EUROPEAN PARLIAMENT

1999 *2004*

Committee on Employment and Social Affairs

2 December 2002

WORKING DOCUMENT

on the Commission communication on a framework for the promotion of employee financial participation

Committee on Employment and Social Affairs

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I. Challenges

The most recent studies by the European Foundation for the Improvement of Living and Working Conditions[1] show that since the Commission's 'PEPPER I report on the promotion of participation by employed persons in profits and enterprise results'[2] and the subsequent adoption of the Council recommendation in 1992, progress on disseminating financial participation more widely has been unsatisfactory.

- Participation schemes are spreading only very slowly and to very different extents in the Member States, with France and the United Kingdom clearly in the lead.

- The most common forms of participation are those involving only a small, privileged group of employees, while there is little progress with forms of participation that are open to all employees.

- Size and capital structure are important factors affecting financial participation: SMEs have major difficulties with it.

- With regard to the political background, in some Member States the debate on financial participation has become more animated, while in others there is no significant progress.

- On the other hand, a study by Parliament's secretariat[3] shows that there is much disagreement among experts on the effect of financial participation on productivity; estimates put the productivity increase at between 8% and 30%[4]. This enormous variation shows that more research is needed here. One thing is clear, however: it is not so much a question of yes or no to financial participation, what is important is how the participation scheme is implemented.

On the basis of this information, your rapporteur takes the view that support measures must be stepped up at both national and European level, with the main focus on the following points.

1.1. Concentration on creating added value

A central concern is that forms of participation should be promoted that are open to **all employees**. Above all, this is a matter of creating the right conditions so that employees can actually make use of their rights. The following are some examples.

- In its resolution on the Pepper report, Parliament called, in addition to the usual incentives in the form of tax concessions, for the introduction of **savings bonuses** for low-paid employees who were less likely to benefit from tax incentives.

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[1] Cf. 'Employee share ownership and profit sharing in the European Union', European Foundation for the Improvement of Living and Working Conditions, Dublin 2001

[2] Supplement 3/91, Social Europe

[3] 'Employee participation in profit and ownership: a review of the issues and evidence', European Parliament, Directorate-General for Research, September 2002, Ref. SOCI 109

[4] 'Employee share ownership and profit sharing in the European Union' and 'Recent trends in employee financial participation in the European Union, European Foundation for the Improvement of Living and Working Conditions, Dublin 2001

- Some Member States (Great Britain and France) make greater use of **share options**. These are documents giving employees the right to buy a share at a particular, usually favourable, price. If they make use of the share option rights, capital is increased. But share options are very often given only to management. An important question is how these share options could be offered to **all employees** without exposing them to unacceptable risks.

- The **timing of taxation** is also very important where share options are concerned. If tax becomes payable when an option is granted to buy shares later, the employees must pay the tax before they have made use of the opportunity to buy the cheaper shares. In principle tax should only become payable when the option is exercised, particularly in the case of tradeable stock option certificates.

The orientation towards the added value process also shows a concern for **dividends to remain in the enterprises.**

- States may prefer incentives in the form of equity shares that remain in the enterprise and help to finance jobs over cash dividends to employees. This makes sense for the national economy, as this kind of participation is not immediately translated into consumer spending, but remains in the enterprise in the long term and helps to create jobs. Participation should be seen not as a gift, but as remuneration for the effort the employees have put in.

1.2. Help for SMEs

In its resolutions on the Pepper I and Pepper II reports, Parliament advocated directing increased support to forms of participation that were specially tailored to the needs of SMEs.

- In many SMEs, because of the way they are legally constituted, the possibilities for equity participation are limited. **Alternatives to the usual forms of employee ownership scheme** must therefore be found. A starting point could be the silent participation instrument used in Austria and Germany.

- If in-house solutions are not possible, **external investment options** should be available which ensure that the funds are fed back into the enterprises. This recommendation goes beyond the scope of the Pepper reports, which were limited to the narrow perspective of in-house participation. Investment associations, enterprise participation societies and investment cooperatives for small businesses could take over this task and considerably facilitate SMEs' access to capital.

- Information measures: what SMEs really need is a great deal more information and advice. This work could receive considerable impetus if regional advisory bodies were set up, as already exist in many places.

