

Workshop 5

Participation, employee commitment and company performance

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FINANCIAL PARTICIPATION IN SPAIN: SALARY OR EMPLOYEE PARTICIPATION?

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Summary:

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Abstract:

Several studies have shown the link between employee ownership on the one hand, and HRM practices on the other (POUSTMA, E; KAARSEMAKER, E, 2006: 686). However, there is no strong empirical argument regarding the reasons for the relationship between employee ownership and voice participation in workplace decision making.

The experience of financial participation in Spain indicates that for a number of reasons, which including the Spanish industrial and labour system, there has been considerable reticence on the part of the social partners for such institutions. In spite of this, employee ownership could also be a kind of corporate governance police, whereby employees become co-owners and would have influence in their companies as shareholders and also as stakeholders. It was expected, therefore, that firms using financial participation would be found to also have a range of HRM features in place, such as higher-than average training expenditure, comprehensive performance appraisal systems, etc (EUROFOUND, 2007: 8)

Currently in Spain only a few number of companies have implemented Employee Ownership Plans, however the last ten years have seen new developments. The following research demonstrates how the regulatory framework has influenced the interaction between the HRM system and employee ownership due to the lack of specific legislation for the representation of worker-owners. This legislation, unlike trade unions ones, would enable employee owners to exercise influence over decision making or gain access to information. But in fact, Spain Employee Ownership is presently defined as variable compensation and is thus not distinguished from other forms of incentive pay.

I. Introduction. Financial participation of employees in European Union.

With the conviction that the competitiveness of European companies demands a framework of employment quality that promotes the creation of value for their workers, European administrations insist on the necessity to support new forms of corporate employee participation. In this context, COM (2002) 364, regarding a framework for the employee's financial participation, refers to the potential of this type of participation in attaining the objectives set at the Lisbon Summit, that is to say, to make sure that by 2010 European economy is "the most innovative knowledge-economy of the world." The European Union (EU) also maintains that its employees' financial participation must be considered as an optimal means to reach a better distribution of wealth, taking into account the positive effects on the productivity and motivation of the implied workers, and therefore it urges the Member States to promote its development by adopting the following measures: a) creation of networks that facilitate the exchange of information between the interested parties; b) sensitization of social interlocutors, and c) promotion of a favorable fiscal framework for the adoption of these formulas

However, there are still significant differences in the development of these mechanisms among the different state members. On one hand, the countries with a long history of promoting these systems, especially France, have developed a complex normative that recognizes new forms of employee corporate participation (EUROFOUND, 2007: 10-20). On the other hand, in Spain the employees' financial participation has not been a target for relevant legislative pronouncements neither in labor nor in private law despite the fact that Article 129.2 of the Spanish Constitution rules that public administrations should promote different forms of employee corporate participation and facilitate the employees' access to productive means of ownership.

The reduced legislative attention that these formulas have received in the Spanish model has been pointed out in all the communitarian reports. For example, a study coordinated by Professor E. POUSTSMA in 2001 concludes with worrisome data: 84% of the surveyed Spanish companies did not have any financial participation policies. Of the rest, only 6% had implanted a component of profit participation as opposed to 8% that had supported this type of ownership participation. As a recent report elaborated by the EUROFOUND shows that this tendency persists in Spain, whereas share ownership shows a considerably lower incidence –around half of all other countries (EUROFOUND, 2007: 26), unlike what happens in Ireland and France, whereas show the highest degree of share ownership even after other variables are controlled for: the odds ratio of participating financially in these countries is three times higher than in the rest.

In spite of the above, it is certain that in the last years we have observed the emergence of some policies that facilitate employee financial participation in Spain's most relevant companies, basically by developing benefits linked to the companies' performance or by employee participation policies such as free or discounted shares, bonds that can be upgraded into stock options plans or warrants. The objective of this presentation is to analyze the reasons that determine this renewed interest, its development, and specially what is its function; that is to say, if these mechanisms can be considered exclusively new compensation formulas or if, on the contrary, their appearance can respond a broad objective, like incorporating a new way of managing human resources, more integral and oriented to corporate social responsibility.

