Extended Country Report

Financial Participation of Employees in Bulgaria

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Contents

1. Background

Development of the forms and schemes of employee participation in Bulgaria is ruled by historical trends, on the one hand, and by specific characteristics of transition to the market economy, on the other hand. Loss of power and social status of employees and workers, which started during the transition, indisputably implied change of property. This process was blocked for 6-7 years by struggles for keeping the existing social privileges of the personnel. Schemes for preferential employees' participation in the privatization process were proposed as a way out of this situation. Such privatization methods as mass privatization and MEBO, which allowed all interested parties to participate in sharing the post-socialist property, was developed. It was predetermined by this action, that the main form of personnel participation became employee share ownership. Profit-sharing has developed only very recently because profits were closely connected to high entrepreneurial risks at the first stages of transition and, therefore, it was expected that high profits should be gained fully by the investors of capital. Recently, when private sector began to stabilize and human capital became a major factor for company success, first monetary incentive schemes emerged. Another factor that will play an essential role to the process of development and application of employee participation in the near future is Bulgaria's accession to the European Union and the adoption of *acquis communautaire*, including requirements for employee participation.[1]

a) History

Employee ownership is rooted in the co-operative movement and in the privatization process in the course of transition. The first co-operative society was established in 1890, but there have been earlier co-operative-like societies in the middle of the 19th century. Strong catalyst for co-operative society's establishment was Bulgarian Agricultural Bank, which started more systematic educational work with Bulgarian farmers in 1897. As a result, 147 co-operative societies with 11,224 members were registered in Bulgaria in 1906. The second incentive for the development of co-operative movement was created by adoption of the first Co-operative Law and the establishment of the 'Central Union of Bulgarian Agriculture Co-operative Societies' in 1907. Following this tendency, the number of co-operative societies quickly increased to 604 at the beginning of 1909, of which 559 were credit co-operative societies. Passing different periods of co-operative development, Bulgarian co-operatives counted 4,114 in 1944, with 1,614,117 individual members (total population of the country -7 million)[2] and 11,398 collective members. Popularity and scale of co-

[1] See Council Directive 2001/86/EC; Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, 2002 'On a Framework for the promotion of Employee Financial Participation' (COM (2002) 364).

[2] It has to be taken into account that one citizen could participate in several co-operatives.

operative organization was so significant during that period, that some liberal economists think that the co-operative movement has acquired a status of official state ideology, has transformed into lifestyle that has prevented liberal economic ideology development and, in that way, became precursor of socialism (Avramov, 2001). The words of St. Bochev that while in other countries co-operative movement is considered as a corrective to capitalism, in Bulgaria, it was accepted as its alternative, are emblematic (Bochev, 1998). Under the socialist rule, attitude towards co-operatives was not single-sided. According to official ideology, co-operatives were thought to be a supplementary form to socialist property. Agriculture was an exception, where co-operatives were used for forced integration of individual farmers by the accomplished land collectivization (without nationalization) during the 1950s. Co-operatives in the industrial sector counted varies between 178 to 228 in 1980-1988 and represented between 8.4% and 10.4% of all companies in that sector. They gave work to 7% of the labor force in the industrial sector. They received, however, lower rates of payment that measures 80% of the average for the sector. Practically, the co-operatives in all sectors have departed from the co-operative principles.

The official economic doctrine during socialism postulated that socialist (state) property was the supreme form of economic business organization and its development and improvement will be the basis of communist society. Therefore, the strategic goal was maximum capital expropriation, elimination and restriction of the other ownership forms, including employee ownership. The models, suggested by Otta Schick and Branko Horvat were ideologically stigmatized and rejected. During 1970-1986 the personnel has been represented only formally in the Economic Council of the enterprise.

At the beginning of the 1980s the new concept of the owner and the managing master of the socialist property has been developed. According to that concept the state has to remain owner of the means of production, while the personnel has to be its real managing master. The beginning of 'perestroika' that coincided with the time of large accumulation of economic problems presented by serious increase of the foreign debt and reducing of population living standard incited the development of this idea. It was reinstated by the new Labor Code, adopted in 1986. Employees received the right (formally, because it was implemented by the regional communist party committees) to appoint their managers independently. The transfer of property to employees started but it also was just formal and had no economic impact. Decree 56, adopted in 1989, made a sharp turn in that policy and turned the economy to incorporation and small private ownership.

The profit, as an economic category, was ignored during the socialism. The main economic function of the enterprise was to carry out the plan for quality and quantity and for prices that did not allow forming the real profit. In that way the profit had not been used in the economic turnover for a long time. At the end of 70's the profit began to be used to some point as an economic tools. During the 80's, if the enterprises carried out the plan, they were given the rights to produce another goods and to use the profits of these goods for development and stimulation of the

personnel. In that way the entersprises were motivated to struggle for decreasing of the planning orders and increasing of the 'market' capacity. In spite of these changes, the schemes for the employee profit-sharing were not widespread because of administrative and tax restrictions on the growth of the salary fund and because of the high taxation of the profit.

b) Social Partners

Over the period of communist rule between 1945 and 1989, the Bulgarian trade union movement changed its official title several times – from Common Trade Union (1948-51), to Central Council of Trade Unions (1951-1957), Central Council of Bulgarian Trade Unions (1957) and finally Bulgarian Trade Unions (BTU) - but the principles of mass participation, communist party loyalty, obligatory membership and centralised control remained constant. Bulgarian unions were similar to those in the Soviet Union, acting as a 'transmission belt' for the policy of the Bulgarian Communist Party (BCP) and totalitarian state ideas.

Presently, social partners represented at the national level must meet a set of criteria. For trade unions, the following criteria are laid down in the Labour Code: at least 50,000 members; at least 50 member organisations with at least five members each in more than half of the sectors determined by the government in compliance with the National Classification of Economic Activities (NACE) ; local structures in more than half of all municipalities, plus a national managing body; and the status of a legal entity, obtained by registration in line with the procedure for registering non-profit associations. The following three trade union organisations are recognised as representatives at the national level: the Confederation of Independent Trade Unions in Bulgaria (CITUB), the Confederation of Labour Podkrepa (CL Podkrepa) and Promiana. CITUB and Podkrepa are both members of the European Trade Union Confederation (ETUC). According to the most recent census data, CITUB reported 393,843 members or 13% of employees, CL Podkrepa 106,309 or 3.5% of employees and Promiana 58,613 or 1.9% of employees. Compared to the 1998 census only Promiana succeeded in increasing the number of its members.[3]

Under the Labour Code, employers' associations authorized to represent employers at the national level must unite at least 500 member companies with at least 20 employees each; organisations with at least 10 member companies in more than a fifth of the sectors determined by the government in compliance with the NACE; and have local structures in more than a fifth of municipalities, plus a national managing body; and the status of a legal entity, obtained by registration in line with the procedure for registering non-profit associations. Until 2005, employers have been represented by the following associations at the national level: the Bulgarian Industrial Association (BIA) -

[3] The data for trade union membership by 1998 are as follows: CITUB had 607,883 members; Podkrepa - 154,894 members and Promiana 7,802 members.

which reported 2,481 affiliated employers in the most recent census; the Bulgarian Chamber of Commerce and Industry (BCCI) - 2,262 affiliated employers; the Union of Private Bulgarian Entrepreneurs 'Vazrazhdane' (UPBE) - 873 affiliated employers; the Union for Private Economic Enterprise (UPEE) - 660 affiliated employers. The Employers' Association of Bulgaria (EABG)[4] - 828 affiliated employers, according to census data; and the Bulgarian Industrial Capital Association (BICA)[5] - 862 affiliated employers, according to census data.

