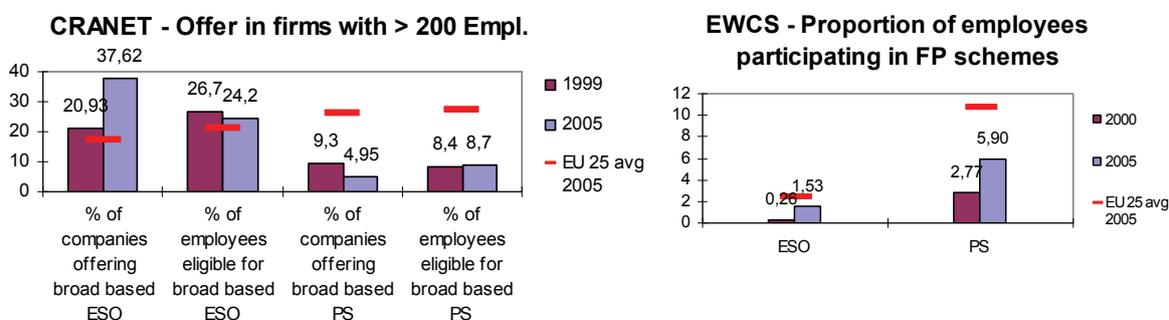


II. Bulgaria

The development of PEPPER schemes in Bulgaria has been influenced by both the historical commitment to a strong co-operative movement⁸⁵ and the special circumstances accompanying the transition to a market economy. The main form of employee financial participation became employee share ownership, with the voucher system being the preferred privatisation method at the beginning of transition in 1992-1994. The proportion of enterprises privatised this way initially was low, approximately 4-5 per cent, but then increased with the management-employee buyout (MEBO) method gaining support from 1994 until 2000.⁸⁶ Close to half of the enterprises were privatised by insiders, but employee ownership has decreased over time. Although no data on the sales of shares by employees after privatisation are available, it can be fairly estimated that about 10 per cent of enterprises privatised by MEBO may still be under majority employee ownership. According to the Centre for Mass Privatisation, at the close of mass privatisation in 1998 shares were distributed as follows: 40.8 per cent state property; 6.4 per cent employees; 12.9 per cent individual shareholders, and 39.9 per cent privatisation funds. Later however, frequently employees' shares were transferred to managers and outside owners. Profit-sharing has developed only very recently, as the private sector began to stabilise and human capital became a major factor in company success.



1. General Attitude

Three trade union organisations are recognised at the national level: the Confederation of Independent Trade Unions in Bulgaria (CITUB), the Confederation of Labour Podkrepa, and Promiana. From early transition on, CITUB has been in favour of developing finan-

⁸⁵ The percentage of co-operations among industrial enterprises ranged from 8.5 per cent to 10.4 per cent between 1980 and 1988. The corresponding numbers for personnel was 6.8 per cent and 6.7 per cent. Source: NSI.

⁸⁶ 1,436 or 28 per cent of 5,165 deals (Minchev, 2004, pp. 55-57).

cial participation; its leader, Kastriot Petkov, has written books on the subject, including concrete proposals on helping workers get more involved in the capital, profits and decisions of their company. The transition period brought about a significant change in the power relationship between social partners. In the beginning, trade unions dominated the social dialogue. The end of the privatisation process however saw union power and influence drastically decrease. In recent years, the employers' associations have grown more powerful than trade unions. Until 2005, employers were represented by six national associations, which currently do not consider employee financial participation an important issue in either policy or practice.

The 39th Bulgarian Parliament which vested power in the national government under Prime Minister Simeon Saksoburggotski (2001-05) did show interest in questions relating to financial and decision-making participation of employees. Under the guidance of Prof. Dr. Ognyan Gerdzhirov, then President of Parliament, a comparative legal survey on national solutions within the European Union and some adjacent states was conducted. The survey, focussing on joint-stock companies, identified a number of national regulatory mechanisms and possibly contributed to the popularity of the ideas behind them. However, the survey resulted in no relevant act of law. The new government (as of 2005), under Prime Minister Sergey Stanishev, is sceptical of financial participation. Further, this issue has not been on the political agenda of Parliament nor has any political party currently addressed it.

