

A little bit of history...

The challenges that the national and European economies have been facing, over the recent years, push forward the companies to look for new forms to assure its competitiveness in a market, for itself, more and more competitive.

The primordial objective of the companies focus in the increase of productivity, competitiveness and correspondent profit. However, it still exists the need to associate the workers so that they collaborate, in an active way, in this objective, which allow this objective to become, in this way, a common objective. This is, mainly, a social issue because it allows the workers be more involved in the daily businesses of the company.

The financial participation of the workers does not appear as a recent newness. We are certain that the financial participation already counts with a wide tradition in within some of the members states. Getting, however, a new breath in the most recent years.

Such is due to the need to assure, within the European Union, the objectives, established in the Lisbon Summit, in the year 2000. A sustainable economic growth, a more competitive economy and a stronger social cohesion had been important to relunch the persistence and the necessity to implement forms of financial participation of the workers.

This policy is, also, relevant for other initiatives at European Union level, as the European Commission appeal for the development of a genuine Pan European risk stock market. That is way the financial participation assumes an important role in order to stimulate the growth of new dynamic companies, allowing the individual workers to participate in the capital of new companies.

Despite this increasing interest, more recently, the use of different forms of financial participation did not reach, yet, the desired expansion. We can state that the use of forms of profit sharing is the more frequent than the use of forms of participation in the capital.

We have to add, still, the fact that its use, within the different members states, it does not occur in a harmonized and identical way. The differences of one member state from another member state are, still, very emphasized, what has as consequence that the level of use of forms of financial participation of the workers it is very diferencianted.

These differences lead, still, to a situation in which the forms of financial participation are different from one to another member state, this because the forms of financial participation are adapted to the objectives they intend to reach, and these, on their turn, are also different. Leading to the fact that more than one system is used and developing combinations between the models that are more frequently used.

Concept

« the purpose of the Financial Participation is to associate the workers to the profits or results of the company .»

Brief Historic Data

- ❑ The European Commission launches, in 1991, a report on the Promotion of Workers Participation in the Profits and Results of the Company, usually known as Pepper I report.
- ❑ In 1992 the European Commission adopts a Recommendation inviting all the members states to recognise the potential benefits of the utilisation of the financial participation both for companies and for the workers, and also for the society in general.
- ❑ In 1997 appear a new Pepper II consecrating the general perspective about the way the members states promoted the financial participation, and which results showed the non existence of big changes to the approximation of the members states. Half of the members states have received very little or even nulle governmental support.
- ❑ Later the European Parliament adopted a resolution appealing to the attention of the members states, social partners and of the European Commission, in particular, to promote the exchange of information and good practices at transitional level and in order to study the impact of the financial participation in employment and in the flexibility of the wages.
- ❑ In 2000 the European Commission presents the intention of preparing a communication on promoting the financial participation and of the action plans.
- ❑ In 2002 the European Commission lunches an appeal to the Governments to promote the conditions of the financial participation, by schemes of shares, share options and profit sharing. The Communication of the Commission establishes the general principles, it establishes a group of experts to analyse the obstacles to the application of the financial participation of the workers at European level, among other aspects. The Communication reinforces three aspects of the financial participation: it identifies the general principles and the general policies, besides pointing out or preventing the potential risks of financial participation schemes.
- ❑ In March 2003, an opinion of the European Parliament, congratulates the European Commission on its Recommendation of 2002 in order to promote financial participation of the workers supporting the principles included in it, as well the need to make a clear distinction between the forms of financial participation, among others. It encourages also the European Commission to continue developing work in this sense.

The promotion of formulas of financial participation, without looking for an active harmonization, nor looking for a reduction of the range of existing formulas has been the privilege of the European Commission that stresses, like this, the spreading of the information concerning the different proceeding used, and corresponding possibilities and effects.

There are, within the European Union, a great variety of formulas of participation, including the attribution of rewards in cash, proceedings of differed incentive for the profits or based in the shares' distribution. The promotion, at communitarian level, of the financial participation of the workers must be considered as a way to reach a better distribution of the wealth produced by the companies promoting, simultaneously, a higher commitment of the workers in the future of the respective company.

In what concerns to the impact of these formulas of participation, and according to the European Commission, there are strong evidences that to demonstrate that the financial participation presents some positive effects in the motivation, the productivity of the workers and in the competitiveness of the companies.