During the transition period, the power relation between social partners in Bulgaria has been significantly changed. At the beginning of this period, the trade unions played a dominant role in the social dialog. After completion of privatization process their power and influence drastically decreased. In the recent years, the employer's associations can be considered to be more powerful than trade unions. Neither employer's organization nor the trade union currently consider the issue of financial participation of employee as an important one in their policy and programmes.

c) Current National Policy

The 39th Bulgarian Parliament which vested power in the national government under Prime Minister Simeon Sax-Coburg-Gotta (2001-2005) did exhibit interest in the questions of financial and decision-making participation of employees. Under the guidance of Prof. Dr. Ognyan Gerdzhikov, at that point Chairman or Speaker of Parliament, a comparative legal survey on the national solutions within the European Union and some adjacent states was conducted. The survey concentrated on joint-stock companies. It identified a number of highly interesting national regulatory mechanisms[6] and possibly contributed to the popularity of the ideas behind them. However, the survey resulted in no relevant act of law. Also, the government under Prime Minister Simeon Sax-Coburg-Gotta was sceptical of the concept of financial

4 EABG is an umbrella organisation for the major Bulgarian private companies with more than 100 employees. At present, it claims more than 3,000 companies in membership, with some being direct members (or part of a member holding group) and others through branch organisations. The combined annual turnover of member companies exceeds USD 2.8 billion. Together they employ more than 200,000 people and are present in virtually all sectors of the Bulgarian economy.

5 BICA states that its member enterprises (often part of holdings and investment companies) employ a total of more than 70,000 people and had combined annual revenues in 2003 of over USD 900 million. BICA has a well-developed network of regional structures, covering more than 50 municipalities.

6 The summary is available in Bulgarian under http://www1.parliament.bg/students/95_bg.htm.

participation. In an interview released by the Minister of Labour and Social Policy in the beginning of the mandate[7] L. Shuleva said that there is a deep conflict of interests between shareholders on the one side (aiming at the utmost possible profit) and employees on the other side (aiming at the utmost possible wages) only resolvable in the context of a minor share participation in a company gone public. Supported by the 40-th Bulgarian parliament, the new government (since 2005) under Prime Minister Sergey Stanishev has not revised that position.

2. Types of Schemes and their Legal Foundations

a) Employee Share Ownership and its Legal Foundations

(1) Privatization Issues

The effective Law on the Privatization and the Post-privatization Control from 19 March 2002 proclaims in Art. 7 the equality of privatization candidates as a general principle of Privatization Law. The law establishes no privileges based on the status of the applicants. In particular, there are no provisions in favour of employees. The current privatization legislation is thus a negation of the former Law on Transformation and Privatization of State and Municipal Enterprises which provided for a number of preferences. The provisions of the former Law on Transformation and Privatization of State and Municipal Enterprises from 7 May 1992 were supposed to facilitate the employees' participation and thus lessen the social gap between capital owners and labour force that opened with the liberalisation of the Bulgarian economy in the post-communist era. As the practice showed, the mechanisms of privileged privatization were often misused to actually promote hidden accumulation of private capital to the detriment of the treasury.

Two aspects of the abolished Law on the Transformation and Privatization of State and Municipal Enterprises (hereinafter referred to as ARPSME) are relevant. These are preferential (free or discount) share acquisition and the so called MEBO-privatization. Although a popular term[8], MEBO is technically imprecise. It stands for three separate privilege devices. Named after the respective ARPSME-sections these three mechanisms will hereinafter be referred to as 'the 25-rule', 'the 30-rule' and 'the 35-rule'. All three are based on the so called 'MEBO-company'[9]: another popular term with variable contents generally meant to describe a legal entity established by physical persons with a specific status with the sole purpose of participating in the privatization

7 http://www.mi.government.bg/pr/memo/mdoc.html?id=88722.

8 The term was never used by the legislator but has received common recognition.

9 In Bulgarian: 'rabotnichesko-medidzhărsko druzhestvo'.

process. Prior to 2002 the following persons[10] with Bulgarian citizenship and permanent residency in Bulgaria were entitled to preferential (free or discount) share acquisition in the course of privatization: current[11] employees whose employment had lasted for at least two years counted back from the official publication of the privatization opening statement; former employees who had worked in the enterprise for at least two years and whose employment had been terminated on no-retirement grounds in accordance with the Labour Code or the Law on the Defence and the Armed Forces of the Republic of Bulgaria within the 14 years preceding the official publication of the privatization opening statement; former employees who had worked for the enterprise for at least three years prior to their retirement and who had retired within the 10 years preceding the official publication of the privatization opening statement, current non-employed management-level personnel who had occupied a position in a representative or a supervising body of the company for at least one year. Employees who had been found guilty of a crime against property or had been fired as a result of a disciplinary offence were excluded from the privilege. The entitled persons were granted two alternative groups of privileges applicable in accordance to the chosen method of privatization. It is important to stress that the privileges could not cumulate. If the privatization organ had included the goal enterprise in the list of public-owned merchant entities to be privatized by the means of the voucher (mass) privatization each privileged person could obtain free shares. The total value of the distributed free shares could not exceed 10% of the nominal stock of the goal entity. The number of obtainable free shares was defined in each case by the ratio between their individual price as assessed by the Council of State Secretaries, on the one hand, and the sum of the indexed latest 24 gross salaries of the privileged individual, on the other hand. The privilege was abolished in 1998 when the idea of the voucher privatization was practically abandoned. If the privatization organ had chosen the stock-sales method the privileged persons were entitled to the right to acquire up to 20% of the nominal stock to 50% of the assessed price. The 24-salary-restriction was applicable. The privilege was abolished on 1 January 2002. The share acquisition itself had no tax relevance. Subsequently, received dividends were subject to the general rule on dividend taxation.

A general incentive for a MEBO-company was the stock exemption provided by Par. 6 Subsection 1 from the Temporary Arrangements of the amendment of the Commercial Act from 1997[12]. MEBO-companies were then permitted to maintain stock of only 10% of the minimum stock generally required for stock corporations or limited liability companies under Bulgarian act. A further incentive of which a MEBO company could generally benefit was the VAT exemption of the privatization deal. Yet another incentive was provided by Section 58 of the abolished Profit Tax Act[13]. As long as the chosen privatization mechanism (this was the case with the 25-rule) allowed the public

10 Also known as 'persons under Section 5 Subsection 2 ARPSME'.

11 'Current' means here 'up to the point of publication of the privatization proposal'.

12 Zakon za izmenenie i dopālnenie na tārgovskiia zakon, DV No. 100/1997.

13 Zakon za danāk vārhu pechalbata, DV Nr. 59/1996.

hand to keep a minority share in a goal company it was possible for this goal company to receive a 100-percent profit tax relief for the first three years after concluding the privatization contract. For the subsequent two years the relief was set at 50%.

Apart from that, the 25, 30 and 35-rule themselves were to be considered as incentives. The 25-rule provided for a payment preference applicable to the privatization of a state or municipal enterprise that had previously been transformed into a commercial entity[14] under the Commercial Law. Eligible for the privilege was a MEBO-company every member, partner or shareholder of which was an employee of the goal company, a member of its management staff, a person, whose invention had been introduced by the goal company or a person under Section 5 Subsection 2 ARPSME. At that, at least 20% of the goal company's employees had to be members, shareholders or partners in the MEBO-company. The MEBO-company could only utilise the privilege if it had participated in the privatization procedure on equal grounds with other candidates and been appointed the winner. The 25-priviledge thus only concerned the payment conditions of the privatization deal. Originally quite loose (a lump-sum prepayment of 10%, a 10-year instalment payment plan and an interest rate of half the basic interest index of the Bulgarian National Bank) these payment conditions were gradually tightened up to reach the mark of a lump-sum prepayment of 25%, a 5-year instalment payment plan and the regular basic interest rate of the Bulgarian National Bank. Still, the mechanism offered a substantial financial relief for low-budget investors.

The 30-rule contained an identical payment privilege. It was applicable in cases of privatization of state and municipal enterprises (or integrated substructures of theirs) that had not preliminary been reorganised into merchant entities. Eligible for the privilege was a MEBO-company every member, partner or shareholder of which was an employee of the goal enterprise, a member of its management staff or an inventor whereas at least 30% of the employees of the goal enterprise had to be members, shareholders or partners in the MEBO-company. Further issues were resolved in compliance with the 25-rule.

