Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on a framework for the promotion of employee financial participation'

(COM(2002) 364 final)

(2003/C 95/09)

On 5 July 2002 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 February 2003. The rapporteur was Mr Sepi.

At its 397th plenary session on 26 and 27 February 2003 (meeting of 26 February), the Economic and Social Committee adopted the following opinion by 98 votes to five with six abstentions.

1. Introduction

1.1. The question of employee financial participation in company profits and results has been the subject of numerous Community initiatives aimed at supporting and encouraging action by national governments and the social partners to create an appropriate framework for the general introduction of this form of participation. The work of the Foundation for the Improvement of Working and Living Conditions figures prominently among such initiatives, bringing considerable knowledge and careful analysis to bear on this issue. In addition, the European Parliament will shortly adopt a report on the matter, having held a constructive meeting with the EESC.

1.2. The purpose of the present communication is to give fresh impetus to the Community initiative in this area in the light of the strategy defined at the Lisbon summit in March 2001, which set as its objective to increase the competitiveness and dynamism of the European economy in order to develop knowledge and social cohesion.

1.3. The EESC warmly welcomes the Commission's communication, in the belief that financial participation can play a major part in European strategy. It also believes that the conditions governing the applicability of financial participation should be looked at more closely, giving proper consideration not only to the opportunities, but also to the associated risks and problems.

2. The content of the communication

2.1. The communication sets out to provide a framework for Community action to promote the widespread introduction of financial participation, in accordance with the principle of involving as many employees as possible both within each company and throughout the entire production system, by means of the active involvement of the social partners.

2.2. This overall framework is built around three points:

2.2.1. identifying general principles for financial participation, with the aim of forging a common approach for initiatives by the Member States and by the social partners;

2.2.2. identifying the main transnational obstacles currently impeding adoption of financial participation initiatives on a European or international scale, and devising the appropriate measures to address such obstacles;

2.2.3. identifying instruments for promoting wider dissemination of financial participation, encouraging exchanges of information and experience, and research into this area.

2.3. Regarding the general principles governing financial participation, the Commission has identified a core of fundamental elements on the basis of the experience gained in the main countries and following the studies and discussions which have taken place. These elements, on which a broad consensus has been reached, are set out below:

2.3.1. voluntary nature of financial participation schemes, for both enterprises and employees;

2.3.2. discrimination-free access to financial participation schemes for all employees, while recognising some differentiation of conditions reflecting the diversity of interests and needs of different categories of employee;

2.3.3. clarity and transparency of participation schemes, both in the set-up phase, when workers should be duly consulted, and in day-to-day management, with the adoption of predefined formulas for participation in company results;

2.3.4. regularity of schemes. These should not be one-off exercises, but as far as possible a permanent feature of company/employee relations;

2.3.5. limits to the risk for employees, given the high level to which they are exposed compared to other investors;

2.3.6. income from financial participation to be complementary to, rather than a substitute for, wages and salaries;

2.3.7. compatibility of financial participation schemes with worker mobility, to avoid creating barriers or deterrents to mobility.

2.4. Turning to the problem of supranational obstacles impeding the dissemination of financial participation at European level, in the Commission's view harmonisation of legislation on financial participation, in order to offset the negative effects of diversity in taxation, social security and legal arrangements, is impracticable. The proper path to follow is to make it easier for companies to adopt participation schemes on a European scale, by encouraging Member States to implement forms of coordination and agreement on general principles, and to introduce mutual recognition of the different participation schemes as widely as possible. Moreover, the Commission favours sounding out the possibility of developing one or more European financial participation schemes which would be adaptable to different national contexts.

2.4.1. To this end, the Commission firstly points to more intensive exchange of experience as a valuable way of overcoming obstacles, particularly cultural ones.

2.4.2. In contrast, the Commission considers specific measures to be necessary for other types of obstacle. Attention is firstly drawn to the need to deal with the issue of double taxation, either by interpreting existing OECD agreements or, where this is not enough, by incorporating them in such a way as to meet the specific requirements of EU Member States.

2.4.3. More generally, the Commission has set up a working group to put forward practical proposals to deal with each type of transnational obstacle to financial participation schemes.