The growing importance of human capital to guarantee corporate competitiveness has facilitated, in a more general context, the development of increasingly intense forms of cooperation between a company and its employees. Among these policies, we must talk about the mechanisms that financially link the employees with the company for which they work. Once we surpass the communitarian theses, the employees' financial participation appears as a sort of voluntary collaboration that does not respond to the logic the abandonment of the established economic system where the employee becomes an owner of production means, thus subverting the established order, but to criteria nearer to efficient human resources management (MERCADER, J.R., 1996: 210).

Ever since in 1984 WEITZMAN presented his share economy model, it has been demonstrated that the implantation of financial participation policies is a measure the development of which is convenient due to economic reasons since it can play an excellent role in the attainment of microeconomic objectives, basically by its incentives in the productivity of employees, especially in the mechanisms that tie the wage of the worker with the company's benefits (ROBINSON, A; WILSON, 2006: 44). We cannot ignore that one of the main challenges companies face is the so-called "agency problem" that we can concisely define as the difficulty to motivate an agent (employee) to act in the name of someone else (company), knowing that their retribution is going to be totally disconnected from the obtained results. With the aim of diminishing these negative effects, following the notion that "the agents (workers) behave in agreement with the desire of the interested one, it is necessary to reach an agreement that makes them have some responsibility by the result of its activities and, therefore, to support to a greater risk than if such necessity would not exist." (MILGRON, P; ROBERTS, J, 1993: 252).

The production changes and the overcoming of a model of industrial economy where egalitarian wage structures prevailed have given way to models that value the contribution of the individual to the organization. Today, monetary compensation is structured as a management tool with a strategic function; therefore, the companies must devise policies that act as an incentive to enter or remain in a certain company (DELGADO, C, 2003: 44). Historically, salary structures were designed so that they served the entire organization regardless of each worker's contribution to the company. But this model is no longer valid in the actual labor market where corporate competitiveness is directly related to the creation of value by employees. Egalitarian systems have been relegated to the workers with less negotiation power who cannot agree to individualized wage policies. With the aim of obtaining and retaining the best employees, companies can establish two strategies in the design of their payroll policies (PÉREZ INFANTE, J, 2003: 70):

- a) To establish efficiency wages, that is to say, to pay higher than the market's standard wages and therefore salaries with a rent component that surpasses the minimum wage.
- b) To introduce variable incentives that link workers' salaries with the companies' benefits, reaching certain goals or reaching a determined level of profits. Among these new compensation policies we find:
 1. Systems linked to the attainment of corporate goals that can be granted directly, conditioned on the attainment of positive results, or conditioned on collective

objectives' fulfillment (gain sharing). This last formula is calculated based on a group's performance level, and the incentive is distributed between its members independent of their individual performance, as it is only granted when the group surpasses a predetermined goal.

2. The other great block of compensation formulas that facilitates financial participation are those that allow an integration of the employees in a company's capital by means of: a) distributing stock options among the company's employees, which can be free or a reduced cost; b) granting bonds that can be upgraded into stock options, which we can define as a negotiable value represented by a title or annotation which gives its owner the possibility of being a shareholder; c) conceding the option to exercise those options, which can be defined as a financial deal by which a company recognizes its employees' right to buy its own stock options at a fixed cost and in a time frame which normally is set at the time the offer is made.

The implantation of these initiatives also facilitates greater compensation flexibility as long as employees link part of their salaries to the results obtained when the system they are using is a benefit's distribution or enable the substitution of cash salaries with salaries in which the employees are paid with stock options or shares of the company. Besides, these methods may help to mould attitudes towards the company and its profits, performance-related pay and reward systems, together with control over results and goals (measured to company profits, productivity and so on) make up a central core of instruments of economic control within the new managerial thinking (EDLING, C; SANDBERG, A., 2003: 159).

