

Does the obligation to release works councillors from work dampen employment growth?

In Germany in accordance with the Works Constitution Act (Betriebsverfassungsgesetz (BetrVG)) establishments which exceed a threshold of 200 employees have to release at least one member of the works council from his or her occupational activity (§ 38 BetrVG). However, as the works councillors who have been released from their regular duties continue to receive full pay and also require a suitable workplace and the related materials and equipment, releasing them from their regular work is associated with additional costs for the establishments. According to media reports these costs were about 50,000 Euros in 2001. Establishments may try to avoid these additional costs by keeping their employee numbers below the threshold. It can therefore be assumed that the threshold for releasing the first member of the works council from duty dampens the employment growth of establishments which are just below the threshold value. Although this assumption has already been expressed frequently and has been picked up in the media, it has not yet been tested empirically. This paper fills this gap in the research. So the hypothesis was investigated that firms whose employee number was below the first threshold for releasing a works councillor from regular duties were less likely to have increased their workforce from one year to the next than establishments which did not expect any additional costs due to releasing employees from work if their workforce grew. These are either establishments whose employee number was further away from the threshold value (because these establishments can remain below the threshold despite employment growth), or establishments which had already exceeded the threshold value. Because the threshold for releasing the first works councillor from work was lowered from 300 to 200 employees on 28 July 2001, it was possible to conduct an econometric analysis not only of the employment effects of the “new” 200-employee threshold but also those of the “old” 300-employee threshold. Furthermore the lowering of the threshold was used as a natural experiment to investigate whether lowering the threshold has led to a change in the employment dynamics of firms whose employee numbers were around the old and the new thresholds.

The data basis used for the analyses was information from the Establishment History Panel (Betriebs-Historik-Panel - BHP) of the Federal Employment Services for the period 1999 to 2003. The subject of the analysis was the growth behaviour of establishments with 180 to 220 or 280 to 320 employees in the period under observation, in other words firms with employee numbers around one of the two (the old or the new) thresholds for releasing a member of the works council from regular work.

The econometric analyses were conducted on the employment effects of both the new and the old threshold for releasing the first works councillor. Probit estimates were used to calculate whether establishments below the threshold value increased their workforce less often than establishments whose employee numbers were exactly on the threshold and therefore did not expect any additional costs in the case of employment growth. The estimates on the old 300-employee threshold show that in the years before the change in the threshold (from 1999 to 2000 and from 2000 to 2001) the likelihood of employment growth in establishments with fewer than 300 employees did not differ from the growth probability of otherwise comparable establishments with 300 employees. The analyses of the employment effects of the new 200-employee threshold, too, show that in the years following the change (from 2001 to 2002 and from 2002 to 2003) there were no differences between the growth behaviour of establishments whose employee numbers were below the threshold and that of establishments which, with exactly 200 employees, had already exceeded the threshold. The hypothesis that releasing the first member of the works council from work dampens employment growth could therefore not be confirmed.

The further analyses look into the effects that lowering the threshold for releasing the first works councillor from 300 to 200 employees had on employment dynamics in the periods before and after the reform. Various difference-in-differences estimates were used to examine whether the probability of employment growth in establishments immediately below the old 300-employee threshold increased after the threshold and thus the additional costs ceased to apply here. The analyses show that firms with 297 to 299 employees did not increase their workforce more frequently after July 2001 than they did before. In the case of establishments close to the new threshold, on the other hand, it should be possible to see that establishments grew less often after the reform than they did before, as the additional costs of releasing an employee from his regular duties are now incurred if the establishment grows. However, this assumption could not be confirmed either. Establishments with 197 to 199 employees did not increase their workforce less frequently after 2001 than they did before.

On the whole therefore this paper could not find any evidence that releasing the first member of the works council from work has a dampening effect on employment growth. Neither the old 300-employee threshold nor the new 200-employee threshold nor the lowering of the threshold had any impact on the employment dynamics of establishments. This finding conflicts with frequently expressed assumptions and occasional media reports about the negative employment effects of thresholds. However, it agrees with previous findings from scientific literature on thresholds according to which negative effects are seldom found or are of little significance.