2.5. With regard to the aim of extending the coverage of financial participation, the Commission believes it should help create favourable environments by means of a series of initiatives designed to:

2.5.1. foster exchange of information, with benchmarking of national policies and practices;

2.5.2. boost the social dialogue on financial participation, stimulating and promoting initiatives by the social partners;

2.5.3. consider extending experiments with forms of financial participation to small- and medium-sized enterprises and the public and non-profit sectors;

2.5.4. improve information by promoting research and studies, in particular for the systematic collection of data on the use and dissemination of financial participation schemes, and closer microeconomic analysis of financial participation in terms of business strategic and financial policies and industrial relations;

2.5.5. facilitate the building of Europe-wide networks so that information exchanges, analysis and research can be put on a permanent footing.

2.5.6. The Commission also plans to provide financial support for such initiatives, making use of Community funding channels.

3. General comments

3.1. Employee financial participation is consistent with recent developments in the European economy, within which it can play a positive part in creating value through improvements in terms of efficiency, flexibility, employee association with company objectives, and management which is sensitive to social dialogue in order to develop and strengthen cohesion.

3.1.1. A number of factors, linked to changes to the ways capital is allocated and factors of production are organised, have boosted the importance of human capital, facilitating progressively closer involvement of employees in carrying out the function of the enterprise. This greater involvement is paralleled by growth in employee participation in company economic results.

3.2. In most of the major EU countries, this participation takes place on an individual level, through an increase in the variable element in pay, such as incentive bonuses or stock/share options for individuals or specific groups of employees (usually with higher skill levels).

3.3. In contrast, forms of financial participation for all, or broader categories, of workers are rare, and are very uneven between the Member States, apart from the experience of workers' limited companies (WLCs).

3.3.1. Precisely such broad forms of financial participation can provide the greatest benefits for the European business system, by reducing the element of conflict in industrial relations, and they can help achieve the objective, laid down by the March 2000 Lisbon summit, of making the European economy 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion' (1).

3.3.2. Financial participation can offer an efficient means of making the most of investment — by both employers and employees — in know-how and vocational skills, increasing the value of human capital. It has been demonstrated (2) that there is a positive correlation between introducing forms of financial participation and investment in occupational training. Investment in human capital, which requires companies and workers to cooperate, is indeed facilitated by the longer term relations and greater sharing of company aims which flow from financial participation schemes.

3.3.3. Financial participation also increases company transparency. Implementing financial participation schemes firstly requires that companies become more 'open' in information terms, so that they can identify and monitor the profitability indicators deriving from financial participation, and secondly spurs companies to give a quantitative and qualitative boost to communication with employees regarding strategy and outcomes, so as to give real effect to the worker involvement in company affairs which financial participation entails.

3.3.4. This generates greater transparency in companies involved in financial participation experiments, and in particular makes them more receptive to the idea of transparency. This receptiveness can have a positive effect on relations with the product and capital markets, especially for companies which are not yet listed on a stock exchange.

3.3.5. In view of the potential importance of financial participation in harnessing human capital and increasing company transparency and communications skills, its extension to the entire economic system of European countries should be encouraged, with specific forms of financial participation also being devised for SMEs and for the public and non-profit sectors, which are a major element in the European economic system.

4. General principles

4.1. No European Union strategy in this field can be defined without firstly establishing a number of common principles for financial participation schemes. These general principles constitute an essential foundation for shaping financial participation in the EU countries, and for ensuring that its features are compatible with the objectives of increasing the competitiveness of European enterprises, improving the quality of work and contributing to social cohesion, which underpin the EU policy formally set out at the Lisbon summit.

4.1.1. These principles must not result in a single, rigid model for participation; rather, they should provide a basis for seeking a common path for initiatives by the Member States and the social partners, using flexible forms capable of fitting in with the specific features of individual countries and the economic settings in which they are implemented.

4.2. The general principles laid down by the Commission represent a valuable contribution to this end. The EESC would emphasise in particular how important it is for financial participation schemes to guarantee the principle of their voluntary nature for both businesses and individual workers, the principle of non-discrimination for workers, the principle of clarity and transparency of schemes, with as much consultation of workers as possible, and the principle of continuity. Such schemes must not come to act as substitutes for regular pay. This would allow excessive risk in financial participation schemes to be avoided.

4.3. An equally important principle, which merits rather closer examination, is the principle that financial participation should not be an obstacle to worker mobility. Financial participation schemes indeed imply a trade-off between this principle and the aim of encouraging worker 'loyalty' to employers. This trade-off assumes particular importance in the light of the wider introduction of flexible employment arrangements in all the EU countries.

(1) See point 1.5 of the Presidency Conclusions of the Lisbon European Council (23-24.3.2000).