II. Spanish framework. Objectives and development

Once we have identified the main tendencies of employees' economic participation, it should be asked what the real extent of these policies or formulas is in Spain. As already noted, the development of these mechanisms is still at an early stage and, accordingly, their presence in collective bargaining is not very generalized. However, we must point out that the Acuerdo Interconfederal para la Negociación Colectiva –a pact made by the unions and most representative commercial chambers with the aim of defining the directives, recommendations, and criteria that are to be observed on collective bargaining negotiated in any sector or branch of activity – recommends that collective agreements define the compensation structure and, where appropriate, drive the implantation of mechanisms of financial participation. With this in mind, the definition of variable concepts should take into account: criteria of objectivity and clarity to be considered when implementing them; the delimitation of variable compensation percentages' against the total compensation; the employees' representatives' right to access to information and to participation in the company, and the realities specific to each company or productive sector.

This thesis is also maintained in the criteria for collective bargaining approved by the unions. For instance, Comisiones Obreras considers it a high priority to include clauses that link workers' compensation with the results obtained, understanding that "companies that year after year accumulate profuse benefits must open the path to giving back policies, part of the benefits generated must go back to the workers to increase their expending power." This position contrasts with the one maintained in the

criteria of collective negotiation approved by the major Spanish employer's association, CEOE, which makes no reference to this matter.

Regardless of the programmatic declaration on the inclusion of formulas of financial participation gathered at the Acuerdo Interconfederal para la Negociación Colectiva, these systems are still an exception in Spanish business practice. One of the reasons for this divergence is that the implementation of these systems is normally unilaterally initiated by the company and not as the result of a collective agreement. Nevertheless, some compensation agreements are incorporating formulas like the ones described above. Such is the case of the Group EROSKI in which a three-part employee participation model is anticipated: capital, results, and management. The cooperative tradition of this company explains the origin of this patrimonial integration, this unprecedented experience in Spain, implemented in 1998, transfers the will of its employees being owners of the company to an anonymous society. On the other hand and especially notable is the DANONE agreement that includes a pact about profit participation to make the employees participate in the company's direction, basing this action on the following premise: "when wealth and prosperity are created within the company, it is right and desirable that the personnel who have contributed to them annually receive part of the generated wealth growth."

Finally, the most significant experience of employee patrimonial integration in Spanish companies took place when INDITEX joined the stock market, a moment in which a process of distribution of free shares among its employees was impelled. This release facilitated the integration in the shared capital of around 20,000 workers and represented 0.7% of the company's capital. The only criterion used in the distribution was the number of years of employment with the group, so that all the employees who were active on December 31, 2000 and would remain as such four months prior to entering the stock market received 50 options per year served, with a maximum of 1000. In other companies, such is the case of OERLIKON the right of their employees to buy stock options is conventionally granted after the first year that employees work in the company.

As you can see, all analyzed experiences relate to mid-sized and large companies, with good labor conditions and whose human resources strategy is based on the integration of the employees in the companies' actions. We cannot forget that with this type of financial participation structure, the aim is to interest the employees in the company's direction. Companies seek to motivate their employees in a similar way to the formulas used with their shareholders: the bigger the profits a company obtains, the bigger its employees' compensation will be, especially when it is done by means of stock options, which enables the creation of a longer and more solid link between the company and the employee, who becomes part of the corporate dynamic as is any other stockholder.

This analysis was guided by the proposition that financial participation and other HRM measures have a reciprocal relationship. If employees are to accept performance-enhancing initiatives from management, such as performance appraisals, it can be argued that they should receive a pay-off from any improvements in performance that might result. The analysis of the data on financial participation of employees in the European Union coordinated by EUROFOUND show that, indeed, employee training and performance appraisal schemes are associated with the presence of share ownership schemes. This supports the notion that companies try to protect human capital

development through the combined use of training, appraisal and share ownership schemes. The results also show that there is a correlation between profit sharing schemes and individual performance related pay measures (EUROFOUND, 2007: 10). These methods could be regarded as ways of securing workers' commitment to the company's overall goals, and could therefore be viewed as part of the attempt to win ideological control. According to this hypothesis, that schemes of financial participation's function is better where these are combined with institutions of employee participation in decision making and that employee share-ownership plans (ESOPs), in particular are most likely to flourish in a participatory environment.

