



## 31992H0443

### **92/443/EEC: Council recommendation of 27 July 1992 concerning the promotion of participation by employed persons in profits and enterprise results (including equity participation)**

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COUNCIL RECOMMENDATION of 27 July 1992 concerning the promotion of participation by employed persons in profits and enterprise results (including equity participation) (92/443/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas in its communication concerning the Action Programme relating to the implementation of the Community Charter of the Fundamental Social Rights of Workers the Commission announced its intention to submit a Community instrument on equity sharing and financial participation by employed persons;

Whereas a report on the promotion of participation by employed persons in profits and enterprise results in the Member States has been prepared; whereas this report has established that there is a great variety in the types of scheme encountered in the Community, including cash payments, share-based and deferred profit-sharing schemes and various types of particular share-ownership schemes for employed persons;

Whereas encouragement of financial participation in enterprises by employed persons, without discrimination on grounds of sex or nationality, may be seen as a means of achieving a wider distribution of the wealth generated by enterprises which the employed persons have helped to produce; whereas, furthermore, the promotion of enterprise schemes for the financial participation of employed persons in enterprises encourages in particular greater involvement of employed persons in the progress of their companies;

Whereas, while the body of empirical research into the effects of such schemes in practice does not yet provide overwhelming evidence of strong overall advantages, there are sufficient indications that such schemes produce a number of positive effects, particularly on the motivation and productivity of employed persons and on the competitiveness of enterprises;

Whereas it is appropriate to promote a wider spread of financial participation schemes within the Community, without seeking active harmonization or a reduction in the existing wide range of available schemes;

Whereas account should be taken of the important role and the extensive responsibilities of management and labour in this area; whereas the interest and active involvement of management and labour in this Community initiative are a pre-condition for its ultimate success;

Whereas the present action appears necessary to attain, in the course of the operation of the common market, one of the objectives of the Community.

I. HEREBY INVITES THE MEMBER STATES:

1. to acknowledge the potential benefits of a wider use, individually or collectively, of a broad variety of schemes to increase the participation of employed persons in profits and enterprise results by means of profit-sharing, employee share-ownership or a combination of both;
2. to take account of the role and the responsibility of management and labour in this context, in accordance with national law and/or practice;

II. HEREBY RECOMMENDS THE MEMBER STATES TO:

1. ensure that legal structures are adequate to allow the introduction of the financial participation schemes referred to in this recommendation;
2. consider the possibility of according incentives such as fiscal or other financial advantages to encourage the introduction of certain schemes;
3. encourage the use of such schemes by facilitating the supply of adequate information to all relevant parties;
4. take account of experience gained in other Member States when deciding on which participation schemes to

promote;

5. ensure that in the context of the laws, regulations and practice possibly existing in the Member States the parties concerned have a wide range of options or arrangements available, the implementation of which would, when suitable, be the subject of consultations between employers and employed persons or their representatives;
6. ensure that this choice can be made at a level which, taking account of national collective bargaining legislation and/or practices, is as close as possible to the employed person and the enterprise;
7. contemplate and/or encourage consideration of the points set out in the Annex when new financial participation schemes are being prepared or when existing schemes are being reviewed;
8. examine, after a period of three years following the adoption of this recommendation, the data available at a national level on the development of financial participation by employed persons and to communicate the results to the Commission;
9. enhance management and labour's awareness of the above matters;

### III. NOTES THAT THE COMMISSION INTENDS:

to submit a report to the European Parliament, the Council and the Economic and Social Committee on the application of this recommendation within four years of its adoption, on the basis of the information supplied to it by the Member States.

Done at Brussels, 27 July 1992.

For the Council

The President

N. LAMONT

(1) OJ No C 245, 20. 9. 1991, p. 12 and OJ No C 140, 3. 6. 1992, p. 5.(2) OJ No C 125, 18. 5. 1992, p. 241.(3) OJ No C 18, 21. 4. 1992, p. 40.

### ANNEX

POINTS REFERRED TO IN SECTION II, POINT 7 1. Regularity: the application of participation schemes on a regular basis and the granting of 'bonuses' at least once a year.

2. Pre-determined formula: the definition, in a clear way and before the beginning of each reference period, of the formula for calculating the amounts allocated to employed persons.

3. Maintaining wage negotiations: the existence of financial participation schemes should not stand in the way of normal negotiations dealing with wages and conditions of employment or of setting wages and working conditions through such negotiations.

The question of the agreement on new provisions in the field of the financial participation of employed persons may be taken up in the normal negotiations dealing with wage-setting and working conditions, without replacing them.

4. Voluntary participation: the opportunity for both enterprises and employed persons to express a choice, within the framework of any laws, regulations or agreements which may exist in the Member States, on the adoption of a participation scheme or on the financial participation scheme or arrangements in which they wish to participate.

5. Calculation of amounts allocated to employed persons: the amount of bonuses should not generally be fixed in advance, but determined on the basis of a pre-determined formula reflecting the enterprise's performance during a certain period (expressed in terms of profits or any other indicator) the performance measure(s) chosen to measure the performances being clearly specified.

6. Amounts: the formula for calculating bonuses should be such that it will produce the expected incentive, although it should not exceed a specific ceiling (in relative or absolute terms) in order to avoid wide fluctuations in income.

7. Risks: employees should be made aware of the risks inherent in financial participation schemes; apart from the risks of income fluctuation inherent in participation schemes, employed persons may be exposed to additional risk if their participation takes the form of investments that are relatively undiversified; in this context, the possibility of providing for mechanisms to protect against the risk of depreciation in the value of assets merits consideration.

8. Beneficiaries: beneficiaries are primarily employed persons, i.e. wage-earners covered by employment contracts; as far as possible, access to participation schemes should be open to all persons employed by the enterprise.

More generally, workers in similar objective situations should have equal rights with regard to access to participation schemes.

9. Enterprise type: participation schemes may be instituted by both privately-owned firms and public enterprises, as long as suitable indicators of enterprise results or profits are, or can be, made available.

10. Size of enterprises:

(a) small and medium-sized enterprises should have adequate opportunities to be able to implement financial participation schemes; in particular, it is important to ensure that administrative constraints are few in number and that, if needed at all, minimum financial requirements are not too high;

(b) in larger enterprises, especially multinational companies, it may be useful to link all or part of employee benefits to the performance of a separate profit unit rather than to overall enterprise results;

(c) the size of enterprises may also affect the choice of the most appropriate scheme.

11. Complexity: complex participation schemes should be avoided.

12. Information and training: to ensure the success of any type of participation scheme, substantial efforts will be required to provide relevant information and, if need be, training for all employed persons concerned.

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