

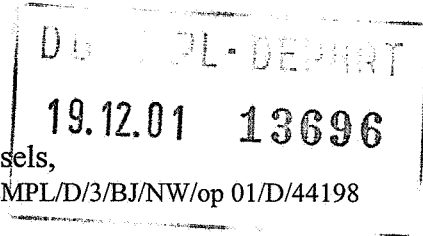
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EUROPEAN COMMISSION
EMPLOYMENT AND SOCIAL AFFAIRS DG

Adaptability, social dialogue and social rights
The Director



Brussels,
DG EMPL/D/3/BJ/NW/op 01/D/44198

Mr Marc Mathieu
Secretary-General
European Federation of Employee
Share Ownership
Avenue Voltaire 135
1030 BRUSSELS

Dear Mr. Mathieu,

The President of the Commission has asked me to thank you for your letter of 30 November. We have read this letter and the Declaration of the Conference with great interest.

As you will be aware, the Commission has been very active in the field of employee financial participation for a number of years. At the moment, we are in the process of preparing a Communication and an accompanying action plan on the issue, which will both be launched early next year.

We therefore greatly welcome your initiative in support of employee ownership and participation and can assure you that the Commission will continue to promote a wider dissemination of employee financial participation across Europe.

Yours sincerely,

Bernhard Jansen

THE PRIME MINISTER



RUE DE LA LOI, 16
1000 BRUSSELS

Brussels, 17 DEC. 2001
GV/PM/vv 03 0612

For the attention of
Mr. Marc MATHIEU
Secretary General
European Federation of Employee Share
Ownership
Avenue Voltaire 135
1020 BRUXELLES

Dear Mr. Secretary-General,

I would like to thank you for sending me a copy of " the Declaration of the Conference of the Belgian Presidency of the European Union on Employee Share Ownership and Participation" which was held in Brussels on the 23rd of November.

It's with great interest that I read it.

Yours Sincerely,



Guy VERHOFSTADT

**Conférence internationale
organisée le vendredi 23 novembre 2001
au Palais d'Egmont par la Fédération Européenne de l'Actionnariat Salarié**

**La nouvelle législation belge relative à la
participation des travailleurs**

**Présentation des lignes de force de la
loi du 22 mai 2001 relative aux régimes de
participation des travailleurs au capital et aux
bénéfices des sociétés**

**Intervention de
Monsieur Didier REYNDERS
Ministre des Finances
du Royaume de Belgique**

Monsieur le Secrétaire général,
Mesdames, Messieurs

Une implication maximalisée de chaque travailleur contribue, comme vous le savez, à améliorer les performances des entreprises qui peuvent ainsi faire face de manière plus adéquate à la pression résultant du marché unique. Dans cette perspective, la participation des travailleurs est un instrument privilégié pour stimuler cette implication. En outre, elle constitue également un instrument pour encourager la dynamique d'acquisition et de diffusion de la connaissance. La participation associe davantage les travailleurs à la politique de l'entreprise. Le régime de participation s'inscrit non seulement dans une évolution économique générale mais est aussi essentiel dans le contexte concurrentiel et d'ouverture croissante des économies des pays membres. Dans ce nouvel environnement concurrentiel, seules les entreprises qui stimulent la collaboration interne de tous les travailleurs peuvent préserver leur croissance et accroître leur rentabilité tout en augmentant le bien-être des travailleurs. Cette nouvelle dynamique de l'entreprise développera en son sein une plus grande transparence, un plus grand échange d'informations et une meilleure compréhension de celle-ci, ce qui ne pourra être que propice à la qualité de sa gestion.

L'implication des salariés (par l'intéressement aux résultats, l'actionnariat et la participation à la gestion) n'est pas une idée neuve. Certains pays, comme nos voisins français, pratiquent depuis longtemps diverses formes de "participation". La Commission européenne est elle-même favorable à la participation des travailleurs dans l'entreprise: faut-il rappeler les rapports *Pepper I* et *Pepper II* ainsi que la recommandation européenne du 27 juillet 1992 relative à la promotion de la participation des travailleurs aux bénéfices et aux résultats de l'entreprise?

Si l'idée n'est pas neuve, il est incontestable qu'elle connaît aujourd'hui un nouvel essor. La promotion d'une plus grande implication des travailleurs à la gestion des entreprises est très

claire au sein de l'Union. De nouvelles propositions tendant à améliorer ou parfaire les politiques en ces matières voient le jour un peu partout.

Ce nouvel élan est notamment soutenu par la volonté **d'impliquer de plus en plus de PME. aux systèmes de participation.** Il est primordial, compte tenu de la place qu'occupent les petites et moyennes entreprises dans l'économie des Etats membres, de créer des formules de participation adaptées aux spécificités de ces sociétés.

De plus, un **événement majeur**, est de nature à dynamiser encore le développement de l'actionnariat salarié: **l'adoption, le 8 octobre dernier, du Règlement n°2157/2001 relatif au statut de la société européenne (SE) et de la Directive 2001/86 complétant le statut de la Société européenne pour ce qui concerne l'implication des travailleurs.**

Ces textes ont été publiés au JOCE du 10 novembre 2001.

Je me réjouis de l'adoption de cette nouvelle forme sociétaire qui était l'une de mes priorités dans le cadre de l'actuelle Présidence belge. Je me suis convaincu que la **directive relative à l'implication des travailleurs dans la "SE"** permettra de donner un nouvel élan à l'intéressement des travailleurs dans les entreprises européennes.

A cet égard, je tiens à encourager la Commission européenne dans l'élaboration de sa prochaine communication sur la participation financière et du plan d'action qui l'accompagnera. Il est en effet primordial de poursuivre les efforts fait depuis plus d'une dizaine d'années en la matière.

Je tiens également à féliciter la Fédération Européenne de l'Actionnariat Salarié (FEAS) pour l'organisation de cette conférence internationale et je me permets de souligner le travail accompli par ses membres depuis plusieurs années déjà.

En effet, depuis sa création le FEAS a largement contribué à faire progresser l'actionnariat salarié et la participation des travailleurs. Pour s'en convaincre, il suffit de prendre connaissance du récent **avis** (23 octobre 2001) **de la Fédération Européenne de l'Actionnariat Salarié** sur le document de travail des services de la Commission relatif à "*La participation financière des travailleurs dans l'Union européenne*". Le FEAS insiste notamment sur:

- la mise en place d'un groupe de travail permanent composé de représentants des partenaires sociaux et des associations d'actionnaires salariés, de membres du Parlement européen, d'experts de la Commission et de représentants des Etats membres;
- la mise en œuvre d'un programme européen doté d'un financement adéquat afin de promouvoir les échanges d'informations, les bonnes pratiques et la formation et;
- la création d'un institut européen pour l'actionnariat salarié et la participation.

On ne peut que souligner toute la valeur ajoutée de ces propositions.

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* * *

En Belgique, si le principe même de la participation n'est pas encore suffisamment ancré dans notre culture d'entreprise, l'insécurité juridique n'y est sans doute pas étrangère.

En effet, **il manquait dans notre arsenal de mesures législatives existantes**, un instrument qui, à l'instar de ce qui existe notamment en France, aux Pays-Bas, en Grande-Bretagne et en Allemagne, permette à l'ensemble des travailleurs de bénéficier de la rentabilité de l'entreprise ou du groupe pour lequel ils travaillent.