In the same way, these mechanisms have a valuable function in the selection of determined employees and are a key instrument to retain the most qualified employees. Companies seek qualified employees' retention to eliminate high turnaround costs, and this is a reason that the impulse of these formulas can be decisive. This function is very graphic in stock option plans, the exercise of which is conditioned on the preset term to the point that an employee won't be able to leave the company if he/she wants to exercise his or her option.

However, in Spain the real incidence of these formulas, still in the establishment and consolidation phase, is limited: the number of affected companies is reduced; the fact that employee stock options ownership is so small in big companies doesn't allow them to have a direct influence in the company's direction; and the nonexistence of an adequate policy for stockholding employees unlike, for instance, in France's legal system have obscured the advantages linked to these participative structures (ALFARO, J. 1995: 135). Following this thesis, employees' economic integration has been used more for the fulfillment of other aims nearer to social stability than to real promotion of the participation of employees in the corporate structure. Thus, these mechanisms have made possible:

a) Social peace security: It has been demonstrated that companies which implement policies of financial participation display smaller levels of social conflict and a less number of strikes (VÁZQUEZ, J.C., 1994: 490).

b) As a management tool with the objective to make employees a more receptive group that will adapt to organizational changes, with the logic that if they financially participate in the company, they must be more flexible with the changes that may arise (MERCADER, J. R., 1996: 216).

c) Finally, if the formula adopted is the granting of stock options, and consists of the delivery of action, this mechanism can serve to reduce a stock option excess or to "park options in friendly hands." Employees' traditional resistance to changes can be a useful tool to secure a high number of stock options that will not be used in mergers, public offers or other similar operations

However, we cannot admit a reductionist interpretation of the employees' financial participation that unconditionally establishes the convenience or inconvenience of these mechanisms. These formulas must be understood in a more general evolution process of a company's power relationships; this way, against the traditional conflict tone, now we must try to promote integrative aspects for the sake of the corporate competitiveness that a globalized economy demands. The existence of opposed interests between

employees and entrepreneurs is intended to be diminished. In the new socio-labor model, the ideas of collaboration and cooperation gain terrain over previous notions of conflict, antagonism, and confrontation.

This new work organization, where productivity is elevated as a central value of the system, is a challenge for the unions, since many of these instruments are implanted directly by the company without a previous agreement or consultation with the employees' representatives. It is certain that the increase of these schemes does not suppose a significant displacement of the indirect participation mechanisms as long as these new formulas coexist, without too many difficulties, with collective mechanisms of employees' representation. Nevertheless, the unions are in a complex situation. Their role, if not completely accessory, can be reduced, as long as the strategies of employees' financial participation are not a collective result but a unilateral decision of the company. Human resources' homogeneity is one of the principal challenges the unions face now that the corporate decisions are connected to a global context (BAYLOS, A. 2005: 242). Thus, in big companies that have developed financial participation mechanisms, this decision has not been decided based on a concrete country, nor is it the result of a national legislation or a certain collective agreement, but it is the corporation's response to a multinational compensation strategy. Such is the case of MICROSOFT, whose employee shareholding participation plans have been widely studied as a paradigm of employees' loyalty techniques. This company considers as its zone of influence regions that surpass national limits and, consequently, include several countries; this fact reflects that the most important management decisions are located in the group's direction, not in the national branches.