In this sense the recommendation of the European Commission, stresses the importance that the Community and the members states should attribute a higher importance to the proceedings of the financial participation.

The States members are, therefore, invited:

- To guarantee that the legal structures are adapted to the ends, in order to allow the application of participation forms;
- To foresee the possibility to attribute incentives, such as: fiscal advantages and other financial advantages, in order to incentive the establishment of definitive forms of participation;
- To encourage the introduction of participation formulas, facilitating the disponibilisation of adequate information to all the interested ones;
- To have in mind, at the moment of the choice of which participation form to promote, the experiences carried through in the other members states;
- To take the necessary measures in order that the social partners can have possibilities of choice among a wide range of forms and modalities;
- To promote the awareness of the points established in the report attached to the proposal, by the time the elaboration of new formulas of financial participation or of the revision of the existent ones.

The essential of the legislation is destined to promote the forms of financial participation, composing them with tax incentives and other financial advantages: the issues, with fiscal exemption, of shares and obligations aim to the workers, fiscal deductions for the distributed profits, exoneration of contribution for the social security, among others.

Some countries grant, simultaneously, advantages to the employers as well to the workers. The legislation of certain members states follows the fiscal reductions, under certain conditions: it must be included, in this proceeding, a minimum percentage of workers accompanied by criteria of admissibility, ownership periods, among others.

The PEPPER report proposes the development of national laws, containing the clarification of the distinction between the wages subjected to the social contributions and the advantages of the proceedings imposed by PEPPER.

In general, and in summary, the reasons for the introduction of the financial participation are based in four points:

- Bigger flexibility in the remuneration;
- Increase of the productivity;
- Fiscal advantages;
- Benefits to the workers, which led to a higher commitment of them.

From a macro perspective the most important reasons to promote the financial participation are to assure a bigger distribution of the wealth and to sustain the employment. On the one hand, the systems of financial participation are used a benefit to the worker, to increase the engagement of the work force and to gain advantages and others fiscal bonus. On the other hand they are less used to diminish the rigidity of the wages and rarely used to introduce the payment schemes related with the performance.

Once again according with the European Commission, it is almost proved that the introduction of the financial participation is associated with an increase of the productivity of the company. However, nothing indicates the existence of an automatic correspondence between the participation in the capital, on the part of the workers, and the increase of the productivity or the increase of the profits. There is, yes, the demonstration that the financial participation, when allied to one form of participation of the workers increases the productivity.

There are studies that indicate that when the trade unions and representatives of the workers are involved in plans of implementation of financial participation, the developments of more plans of financial participation become an important objective.

Forms

There are two categories of financial participation:

- ❶ **Profit sharing** - company and workers share the profits, this means that the workers for beyond their monthly wage will receive plus a supplement, changeable according the profits generated by the company.

The profit sharing, in a restricted sense, means that the sharing of the profits among the ones that provide the capital and those that provide the work, giving to the

workers, in addition to their fixed wage, a part, variable, of the profit directly related with the results of the company.

Contrarily to the traditional "bonus", related with the individual performance, the sharing of profits is a collective, applicable to all or a great part of the worker's scheme.

In practice, the profit sharing can assume several forms. At company level, it can provide to the workers **immediate benefits** or **differed benefits**, it can consubstantiate cash delivers, shares of the company or it can be destined to specific funds of investment in favor of the workers:

⊙ **Payment based on the immediate participation of the profits**

The rewards of a profit sharing scheme is much more closer, in time, to the performance that is rewarded than to the differed sharing of profits. This is, generally, seen as an increase of the incentive of the payment, but it also means that the sum received is taxed exactly in that same year.

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Participation in the Profits - this form of financial participation is not directly connected to the financial results of the company, but to criteria such as the productivity increase, the reduction of the costs, etc. The remuneration of this system is more based in the performance than in the profit.

⊙ **Differed Participation of the profits**

This form of profit sharing is characterized by the fact that the profit to distribute is preserved, frequently, as an insurance/guaranty that is not immediately available to the worker. Usually the differed system attributes a certain percentage of the profits, this percentage will be invested on behalf of the workers.

The investment can be made by the company itself or it can be guided to for an account, with a minimum period of retention, before this amount becomes available.