Bien que la Belgique ait pris par le passé une série d'initiatives législatives afin de permettre certaines formes limitées de participation des travailleurs (je vise en particulier la loi du 26 mars 1999 relative aux plans d'options sur actions, la loi du 18 juillet 1991 insérant l'article 52 septies dans les lois coordonnées sur les sociétés commerciales (article 609 du Code des sociétés), les arrêtés royaux n°15 du 9 mars 1982 et n°150 du 30 décembre 1982 (connus sous le nom de "Monory-Declercq") complétés par la loi du 28 décembre 1983 (dite "Monory-Declercq bis"), il manquait un cadre légal complémentaire pour rendre attractives les formules de participation à l'égard de **toutes** les entreprises et de **tous** les travailleurs.

C'est pourquoi, le gouvernement a, dès le début de la législature, décidé de la création d'un cadre légal permettant de rendre la participation des travailleurs au capital et aux bénéfices de l'entreprise plus attrayante en Belgique de sorte que l'implication de tous les travailleurs dans l'entreprise devienne un leitmotif de l'entreprise.

Nous avons maintenant ce cadre légal dans lequel le travailleur occupé en Belgique, à l'instar de la plupart de ses homologues européens, puisse bénéficier d'un régime de participation au capital et aux bénéfices des entreprises sans pour autant que soient modifiés les systèmes légaux existants. Les travailleurs peuvent, sans qu'il en résulte une dépense personnelle dans leur chef, participer à la plus-value générée par l'entreprise qui est réalisée, de fait, avec le concours de leurs connaissances et de leurs efforts.

Les lignes de force de cette forme de synergie nouvelle ont été établies, dans le respect des recommandations européennes, sur la base de **l'analyse menée au sein d'un groupe de travail** mis sur pied par le Gouvernement et placé sous la présidence du Professeur Paul De Grauwe et qui rassemblait toutes les parties dans la vie d'une société, à savoir, entre autres, des représentants des organisations représentatives des travailleurs et des employeurs.

C'est pourquoi **la loi du 22 mai 2001 relative à la participation des travailleurs au capital et aux bénéfices des sociétés** et dont je vais vous présenter les lignes de forces, met clairement l'accent sur des modes de **concertation** (qui n'est pas un vain mot en Belgique) adéquats entre l'entreprise et son capital humain et qui constituent en soi une forme d'intéressement.

Ainsi, après plus de 10 années d'immobilisme au cours des différentes législatures, la création de ce cadre légal devrait permettre de rendre la participation des travailleurs plus attrayante en Belgique.

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Les lignes de force de la loi peuvent se résumer comme suit:

1° la mise en place d'un plan de participation des travailleurs se fait à **l'initiative de l'entreprise** et le plan est élaboré au sein de l'entreprise. Les entreprises ne sont dès lors pas obligées de mettre en place un régime de participation financière.

Le plan de participation peut être instauré tant au niveau de l'entreprise qu'au niveau du groupe.

2° **le plan de participation doit être le résultat de la concertation collective entre employeurs et travailleurs.** Le plan de participation fera l'objet d'une convention collective de travail ne portant que sur les seuls aspects du plan de participation concerné.

Les entreprises n'ayant pas de délégation syndicale - empêchant ainsi normalement la conclusion d'une convention collective de travail (sauf si l'employeur opte pour une intervention directe d'un secrétaire syndical externe) - **ont néanmoins la possibilité d'instaurer un plan de participation via un plan d'adhésion dont la procédure est**

comparable à celle appliquée à la rédaction et à la modification du règlement du travail en cas d'absence de conseil d'entreprise.

3° Le régime de participation peut prendre la forme d'une participation aux bénéficiaires ou d'une participation au capital. Dans le premier cas, le travailleur reçoit son avantage participatif en espèces et acquitte une cotisation de solidarité de 13,07 % sur le montant ainsi qu'une taxe assimilée aux impôts sur les revenus de 25 %. Dans le second cas, le travailleur perçoit l'avantage en actions, ne paie aucune cotisation sociale et un impôt de 15 % est retenu à la source.

4° Le montant total des allocations ne peut dépasser 10 % de la masse salariale brute totale de l'entreprise ou 20 % du bénéfice de l'exercice comptable concerné.

5° En cas de participation au capital, les actions sont rendues indisponibles pendant une période allant de 2 à 5 ans.

6° Le droit de vote attaché aux actions impliquant pour les PME (souvent familiales) des risques au niveau de contrôle, l'introduction d'une participation au capital ne constitue pas toujours la solution la plus indiquée. **C'est la raison pour laquelle, le dirigeant d'une PME a la possibilité d'instaurer un plan d'épargne d'investissement.**

Cela permet de garantir un lien plus solide avec l'entreprise que la pure participation aux bénéficiaires. Les travailleurs adhérents se voient attribuer chaque année une partie de résultat recueilli, qu'ils tiennent à la disposition de l'entreprise pendant une durée de 2 à 5 ans dans le cadre d'un emprunt non subordonné et moyennant un taux d'intérêt convenu. **Ce régime relève du même régime fiscal que la participation au capital.**

7° Le plan de participation doit, en outre, être proposé à l'ensemble des travailleurs au sein de l'entreprise. La participation des travailleurs doit avoir un effet mobilisateur. Elle englobe tous les travailleurs parce que l'implication de tout un chacun est importante. Contrairement à d'autres techniques complémentaires, comme les options sur actions par exemple, la participation des travailleurs n'est donc pas un instrument de motivation individuelle. Cette dimension collective de la participation des travailleurs a pour objectif de stimuler l'ensemble des travailleurs afin qu'ils s'impliquent dans l'activité de l'entreprise.

8° le plan de participation doit prévoir une formule prédéterminée où le lien avec les résultats de l'entreprise apparaîtra clairement. La participation des travailleurs implique une transparence dans la gestion de l'entreprise de manière à faire apparaître clairement le lien avec les résultats de l'entreprise. Ce principe doit être mis en relation avec les principes de "corporate governance" qui ont également fait l'objet d'une réforme en Belgique. Les participations aux bénéficiaires ou au capital des entreprises ne représentent dès lors pas une rémunération complémentaire pour les travailleurs, mais un avantage de type nouveau qui participe à la fois de l'avantage rémunérateur et du partage notamment entre les travailleurs du fruit des fonds investis dans l'entreprise. **Dans ce sens, la participation ne remplace pas la rémunération: il s'agit d'un revenu additionnel. Les travailleurs doivent pouvoir maintenir leurs rémunérations ordinaires lorsque l'entreprise enregistre des résultats moins satisfaisants.**

9° Dans le cadre de l'application du plan de participation au sein de l'entreprise ou du groupe auquel appartient l'entreprise, les travailleurs pourront bénéficier soit de participations aux bénéficiaires (c-à-d en cash) soit de participations au capital de l'entreprise soit des deux, dans les proportions fixées dans le plan de participation.

Pour les participations au capital, la loi prévoit en outre la possibilité de créer une société coopérative de participation ayant pour objet exclusif la détention et la gestion de la participation des travailleurs dans le capital de l'entreprise. Cette structure présente pour les travailleurs un double avantage: d'une part, elle se charge à leur place de la gestion des

titres et d'autre part elle leur permet de réunir leurs parts respectives dans l'entreprise et donc offrir un pouvoir décisionnel plus important au sein de l'entreprise.