It is the 35-rule that provided for both an acquisition and a payment privilege. It applied to the privatization of state and municipal enterprises (or integrated substructures of theirs) of minor value that had not preliminary been reorganised into merchant entities. Eligible for the privileges were employees of the goal enterprise and persons under Section 5 Subsection 2 ARPSME. For the purposes of a valid privatization proposition move they could act as physical persons or establish a MEBO-company. In both cases the participation of at least 20% of the staff employed at the moment by the goal enterprise was necessary. If submitted by eligible persons till 30 June 1996 a privatization proposition under the 35-rule was automatically accepted and only subject to (a simplified) evaluation when challenged by a competitive eligible proposition. The property rights were transferred within a month from the deal and could not be alienated within the five years following the final performance of the instalment-payment plan. The payment conditions themselves depended on the

[14] Hereinafter 'goal company'.

economic activity of the goal enterprise whereas all participating employees had the right of a 20% discount[15] on the original price. Production plant privatization deals were closed at a 10% lump sum prepayment, a six-year instalment payment plan and a one-year grace period. Trade object privatization deals required a thirty-percent lump sum prepayment and a five-year instalment payment plan. They did not allow for a grace period. The yearly interest rate was set at half the basic interest rate of the Bulgarian National Bank.

Whether privileges of preferential share acquisition achieved their social goals is an issue of argument. As there were no restrictions as to the secondary alienation of the privileged shares and the infrastructural development of the economy did not offer objective price-formation criteria in many cases the free and discount shares quickly changed their proprietors on rather disadvantageous conditions for the privileged. Thus, they actually served the private capital concentration process and failed to create a relatively stable employee financial participation structure. The possibility of financial relief quickly burdened the 25-rule and the 30-rule with suspicions of hidden property relocation schemes. These suspicions were additionally nourished by the facts, that the allowed concentration of MEBO-company stock by a single person was set at substantial 33% and that 1/3 of this stock was open for post-establishment transfers to persons not encompassed by Section 5 Subsection 2 ARPSME. Furthermore, a MEBO-company could be allowed to alienate the stock of the goal company by the privatization body even before final performance of the instalment payment plan under the privatization contract. The intransparent nature of the 35-rule that made it suspect for corruption and hidden property redistribution schemes to the detriment of the public hand. None of its key steps (partitioning of the goal enterprise, price determination and assessment of the privatization propositions) was open to the public or to market control mechanisms. Indeed, the far reaching privileges and the closed nature of the proceedings attracted hidden investors and questioned the ability of the 35-rule to create a stable ground of employee participation.

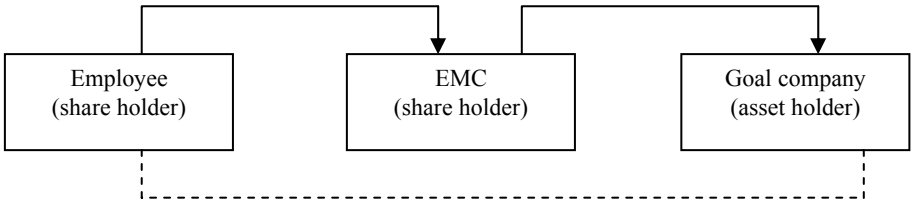
The acquisition of preferential shares gave the employees of the goal company the right to participate in its decision-making process in compliance with the general rule applicable to stock-holders. Since the goal companies were usually stock corporations every employee gained the right to vote in the Shareholders' Assembly in accordance to the relative voting value of his/her shares. The 25-rule applied in cases of privatization of enterprises that had previously been reorganised into merchant entities under the Commercial Act. Thinkable merchant forms after reorganisation were the stock corporation and the limited liability company. The payment privilege was utilised by a MEBO-Company which in its turn was a limited liability company, a stock corporation or (in seldom cases) a co-operative. Accordingly, the 25-rule implied a share-deal background and a two-storey stock-participation structure. Depending on the legal organisation of the MEBO-mother the decision-making authority of the single stock-holding employee exhibited different intensity, the value of his vote being

[15] The 24-salary restriction applied here as well.

relatively high in a co-operative-based double-storey and rather low in a corporation-based one.

Situation after Privatization under of the 25-rule

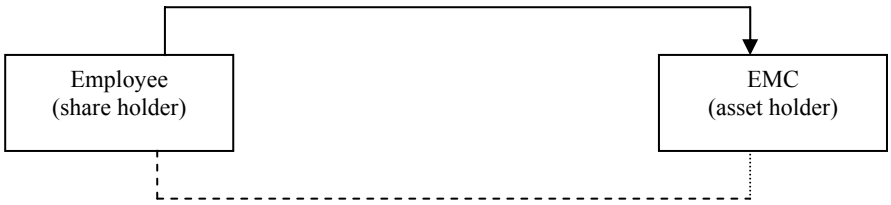
The simple arrows show the 'flow' of the employee decision-making participation. The dotted arrow marks the employment relationship.



On the contrary, the 30-rule applied to cases in which the goal enterprise had not previously been reorganised into a merchant entity under the Commercial Act. As a privatization object this enterprise constituted a specific pecuniary complex without a legal personality: an aggregation of all functionally unified rights, obligations and further positions of economic worth. Accordingly, the 30-rule implied an asset-deal background. Since the future asset holder in the context of the 30-rule could only be a MEBO-company with a legal personality of its own a one-storey stock participation structure arose. That is why the 30-rule allowed the single share-holding employee a greater influence on the decision-making process than the 25-rule.

Situation after Privatisation under Application of the 30-rule

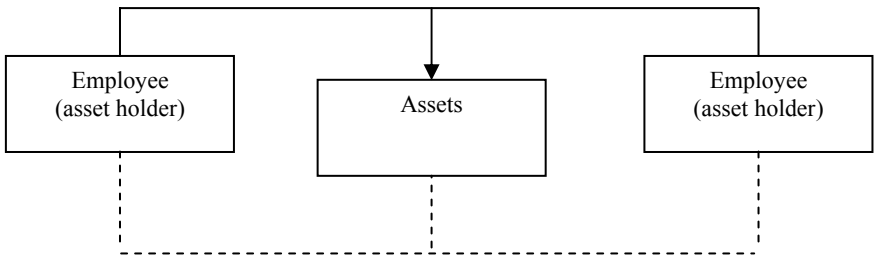
The simple arrow shows the 'flow' of the employee decision-making participation. The dotted arrow marks the employment relationship.



The prospect of a direct participation of an employee in the decision-making process was most distinctive in the context of the 35-rule. As in the case of the 30-rule an asset deal took place here. However, no mandatory MEBO-company was required, so that a direct asset acquisition by the employees on the basis of a joint proprietorship was possible. The utilisation of that option necessarily lead to the loss of the employee status as the participation in a successful privatization move put the former employee in the position of a self-employed partner.

A Possible Situation after Privatization under Application of the 35-rule

The simple arrow marks the decision-making competence.
The dotted lines mark the proprietorship relation.



(2) Company and Securities Law

Corporations are governed by the Commercial Law from 1991 (hereinafter referred to as CL). The Commercial Law also regulates general issues concerning securities. Public security offers are governed by the Law on the Public Offers of Securities from 15 December 1999 (hereinafter referred to as LPOS).

(a) Corporations

Under the Commercial Law, three types of corporations can be established: limited liability companies (hereinafter referred to as LLC, Art. 113 ff.); joint-stock companies (hereinafter referred to as JSC, Art. 158 ff.); and associations limited by shares (Art. Art. 253 ff.)[16]. The rules on the nature, nominal value, privileges and alienability of the shares must be set in the articles of incorporation. Shares can be material or immaterial, of restricted or free transferability. Bearer shares are possible as well as registered shares. Privileged shares can be emitted as non-voting shares. The emission price in all cases can not lie under the nominal share value.

The general commercial and company law currently contains no specific regulations regarding the employee share ownership. In particular, there is no statutory regulation on employee shares. Therefore, certain general provisions will be examined here. Since associations limited by shares are extremely seldom in Bulgaria the examination will disregard them and concentrate on LLC and JSC only.