III. Corporate governance policy framework

At this point, we must evaluate to what extent these participatory initiatives can respond to their own logic. That is to say, if they are the result of a new, less hierarchic, more democratic concept of the company where employees financially integrate themselves in the company as a response to a socio-corporate responsibility policy; or whether, to the contrary, they only form a new group of compensation formulas, more flexible and adapted to a company's economic situation. The interest in corporate governance policy within the logic of voluntary integration of the social and environmental aspects of its commercial operations and their relations with its interlocutors on the part of the companies has undergone significant growth in the two last decades. But these policies should also be seen as a way to make our societies more competitive and better prepared to face the challenges of globalization. In regard to our work, employees' financial integration in the company for which they work, whether by participating in its profits or by means of stock options, appears in the "Green Paper - Promoting a European framework for Corporate Social Responsibility", COM(2001) 366, as a practice that facilitates the hiring and retention of key employees.

These mechanisms can also play an excellent role in the creation of corporate value through improvements in terms of employee effectiveness, commitment, and flexibility. Accordingly, the internal dimension of corporate commitment is seen in the consideration of the employees as stakeholders whose financial integration not only fulfills an economic objective, but also responds to an ethical objective of the company with and for its employees. This concept of business management that integrates not only the shareholders but also applies to other stakeholders (clients, providers,

employees) results in a strategic direction with dimensions that go beyond economic results and include social and environmental aspects, trying to balance all the interests involved in the company –as in a coalition– even admitting that these interests can be opposed sometimes (LANDA, J. P., 2006: 28).

This pluralistic model of the company comes from the idea that not only the shareholders support risks; employees also participate in a company's general situation. Productivity growth and management effectiveness demand the implementation of participation mechanisms for all risk takers and all who contribute specific resources for these goals. This is why the development of more intense formulas for employees' corporate integration is recommended. This point of view contrasts with the classic theory of property rights, obviously against sharing the profit among the employees since, in pure business logic, it parts from the base that the social interest in corporations must be represented by the shareholders' interest, and that the value creation must consequently be focused towards these and not towards other stakeholders.

The need to create value for the shareholder takes, therefore, calculating the financial results not by their intrinsic value but by the remuneration the shareholders hope to receive. This option has deep consequences in labor relations. Since they lack power of intervention in shareholders' decisions, employees will not be able to participate in matters that affect them directly. For this reason, any strategy that pretends to facilitate greater cooperation in the company's decision making process must start by its integration in the corporate structure (MORIN, M.L, 2005: 11).

While it is true that employees' financial integration makes possible a long-term investment policy, as opposed to market investors who are focused on short-term results, it is not so easy to affirm that employees' financial participation is in fact an advancement in the recognition of mechanisms that facilitate greater cooperation of employees and management. The corporate motivations to articulate these formulas respond to diverse goals from obtaining a more cohesive group to improving productivity or propitiating a compensation strategy linked to the company's real situation. The new needs imposed by the market and the transformations in labor relations systems are factors that must be considered when analyzing the evolution of these financial participation mechanisms. Today, companies need an ample flexibility margin for their immediate adaptation to changes, and their competitiveness will clearly be influenced by their capacity to create value for the people who form them. In this context, the design of a compensation policy is clearly a differentiating corporate element. Compensation has gone from being a tool of financial return to being a management tool. From this perspective, new compensation formulas directed towards linking a productive agent with the owner of the production have appeared.

Therefore, the implementation of these mechanisms fulfills two basic functions. First of all, it links the employees' wage to the results obtained, allowing a greater adjustment between the company's real situation and the employees' compensation. Second, it allows the integration of the different interests existing in an organization to fortify this collaboration and increase its implementation. Consequently, financial participation must not be seen as a gift from the company. It is the employees' financial entailment with their company that contributes to increased productivity, so the old shareholders also benefit from this agreement.

IV. Conclusions.

One first conclusion we can infer from these formulas' capacity to propitiate major participation of employees in corporate management is that this power is still not significant in Spanish companies. These mechanisms are usually introduced as a tool of variable contribution that plays a major role in talent attraction and retention, and not so much for these formulas' potential to generate an attitude of employee co-responsibility in corporate decisions. Among the reasons that can explain this divergence are: a) the reduced number of shares owned by employees, and b) the nonexistence of specific participation mechanisms to grant shareholding employees access to corporate organs. The employees' financial integration in companies does not respond to the logic of the established economic system by which employees become owners of mass productions. Its emergence responds to criteria closer to efficient human resource management.