10° En conséquence les participations au capital ou aux bénéfices de l'entreprise qui sont allouées dans le cadre de la loi ne constituent pas une rémunération au sens de la législation en vigueur et ne sont pas soumises au régime fiscal et parafiscal applicable à une rémunération.

En ce qui concerne son traitement fiscal et parafiscal, le nouveau système d'intéressement des travailleurs au résultats et au capital de l'entreprise présente d'indéniables avantages à la fois pour l'entreprise et les travailleurs par rapport, par exemple, aux bonus annuels.

Si l'on prend l'exemple d'une entreprise qui désire attribuer aux travailleurs un bénéfice avant impôt de 2,479 euros, ceux-ci recevront en poche, via un bonus annuel, 0,966 euro (en prenant pour hypothèse un précompte professionnel de 50%, hypothèse la plus fréquente), via une participation en actions, des actions d'une valeur équivalente à 1,24 euro et via une participation en espèces, 0,966 euro.

Le traitement fiscal et parafiscal des participations des travailleurs se résume comme suit:

Dans le chef de l'entreprise:

Les sommes distribuées aux travailleurs au titre de la participation bénéficiaire sont prélevées, à l'instar des dividendes sur les bénéfices de l'entreprise après application de l'impôt des sociétés. Les attributions à titre de participation bénéficiaire ne sont donc pas déductibles fiscalement comme des charges professionnelles.

Le montant de la participation bénéficiaire ne sera pas soumis aux cotisations de sécurité sociale à charge de l'employeur. Il est cependant prévu que pour assurer un financement adéquat du système de sécurité sociale, la moitié de l'impôt des sociétés affaissant aux participations distribuées par la société soit versée aux institutions de sécurité sociale.

Pour les PME, la participation au capital peut, sans perte du bénéfice du taux réduit de la retenue à la source pour les travailleurs, être remplacée par l'attribution d'une participation aux bénéfices en liquide, à la double condition que les sommes attribuées aux travailleurs soient immédiatement prêtées à l'employeur et que ce dernier investisse les sommes prêtées dans l'acquisition d'immobilisés corporels ou incorporels tels l'acquisition de machines, de brevets, investissements de nature donc à renforcer la rentabilité de l'entreprise.

Pour la société coopérative de participation, un régime fiscal est mis en place pour que son utilisation ne fasse l'objet d'aucune discrimination fiscale par rapport au mode d'attribution directe des participants au capital.

Dans le chef du travailleur:

Il est établi, à charge du travailleur, une taxe sur les participations bénéficiaires qui lui sont attribuées en vertu de la loi. Cette taxe n'est pas déductible pour le travailleur étant donné qu'elle n'a pas été supportée par ce dernier en vue d'acquérir ou de conserver un revenu professionnel.

Comme je vous l'ai déjà démontré à l'aide d'un exemple, **la loi instaure un régime fiscal et parafiscal plus favorable que celui actuellement applicable à la rémunération classique.**

L'attribution d'actions bénéficie d'un statut fiscal plus favorable que celle en espèces. Je rappelle que l'objectif du projet de loi est d'encourager la participation au capital de l'entreprise puisqu'il assure un lien plus solide et plus durable avec l'entreprise que la

simple participation aux bénéfices. De plus il convenait de prendre en compte le risque associé à un investissement en actions.

Lorsqu'il s'agit de participation aux bénéfices, le taux de la taxe est fixé à 25% du montant en espèces attribué au travailleur sous déduction de la cotisation de solidarité à concurrence de 13%, incombant au travailleur.

Lorsqu'il s'agit de participation au capital, le taux de la taxe est fixé à 15% du montant affecté à la participation au capital. Cette taxe de 15% sera frappée d'une taxe additionnelle de 10% en cas de non respect de la condition d'indisponibilité des actions ou parts reçues dans le cadre du plan de participation.

Lorsque les participations sont attribuées dans le cadre d'un plan d'épargne d'investissement et font l'objet d'un prêt non subordonné, le taux de la taxe est fixé à 15%, en raison de la philosophie sous-jacente à ce régime optionnel établi pour les PME. Ici, le régime fiscal est le même que celui qui s'applique aux participations aux bénéfices, y compris la sanction en cas de non respect de la condition d'indisponibilité.

De manière synthétique, on peut donc souligner que les travailleurs perçoivent un revenu net et la déduction de la retenue à la source est laissée aux soins de l'employeur qui en est responsable vis-à-vis du fisc. Cette retenue se fera suivant les mêmes formalités que celles déjà existantes pour la retenue du précompte mobilier sur les dividendes distribués par la société. *Il n'y a donc aucune obligation pour le travailleur de déclarer les participations dans sa déclaration IPP, et ce contrairement aux stock options.* Il s'agit là sans nul conteste d'une volonté de simplification administrative.

Enfin, il convient de souligner que la loi ne soumet pas les émissions publiques d'actions ou de parts qui se feraient dans le cadre d'un plan de participation au capital aux mesures de protection de l'épargne publique. **Il n'y a pas de saisine au préalable de la CBF (Commission bancaire et financière) en vue de demander soit une approbation du prospectus relatif à l'opération, soit d'accorder une dispense de prospectus.**

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Il convient de signaler que la loi du 22 mai 2001, pour être pleinement opérationnelle, doit encore faire l'objet de mesures exécutoires à prendre sous la forme d'arrêtés royaux. Il en est ainsi pour la date d'entrée en vigueur de la loi, pour les plans de participation offerts au niveau d'un groupe de sociétés et, en l'absence de conventions collectives du travail conclues au niveau des commissions et sous-commissions paritaires, pour la définition des critères objectifs servant à déterminer les clés de répartition du capital ou des bénéfices attribués aux travailleurs concernés.

Tout a été mis en œuvre pour rendre la loi opérationnelle le plus rapidement possible. Le projet d'arrêté royal fixant la date d'entrée en vigueur de la loi va dans le prochains jours être présentée à la signature royale. Il prévoit que la loi s'appliquera aux plans de participation, instaurés à partir de la date de publication de la loi au Moniteur belge, en vertu desquels un montant du bénéfice de l'exercice comptable qui se clôture au plus tôt le 31 décembre 2001 est attribué aux travailleurs comme participation aux bénéfices ou au capital.

En ce qui concerne les deux arrêtés-royaux permettant l'application de la loi au niveau du groupe, ils ont été rédigés de manière à englober le plus grand nombre de travailleurs occupés en Belgique pouvant bénéficier d'un plan de participation offert au niveau du groupe de sociétés pour lesquels ils travaillent.

