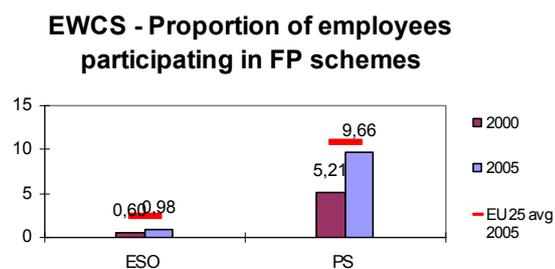


XV. Latvia

Employees financial participation in Latvia may be summarised as poorly developed and on the decline. During the transition period, privatisation shaped the environment for employee financial participation and influenced the current state of employee share ownership and profit-sharing. However, the transition process only resulted in a low level of employee financial participation. By the end of 1998, shares with the nominal value of LVL 27 million, amounting to 13.56 per cent of total shares, had been sold for vouchers to 25,611 employees and former employees of the companies. During the period 1997-1999, employee and former employee ownership decreased by 19.2 per cent and 23.3 per cent.¹³⁸ Profit-sharing is reported in only 7 per cent of 167 enterprises responding to a 1997 management survey, but five out of 28 enterprises had majority employee ownership.



1. General Attitude

Trade unions are quite weak; the current rate of unionisation in Latvia is 18 per cent. The Free Trade Union Confederation of Latvia (FTUC) is the biggest non-governmental organisation in Latvia; it protects the interests of employees who are trade union members at branch and inter-branch levels, and represents 25 organisations. Financial participation of employees is currently not on the trade unions' agenda. Employers are represented by the Latvian Employer's Confederation (LEC), which considers the issue of financial participation of employees is outside the Confederation's area of expertise. The government is not concerned with employee financial participation; its priority is employment. The Ministry of Social Affairs concentrates its activities on solving problems related to increases in the minimum wage and unemployment allowances. Nor is employee participation on the political agenda of Parliament. Recently, however, political parties and policy makers have shown a growing interest in this issue.

¹³⁸ According to another study based upon responses from 915 enterprises specifying their ownership structure for 1997, 1998 and 1999 (Jones and Mygind, 2005).

2. Legal and Fiscal Framework

Both employee share ownership and profit-sharing are found in Latvian companies and are directly or indirectly regulated by legislation. Although there is no special legal regulation of profit-sharing, several pieces of legislation relate to employee share ownership. Regulation in this area has not been systematic, so existing legislation partly creates incentives and partly inhibits these schemes.

a) Share Ownership

Privatisation – Small privatisation started in November 1991 in accordance with the Law on the Privatisation of Objects of Trade, Catering and Services. Local privatisation commissions decided the privatisation method, initial price, etc. Potential privatisation methods were sale to employees, auctions to a selected group, open auctions, and sale to a selected buyer. Buyers had to be Latvian citizens or to have been residents of Latvia for at least 16 years.¹³⁹ Large privatisation of state-owned property and land was and still is being carried out by the Latvian Privatisation Agency. Although in an advanced stage, the privatisation process is not yet completed, so that it remains possible for employees to acquire shares under the Law on the Privatisation of Objects owned by the state or a municipality and the Law on the Reorganisation of State and Municipal Enterprises in Corporations (RL). Shares of state owned corporations can be sold to employees, in the course of privatisation, at a price even lower than the nominal value of such shares. However, the shares to be sold to the employees cannot exceed 20 per cent of the share capital of the particular company (Art. 57 RL). If municipal objects are privatised by restructuring, the privatisation plan must contain a clause stating how many shares will be sold to employees, as well as the discount if such is applicable according to law (Art. 40.2.5 RL). The 20 per cent limit on employee share privatisation seems to be a limitation of rights rather than an entitlement, due to the fact that there is no clear legal obligation to offer any shares whatsoever to employees in a particular privatisation case.

State or municipal owned companies (2001) – According to the Law on State and Municipal Corporations, the government of Latvia or the respective municipal authority decides in which state or municipal company employee shares can be issued (Art. 68 (1), (2)). Employee shares can only be owned by employees and board members. If employment is terminated, or the board member leaves office, the employee's shares are transferred back to the company. This is one of the exceptions when a company is allowed to acquire its own stock (Art. 70). Employee stock acquired by the company must be transferred to employees within six months. Shares not transferred within the prescribed time period will be cancelled and the share capital decreased accordingly (Art. 71 (1), (2)).

Private Companies (2004) – For a limited liability company, there are no special legal regulations on employee share ownership so general rules apply. By contrast, a joint-stock company may issue shares which can be acquired by employees in the broad sense, that is,

¹³⁹ Decrees of 1992/93 included a list, proposed by the sector Ministries, of 579 medium and large enterprises to be privatised. Four hundred of these enterprises were to be public offerings, and an additional 147 were to be leased with the option to buy; later this list was expanded to 712 enterprises.

including managers (Art. 255 (1) Commercial Law (CL). Employee stock shall be issued only on account of the net profit of the company, and the total value of employee stock should not exceed 10 per cent of the registered company's equity capital (Art. 255 (4) CL). Another limitation concerning employee stock is the requirement that the company's own capital not become less than the registered capital (Art. 255 (5) CL). No voting right and right to liquidation quotas are attached to employee stock issued according to Art. 255 CL.¹⁴⁰ Such stocks can be freely sold if the Articles of Association do not provide otherwise (Art. 255 (7) CL).

b) Profit-Sharing

There are no legal limitations or regulations pertaining to profit-sharing. Salaries may be made dependent upon company profit and benefits may be provided in the form of premiums or in other forms directly linked to the profits of a particular company. However, all benefits are subject to a personal income tax of 25 per cent. This reduces the incentive to provide additional benefits since the benefits of profit-sharing are 25 per cent less than they would be on dividends paid to employee shareholders; dividends are not subject to tax.

c) Participation in Decision-Making

There is no statutory employee representation at the board level in Latvia. The main form of workplace representation in Latvia is through the unions, but since the revised Labour Law (LL) came into effect on 1 June 2002, it has also been possible to elect 'authorised employee representatives' (Art. 10 (1) LL). Both are involved in information and consultation and both can be involved in collective bargaining, although non-union representatives can only negotiate if there is no union (see Art. 18 (1) LL). The employer shall consult with employee representatives on issues that may affect the interests of employees, in particular decisions which may substantially affect work remuneration, working conditions and employment (Art. 11 (1) 2) LL).

¹⁴⁰ Employee stock issued by a private joint-stock company according to Art. 255 CL should be differentiated from the stock acquired by employees in the course of privatisation. Limitations attached to employee stock according to Art. 255 CL, in particular lack of voting rights, do not apply to privatisation stock.