All shareholders have voting rights at the General Meeting proportionally to the shares they hold (for LLC Art. 136 (1) in connection with Art. 137 (2) CL, for JSC Art. 181 (1) alt. 1 CL). Only holders of preferred shares in a JSC may have no or restricted voting rights (Art. 187 (1) 2 CL). Furthermore, all shareholders have the right to elect and remove members of the management board or of the supervisory council (for LLC

[16] The association limited by shares has no presence in the economic reality of Bulgaria. It is generally governed by the rules applicable to the stock corporation. Further discussions in the present paper appear unnecessary.

Art. 137 (1) 5 CL, for JSC Art. 221 (4) CL), to appoint auditors (for LLC Art. 146 (3) CL, for JSC Art. 221 (6) CL), to receive dividends (for LLC Art. 123 alt. 2 CL, for JSC Art. 181 (1) alt. 2 CL) and a liquidation quote (for LLC Art. 123 last alternative CL, for JSC Art. 181 (1) alt. 3 CL). Shareholders have the right to summon the General Meeting when they jointly own 10% of the stock of an LLC (Art. 138 (2) CL) and 5% of the stock of a JSC (Art. 223 (2) CL). In the case of a capital increase, shareholders have the right of a proportional increase of their shares (for LLC Art. 148 (2) CL, for JSC Art. 194 (1) CL). However, set-offs against claims of the shareholders against the company are not permissible (Art. 73a CL for both LLC and JSC). The articles of incorporation may give the shareholders the pre-emptive right to purchase shares which other shareholders of the company wish to sell. Shareholders of 10% of the stock can claim compensation of damages from the board members of a JSC (Art. 240a CL). Shareholders of 5% in a public JSC may raise claims against any third person on behalf and in the name of the company (Art. 118 LPOS). The shareholders of a LLC have furthermore the right to decide on the set-up of branches and subsidiary companies (Art. 137 (1) 6 CL), on deals in rem with immovable property (Art. 137 (1) 7 CL) and on the admission of new shareholders (Art. 122 CL).

There are no general squeeze-out and sell-out rules concerning the minority shareholders of a JSC. However, the Law on the Public Offers of Securities obliges a shareholder who has acquired 50% of the stock of a public JSC and wishes to keep this majority position to address the remaining shareholders with an economically justifiable public offer as to the acquisition of their shares (Art. 149 LPOS). Prior to publishing that offer the majority shareholder does not have the right to vote in the General Meeting. The said public offer is the legitimate means of capital concentration the majority shareholder may use. After its expiry he is only allowed to acquire further 3% of the stock per year. The Law on the Public Offers of Securities also governs two cases of optional public offers: a shareholder holding 5% who wishes to increase his financial engagement by acquiring no less than 1/3 of the total stock or a shareholder already holding 90% of the stock who wishes to concentrate all shares has the right to publish such an offer without being obliged to do this (Art. 149b LPOS). The offer must be made under the surveillance of the State Commission on Securities. The addressees are free to decide whether to sell or to refrain from selling. Also, where a shareholder of an LLC or a JSC has voted against a M&A deal (Art. 263c CL) or a joint-venture project (Art. 126e LPOS) he/she has the right to have her shares bought by the company.

The rights of the shareholders in a LLC or a JSC allow certain powers of control over the economic policy of the company and thus fulfill, to a certain extent, the function of an incentive for the employee participation. Art. 4 (3) 2 LPOS could be understood as a special incentive rule in the case of public joint stock corporations. It exempts emission offers from the strict formalities applicable to public offers under the LPOS when the offer is only addressed to employees of the corporation and the number of addressees does not exceed 300.

The decision-making participation rights of the employees under the Labour Code are extremely limited and make no meaningful influence on the management possible. While the workers' meeting[17] used to be the subject of over 20 sections[18] in the socialist version of the Labour Code there are only two relevant provisions that are in force at present. These empower the workers' meeting to choose between two or more drafts for a collective bargaining agreement when the trade union organisations on enterprise level cannot agree on a single version (Art. 51a (3) Labour Code). Also, the workers' meeting can decide on the spending of the company's social fund (Art. 293 (1) Labour Code). However, the employer is not obliged to establish such a fund.

The Commercial Law (Art. 136 (3) for LLC, Art. 220 (3) for JSC and Art. 253 (2) for the partnership limited by shares) provides that an employees' representative must be chosen in stock-based entities which employ more than fifty persons. This representative must be given an advisory vote at the shareholders' meeting. The company is under no obligation to recognise more than one representative as its staff grows in number. Also, the number of employees does not affect in any way the form or the intensity of the employee representation. The Commercial Law thus establishes an employer-friendly model.

(b) Co-operatives

The Law on Co-operatives (hereinafter LC) currently in force became effective in 1999 to replace the former Law on Co-operatives of 1991 as well as the Law on the Facilitation of Co-operatives of 1947. The LC governs the functioning of co-operatives within a market-based economy. It defines a co-operative as a merchant entity of a changeable stock supply and fluctuating membership numbers uniting physical persons[19] on the basis of mutual assistance and teamwork as designed by the Internal Rules of the co-operative. These rules must be adopted by the members at the point of foundation and are binding for them. Co-operatives usually engage in economic activities directly. In order to reduce the economic risk of certain independent entrepreneurial undertakings they may establish single-shareholder limited liability companies or joint-stock companies. Co-operatives may also become shareholders in joint ventures[20] as long as the latter are organised as limited liability companies or joint-stock companies. A co-operative is incapable of joining commercial entities in the quality of a fully liable partner. It may engage in social and cultural activities to the benefit of its members and join a so called co-operative association, a supra-co-operative meant to promote the interests of its member co-operatives. A co-

17 Consisting of all employees of a given enterprise.

18 Art. 12-32 Labour Code were abolished in 1992.

19 A co-operative can be established by at least seven fully capable natural persons. Once registered, the co-operative may be joined by natural persons with limited capability, as long as they have reached the minimum age of 16. In the latter case the consent of the parent or guardian is necessary. One natural person may only be the member of one co-operative.

20 With other co-operatives only.

operative emerges as a legal entity with its entry in the registry of co-operatives kept by the local district court. All co-operatives established under the old law were put under obligation to adjust their Internal Rules to the new law, to enter the respective changes in the local court registry and to apply for the regular commercial registration of factual entrepreneurial undertakings. After a transition period of nine months tardy co-operatives were dissolved upon moves on the part of the Prosecution Office.

In the General Meeting each member has one vote irrespective of the value of his possible capital contribution. The General Meeting elects an executive council to sit once a month, a chairman to represent the co-operative as well as a supervisory council to monitor the activities of the co-operative and to report to the General Meeting. Council members and chairmen have a mandate for three years and must be elected from the members of the co-operative. They act to execute the decisions of the General Meeting. The General Meeting plays the part of an all-competent deciding organ (Art. 17 (6) LC). A co-operative is primarily supposed to pay its members the so called production dividends. The latter are calculated on the basis of the co-operative's profit cumulated by the sale of goods to third persons. These goods being originally produced and alienated to the co-operative by its members, the production dividend evidently stands in proportion to the contribution of the individual member to the economic success of the co-operative. Somewhat less evident is this proportion in the case of the so called consumer dividends. The consumer dividends are derived from the profit of the co-operative cumulated as the latter sells to its members goods acquired from third persons. Here, the Internal Rules of the co-operative can play a major regulative role.

Although the idea of a personal effort contribution is leading for a co-operative, physical persons who become members do not automatically receive the status of employees. However, as long as the co-operative is meant to produce goods and is currently in need of personnel the individual member is entitled to the right of employment in accordance with his qualification and age. This right implies an employment contract and payment of wages. Since the right of employment by the co-operative does not infringe the right to receive production and consumer dividend payments the combined effect of the two remuneration mechanisms is the closest the current Bulgarian legislation gets to a statutory regulated employee financial participation scheme. A further incentive is the fact that co-operatives are entities with a limited liability (Art. 32 (1) LC). However, the internal rules of the co-operative may set supplementary member liability for debts of the co-operative (Art. 32 (3) LC). Should that be the case, the relevant information must be submitted to the court to be entered in the register of co-operatives (Art. 3 (2) 2 LC).