Pour conclure, cette loi constitue une innovation incontestable en matière de participation financière des travailleurs dans leurs entreprise. Il est, je pense, de nature à satisfaire tant l'entreprise que ses travailleurs pour les raisons suivantes:

- le plan de participation se veut un projet commun à l'entreprise et ses travailleurs; il se construit en effet en collaboration avec ceux-ci via une procédure de concertation;
- le plan de participation se veut aussi égalitaire puisqu'il bénéficie obligatoirement à l'ensemble des travailleurs tant sur le plan du droit social qu'en ce qui concerne son traitement fiscal et parafiscal;
- le système se veut attentif à la protection des droits sociaux des travailleurs plus que d'autres législations (droit aux participations prorata temporis en cas de départ volontaire ou de licenciement hormis pour motifs graves; levée de la période d'indisponibilité des titres en cas de licenciement, de mise à la retraite ou de décès du travailleur);
- il offre une réelle possibilité aux travailleurs aux travailleurs d'être plus largement informés des décisions prises par l'entreprise et de participer à la prise de décision et ce, d'autant plus facilement que la société coopérative de participation leur permet de réunir au sein d'une même entité leurs parts dans la société qui les emploie et;
- il assure un traitement fiscal et parafiscal des participations plus attrayant que le traitement réservé aux rémunérations ordinaires.

Pour ces différentes raisons, le travailleur occupé en Belgique devrait, grâce à cette nouvelle loi, être plus souvent associé au bénéfice de son entreprise de sorte que, des 5% des travailleurs actuellement associés en Belgique au bénéfice de leur entreprise, nous arrivions à court ou moyen terme, à un pourcentage similaire à celui que l'on peut observer aujourd'hui en France et qui est de l'ordre des 26%.

Tel est l'objet de cette législation ambitieuse et multidisciplinaire. Elle couvre en effet de nombreuses matières ayant trait au droit fiscal, au droit comptable, au droit des sociétés et au droit financier, sans oublier non plus les questions de droit social. Ceci explique la quarantaine de dispositions que comprend la loi et la soixantaine de pages de l'exposé des motifs qui se veut aussi complet, précis et pédagogique que possible afin de répondre aux questions des praticiens et commentateurs appelés à mettre en œuvre de tels régimes novateurs de participations bénéficiaires des travailleurs.

Je vous remercie de votre attention.

**Le Ministre des Finances
Didier Reynders**

October 23, 2001

**OPINION OF THE EUROPEAN FEDERATION OF EMPLOYEE SHARE
OWNERSHIP**
on the **COMMISSION STAFF WORKING PAPER**
on " **Financial participation of employees in the European Union** "
(Document SEC(2001)1308 of the 26.7.2001)

October 23, 2001

OPINION OF THE EUROPEAN FEDERATION OF EMPLOYEE SHARE OWNERSHIP

on the COMMISSION STAFF WORKING PAPER

on " Financial participation of employees in the European Union "

(Document SEC(2001)1308 of the 26.7.2001)

Synopsis:

1. EFES' opinion - synthesis
2. About EFES
3. Method and opinions collected
4. Employee share ownership and participation, key elements of a European strategy for employment
5. The concept of financial participation is obsolete; it is advisable to substitute for it employee share ownership and participation
6. The program of the European Commission
7. Adequate funding
8. To set up a "permanent working party" and a European institute for employee share ownership and participation
9. Conclusion

OPINION OF THE EUROPEAN FEDERATION OF EMPLOYEE SHARE OWNERSHIP

on the COMMISSION STAFF WORKING PAPER

on " Financial participation of employees in the European Union "

(Document SEC(2001)1308 of the 26.7.2001)

1. EFES' OPINION - SYNTHESIS

In substance, EFES' opinion is as follows:

Yes, the European Commission should plan for a Community initiative aimed at employee share ownership and participation.

The term we use is "employee share ownership and participation", rather than "financial participation". This distinction is significant. Indeed, the concept of "financial participation" had its origin and its relevance at the end of the 80's. Since then, practices as well as research have demonstrated the need for greater precision of terms. Among the different practices gathered under the concept of "financial participation", some have been shown to be beneficial and others negative ones. What we have seen though through the last decade is how practices of employee share ownership joined with participative management were characterized by their positive impact on economic and social dynamics. Share ownership and participation are simply two independent organizational variables. Neither the one or the other do in themselves necessarily lead to any significant improvements of company performance although they both may be appreciated for their own sake. It is first when joined that the potential of both are really released.

Actions should be taken in the European Union, and also in the candidate countries.

It is necessary to lay down general principles at the European level to encourage greater and more efficient recourse to employee share ownership and participation schemes.

The general principles and the actions which the Commission should include in its next Communication and its Action Plan are those defined in the "European Action Programme" of the European Federation of Employee Share Ownership.

This programme is based on the Resolution of the European Parliament of January 1998 and it was written as the conclusion of a workshop which had gathered together, within the European Parliament in Brussels, all European institutions, as well as the social partners and the organizations of employee share ownership.

This action programme calls on the European Commission particularly:

- to set up a permanent working party;
- to implement a programme with adequate funding;
- to set up a European institute for employee share ownership and participation.

This action programme is attached in its entirety to the present opinion, of which it forms an integral part.

The present opinion of EFES was discussed and concerted with CECOP – the European Confederation of Workers' Co-operatives, Social Co-operatives and Participative Enterprises; let us recall that CECOP is member of EFES, and reciprocally, EFES is a member partner of CECOP.

2. ABOUT EFES

EFES – the European Federation of Employee Share Ownership was constituted following the decision taken in May 1998 in Brussels, by a conference which brought together 250 participants from 28 countries. The Federation was quickly organized, under the statute of a not-for-profit international organization approved by the Belgian Government.

EFES' objective is to act as the umbrella organization of employee owners and all persons, companies, trade unions, experts, researchers, institutions looking to promote employee share ownership and participation in Europe.

This ambition is being carried out. EFES counts members in the majority of the European countries, in the candidate countries as well as in the European Union. Among the members of EFES, there are individuals, companies, associations, trade unions, experts, researchers and national federations. The Board of Directors of EFES counts 22 representatives of 14 countries, and its Executive Office 7 people, who meet monthly.

3. METHOD AND OPINIONS COLLECTED

To prepare its opinion, EFES met and consulted a broad range of people and organizations: representatives of governments, members of the European Parliament, trade-union representatives at European level, employers' organizations, organizations promoting employee share ownership, etc.

EFES also organized a web forum on the topic of the consultation organized by the Commission. Some characteristic collected opinions are reproduced in appendix.

The reactions which we collected from a broad range of actors have the same general tone:

One can only be delighted by the will affirmed by the Commission staff "to relaunch the debate on financial participation at European level, associating all the players concerned".

There are many positive aspects in the document, but one omission in the general principles and – perhaps understandably - a glaring lack of proposals for action.

The good points are:

The Commission staff precisely affirms the preference for all-employee schemes.

The Commission staff highlight the fact that financial participation boosts productivity. This is the argument with the widest appeal, as productivity is associated with competitiveness, profitability and higher salaries and/or more leisure time. Yet it does not mention which degree of ownership is necessary, nor whether the increase is contingent on other factors as well.

The Commission staff shows that financial participation is being recognized widely as important.

The Commission staff also shows why it is necessary to take initiatives at the European level, not just the national level. This is important.

The general principles stated by the Commission staff contain a major omission. In fact, many studies show conclusively that financial participation only really works strongly when it is situated in a regime of participative management. The document emphasises clarity and transparency, which are aspects of communication by managers, but not involvement and consultation of employees in the management process of the business.

However with this argument we can win over trade union support, which is generally lacking, and which is necessary if we are to make progress in Europe in this field.

Besides the positive aspects, in a general way, the reactions and the comments express perplexity to the intentions and the steps taken by the Commission, an impression of inexplicable timidity, and disappointment, this expressing itself sometimes even in a sharp tone (cf opinion reproduced in appendix: "consultation or funeral?")