2. Legal and Fiscal Framework

Although no specific legal regulation applies to any PEPPER scheme, the legal framework provides neither incentives nor restrictions concerning employee financial participation.

a) Share Ownership

Privatisation (1992, 1997, abolished in 2002) – Under the Law on the Reorganisation and Privatisation of State and Municipal Enterprises of 7 May 1992 (LRP), employees with Bulgarian citizenship and permanent residency in Bulgaria prior to 2002 were entitled to preferential (free or discount) share acquisition. In voucher (mass) privatisation, each eligible individual could obtain free shares, with the total value of free shares distributed not exceeding 10 per cent of the nominal stock of the target entity. This privilege was abolished in 1998 when voucher privatisation was virtually abandoned. Under the stock-sales method, eligible individuals were entitled to acquire up to 20 per cent of the nominal stock at 50 per cent of the assessed price. This privilege was abolished in January 2002. The share acquisition itself had no tax relevance, subsequently, dividends received were subject to the general rule on dividend taxation. Furthermore, the LRP regulated so called '*MEBO-company*' ('rabotničesko-medidžarsko društvo'), a legal entity established by a minimum of 20-30 per cent of an enterprises employees for the sole purpose of participating in the privatisation process. A general incentive for a MEBO-company was the permission to maintain stock of only 10 per cent of the minimum stock generally required

for stock corporations or limited liability companies and the VAT exemption of the privatisation deal. Further incentives subject to specific conditions were a 100 per cent profit tax exemption for three years after privatisation and 50 per cent for the following two years, payment privileges, and immediate transfer of property in the case of enterprises of minor value. Thus, an MEBO company had significant advantages, especially an acquisition price about 36 per cent less than for other buyers, until these were abolished in March 2000.⁸⁷

The effective Law on Privatisation and Post-Privatisation Control of 19 March 2002 (Art. 7) states as a general principle of Privatisation Law the equality of privatisation candidates. The law gives no privileges based on the status of applicants. In particular, there are no provisions favouring employees. Current privatisation legislation negates the former LRP which provided a number of preferential measures to facilitate employee participation. These were intended to narrow the social gap between capital owners and the labour force – a gap that the liberalisation of the Bulgarian economy opened during the post-communist era.

Private Companies – Commercial Law (hereinafter CL) and company law in general contain no specific regulations pertaining to employee share ownership.

b) Profit-Sharing

Bulgarian employers do not usually link employee bonuses to the company's financial success. While not forbidden, employers generally derive no benefits from such schemes under Bulgarian tax law. However, under Bulgarian Law it is possible to offer profit-sharing contracts on an individual basis.⁸⁸ These may be cash-based or share-based.

c) Participation in Decision-Making

In the majority of cases employee ownership did not lead to participation in management. Currently, most employees are minority shareholders without notable influence. The rights of employees to participate in decision-making under the Labour Code are extremely limited and have no significant influence on management. While the workers' meeting composed of all employees of a given business once accounted for more than 20 sections⁸⁹ of the socialist version of the Labour Code, only two relevant provisions are presently in force. These empower the workers' meeting to choose between two or more drafts of a collective bargaining agreement when the trade union organisations at the enterprise level cannot agree on a single version (Art. 51a (3) Labour Code). Also, the workers' meeting can decide the disposition of the company's social fund (Art. 293 (1) Labour Code). The employer, however, is not obliged to establish such a fund. The Commercial

⁸⁷ See Ivanova and Keremidchiev (2006), p. 29, according to the calculations of the authors.

⁸⁸ Joint-stock company offers of any of these incentives to a Council or Board member, must be approved by the general meeting for every beneficiary on an annual basis.

⁸⁹ The Articles 12-32 Labour Code were abolished in 1992.

Law provides that an employees' representative must be chosen in corporations⁹⁰ employing 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 work force grows. Also, the number of employees has no effect on the form or the force of employee representation. Thus the Commercial Law establishes a model friendly to the employer.

⁹⁰ Commercial Law: Art. 136 (3) (for limited liability company), Art. 220 (3) (for joint-stock company) and Art. 253 (2) (for a partnership limited by shares).