In the Meeting of Members each member has one vote irrespective of the value of the capital contribution he/she has made (Art. 19 LC). The position of the General Meeting is very strong, since it is meant to be the all-deciding organ of the co-operative. The statutory list of competences for the Meeting encompasses a large number of positions and is not ultimate, so that the Meeting can make any other decision related to the activity of the co-operative (Art. 15 (6) LC). Here some

exemplary competences of the Meeting: adoption and amendment of the internal rules of the co-operative (Art. 15 (4) 1 LC); appointment of auditor(s) and financial revisions (Art. 15 (4) 3 LC); approval of procure contracts (Art. 15 (4) 4 LC); approval of the audited annual accounting reports and of the Council reports, decision on the payment of dividends (Art. 15 (4) 5 LC); decision on joining a co-operative association or a joint venture (Art. 15 (4) 7 LC); setting directives for the economic policy of the co-operative (Art. 15 (4) 8 LC); deciding on the waiving or cancellation of outstanding claims of the co-operative (Art. 15 (4) 9 LC); authorisation of alienations, acquisitions or encumbrances of immovable property (Art. 15 (4) 10 LC); admission of new members, member exclusion (Art. 15 (4) 11 and 12 LC); decision on additional member capital contributions (Art. 15 (4) 13 LC); revision of decisions by other bodies of the co-operative (Art. 15 (4) 14 LC); liability charge (Art. 15 (4) 15 LC) or discharge of the Council members and the Chairman (Art. 15 (4) 17 LC).

The strong position of the co-operative members in the decision-making process is demonstrated by the fact that the Meeting may be summoned by one third of its members in case the chairman fails to call it to a sitting within one month after having been requested to do so (Art. 16 (3) LC). Generally, the Meeting may sit when half of its members are present (Art. 17 (1) alt. 1 LC) and decide with a majority of the present votes (Art. 18 (1)) whereas for certain key decisions higher quorum (Art. 17 (1) Alt. 2 LC) and majority requirements apply (Art. 18 (2) LC). As far as the internal rules of the co-operative do not contain contrary provisions the falling-quorum principle applies, so that the Meeting may start its sitting one hour after the hour of day it was summoned to no matter how many members are present (Art. 17 (2) LC). In such a case the Meeting may only decide on issues announced in the summons (Art. 16 (2) LC).

(c) Partnerships

There are four forms of partnerships under Bulgarian law: general partnership under the Law on Obligations and Contracts[21] (Art. 357 ff.), general partnership under the Commercial Law (Art. 76 ff.)), limited partnership under the Commercial Law (Art. 99 ff.) and partnerships of attorneys-at-law under the Law on Attorneys-at-law of 10 June 2004 (DV 2004, No. 55 as amended in DV 2005, No. 79, Art. 57-77).

A general partnership under the Law on Obligations and Contracts is a special type of contractual obligation binding two or more persons (partners) in the pursuit of a common economic purpose. A general partnership is never a separate legal entity and does not appear in the court registries. The liability of the partners is joint and unlimited. A general partnership under the Commercial Law emerges on the basis of a written contract between the partners whose signatures have to be certified by a public notary. It becomes a separate legal entity with its entry in the court registry. The partners are jointly liable for debts of the company. Their liability is not limited. The

[21] This type of partnership is also open to lawyers.

limited partnership under the Commercial Law is also a registered separate legal entity arising on the basis of a written contract with certified signatures. A limited partnership has two types of partners. At least one partner carries the business risk as he is liable without limitation for company debts. The remaining partners are also known as limited partners as they only risk their initial contribution. The value of this contribution is governed by the partnership contract as there are no minimum requirements set by the Commercial Law. A partnership of attorneys-at-law is a legal entity that has to be registered at the court and at the local Bar Association. Only lawyers can be partners. The size of their contributions is set in the partnership agreement which must be concluded in written form. Every partner is personally liable for damages caused to a client. The partnership itself is also liable for these damages, however, only up to the sum total of the partner contributions.

The direct managerial influence of the partners can be seen as an incentive in the light of the employee participation. It is most distinctive in the context of a general partnership under the Law on Obligations and Contracts or under the Commercial Law and fades away in the context of a limited partnership or an attorney partnership (see further down, 'Links to Participation in Decision-Making'). The main disadvantage of partnerships is the unlimited liability. Since the minimum capital supply of a LLC is quite low and the incorporation procedure is uncomplicated an LLC is generally preferred to a partnership. Therefore, the number of partnerships is small. As an exception of that trend, partnerships of attorneys-at-law are quite numerous since they are one of the very few forms[22] of joint professional effort the Law on Attorneys-at-law permits. There is no possibility to limit the liability to one partner only.

If there is no deviating agreement, every partner of a general partnership has the right to run the common business and act on behalf of the other partners (in the case of a general partnership under the Law on Obligations and Contracts, Art. 360 (2)) or the company (in the case of a general partnership under the Commercial Law, Art. 84 (1)). Limited partnerships are run and represented by the fully liable partners (Art. 105 (1) CL). Attorney partnerships are run by one executive partner or a council of executive partners appointed by the Meeting of Partners for three years (Art. 70 (1) Law on Attorneys-at-law). The names must be submitted to the court and the local Bar Association for registration.

[22] General partnerships under the Law on Obligations and Contracts are also open to attorneys at law.

b) Profit-Sharing

It is very unusual for Bulgarian employers to introduce schemes linking employee bonuses to the financial success of the company. Since such schemes are not forbidden, they may be introduced by the employer, but the employer shall generally not benefit from that under Bulgarian tax law. However, it is quite customary for economically powerful employers to offer their high-level management staff various profit-sharing solutions on individual contract basis. These may be cash-based (in this case the financial success of the employer coexists with traditional achievement assessment criteria such as individual performance) or share-based. If a JSC offering any of these solutions to a Council or a Board member the approval by the general meeting is necessary for every beneficiary and for every year of his/her office.

c) Taxation Issues

The Bulgarian tax legislation provides for five taxation mechanisms that relate to the topic of the present paper. It is important to point out that none of them is specifically designed to promote financial participation of employees. These are: the cash-bonus taxation mechanism applicable to employed management staff (Art. Art. 19 and the following of the Law on the Income Taxation of Natural Persons); the cash-bonus taxation mechanism applicable to self-employed tax-resident management staff (Art. 22 (1) d of the Law on the Income Taxation of Natural Persons); the cash-bonus taxation mechanism applicable to self-employed non-resident management staff (Art. 34 (4) of the Law on the Corporate Income Taxation); the share-based profit-sharing taxation mechanism (Art. 34 (3) of the Law on the Corporate Income Taxation in connection with Art 12 (1) 13 of the Law on the Income Taxation of Natural Persons) and the dividend taxation mechanism (Art. 34 (1) of the Law on the Corporate Income Taxation).

Compared to the regular personal income tax rule for resident employees, the employed management staff cash-bonus tax mechanism exhibits no deviations: the cash bonus has to be taxed in the month of payment according to the applicable monthly progression rate. To self-employed persons, the general yearly tax progression applies, whereby 10% of the gross income is accepted by the tax authorities as relevant expenditures. No monthly tax prepayments are due.

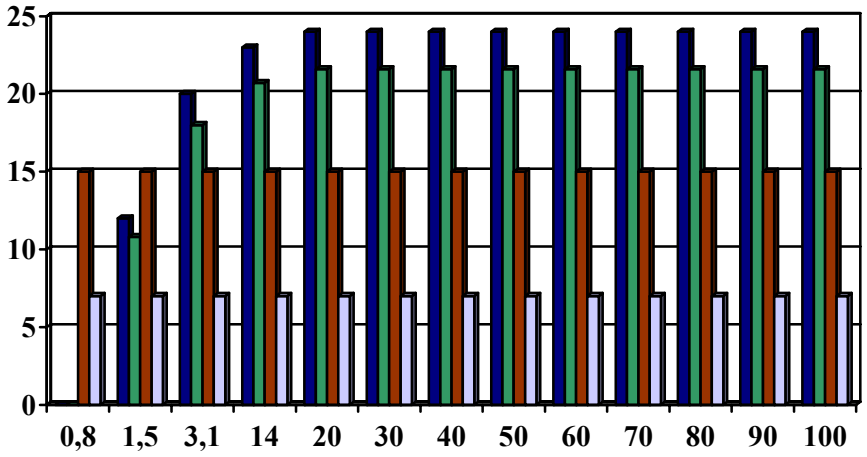
Dividends are taxed on the basis of a source-tax mechanism at a flat rate of 7%[23]. The taxation is final, so that dividend payments are excluded from the yearly personal income tax refund calculation which takes place in the case of tax residents. Depending on the total yearly income of the individual this may result in a net tax advantage or disadvantage.