Within the European Federation of Employee Share Ownership itself, the impression which prevails is that of a disappointment with the past action of the Commission and the expectation of a firmer and stronger action in the future.

Indeed, EFES observes that the Summit of Lisbon raised the point in the European social agenda. EFES has uncovered a listening and growing support from the governments. As regards the European Parliament also, the supports for employee share ownership and participation has been strengthened. From the European Commission too, better support is awaited.

Among the questions and the reactions collected, let us note particularly:

Why wait until the 1st of August to launch this consultation? A worse date would be difficult to find, given that it was a universal holiday. Why such a short deadline for replying (until October 30)? All that rather discourages the reactions and hinders a real consultation. Furthermore, it is not clear from the document, what could have prevented it from being diffused 6 months or even a year before.

Of the Resolution of the European Parliament of January 1998, the working paper of the Commission staff retains only a general sentence, observing that "...the Parliament... made a number of calls on the Commission... It requested the Commission in particular to promote the exchange of information and best practice at transnational level, to study the impact of financial participation schemes on employment and wage flexibility, and develop pilot projects for financial participation in public undertakings in the CEECs in connection with privatisation". However, the Parliament's Resolution addressed to the Commission a whole of concrete, precise, practical requests. Not only were these requests not met by the Commission since 1998, but the document of consultation of the Commission omits them.

Lastly, it is strange that the document of consultation does not make mention anywhere of trade-unions. It is difficult to understand such major omission.

4. EMPLOYEE SHARE OWNERSHIP AND PARTICIPATION, KEY ELEMENTS OF A EUROPEAN STRATEGY FOR EMPLOYMENT

Employee share ownership and participation should be highly placed in a European strategy for employment. This is still not the case. There is an awakening which still has not reached the political decision makers.

Indeed the development of employee share ownership and participation positively influences economic and social dynamics and employment. This is not negligible, since it is estimated at 1% a year additional growth of the GDP. In terms of employment in Europe, that potentially represents a million additional jobs after a few years.

In the consultation document of the Commission, this factor is precisely highlighted (pages 8 and 9).

In the opinion of EFES, this is a key point of the question.

Much remains to be done to carry the conviction of governments and European decision makers in this direction. The document of the Commission indicates rightly that the general principles set forth in the PEPPER Reports have not yet been adequately incorporated into national policies.

However, during these last years, EFES has developed its relations with many governments and those show more and more interest in employee share ownership and participation.

In Belgium, the Belgian section of EFES was, at the sides of the Belgian Government, an active craftsman of a step which appears exemplary to us. Indeed, under the terms of a dialogue which fully associated the social partners, good new legislation was adopted, directly inspired by PEPPER principles.

With the support of the Belgian Presidency of the European Union, EFES is organizing an international conference on November 23 2001 in Brussels. The aim is to encourage the European Union and the European States to promote employee share ownership and participation.

We hope well that the European Commission will join the organization and the holding of this event.

5. THE CONCEPT OF FINANCIAL PARTICIPATION IS OBSOLETE: IT IS ADVISABLE TO SUBSTITUTE FOR IT EMPLOYEE SHARE OWNERSHIP AND PARTICIPATION

EFES thinks that it is employee share ownership and participation which should be the subject of a Community initiative, rather than "financial participation".

The concept of financial participation is too general: many studies, among which some supported by the Commission or the Dublin Foundation, have shown that financial participation can have all its social and economic benefits only if it is associated with a participative management. It is thus necessary to speak, as EFES suggests, of employee share ownership and participation, rather than just of financial participation.

This difference is very significant. Indeed, the concept of "financial participation" had its originality and its relevance at the end of the 80's. Since then however, practices and research have shown that the concept of financial participation, covering even contradictory multiple practices, is now largely obsolete.

Indeed, the concept of financial participation used by the Commission covers three categories of practices:

- profit-sharing;
- employee share ownership;
- stock options.

Among the practices covered by the concept of "financial participation", some have been shown to be beneficial and others negative. The practices of employee share ownership joined to participative management were characterized by their positive impact on productivity and economic and social dynamics.

Research shows that employee share ownership and participation have a positive impact on productivity, on economic and social dynamics in general and on the volume of activity and employment:

- When all-employees share ownership schemes are connected to participative management, the impact is particularly positive.
- When share ownership is just targeted at certain categories only (as is often the case in stock options schemes), the impact is positive but by far lower than when all employees are included.
- Lastly, profit-sharing may certainly have some impact, but a little or even a negative one.

Consequently, the conclusion should be drawn: one cannot any more, as at the end of the 80's,

to include in the same plan these various or contradictory practices.

It is indeed "employee share ownership and participation" which should be the purpose of a specific support, rather than the former obsolete concept of merely "financial participation". This difference was already the subject of several deepened debates, in particular within the framework of the European Workshop of April 1999.

In addition, the working paper of the Commission staff understates the effects of employee share ownership, when it states that "employee share ownership provides for employee participation in enterprise results in an indirect way, i.e. on the basis of participation in ownership, either by receiving dividends or the appreciation of employee-owned capital after the selling of the shares...".

Here still, the practice differed from concepts of the late 80's. Employee share ownership has been shown to be effective and significant, not only as participation in the financial results, but especially as a factor of commitment in ownership, motivation, company decision and management. This is also why the connection with participative forms of management has been shown to be a key element.

Let us repeat, it is the combination of employee share ownership and participation which has proved particularly beneficial. It is that which the Community actions should encourage.

We observed on this point a great convergence between our organizations of employee share ownership and the analysis made by trade unions.

In addition, convergence is full with the movement of workers' co-operatives represented at the European level by CECOP – the European Confederation of Workers' Co-operatives, Social Co-operatives and Participative Enterprises. Let us recall that CECOP is member of EFES, and reciprocally, EFES is a member partner of CECOP. The present opinion of EFES was discussed and concerted with CECOP.

In this connection, it is advisable to specify that, with the term "employee share ownership" (in French "actionnariat salarié"), we cover any situation where the employee is at the same time owner of a share of the capital of the company which employs him, in the form of shares (stocks), of shares of capital, social shares, shares of co-operators or other schemes, such as workers' co-operatives.

6. THE PROGRAM OF THE EUROPEAN COMMISSION

In its Resolution of January 1998, the European Parliament requested from the Commission "an adequately financed programme".

That the actions of the Commission fulfil a programme, appears indeed to us a significant condition of transparency and effectiveness.

It also appears very significant to us that the results of the actions taken or supported by the Commission would be published and made available.

The Commission precisely stresses through its various actions the importance of the exchanges of information in Europe. It would be desirable that the Commission itself takes a fully part in these exchanges and supports the communication between the actors. The Commission itself has information which should be accessible to these actors, in particular on the studies, conferences and other initiatives that it finances or causes, including through the European Foundation for the improvement of living and working conditions.

The purpose of this communication and this information on behalf of the Commission on financed actions, will be in particular:

- To support the exchanges and co-operation between actors, implementing projects.

- To establish criteria and correct, equitable and transparent procedures of selection.
- To encourage projects to complement each other.

In addition, in practice, the Commission finances currently only conferences, whereas the budgetary heading B3-4000 intended to finance actions aiming at the promotion of financial participation says "to support actions of promotion of good examples and networks as well as studies and measures of occupational qualification".