Generally, in the majority of the countries with financial participation, a system of differed profit sharing must be approved by the responsible entities for the taxes, in the case to have tax benefits to attribute to the workers or employers.

As a note we can add that this system is used in the United States in order to attribute pension benefits. However, as the majority of the countries in Europe have developed systems of pensions, this system is less used.

It still exists the possibility of a participation be based on the attribution of a certain number of shares of the company to the workers, on relation with the profits or another measure. These shares are, usually, frozen into a fund, by a certain period of time, before the workers be allowed to sell them. When the shares are subject to a

minimum period of retention it will be preferable to use the denomination: "shares differed based in the profit sharing".

⊙ **Saving Plans for Workers and accumulation of goods** - this type of participation allows the workers to save part of their wage, and perhaps receive contributions from the employer, into an account that is, many times, invested in shares, bonds and other investments for a period of time before they become available for the workers.

Despite being seen as a long term saving program of savings, often it could allow withdraws or loans. These plans come, frequently, associated to denominations such as savings plans, incentive plans, investment plans, etc.

⊙ **Participation of the workers in the capital** - indirect participation of the workers in the results of the company either through shares or through the valorization of the capital that is already owned, or a combination of both. These schemes are related with the profitability of the company and allow the workers, indirectly, to obtain, from the companies an added value:

⊙ **Share Options** - the workers will have the chance to acquire shares of the company to a certain price, during a determined period, under favorable conditions.

In alternative it can be constituted a fund that will acquire shares of the company and that are destined, periodically, to the account of each worker.

⊙ The participation in the capital can be based on saving plans with contributions (share options, part of the wages or savings in money) of the worker himself or the employer.

The financial participation of the worker's aims, on the one hand, to contribute for a higher identification of the workers with the company where they work, with its objectives, with higher commitment in the life of the company. Despite the presented advantages of the participation we can state that the participation seeks a fundamental objective - the social cohesion, by allowing a direct participation in the creation and access to the wealth.

On the other hand, it makes possible, still, the motivation of the workers, increasing their loyalty to the company where they work, sharing common interests, which crates an increase of the productivity, competitiveness and profitability.

Guiding principles of the application of the financial participation of the workers:

Voluntary participation - In order to correspond to the interests of the involved parts the participation should be voluntary. With this we mean that the adhesion, of the companies or the workers, must be laid down on a voluntary basis.

Extensible Benefits to all the workers - To all the workers it must be given the possibility to be able to adhere to the financial participation. The discrimination of the workers will not allow to reach the inherent objectives of the financial participation.

Clarity and transparency - To prevent excessive risks for the workers. The workers should be aware of the risks and benefits that the system of financial participation will cause. For such they will have to be informed previously, in a clear and precise way. Such must be done in order to prevent extreme or unnecessary risks for the workers who are the ones who have more at stake: their income and perhaps their work.

Formula previously defined - the dispositions on financial participation should be previously defined and associated to the results of the company.

Regularity - The participation systems should be applied on a regular basis and not only as sporadic cases, always when the company intends to be opportune.

Distinction between wage and income of the financial participation - It should be done the correct distinction between wage of the worker and the income that the worker receives from the system of participation applied. This income is a complement to the wage, but it does not have to be included in the wage of the worker. The wages will be, therefore, freely negotiated by the social partners at collective bargaining.

Transnational Obstacles

The dissemination of the systems of financial participation, in Europe, doesn't happen in a uniform way. As we referred the use of the systems and other forms of financial participation are not the same, changing from member state to member state. There is, therefore, a huge diversity among the systems and applicable forms in Europe. Such is justified due to the adequacy of the systems to the objectives and national particularities of each member state.

This diversity will be able to cause or to represent impediments to the use of the financial participation at transnational level. This, because the systems of social security differ, as well as the fiscal systems, the legislations have their own and particular characteristics and even the cultural differences are some of the reasons that will be in the basis of this diversity.

A multinational company that intends to implement the systems of financial participation in several locations, such will imply that the same system has to be adapted in accordance with the characteristics of each country, which will, undoubtedly, create differences from country to country, with the workers receiving different treatment. Besides that such implementation gathers high administrative duties to the companies.

Besides creating problems to the companies, they will be able to hinder to the free circulation of the workers, of the capital and they will have a motive to face double taxation problems.