No tax is due when dividends are 'distributed' under share-based profit-sharing schemes. Such distributions are free of both income progression and dividend tax.

[23] Since 1 January 2005. Before that the applicable flat rate was set at 15%.

To facilitate the economic prosperity of co-operatives the Act on the Corporate Income Taxation allows the deduction of the production and consumer dividends from the taxable profit of a co-operative. Precondition for the incentive is that these dividends be paid by March 25th of the year following the taxation period. Consumer dividends are exempt from the personal income taxation while production dividends are taxable according to the general provisions regarding the personal income tax.

The comparative analysis of the applicable general taxation rules (see the diagram below) shows that, the share-based profit-sharing excluded, employees would generally benefit from the low-tax dividend model[24].



Legend:

Blue:	Yearly progression applicable to wage and cash-bonuses.
Green:	Yearly progression applicable to self-employed management staff (residents).
Red:	Flat rate applicable to self-employed management staff (non-residents).
Grey:	Flat rate applicable to dividend payments.

[24] Tax base reduction opportunities typical for the progression models are here ignored.

3. Incidence Now and Over Time

a) Mass Privatization

Mass privatization, conducted in Bulgaria in 1996-1998, was one of the possibilities of establishing employee ownership. The experience in the Czech Republic was used as a model of mass privatization. Investment vouchers were distributed to over 3 million people at the age above 18, for investment in 1,040 enterprises or in the purpose-made private privatization funds. Over 80% of the investment vouchers were transferred to 81 licensed privatization funds. Up to 10% of the appointed capital of the enterprises for the mass privatization was distributed free of charge among the personnel in accordance to their length of service.

According to the Centre for Mass Privatization, the shares after the mass privatization were distributed as follows (Miller and Petranov, 2000, pp. 225-250): 40.8% state property; 6.4% personnel; 12.9 individual shareholders; 39.9% privatization funds.

Table 1. Possible alliances between shareholders in the enterprises after mass privatization

Possible alliances	Number of enterprises	Percentage of the enterprises for mass privatization
Individual shareholders, possessing over 50% of one enterprise	64	6.18
Individual shareholders and one PF, possessing over 50% of one enterprise	173	16.71
Two PF, possessing over 50% of one enterprise	418	40.39
Three PF, possessing over 50% of one enterprise	271	26.18
Four PF, possessing over 50% of one enterprise	84	8.12
Five PF, possessing over 50% of one enterprise	20	1.93
Six PF, possessing over 50% of one enterprise	4	0.39
Seven PF, possessing over 50% of one enterprise	1	0.10

Note: In the table, there is double listing of the enterprises in first and second line since according to the formula used, citizens that possess over 50% of the capital of one enterprise, may participate in an alliance with one fund as well, which increases their total share. PF = privatization fund.

Source of information: Author's own calculations, based on the published records of the Auction Commission for the three auction sessions of the mass privatization.

This data shows the picture immediately after the end of the mass privatization, but it changed significantly very soon after that. The privatization funds that were initially not allowed to possess more than 34% of the capital of one enterprise started to exchange or sell share packages among themselves, after this restriction was abolished. In strategic enterprises, privatization funds gained control by capital increase. As a result, the share of employees considerably decreased. The employee participation reached its peak immediately after the completion of mass privatization in 1998 with about 7-12% of shares, but afterwards their shares were transferred to managers and outside owners. After 1998, the vouchers have been still tradable until 2002, but only minority shares could be purchased.

b) MEBO Method

Initially, in spite of the strong trade-union lobby, the privatization policy represented in the adequate legislative framework, envisaged only one preference for the employees. Similar to Art. 24 of the Polish Law on Privatization, the workers in the enterprise could gain up to 20% of the shares at half price. No other preferences were envisaged in the first version of the law. The first breakthrough for the implementation of the MEBO method in the legislative framework and policy was made in 1994. Amendments to the Law on Privatization introduced the concept of the Society for employees and managers buy-out (SEMB), the rescheduling payment of its price for a period up to 10 years, one year grace period, 10% initial payment of the selling price and accumulation at interest of the outstanding part of the price at half of the average annual base interest rate.

The second major amendment concerning preferential treatment of employees was made for the personnel and the leaseholders of small companies with balance sheet value of the fixed assets up to 10 million (old) leva for industrial enterprises and up to 5 (old) million leva for commercial entities by the date of submission of the privatization proposal. They were permitted to buy the leased entities without auction at a price equal to the assessment that they could pay in rescheduling scheme for a period up to 6 years for industrial entities and up to 5 years for commercial entities, with primary payment respectively 10% and 30% of the assessed value. Similarly to the SEMBs, the accumulation of interest for the leaseholders was accepted to be made on the outstanding part of the price at half of the base interest rate.

Some small but significant changes for the SEMBs were adopted in 1997 and 1998. Managers (in 1997) and inventors whose inventions are implemented by the company (in 1998) could participate in SEMB. Moreover, the threshold for the recognition of a company as an SEMB fell from 50% to 20% of the number of employees becoming members of an SEMB. At the same time, some restrictions for the distribution of the SEMB capital, the type of the emitted shares, the securities to the price payment, etc. were introduced, however, they did not present serious difficulties for the SEMBs. Very serious breakthrough in favor of the SEMBs was made by an amendment to the legislation that enabled them to cover the outstanding part of the price until the end of

2000 completely with compensatory papers for their transactions. Other incentives for SEMB were rescheduled payment of the selling price of the enterprise up to 10 years, one year grace period after signing the transaction, low-interest credit of the SEMBs as accumulation of the interest of the outstanding part of the price at the half of the base interest rate, preferential buy-out of up to 20% of the capital of the enterprise at half of the reached selling price to the personnel, free acquisition of up to 10% of the capital of the enterprise by the personnel in mass privatization; direct buy-out of small entities according to the application of the personnel, including rescheduled payment according to Art. 35 of the Law on Privatization; use of investment vouchers for capital share in SEMBs in proportion 1 voucher equals 1 leva; use of investment vouchers for the payment in the course of privatization with the SEMB in proportion 1 voucher equals 1 leva; payment of 100% of the outstanding part of the price by the end of 2000 with compensatory papers for already accomplished transactions with SEMBs. There were no restrictions, ia regarding the sector, for privatization with SEMBs, wit the exception of the so called objective-oriented privatization that was introduced in 1996. That restriction existed for the implementation of schemes for privatization by employees in most transition countries.[25] Further restrictions were planned in the draft amendment to the Law on Privatization prepared by the government in 1996, but influencial lobbies prevented the restriction of employees-management privatization to enterprises with balance sheet value of fixed assets up to 70,000,000 leva (or 100,000,000) old leva.

The dynamics of introducing privileges for SEMB presented in Table 1 clearly outlines the tendencies in the privatization policy in the respective years. After the first breakthrough in 1994 when there were 9 privileges, and their number increased to 11 in 1997. Equally important is the quality of the respective preferences, which became quite high after 1997.

Table 2. Dynamics of the types of preferences for SEMB

Years Types of preferences for SEMB	1993	1994	1995	1996	1997	1998	1999
Acquisition of up to 20% of the capital of the enterprise at half the price	+	+	+	+	+	+	+
Rescheduled payment of the price up to 10 years with one-year grace period		+	+	+	+	+	+
Initial payment of 10% of the price		+	+	+	+	+	+

[25] See Bornstein, M. (1997), 'Non-standard methods in privatization strategies', *Economics of Transition*, Vol. 5, pp. 323-338.