The means are not adequate, but also, the Commission did not propose a true programme. This one should support:

- Research, surveys, case-studies, cross-comparative including across-country analyses.
- Training (this concept being much broader than that of "measures of occupational qualification").
- Conferences, seminars, meetings (as it is currently the case).
- Actions of information and communication supplementing the preceding: publications, periodicals, web sites, reports and any action intended to disseminate the results of the studies and surveys and to make known to the public and the actors various aspects of employee share ownership and participation in Europe (stakes, obstacles, experiments and practices...)
- Web portals, catalogues... allowing to have an overall picture of the state of research and current debates, not only in the EU, but also in other countries. Currently, it is the web portal opened by EFES (www.efesonline.org) which answers this function best, but with too limited means.

7. ADEQUATE FUNDING

It appears significant to us that a policy of promotion of employee share ownership and participation should have a properly dedicated budgetary heading.

It is in this direction that the European Parliament in its Resolution of January 1998 went, by requesting from the Commission adequate financing.

When EFES was constituted, the first PEPPER Report went already back some 10 years and many participants were astonished to note that the Commission still did not have any dedicated budgetary means.

How indeed could we speak about policy or actions, if no means are allocated to it?

After the Resolution of the European Parliament of January 1998 and after the European Workshop organized by EFES at the European Parliament in April 1999 (workshop in which the Commission took part), one was still more astonished to see that no initiative seemed to be taken to assign means to the budget for 1999.

The astonishment was even larger, seeing the draft budget for 2000, which did not provide for anything either. Fortunately, EFES was able to discuss this with a number of Members of Parliament, and the draft budget was amended, by dedicating a share from the B3-4000 line "social dialogue" to assign it to the promotion of financial participation (and the situation was reproduced for the budgets for 2001 and 2002, since again, no initiative came from the Commission).

It must be noted that the assignment of a fraction of the B3-4000 line to financial participation is a lame solution, which still does not give "adequate" financing for a program aiming at the promotion of employee share ownership and participation.

Indeed, to reduce the promotion of employee share ownership and participation in a simple facet of social dialogue is to give it insufficient recognition.

Secondly, to equate actions promoting employee share ownership with the promotion of social dialogue, is to cause unnecessary arbitrations.

Lastly, it is still not to recognize the specific value of the promotion of employee share ownership and participation.

8. TO SET UP A "PERMANENT WORKING PARTY" AND A EUROPEAN INSTITUTE FOR EMPLOYEE SHARE OWNERSHIP AND PARTICIPATION

The points expounded here are still in line with the Resolution of the European Parliament of January 1998 and the European Action Programme of EFES, namely:

To develop indeed actions or a policy, one needs not only "an adequately financed programme", as the Parliament asked. It is also necessary to indicate bodies of execution and persons in charge. Without that, nothing organized will be done and, at best, things will remain as they are.

To take in hands the execution of a Community action or a policy, the European Parliament suggested the setting-up of a "permanent working party" associating all main interested parties: representatives of both sides of industry, of employee share ownership organizations, Members of the European Parliament and Commission experts.

In the prolongation of this working party, what is wished is the installation of a European institute for the promotion of employee share ownership and participation.

At the time of the European Workshop of April 1999, all interested parties decided in favour of the creation of such a working party (with the notable exception of the Commission representatives, who gave a report giving reasons to hold back).

In fact, the Parliament's Resolution did not receive any continuation and the lack of a body of execution explains certainly to a great extent, the lack of progress observed these last few years.

9. CONCLUSION - EFES' OPINION

As a conclusion, EFES' opinion is as follows:

1. Yes, the European Commission should plan for a Community initiative aimed at employee share ownership and participation.

We use the term "employee share ownership and participation", rather than "financial participation. Among the practices gathered under the concept of "financial participation", some have been shown to be beneficial and others negative. The practices of employee share ownership joined to participative management were characterized by their positive impact on economic and social dynamics.

2. Yes, actions should be taken in the European Union, and also in the candidate countries.

3. Yes, it is necessary to lay down general principles at European level to encourage greater and more efficient recourse to employee share ownership and participation schemes.

4. The general principles and the actions which the Commission should include in its next Communication and its Action Plan are those defined in the "European Action Programme" of the European Federation of Employee Share Ownership.

This programme is based on the Resolution of the European Parliament of January 1998 and it was written as the conclusion of a workshop which had gathered together, within the European Parliament in Brussels, all European institutions, as well as the social partners and the organizations of employee share ownership.

5. This action programme expects the European Commission particularly:

- to set up a permanent working party;
- to implement a programme with adequate funding;
- to set up a European institute for employee share ownership and participation.

This action programme is joined in its entirety to the present opinion, of which it forms integral part.

***For EFES,
Marc Mathieu
Secretary General***

In appendix :

Appendix 1: « European Action Programme » of EFES, adopted as the conclusion of the European Workshop of 30 April 1999 at the European Parliament in Brussels ; the programme gives an appendix reproducing the Resolution of the European Parliament of January 1998 and other reference documents.

Appendix 2: Some typical opinions collected through the forum on the web.

FINANCIAL PARTICIPATION OF EMPLOYEES IN THE EUROPEAN UNION

UNICE POSITION

INTRODUCTION

1. UNICE has noted the Commission working paper on financial participation of employees in the European Union, and hereby submits its contribution to the discussion.
2. The Commission wishes to relaunch the debate on financial participation of employees with a view to preparing a communication and an action plan at the end of 2001. It invites interested parties
 - to identify major obstacles to greater encouragement at EU level of profit-sharing and employee share ownership schemes;
 - to comment on the need for and content of a possible Community initiative and, more specifically, to provide it with views on the necessity to lay down general principles at Community level, based on the PEPPER reports and Council Recommendation 92/443/EEC, and to express views on the need for other specific measures.

GENERAL COMMENTS

3. In recent years, employee share ownership and profit-sharing schemes have developed and such instruments could become an important part of company remuneration policies. However, strong differences can be observed in the use of such schemes, which is more developed in some EU countries and sectors.
4. Companies recognise that financial participation schemes can be important tools to motivate employees by allowing them to share in the success of their company, to involve employees more closely in the life of the business, to align employees' interests with those of the company's shareholders and, thus, to link employees to the company over the longer term. In addition, worker participation models in the form of share purchase or share savings schemes also have the advantage that they make share ownership accessible to wider sections of the workforce and support wealth creation.
5. The business community broadly recognises the benefits of financial participation schemes and welcomes wider use of share ownership and profit-sharing schemes for both its economic and social benefits.
6. However important obstacles to wider use remain. These are essentially of a legal and tax nature. Not all EU Member States provide a legal and tax environment that sufficiently encourages companies to introduce such schemes.

7. Moreover, UNICE is preoccupied by the problems arising in a cross-border/transnational context. Different legal provisions, tax schemes and differences with regard to social security contributions generally prevent companies operating in two or more EU Member States from being able to apply one single corporate financial participation model to employees in different Member States. This generates high administrative costs.
8. In addition, the divergent and complicated fiscal treatment of financial participation models in cross-border situations has become an obstacle to the free movement of employees and a source of distortion within the Single Market for employers. As regards, for example, stock options, major problems for employees arise from the difference in timing of taxation and from the risk of double taxation. Distortions for employers may arise from no or double deductibility of related costs for corporate taxes.
9. As regards the “cultural barriers” identified by the Commission, UNICE is convinced that these are less predominant and will vanish progressively, due to a wide recognition in the business community of the usefulness of financial participation schemes and the need for a company to be a “competitive employer”. At the same time, in this context, the importance of providing the right legal and fiscal framework conditions should not be neglected. These framework conditions will finally determine how and to what extent financial participation schemes are more widely used.