- **Fiscal system**

- a. **Double taxation:** currently none of the agreements on double taxation foresee disposals regarding the share options. As such it originates difficulties for the

workers of a company that are displaced to another country and that could be taxed twice or even not to be taxed at all.

To prevent such obstacles it will be essential that the financial participation systems be covered by the agreements on double taxation, either through an extensive interpretation of the existing agreements in order to enclose such systems, or by the renegotiation of the existing agreements.

b. Administrative costs for the companies: they will have to have in mind the different rules regarding cost's deduction, retention, discounts of the workers, etc.

- **Contributions for the social security**

It is not only the level of the contributions for the social security that varies according the country, in some cases the income of the financial participation can be completely exempt of contributions of this nature. The extreme weight of the social duties can carry incalculable risks to the companies.

It will be necessary a strengthened coordination of the practices in this field, namely the agreement on certain general principles that would constitute important steps towards this direction.

- **Differences at legislation level**

Problems may appear related with the labor legislation, namely in what concerns to the criteria of eligibility or terms of contracts, compensations for ceasing of functions, among others. Another problem appears with the differences of the applicable legislation in what concerns the data protection, that will difficult the management of the systems of financial participation.

- **Cultural differences**

According the national habits and policies, the workers and the social partners reveal different attitudes in what concerns to some of the models of financial participation.

In order to overcome this problem an improvement is needed regarding the information and the intensification of the exchange that will be very welcomed.

- **Mutual lack of recognition of the financial participation systems**

The lack of recognition of the system applied in a country for another one puts great impediments to the introduction of systems of financial participation at international level.

- **Lack of information**

The ignorance of the systems of financial participation, the lack of information, makes difficult the introduction of systems at the international scale. The costs to overcome this situation are, often, prohibitives for the small companies.

To strengthen the participation of the workers in the profits and the results of the company, in Europe, it will be important that the members states continue to intensify their own efforts to guarantee a legal and fiscal favorable framework.

Taking in attention the different levels of development of the financial participation in some countries there are huge potentialities for an interchange of information and experiences. It still, exists, a lack of generalized information on the potentialities and the possibilities of the financial participation of the workers.

Role of the social partners

The social partners have a crucial role to play in the development of the financial participation. However, it continues to exist reserves and apprehensions, mainly on the part of the trade unions.

The apprehensions that subsist happen generally from the possible risks that these systems hold for the workers, from the implications of the wage flexibility and the process of collective bargaining.

In many countries the trade unions are taking now a pragmatic position. These developments are verified in countries such as Germany, Ireland and Holland.

Recent studies, invoked by the European Commission's recommendation, that conclude that the financial participation does not weaken the role of the trade unions and of the worker's councils and that, till the moment, there is no relation between the financial participation and the low wages or a negative impact in the collective bargaining.

In general, the employers' organizations do not have an active policy on the financial participation, therefore such is seen as a reserved matter to the employers, individually considered. However, there are some aspects that can lead to a change of this situation:

- The Increase of the use of financial participation schemes can lead the employer to go near its representative organization searching for support and such will be able to lead to a pressure for the establishment of guidelines;
- The multinationals companies tend to have higher obstacles to the implementation of its plans cross borders;
- In certain sectors and in certain countries and for a certain number of categories of the staff, the discussions between the social partners on the elements of financial participation are part of the negotiations of the collective agreements.

Diffusion of the systems of Financial Participation

There are several member states whose governmental policies already foreseen a strong incentive to the application of the systems of financial participation, though this tendency is not generalized. This support to the implementation of systems of financial participation passes, in some cases, for the narrow cooperation between the partners and in other aspects

for the incentives and appeals to the partners so that they integrate the issue in the collective agreements.

In this sense we have to stress the appeal of the European Commission so that the members states continue to intensify the efforts already developed in order to guarantee that this matter has a favorable legislative and fiscal framing.

The Financial Participation and the SMEs

It is common understanding that the benefits of the systems of financial participation should not be only applied to the companies of great dimensions. Small and medium Companies face specific problems with the introduction of the systems of financial participation. Frequently the costs and the administrative difficulties attributed to the application of the systems of financial participation in a SME are impeditive to the application of these same systems.