(2) See in particular the Dublin Foundation's report on 'Employee share ownership and profit-sharing in the European Union', 2001.

4.3.1. The EESC's view is that financial participation schemes must also take proper account of the specific problems of workers who enjoy greater intrinsic employment mobility.

4.4. Turning back to the general principles guiding financial participation schemes, collective bargaining in disseminating such schemes is of key importance. As it develops, financial participation can effectively play a major role in European companies.

4.5. Another point to make is that no distinction is made in the Commission's principles between different forms of financial participation. Not only the practical implementing arrangements, but also the purpose and applicability of the two main forms of financial participation — participation in results and share ownership — can vary substantially.

4.5.1. Share ownership represents the fullest form of participation, since a share in capital creates a more powerful and enduring company-employee link, with employees becoming an integral part of company life. However, this greater involvement goes hand-in-hand with greater risk-bearing on the part of employees as a result of the possible fluctuation of future share values.

4.5.2. Participation in the form of participation in results, on the other hand, is more practicable in settings other than companies operating for profit, since it can be introduced in a flexible way and adjusted to a range of organisational structures.

4.6. In the light of this distinction, the European Economic and Social Committee would also highlight the contribution that financial participation schemes, particularly in the form of equity participation, can make to corporate governance.

4.6.1. Employee shareholders can help improve corporate governance in their companies, since they represent a type of investor concerned with the long-term performance of the business, compared with the pervasive short-termism which is characteristic of market investors.

4.6.2. By playing an active part in company affairs through the machinery provided under company law (primarily shareholders' assemblies, but also other forms of shareholder activity), employee shareholders can make a significant contribution to monitoring company management: a function of increasingly vital importance in ensuring that companies are run as consistently as possible with the interests of all shareholders.

4.6.3. It is therefore suggested that the principles should include that of making the most of the contribution of employee shareholders to the corporate governance of those companies which set up financial participation schemes, fostering the active involvement of employees in company affairs in ways compatible with the form of the enterprise and the chosen participation methods. In this regard, collective involvement through freely decided forms of association should also be encouraged, in the shape of cooperatives, foundations or associations.

4.6.4. More generally, the proposed increase in employee involvement in company capital, through the development of financial participation schemes, depends on a commitment to ensuring that corporate government arrangements for European businesses are ever more effective. This means stronger safeguards for all minority shareholders, and more robust arrangements for company democracy. Effective capital formation of benefit to employees can be achieved through employee participation. In this regard, the EU initiative on corporate governance should be reinforced, with the specific aim of devising means for striking a better balance in the incentive and monitoring systems governing the ownership/control relationship within European companies.

5. **Transnational obstacles**

5.1. Differences between tax systems, in the general legal framework and in the cultural environment, especially within industrial relations arrangements, can constitute major obstacles for companies which wish to set up financial participation schemes covering employees from more than one EU country.

5.1.1. The Commission's communication clearly identifies these problems, and indicates a number of possible areas for action to remove the main obstacles.

5.2. The EESC agrees that a Community initiative aimed at harmonisation of rules on financial participation schemes is impracticable: it could stand in the way of the flexibility needed when framing national policies. Furthermore, the necessary legal bases may not exist.

5.3. The European Economic and Social Committee urges that priority be given to seeking closer coordination of current practices, by means of guidelines and agreements between the parties concerned on the general principles and the introduction of measures to facilitate mutual recognition.

5.3.1. The EESC would also stress that the most effective way of removing transnational obstacles is to define general principals for financial participation schemes which are adaptable to the various national contexts, facilitating their transposal to the European level.

5.3.2. It is also important, in this connection, to establish common treatment in offering shares or options to employees, providing for exemption from the compulsory publication of prospectuses, thereby removing the present disparities in this area.

5.3.3. The European Economic and Social Committee would point to its opinion on the Proposal for a Directive of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading [1], which argued that the proposal inappropriately limited the scope of the exemptions, by excluding from them rights offerings and offerings of employee share options.

5.4. Care should be taken when drawing up the general principles of financial participation schemes to avoid any indirect encroachment on the competences of the Member States.

6. **Towards a wider dissemination of financial participation**

6.1. Wider introduction of financial participation depends to a considerable degree on the existence of a favourable environment in the legal, tax-related, cultural and industrial relations spheres.