1.3. Minimising risks

The Enron case showed how quickly employees' financial participation in their own company can become a nightmare. Consideration should be given to requiring such measures as:

- **insuring** employees with shares in the enterprise against its **bankruptcy** (e.g. through bank guarantees or insolvency protection), particularly during the period when they may not freely dispose of their shares (blocking periods);

- a clear distinction between salaries, contributions to company pension schemes and financial participation; this should not mean, however, that savings in the form of shares or pension contributions would be mutually exclusive in savings promotion schemes;

- there should also be encouragement for the kind of growth participation securities that are not totally exposed to the risks of international capital markets.

1.4. The question of involvement

As the most recent study by the Dublin Foundation shows, there is a clear connection between employee participation and participative structures in the enterprise. Financial participation schemes should not be seen in isolation, but as part of a modern enterprise culture, in which employee information, consultation and codetermination play as important a role as financial participation. A long-term aim in the context of the Lisbon strategy on improving the quality of work should therefore be a policy to promote a harmonious combination of these elements.

- Co-ownership by employees leads also to codetermination. Employee shareholders in limited companies can of course have little effect on company policy by themselves. But collective structures such as **employee shareholders' associations** can coordinate the management of shares and the way that employee shareholders exercise their voting rights at the General Meeting.

- When employees are shareholders in companies which are not limited companies, consideration should be given to codetermination through such structures as **partnership committees.**

1.5. Removing transnational obstacles

The various different financial participation schemes and policies to promote these schemes can create considerable obstacles at transnational level. These problems may arise in connection with:

- taxation, double taxation and different treatment with regard to social security law,

- differences in securities law (in particular in relation to prospectus requirements for employee share plans),

- lack of mutual recognition of schemes (foreign schemes excluded from tax incentives, incompatible administrative provisions).

Other problems can arise from labour law, e.g. with regard to eligibility criteria and termination of contracts, including severance pay and portability of shares. Differences in data protection law can also make administration of financial participation schemes more difficult.

II. Instruments

2.1. Research, pilot projects and information

The Commission has announced its willingness to support a series of studies, networks, pilot projects and awareness-raising measures, particularly for the social partners. These proposals are sensible, but your rapporteur considers that further measures are also necessary. Research should focus mainly on the following questions.

- What effect do participation schemes have on business success, productivity, competitiveness, willingness to invest, employment, quality of work and social cohesion?
- What are the possible forms of schemes (including institutional forms) for SMEs?
- How can such schemes be linked with other areas of enterprise management? And, above all, how can transnational obstacles be removed?

2.2. Inclusion in the European employment strategy

Your rapporteur congratulates the Commission on its intention of including the topic of financial participation in the employment policy guidelines peer review programme and of benchmarking national policies and practices. This is certainly an important contribution to promoting exchanges of information and identifying good practice.

2.3. Reinvigorating the 1992 Council recommendation

The 1992 Council recommendation set out some important principles and a number of sensible demands. Unfortunately not very much has happened since then. The experience of the last ten years and the results of the planned studies and peer reviews could, however, form the basis for updating the recommendation. A reworked recommendation could, for example, also include voluntary guidelines with regard to the Chapter IV principles, or agreements on certain general rules.

2.4. Legislative measures

Europe-wide legislation on employees' financial participation will be difficult for legal reasons alone[1]. However, some considerable problems could be cleared up if the subject was included in legislation which already exists or is in preparation with regard to, for example:

- insolvency protection (can shares be protected in the same way as salaries?);

- the directive on the European works council with regard to information and consultation of employees on any shareholding plans (as Parliament has already called for);

- the provisions on the European limited company (approved or conditional capital increase).

- Measures to remove obstacles to employee mobility are also urgently needed. The working group of independent experts set up by the Commission to analyse transnational obstacles should make it possible to identify the most suitable measures.

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[1] Article 137(6) of the EU Treaty excludes issues of pay from EU competence. However, clarification would first be needed on the extent to which financial participation is covered by Articles 137(1) and 137(3).

III. Other important considerations

- Raising awareness of the issue and promoting financial participation in the candidate countries;

- initiatives by the social partners;

- with regard to general principles, particularly important points are:
  - participation should be voluntary within a supportive context;
  - the whole workforce should be included;
  - schemes should be simple, clear and transparent ;
  - calculation formulae should be set out in advance;
  - schemes should be set up on a regular, long-term basis.