Years Types of preferences for SEMB	1993	1994	1995	1996	1997	1998	1999
Accumulation of interest on the non-paid part of the price at 50% of the Base Interest Rate		+	+	+	+	+	+
Free transfer of up to 10% of the share of the capital enlisted for mass privatization		+	+	+	+	+	+
No requirement for length of service in the enterprise for participation in SEMB		+	+	+	+	+	+
No requirement for personnel share in forming SEMB		+	+				
Participation of at least 50% of the personnel in SEMB				+			
Participation of at least 20% of the personnel in SEMB					+	+	+
Using the investment vouchers for capital share in SEMB in a ratio: 1 voucher equals 1 lev						+	+
Using the investment vouchers for payment of the price of the privatization transaction with SEMB in a ratio: 1 voucher equals 1 lev						+	+
Direct buy-out of small enterprises and differentiated bodies according to their assessment as a rescheduled payment (art. 35 and the following)		+	+	+	+	+	+
No discount method used of the SEMB offers when comparing prices		+	+	+	+	+	+
Total	1	9	9	9	9	11	11

Notes::(1) A similar system of privileges was used for selling assets as for selling shares. (2) The plus indicates the year in which the respective privilege came into force. It is assumed that the privilege was introduced from the beginning of the respective year.

The privileges described above support the strong position of SEMB in privatization compared to external buyers due to the insider knowledge, especially in military industry and foreign trade. The managers often misused the SEMB scheme in order to purchase the enterprise under value or for asset stripping before privatization by other buyers, also at the expense of the rights of employees, when managers obliged employees to participate in SEMB and to contribute capital or concentrated the power and capital of the SEMB in their hands and deprived other employees of their shareholders' rights. Until March 2000, SEMBs have had significant advantages, especially concerning the price (about 36% less than for other buyers, according to the calculations of the author).

The sales to SEMB during privatization reached 1,436 or 28% of 5,165 deals. If we add other sales that also included privileges to employees (e.g. privatization of separated part of enterprises) almost half of conventional privatizations has been carried out by insiders. The consequences of strongly supported sales to SEMB were disclosed to the public after establishment of the Agency for post-privatization control at the end of 2002. Apart from a large number of contracts which have been changed in direction of reduction of the due payments, roughly 10% of SEMBs did not pay their rescheduled instalments in due time.[26] The total losses due to breach of privatization contracts were BGN 1 bln. (EUR 0,5 bln.)[27] Only 3 of 20 companies privatized by MEBO and screened in the recent study are presently not dominated by managers (Minchev, 2004, pp. 55-57). Most employees hold minority shares, so that only in two cases employees are represented in the managing bodies of the company. The MEBO method was abolished in 2002 when the effective Privatization Law was adopted. No data on the sales of shares by employees after privatization are available, but it can be estimated that about 10% of enterprises privatized by MEBO can be still majority employee owned.

c) Minority Interest Sales

In conventional privatization, the personnel has the right to buy up to 20% of its company's shares at half of the price reached on the sale of the main stock. There are no studies to indicate what percentage of enterprises has been privatized this way. Presumingly, this part was not high, about 4-5%.

[26] Capital, 23-27 November 2002.

[27] See Capital, 23-27 November 2002; Trud, 3 December 2002.

d) Co-operatives

During the transition to market economy, co-operatives went through difficult periods. They were considered as a remnant from the past and an impediment to free entrepreneurship. Restitution had the most destructive impact on co-operatives. A land reform model for restitution of land to its former owners and their heirs, was adopted, which led to liquidation of many existing co-operatives in agriculture and also in other sectors of economy. According to the new Law on co-operatives, they were obliged to re-register, whereas the registration procedures were complicated. Significant restrictions concerning the work of credit co-operatives were introduced, what, in practice, drove them into illegality.

The statistical data for the number of co-operatives show that their number increased to 5,693 in 1997 from 18 in 1989 representing 1,3% of all registered companies. More than the half were agriculture co-operatives which are the predominant business form in agriculture until now.

The statistical data for the number of co-operatives show that their number increased to 7,570 in 2003 from 18 in 1989 representing roughly 1% of all registered companies. More than half of them were agriculture co-operatives. Until 1993, when statistics reported co-operatives separately from private sector, about 1-1,5% of all the investments were made and about 2,5% of industrial production was produced by them. According to a survey of agricultural farms made in 2003, there are 5300 legal entities and sole traders in the sector. From this number, 2900 are agricultural co-operatives cultivating on average 600 ha land. More than half of used agricultural land is possessed by co-operatives.

According to the data of the two biggest co-operative unions, Central Co-operative Union (954 co-operatives with 210,000 members, hereinafter referred to as CCU) and National Union of Worker Producers' Co-operatives in Bulgaria (320 co-operatives with 20,000 members, hereinafter referred to as NUWPC), 95% of co-operatives belonging to these unions are workers' co-operatives. Since the above co-operative unions represent 17% of all co-operatives, this ratio can be considered to be relevant for the whole co-operative sector.

e) Trade Union Investments

The Bulgarian trade unions made many attempts to invest in trade companies' property, most of which turned out to be unsuccessful. Trade unions inherited property from the former state trade union, which was transferred to trade companies controlled by the trade unions at the beginning of transition. Some of these companies were very profitable, e.g. the company issuing Trud newspaper (one of the most popular national newspapers) and managing holiday houses. The new trade unions, with tremendous popularity and influence in the society, made 'green' investments at the beginning of the transition period. For example, CL 'Podkrepa' established an insurance company and made unsuccessful attempt to register a bank. In addition to

those larger investments, the trade unions possessed other smaller trade companies like printing houses, newspapers and restaurants. Some federations established foundations, educational centres and consultings as non-governmental organizations. However, these companies often proved unprofitable due to unfavourable legislation and, sometimes, to deficient management, so that many of them were sold or liquidated.

One of the most effective trade union associations making investments is the Confederation of Independent Trade Unions in Bulgaria (CITUB) participation in the Privatization Fund 'Labour and Capital'. Through that successful fund, the CITUB indirectly acquired a high percentage of shares of many enterprises. Thus, the trade union activists were directly involved in the management of those enterprises. However, CITUB sold its shares to other owners later.

f) Profit-Sharing

Since there is no legislation on profit-sharing, it can only be regulated by individual enterprises. There are no comprehensive or sample studies of the systems of personnel participation in profit-sharing. The overall impression is that such schemes are not very popular. On the one hand, it is due to the lack of tax incentives. On the other hand, it is due to the long period of time between the general meetings mostly taking place in May-June where the decision on profit should be made at the end of the financial year in December.

Both private and public companies prefer monetary incentive schemes, e.g. monthly and annual bonuses. A study carried out by NEW and Hay Group, covering about 30 of the largest companies with foreign participation in Bulgaria indicates that 95% of them use short-term incentive schemes.[28] In some companies salaries are periodically indexed with the inflation rate. The distribution of '13th' salary is part of the policy of many enterprises. Not only employees dealing with sales receive cash bonuses and commissions. Usually, the top managers receive fringe benefits. Supplementary health and pension insurance for all employees paid by the company have been gaining popularity recently. Company training is also part of the policy of rich companies for encouraging their employees.

Some enterprises have an unusually big set of social services paid by the company, e.g. 'Devnia Cement'. It provides a full time doctor employed by the company to attent to employees and covers costs of serious operations. Free food during work and coupons for public transport and, twice a year, for shopping are also provided by the company. Every employee gets 13th and 14th salary at the end of the year.

[28] See Capital Careers, 23 February 2001.

4. Empirical Evidence of Economic and Social Effects

Bulgaria is not yet covered by comparative studies about efficiency of different ownership types, including employee ownership. The only way to estimate economic viability of employee owned enterprises is to use relative data. It is obvious that after completion of conventional and mass privatization the number of employee-owned firms declined. The number of shares held by employees has been significantly reduced. A study by D. Jones and M. Klinedinst (2003) shows that influence of employees over decision-making process in enterprises is not important except regarding safety and health issues.

5. Conclusions

The present level of financial participation of employees is relatively low. The most popular employee participation form in Bulgaria is the minority employee ownership of enterprises. This is a result of mass and MEBO privatization. Profit-sharing is very seldom used in practice; monetary incentive schemes are implemented instead. The number of co-operatives has decreased in the first years of transition, but there is still a significant number, especially in agriculture.