6.2. The European Economic and Social Committee considers that the framework of initiatives proposed by the Commission is at present commensurate with the objective of promoting the dissemination of financial participation. One of the areas which should be examined in greater depth is the issue of financial participation in companies not listed on regulated markets. Particular problems arise for such companies in terms of the quality, amount and promptness of financial information. Moreover, in the case of shareholding in companies not listed on regulated markets, further examination of the conditions and instruments for setting share values and deciding whether they can be transferred, there being no market on which prices are constantly set and opportunities for sale provided.

6.2.1. The issue of financial participation in unlisted companies assumes particular importance if the aim is for such participation to become an integral feature of European economic systems, since in most European countries, companies listed on regulated markets account for only a minor portion of economic activity. More specifically, account must be taken of the particular nature of three different sectors: small and medium-sized enterprises, non-profit enterprises, and the public sector.

6.2.2. In view of the considerable difficulties which SMEs — an important strand in Europe's industrial fabric — experience in introducing financial participation schemes, the sector needs to be studied in more detail. The Dublin Foundation is currently preparing research in this area: the results must be widely circulated as part of a broader drive to disseminate know-how regarding both the most appropriate forms of participation for SMEs, and the obstacles they face; the experience of cooperative SMEs or of small WLCs can serve as a frame of reference.

6.2.3. The first problem arising with regard to SMEs is that of ensuring proper transparency of results and profitability/financing prospects. Under these circumstances, the provision of specific financial participation measures must be flanked by — and can contribute to — a more open approach to information by SMEs.

6.2.4. Financial participation can also help locate sources of external funding to increase the rate at which they can grow in size, especially for businesses with highly-skilled workforces and operating in strongly innovative sectors. Preparing financial participation plans in such companies, especially in the form of employee equity participation, can send a powerful message to financial institutions regarding a company's potential for growth. A message of this kind can help overcome the in-built reticence of outside sources of finance towards young and/or small businesses. While on the one hand employees, as company 'insiders', are better informed on growth potential, on the other this potential is boosted by the greater contribution made by employees who are involved in company outcomes.

6.2.5. For SMEs, consideration should also be given to the idea of studying forms of financial participation at company pool level, particularly where businesses are operating within designated industrial districts.

6.2.5.1. Lastly, financial participation, in the form of employee stock ownership, can play a part in helping struggling businesses to survive. In this connection, existing good practices regarding sectoral and inter-business funds in the EU should be carefully assessed and promoted.

(1) EESC opinion in OJ C 80, 3.4.2002.

6.2.6. Turning to financial participation in non-profit bodies and the public sector, it is firstly stressed that the entities operating in these sectors are generally of a legal standing such as to rule out financial participation in the form of equity participation. Attention should therefore focus on participation in results. Here again, the particular nature of these enterprises, whose results are reflected primarily in the quantity and quality of services provided, should be borne in mind. There have been some interesting experiments in this field, as in the Irish public sector, which merit closer examination. Under the Irish experiment, a fund was established with amounts earmarked for decentralised bargaining, which are distributed to public sector employees in proportion to the specific service provision targets they meet in defined fields of activity.

6.2.7. However, caution should be exercised when introducing performance-related salary components in the case of jobs where public servants are required to have a particularly high degree of independence (public order officials, tax administration, the judiciary etc.) and therefore an extremely judicious approach is called for when it comes to introducing any kind of profit-sharing. In any event, the independence of such positions should be guaranteed by means of an appropriate (fixed) salary.

7. **Conclusions**

7.1. The communication from the Commission makes a significant contribution to reactivating Community initiatives on financial participation, and spurring the Member States and social forces to take practical steps to encourage its introduction. General principles must be established in this regard, to serve as guidelines for the Community strategy, while the practical forms of implementation retain the necessary degree of flexibility.

7.2. The EESC would point out that financial participation is entirely consistent with the European Union's established objectives of social cohesion and economic development, and therefore advocates stepping up efforts to promote this instrument, by increasing knowledge about it and identifying current obstacles. Such efforts should not be restricted to large multinationals: consideration should also be given to the particular needs of other sectors, such as SMEs, the non-profit sector and the public sector, which are an important part of the European economy.

7.3. The EESC believes that the present opinion helps to identify more clearly the structural features of the various forms of financial participation, and the different settings in which it can be practised.

7.4. It is particularly important that financial participation be viewed in the light of the present system of corporate governance for European companies, and of its potential contribution to growth and greater transparency in European businesses. The social partners have an important role to play here, determining forms of financial participation which foster greater sharing of company aims and boost investment in human capital, which are both key factors for European economic development.

Brussels, 26 February 2003.

The President

of the European Economic and Social Committee

Roger BRIESCH