However, other obstacles emerge in what concerns the SMEs. This because, frequently, the reduced number of workers of the company and the costs of the application of the systems of financial participation are excessive in what concerns to the potential benefits.

In another perspective, however, it can be glimpsed some benefits of the application of the systems of financial participation to the SMEs. The possibility of provision of capital for the start of new companies and the possibility to attract and to maintain faithful the man power have been pointed out as added benefits to the application of a system of financial participation in the SMEs.

Having in attention the specificities of the SMEs it is necessary to develop systems of financial participation adequate to the necessities of these companies, because only like that it can be obtained better results in the application of these systems.

The Financial Participation and the state owned companies

In a first analysis we could state that the companies of the public sector would out of the aim of the application of the systems of financial participation once, due to their nature, they do not aim the profit. However, such would leave a wide percentage of the population to be excluded from the application of the potential benefits of the systems of financial participation.

The systems of participation in the profits, once they are not linked directly to the financial results of the companies, but to other criteria such is the case of the increase of the productivity, reduction of costs or other qualitative objectives i.e., closer to the systems based on the performance, could be considered financial participation and like this adapted to the companies of the public sector.

It seems to have a clear necessity to adapt the systems of financial participation to the characteristics and needs of the companies of the public sector having in mind the fact that the traditional forms of financial participation not always are able to apply to the companies of the public sector.

The Financial Participation and the Applicant countries

In general, the financial participation is very little developed in the applicant countries. This despite the fact that by the occasion of the privatization it has been given to the workers the possibility to acquire shares of the companies recently privatized, which had counted with a relevant adhesion. However this quickly vanishes. This because the shares had been, right away, sold to make money, because the interest in the participation in the capital on the part of the workers is not huge. An almost generalized lack of legislative or fiscal framing still does not exist, as well as the support to the development of the financial participation, in its different ways.

And the position taking...

For the European Trade Unions Confederation (ETUC) the existence of wide diversity of forms of financial participation, including advantages in training, savings schemes, profit sharing and participation in the capital, requires a rigorous definition of precision.

In the understanding of this organization the bonus are payments on and extra wage. The participation in the capital means sharing, or a similar interest, towards the equity and which is offered to the workers free of charge, or at preferential values having as base an agreement concluded with other representatives of the workers.

In what concerns the members states, there are several systems depending on the national circumstances and on the industrial relation systems. The attitudes of the workers and preferences are, also, different. Despite the individual circumstances of each member state it must be given priority to the wage bargaining and to a secure and transparent remuneration.

Principles on which must lay down the financial participation plans:

- The financial participation will only have a positive impact if integrated in the whole system of workers' involvement, at all the levels;
- In a profit sharing scheme, the wages can change according the amount of the bonus. The ETUC, firmly, accepts that the profit sharing, as well as all the forms of financial participation, must provide an additional profit and it cannot be, in any circumstance, considered as an alternative to the wages. The financial participation is not, also, an alternative to the public pensions or to pensions' schemes result of the collective bargaining. The negative effects of fiscal or para-fiscal measures of the financial participation in national systems of social security must be compensated;
- The ETUC believes that all the modalities of financial participation must be introduced through the negotiation among the social partners, moreover, the collective agreements must constitute the frame of the financial participation. The participation, in any kind of scheme, must be voluntary.
- The financial participation should not, in any case, strength the differences of the profits, neither among the companies nor in the society in general. Special attention must be given

to the gender equality, it must include all the workers in the companies where they are introduced;

- The ETUC criticizes the fact that in the Communication of the European Commission only is given relevance to the relation profit-productivity and less attention to the economic objectives, in a general way. The ETUC strengthens the need of the European Commission, in its action plan, to prevent an interpretation only guided for one of the pole of the question;
- The Commission only refers the financial participation at company level, this at a time in which the careers are no longer marked by the performance in a single company during the whole working life. The ETUC invites the Commission to reflect on schemes that go beyond the sphere of the company, with special attention for companies of small and medium size and/or companies of the public sector;
- The ETUC believes that the collective funds are a form of financial participation more secure than the others. A fund is less vulnerable in the case of insolvency.
- The projects of financial participation must be transparent and follow long term policies, in matters of corporate social responsibility. The schemes of financial participation must be target of consultation and according with the representatives of the workers and trade unions.