SPECIFIC COMMENTS

Basic principles supported by UNICE

10. UNICE is attached to wider use of financial participation schemes at EU level, but recalls that such schemes must be voluntary for both employers and employees. It needs to be recalled that the introduction of financial participation schemes is a decision for the individual company/employer, in the light of existing national law and practice.
11. A large number of SMEs have introduced financial participation schemes, fully conscious of their potential and usefulness. But whereas wider use of financial participation schemes at SME level would be welcome, account needs to be taken of the fact that many SMEs are not in a position to generate the financial resources for worker equity participation or broad profit-sharing schemes, over and above already high wage costs.
12. As stated above, through financial participation schemes employers wish to motivate employees, create a close link between employees and the company and attract and retain qualified staff. Providing broad access to financial participation schemes may therefore be favoured, but no restrictions can be accepted on the employers’ freedom to decide the eligibility criteria for such schemes, in accordance with national law and practices and depending on the financial situation of the company.
13. Companies make use of both broadly and narrowly based financial participation schemes depending on their specific circumstances. Sometimes these two forms may even co-exist within the same company. Employers will choose the schemes deemed to be best suited for the pursuit of their human-resource-oriented goals and in that respect differentiation between groups of employees based on legitimate criteria such as qualification/responsibility may be necessary, and require different responses.
14. In particular, the Commission suggests that financial participation schemes should also be applied to fixed-term and temporary employees. It should however be noted

that, when an employer decides to make such incentives available to employees, this stems from the perspective of motivating and linking the employees to the company over the longer term. That companies would consequently see little benefit in including these categories of employees in such schemes who will only be affiliated to the company over a short period of time seems evident. It can also be assumed that fixed-term and temporary employees attach more importance to the actual salary than to additional forms of remuneration that may often only be interesting in the case of longer-term affiliation to a company.

15. The role of the social partners, and whether financial participation will be an issue for collective bargaining, will depend on national practice. Where this corresponds to national practice, financial participation schemes may allow for greater flexibility in collectively agreed remuneration systems, with fixed wage levels supplemented by pay components to reflect the success and performance of the company. This flexibility, beneficial to both employees and companies, should be promoted.
16. UNICE agrees that employers need to provide clear information on the nature and functioning of financial participation schemes and calculation formulas to employees who would be entitled to benefit from them.

Need for action at Member State and Community level

17. UNICE invites Member States to provide for a favourable fiscal and legal framework that further encourages equity participation and profit-sharing schemes and avoids putting financial and administrative burdens on companies that wish to introduce such schemes.
18. With regard to tax systems, the main responsibility remains at Member-State level. However, UNICE would welcome a process moving towards a certain degree of coordination of tax arrangements applying to financial participation schemes in a cross-border/trans-national context, which could help to reduce existing obstacles and distortions.
19. More specifically, as regards the treatment of stock options in cross-border situations, UNICE would be in favour of treating mobile workers in the same way as resident workers. This could be achieved through taxation exclusively by the Member State where the employee pays income tax when the stock options are granted, be it conditionally or unconditionally, regardless of where and when the exercise takes place. Even though other approaches such as exercise-based taxation exist, a common method of avoidance and proportional taxation could be considered. The approach suggested by UNICE could offer a robust and simple solution¹ for dealing with stock options in cross-border situations.
20. The Commission could in its forthcoming Communication present the current fiscal and legal framework in the different EU Member States, start a benchmarking exercise, and, via a follow-up report to its action plan, monitor progress in this field. An interesting element in a benchmarking exercise could also be a comparison between performances and practice/systems at EU level in relation to the USA, where a more developed financial participation culture exists.
21. Moreover, the Commission, in its future Communication, should also identify and examine the tax obstacles arising in a cross-border/trans-national context and, together with the EU Member States, explore ways of reducing these obstacles.

¹ More detailed arguments and an overview of the current tax treatment of stock options in the different EU Member States can be found in the UNICE working paper "Stock Options in the EU – Tax obstacles to cross-border mobility of employees in the Single Market" that will be published soon.

CONCLUSION

22. UNICE broadly recognises the benefits of financial participation schemes and welcomes wider use of share ownership and profit-sharing schemes for both its economic and social benefits.
23. It recalls at the same time that these schemes must be voluntary for both employers and employees.
24. UNICE notes that important obstacles to broader use of financial participation schemes remain. These are essentially of a legal and tax nature.
25. UNICE therefore calls on Member States to provide for a tax and legal environment that will favour the gradual development of a financial participation culture in the EU.
26. UNICE invites the Commission to examine in its forthcoming Communication the current fiscal and legal framework in the different EU Member States and to start a benchmarking exercise. It would also welcome an identification and examination of tax obstacles arising in a cross-border/trans-national context and the launch of a reflection process at EU level concerning possible ways to reduce these obstacles.

* * *



Working paper Financial participation for employees in the European Union” ETUC comments

The ETUC welcomes the Commission's intention to launch consultations on financial participation, with a view to giving a fresh impetus to the debate on financial participation at European level. However, the ETUC considers it somewhat less helpful to indiscriminately lump together a multitude of "actors" (see p.3 of the working paper). Like the Commission, the social partners and the Member States have a key role to play: the Commission must take that into account especially in the announced action plan.

The ETUC would like to stress that financial participation is a complement to employee participation. Financial participation will have a positive impact only if it is embedded in a whole system of workers' involvement, starting at the workplace and ending at the level of the undertaking or the group of undertakings.

Member States have extremely diverse systems for financial participation. The same form of financial participation is more or less pronounced depending on national circumstances and the country's industrial relations systems. No system and no form of financial participation can be merely transferred from one country to another, adjustments will always be necessary. Employee preferences are increasingly differentiated. That is another reason why every European action plan and every European measure for financial participation should be designed to afford the greatest latitude for tailoring to national specificities.

The forms of financial participation

There are different forms of financial participation:

- Asset formation and saving schemes
- Profit participation
- Capital participation

The Commission's paper focuses on profit participation and capital participation. The ETUC considers that capital participation and profit participation should both be more rigorously and accurately defined in the working paper.

„In the case of profit participation“, states the working paper, „profit is shared between shareholders and employees whereby, in addition to their wages, the latter receive a bonus which depends on the company's profit“ (p. 4). To say that employees are paid a profit-related bonus in addition to their wages tells us nothing of the relationship between wages and profit-related bonuses. It is conceivable, according to the wording in the working paper of the Commission's services, that wages would be made to vary with the amount of the bonus. Employees would thus carry a double risk.

In the ETUC's view, profit-related bonuses are sums paid over and above fixed wages. These sums can be paid in cash or in the form of shares or other securities. Where payment is in shares, disposal can be frozen during a relatively long blocking period. Whether or not one applies such blocking periods depends on the objectives attached to financial participation.