Another factor that explains its reduced development in Spain is the insufficient legislative support for these formulas. In 2002, the Socialist Parliamentary Group presented a law proposal to regulate employees' right to information, counseling, and corporate participation; its Article 10 established the right to participate in a company's financial profits, materialization of which was linked to the attaining of general goals set in a participation agreement. However, this initiative was finally not approved and hasn't been re-introduced in the two successive legislatures under the Socialist Group Government.

VI. References

- AAVV. *Models of employee participation in a changing global environment. Diversity and interaction.* Hampshire: Ashgate, 2001.
- ALFARO AGUILA-REAL, J. *Interés social y derecho de suscripción preferente.* Madrid: Civitas, 1995.
- BAYLOS GRAU, A. Códigos de conducta y buenas prácticas de las empresas en materia laboral. El problema de su exigibilidad jurídica. En. AAVV. LILLO, E (Dir.). *Aspectos económicos de la jurisdicción social.* Madrid: CGPJ; Generalitat Valenciana, 2005.
- DELGADO PLANAS, C. *Mucho más que salario. La compensación total flexible.* Madrid: Mc Graw Hill, Priceawterhouse Coopers, 2003.
- ESTEBAN VELASCO, G. ¿Interés social, buen gobierno y responsabilidad social corporativa (algunas consideraciones desde una perspectiva jurídico-societaria). En. AAVV. *Responsabilidad social corporativa. Aspectos jurídico-económicos.* Castellón de la Plana: La Tenda, 2005
- EUROFOUND, *Financial participation of employees in European Union: Much ado about nothing?* Luxembourg, Office for Official Publications of the European Communities 2007.

- *Employee financial participation in the European Union* (infosheet), Luxembourg, Office for Official Publications of the European Communities, 2005.
- EUROPEAN COMMISSION, *On a framework for the promotion of employee financial participation*, COM (2001) 366 final, Brussels, 2002.
- EUROPEAN COMMISSION, *Promoting a European framework for corporate social responsibility*, COM (2002) 364 final, Brussels, 2002.
- GOLD, M (Ed). *New frontiers of democratic participation at work*. Hampshire: Ashgate, 2003.
- LANDA ZAPIRAÍN, J.P. (coord.). *Nuevas formas de participación de los trabajadores y gobierno de la empresa*. Albacete: Bomarzo, 2004.
- MERCADER UGUINA, J. R. *Modernas tendencias en la ordenación salarial*. Navarra: Aranzadi, 1996.
- MILGRON, P; ROBERTS, J. *Economía, organización y gestión de la empresa*. Barcelona: Ariel Economía, 1993.
- MORIN, M. L. El derecho del trabajo ante los nuevos modos de organización de la empresa. En. *Revista Internacional del trabajo*, vol. 124, 2005, nº 1, pp. 5-30.
- PÉREZ INFANTE, J. I. La estructura de la negociación colectiva y los salarios en España. En. *Revista Ministerio de Trabajo y Asuntos Sociales*, nº 46, 2003, pp. 41-97.
- POUSTMA, E; KAARSEMAKER, E. The Fit of Employee Ownership with Other Human Resource Management Practices: Theoretical and Empirical Suggestions Regarding the Existence of an Ownership High-Performance Work System, *Economic and Industrial Democracy*, 2006, Vol. 27(4), pp. 669–685.
- POUSTMA, E. *Recent trends in employee financial participation in the European Union*, Luxemburg: Eurofound, 2001.
- ROBINSON, A; WILSON, N. Employee financial participation and productivity: an empirical reappraisal. En. *British Journal of Industrial Relations*, Vol. 44 (1), marzo 2006, pp. 33-50.
- VAZQUEZ CUETO, J.C. *Régimen jurídico de la autocarera*. Madrid: Marcial Pons, 1995.
- WEITZMAN, M. *The share economy. Conquering stagflation*. Harvard: Harvard University Press, 1984.