Whereas voucher privatization was the prevailing privatization method at the beginning of the transition, MEBO method was gaining support from 1994 until 2002. Almost the half of enterprises were privatized by insiders, but employee ownership has significantly decreased over time, since employees were willing or forced to sell their shares to the management or to outside owners. Employee ownership did not lead to participation in the management in most cases. Presently, most employees are minority shareholders without notable influence.

Before 2001, privatization legislation strongly supported participation of insiders in privatization, ia by tax incentives. However, these provisions were abolished. There is no special regulation on profit-sharing, but it may be profitable for employees with a relatively low income under the effective tax law.

Until now, the influence of the EU legislation on the development of employee participation has been weak. Since Bulgaria is a candidate country of the EU, EU regulations on financial participation of employees would be transposed into Bulgarian law in the course of accession.

The political support for employee participation in ownership has ceased, but individual enterprises introduce numerous monetary incentive schemes presently and may introduce profit-sharing in the future. The EU accession will give an additional impulse to the development of employee participation.

Bibliography

Alexieva N., J. Nellis, T. O'Brian and L. Stoyanova (1998), *A Review of Bulgarian Privatization*, OECD, September, mimeo.

Avramov, R. (2001), *The Industrial XX century of Bulgaria*, Sofia (in Bulgarian).

Blaszczyk, B. and Woodward, R. (eds.) (1996), *Privatization in Post-Communist Countries, Volume I and II*, Warsaw: CASE - Center for Social and Economic Research.

Bochev, S. (1998), *Capitalism in Bulgaria*, Sofia (in Bulgarian).

Bornstein, M. (1997), 'Non-standard methods in privatization strategies', *Economics of Transition*, Vol. 5, pp. 323-338.

Center for Mass Privatization (1995), *Program for privatization through investment vouchers*, Sofia.

Club 'Economica 2000' (2000): *The Social Impact of Restructuring and Privatization in Bulgaria*.

Confederation of Independent Trade Union in Bulgaria (CITUB) (1994), Employees' Participation in Privatization Process.

Dimitrov, M. (ed.) (1995): *Comparative Analysis on Structural Reforms in Central and Eastern Europe*.

Dimitrov M., Andreff, V. and Csaba, L. (eds.) (1999), *Economies in Transition and the Variety of Capitalisms: Features, Changes, Convergence*, Sofia: Gorex Press.

Earle J., Frydman, R., Rapaczynski, A. and Turkewitz, J. (1994), *Small Privatization*, Budapest, London and New York: Central European University Press.

Estrin, S. (1991), 'Privatization, Self-management and social ownership', *Communist Economies and Economic Transformation*, Vol. 3, pp. 355-365.

European Bank for Reconstruction and Development (1997), *Transition Report*.

Frydman, R., Grey, C., Hessel, M. and Rapaczynski, A. (1997), *Private Ownership and Corporate Performance: Evidence from Transition Economies*, EBRD Working Papers, Issue 26.

Frydman, R., Rapaczynski, A., Earle, J. et al. (1993), *The Privatization Process in Central Europe*, Budapest, London and New York: Central European University Press.

Gerdzhikov, O. (1998), *Komentar na targovskiia zakon* [Commentary on the Commercial Act], Book III, Band I, Sofia: Sofi-R.

Grey, C. (1996), *In Search of Owners: Lessons of Experience with Privatization and Corporate Governance in Transition Economies*, Policy Research Working Papers, No. 1595.

Hann, E., and Laki, M. (1992), 'The Hungarian Public on the Advance of Private Economy', *Acta Oeconomika*, Vol. 44, No. 1-2.

Horozov, G. (1996), *Praven rezhim na privatizatsiiata* [Legal Regime of Privatization], Sofia: Sibi.

Horozov, G. (1998), Prakticheski pravni problemi na privatizatsiiata [Practical Privatization Problems], Sofia: Sibi.

Horozov, G. (2000), *Privatizatsionniiat dogovor: sāshtnost, osobenosti, pravno deistvie* [The Privatization Contract: Legal Nature, Characteristics and Effect], Sofia: Sibi.

Jones, D. C. and Miller, J. (1997), *The Bulgarian Economy: Lessons from Reform during Early Transition*, Aldershot: Ashgate.

Jones, D. C. and Klinedinst, M. (2003), *Corporate Governance and Executive Compensation in Bulgaria after Mass Privatization: Evidence from New Panel Data*, 24 September.

Kasabova, K. (2002), *Aktsii I sposobi za prekhvārliane* [Shares and Ways of Transfer], Sofia: SOFI-R.

Horvat, B. (1992), 'The Market Transformation of State Enterprises' in *Socialist Economies in Transition: Appraisals of the Market Mechanism*, M. Knell and C. Rider (eds.), Aldershot: Edward Elgar.

Kalaidzhiev, A. (2002), *Publichnoto druzhestvo* [The Public Company], Sofia: Trud i pravo.

Kawalec, S. (1990), 'Employee Ownership, State Treasury Ownership: Dubious Solution', *Communist Economies*, Vol. 1, pp. 83-93.

Keremidchiev, S. (1992). The Worker as an owner, *Ost - West Informationen*, No. 3, pp. 36-38, (in German).

Keremidchiev, S. (1997a), 'Bulgarian model of mass privatization' in *Economic transition in Macedonia and Bulgaria*, Skopje, pp. 107-119 (in Macedonian).

Keremidchiev, S. (1997b): 'Privatization and enterprise restructuring', *Economic Thought*, No. 10, pp. 18-32 (in Bulgarian).

Keremidchiev, S. (2001), 'Assessment of the Privatization Policy in Bulgaria' in *Una Decada de Transition*, University of Valencia, pp. 189-203.

Keremidchiev, S. and Georgiev, I. (1999a), *Corporate Governance of Privatized Enterprises*, Sofia: BAMED (in Bulgarian).

Keremidchiev, S. and Gradev, T. (1999b), 'Company Adjustment and Restructuring in the Bulgarian Transition' in *Privatization and Economic Performance in Central and Eastern Europe: Lessons to be Learnt from Western Europe*, I. Major (ed.), London: Edward Elgar, pp. 59-101.

Keremidchiev, S. et al. (1992a), *Agrarian Reform and Agricultural Organisations, Agriculture Foundation*, Sofia (in Bulgarian).

Keremidchiev, S. et al. (1992b), 'Bulgaria' in *The Privatization Process in Central Europe*, R. Frydman, R., A. Rapaczyncszki and J. Earle. (eds.), Vol. I, Budapest, London and New York: Central European University Press, pp. 3-39.

Keremidchiev, S. et al. (1993), *Current Trends of Privatization*.

Keremidchiev, S. et al. (1997), *Corporate Governance and Privatization*.

Keremidchiev, S. et al. (2000), *Strategic objective and equity in policies of transition: Bulgarian and Polish Cases*, SOCO (Social Consequences of Economic Transformation in East Central Europe) Project Papers, No. 91, Vienna: Institute for Human Sciences.

Miller, J. and Petranov, S. (2000), 'The Aftermath of Bulgaria's First Wave of Mass Privatization', *Economics of Transition*, Vol. 8, pp. 225-250.

Minchev, V. (2004), 'Stakeholders in the Bulgarian public companies', *Ikonomika*, Issue 2, pp. 55-57.

Mrachkov, V. (2001), 'Obshta kharakteristika na promenite v kodeksa na truda [General Characteristics of the Amendments to the Bulgarian Labour Code]', *Pravna Misal*, No. 4, pp. 47-53.

Mrachkov, V., Sredkova, K. and Vasilev, A. (1995), *Komentar na kodeksa na truda* [Commentary on the Labour Code], Sofia: Sibi.

Kamenova, C. (2000), 'Legal reform – Its First Ten Years', *Pravna Misal*, No. 4, pp. 81-83.

Pravno-informazionna sistema CIELA 3.0 (Act Databank CIELA 3.0), Sofia: Ciela.

OECD Economic Surveys, Bulgaria 1997.