In the working paper, capital participation is defined as „a profit participation based on shares which is realised in the form of dividends, of capital gains on the sale of shares by an employee or by a combination of the two“ (p. 4). For the ETUC, capital participation means shares or a similar interest in an undertaking's equity offered by that undertaking to its employees for free or at preferential rates on the basis of an agreement concluded with employee representatives.

The ETUC demands that the Commission review the terms and definitions of financial participation set out in the working paper.

In the working paper, the Commission presents the purpose of financial participation too one-sidedly. It places the focus exclusively on the relationship between financial participation and productivity gains (pages 5, 8 and 9). A contrario, the ETUC stresses the fact that financial participation may have several objectives:

- Corporate objectives (such as productivity increase and encouraging employee loyalty to the company)
- General economic objectives (such as growth of overall economic productivity, promoting employment, price stability)
- Distribution policy objectives (changes in income and wealth distribution to the benefit of employees)
- Social policy objectives and objectives linked to the society (such as reducing the concentration of political and economic power in the hands of few)

The objectives linked to financial participation may vary according to whom pronounces himself in favour of financial participation. The ETUC demands that in the European action plan, the Commission take into particular account above all social and distribution policy objectives. The present draft is too one-sided and risks over-simplifying financial participation, by limiting financial participation to productivity gains only.

The Commission's working paper refers solely to employee participation at company level. There is no reference to schemes of financial participation that go beyond the company level. The ETUC invites the Commission to reflect on the following question: how can employees of small and medium-sized enterprises enjoy the benefits of financial participation. How can the employees of public sector and public services enjoy the benefits of financial participation? At a time when professional careers are no longer marked by a life-time's service in a single company, there should be some reflection on how to enable as many employees as possible to benefit from financial participation.

Need for critical reflection

The Commission's working paper contains several references to the abundant experience acquired in the most diverse Member States and repeatedly mentions the comprehensive studies undertaken on financial participation. All in all, however, the Commission's approach could be more critical. Many crucial questions are left unasked. The fact that in a country like Germany four decades of asset-building policy for employees has not succeeded in changing the trend of asset concentration or the assetless status of wide sections of the population should raise a few questions. The fact that, despite investing considerable legislative and financial means to promote financial participation, France has seen only very limited growth in the overall economic weight of profit and capital participation, or that the share of additional income generated by profit and capital participation schemes in the United Kingdom is very low (as recent studies show) is all the more reason why existing financial participation instruments must be re-appraised.

Financial participation needs to be part and parcel of a whole system of worker involvement

Financial participation is only one of many measures for promoting employee involvement. Financial participation can only succeed where it is part and parcel of a whole system of measures designed to promote employee involvement, where employees and their representatives are informed and consulted, where employees are capable of influencing decisions at company level and nominate representatives to administrative or supervisory bodies. Otherwise, if employee involvement is simply reduced to financial participation – considered, moreover, purely in terms of productivity gains – financial participation will fail. The ETUC asks the Commission to investigate this aspect more thoroughly in its announced communication and in the European action plan.

The Commission's working paper neglects two important preconditions for the success of financial participation measures: all employees within an undertaking must have the possibility of participating, and such measures

must be introduced on the basis of an agreement with employee representatives.

The ETUC has the impression that, in its working paper, the Commission takes the easy way out in dealing with the obstacles to financial participation. Cultural problems and acceptance difficulties on the part of employees are only too readily advanced. Acceptance problems on the part of employees cannot be eliminated by a public relations campaign. Employees' concerns must be taken seriously.

The ETUC submits the following proposals concerning for further reflection on financial participation:

Recommendation from the ETUC

The ETUC regards financial participation as an element, which complements real employee participation. The positive impact of financial participation is greater if it is embedded in a whole system of workers' involvement, starting at the workplace and ending at the level of the undertaking or group of undertakings, where strategic decisions are taken. Financial participation will utterly fail if it is understood as an alternative to workers' involvement.

Asset creation plans or saving schemes for wealth creation are the simplest form of financial participation. They often open up the road to further involvement, for example in building up employee share ownership. These more traditional forms of financial participation should therefore be encouraged in all member states.

The ETUC prefers collective agreements to set out at least a basic framework for financial participation. We do so because we think that all workers should have an opportunity to participate in employee share ownership or asset formation. Funds, which operate at branch level, would offer an additional advantage. The capital built up by workers could help, at least partially, to accelerate the innovation in businesses in their sector. Many small businesses are in desperate need of capital for modernising their activities. Member States should move all legal obstacles to the creation of such collective funds.

Provisions covering insolvency should be established.

The ETUC believes that financial participation should under no circumstances strengthen inequalities of income neither within companies nor in the society in general. The ETUC prefers that financial participation would cover all workers within companies where it is adopted and that specific attention is paid to its impact on gender equality. However, precautions

must be taken in order to avoid that the practice of financial participation replaces wage negotiations and regular wage increases. The ETUC is sceptical concerning the idea of a wage system, where a part of wages would be reinvested in financial participation, out of principal reasons and because this would produce under-consumption, which would be rather dangerous under present economic circumstances.

For the ETUC, productivity gains are part of the wage strategy. The discussion on financial participation should be dissociated from any discussion on wages. Plans for financial participation should rather be linked to employment strategies.

Any collective funds established should be run jointly by the social partners (which are partners to the collective agreement). If there are employee investment funds at branch level, the day-to-day management should be carried out by professional managers supported by an administrative council, which should set guidelines for the funds. Spreading the risk should be the general principle to be applied in investments. Supervisory Councils of such collective funds should be made up of employers' and workers' representatives in equal numbers. A fund is less vulnerable than a company in the event of insolvency.

We may imagine a code of conduct for fund management regulating the framework of investments in all Member States of the EU: forbidding investment in the arms trade, encouraging investment in the ecological sector, transferability of capital from one country to another etc. (A code of conduct for pension fund management has been drawn up by Euresa and is supported by the ETUC).

In conclusion:

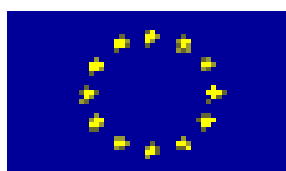
1. Financial participation is complementary to other forms of participation and works best, where it is embedded into a network of workers' involvement. Financial participation rimes well with participation in decision-making at all levels of the undertaking.
2. The modalities for financial participation should be introduced through negotiation.
3. Financial participation should operate on an ongoing, continuous basis and should not be a singular experience.
4. Collective agreements should set the framework for financial participation.
5. There should be provisions for the insolvency.
6. Workers and management should jointly manage funds.

7. Financial participation provides additional income and is no alternative for wages. Neither is financial participation an alternative to public pensions or to collectively agreed pension schemes.

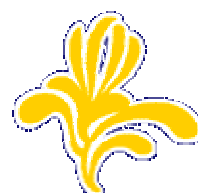
We call on the employers' organisation UNICE to make sure, jointly with the ETUC, that collective systems of financial participation are given prominence and that financial participation is well embedded into a general system of workers involvement, consisting of information, consultation and participation of workers and their representatives.

WITH THE SUPPORT OF

- Belgian Presidency of the European Union • European Commission – Employment & Social Affairs
- Ministry of Foreign Affairs • Ministry for the Middle class and Agriculture
- Brussels-Capital Region • Vlaamse Regering • Suez • Dexia • Beyers • Palm • Elite



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