth unemployment crisis.

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<sup>&</sup>lt;sup>21</sup> Eichhorst, W., Marx, P. & Wehner, C. Labor market reforms in Europe: towards more flexicure labor markets?. *J Labour Market Res* 51, 3 (2017). https://doi.org/10.1186/s12651-017-0231-7

<sup>&</sup>lt;sup>22</sup> "EPLex." ILO, eplex.ilo.org/?p lang=en&p expandcomments=Y&p checkbox=Y&p country=ES.

<sup>&</sup>lt;sup>23</sup> Noelke, Clemens. *The Consequences of Employment Protection Legislation for the Youth Labour Market*. 2011, pdfs.semanticscholar.org/f557/acd7499526375e4d02d4b36520852ebceffa.pdf. <sup>24</sup> *Inid*.

# Appendix A: OCED 1994 Study Profile on Unemployment

Table 1. The profile of OECD unemployment, 1994
Percentages

	Unemployment rates <sup>1</sup>			
	All persons	Women	Youths	Low skilled (1992)
North America	5.8	6.0	10.4	13.8
Canada	10.3	9.9	16.5	15.2
United States	6.0	6.0	12.5	13.5
Mexico <sup>3</sup>	2.5	3.2	4.4	
Japan	2.9	3.0	5.1	
EU	11.1	12.6	18.6	10.0
Austria <sup>3</sup>	4.3	4.5	4.8	5.6
Belgium	10.3	14.4	20.0	13.0
Denmark	10.1	11.2	10.6	14.1
Finland <sup>4</sup>	18.2	16.7	30.5	14.9
France	12.5	13.6	23.4	12.1
Germany	6.9	6.7	5.2	8.9
Greece <sup>3</sup>	9.6	15.3	28.8	6.1
Ireland	14.7	19.7	26.4	19.8
Italy	12.0	17.8	31.1	7.3
Luxembourg	3.3	4.4	7.1	2.0
Netherlands <sup>5</sup>	7.2	11.7	7.8	0.8
Portugal	6.8	7.3	11.4	3.9
Spain	23.8	30.9	38.3	16.0
Sweden	0.8	6.7	16.6	4.6
United Kingdom	9.5	7.4	14.9	12.6
EFTA	4.4	4.5	8.2	5.0
Iceland <sup>3</sup>	5.3	5.7	9.9	7.8
Norway	5.4	4.7	12.6	7.1
Switzerland	3.8	4.3	5.7	3.5
Turkey <sup>4</sup>	8.3	6.7	15.3	5.1
Oceania	9.4	9.1	16.4	11.2
Australia	9.7	9.4	16.3	11.2
New Zealand	8.1	7.8	17.4	11.2

For all persons, OECD standardised unemployment rates for 18 countries; EU comparable unemployment rates for Denmark, Greece and Luxembourg; and national estimates for Austria, Iceland, Mexico and Turkey. For women and youths (aged under 25), EU comparable unemployment rates and national estimates.

Sources: OECD, Labour Force Statistics, OECD, Employment Outlook, 1994; Eurostat, Unemployment; Eurostat, Labour Force Survey, Results 1992; Österreichisches Statistisches Zentralamt, Mikrozensus; Statistics of Iceland, Labour Market Statistics, 1991-1993; Office fédéral de la statistique, Enquête suisse sur la population active; INEGI, Encuesta Nacional de Empleo, 1993; State Institute of Statistics, Turkey, Household Labour Force Survey.

<sup>2.</sup> Persons aged 25-64 (15 and over for Greece, Luxembourg and Iceland) with less than upper secondary education.

<sup>3.</sup> The data refer to 1993 (except for the low-skilled).

<sup>4.</sup> Unemployment rates for youths refer to 1993.

<sup>5.</sup> Unemployment rates for women and youths refer to 1993.

### Appendix B: Spanish Introduction

La teoría económica nos dice que el desempleo es una demostración del desequilibrio económico y social en una economía. Podemos aceptar que España es una nación que ofrece muchos beneficios a sus constituyentes, como la paz y la seguridad, un mercado único a través de la Unión Europea y el respeto de los derechos humanos. Sin embargo, existe una crisis que ha afectado a los constituyentes de España durante más de 25 años: el desempleo, particularmente el desempleo juvenil. El empleo juvenil es crucial para cualquier estado funcional. Muestra que un estado carece de "sector privado impopular, creciente inquietud social, baja calidad de la educación, lento crecimiento económico y una dependencia del sector público (Dilshad, 2017)". Además, la Organización Mundial del Trabajo Social Outlook de la Organización Internacional del Trabajo Las tendencias de 2016 muestran que el desempleo juvenil afecta no solo la calidad de vida de los jóvenes, sino también la paz regional, las disparidades de género y la prosperidad económica general de un estado. A agosto de 2019, según Eurostat, la tasa de desempleo juvenil en España era del 32,2%. Como análisis de la alta y creciente tasa de desempleo juvenil en España, voy a discutir los factores que juegan un papel en estas tasas alarmantes de desempleo juvenil.

Palabras clave: desempleo juvenil, España, Unión Europea, Estados miembros, seguridad laboral

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