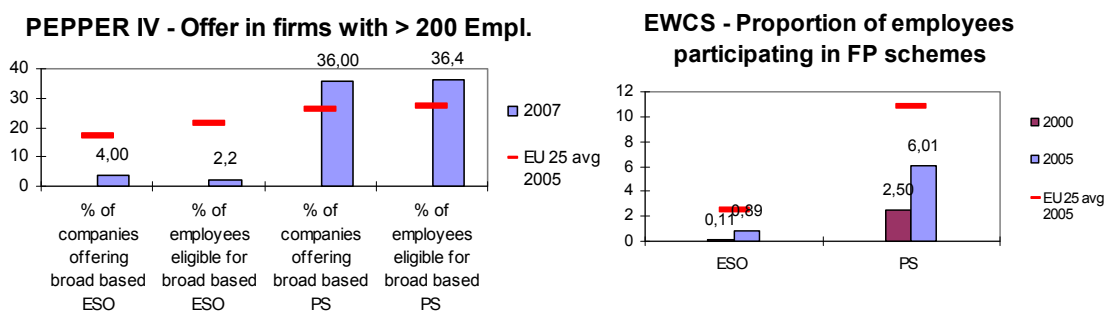


## XVI. Lithuania

After Lithuania regained independence, employee ownership was used to implement privatisation. In the initial stage 1991-1995, employee buyouts at a discount, combined with the extensive use of vouchers by employees and leasing with the option to buy, resulted in a high percentage of employee majority ownership. By 1994, fewer than 5 per cent of privatised firms in the programme implementing the Law on the Initial Privatisation of State-owned Property (LIPSP) had no employee ownership, while the percentage of enterprises where employees had taken over most of the privatised assets increased from 3 per cent in 1991-1992, to 65 per cent in 1993 and 92 per cent in 1994-1995 (Privatisation Department at the Ministry of Economics). Since most of the preferential rights of employees were abolished in 1995, employee ownership began to decline, and ownership is now mainly in the hands of management and outsiders.<sup>141</sup> No data is available on profit-sharing. At present in Lithuania, financial participation tends to be viewed as an incentive for motivating managers, initiated by managers and current owners of companies.



### 1. General Attitude

Trade unions are organised through the Lithuanian Trade Union 'Solidarumas', the Lithuanian Labour Federation and the Lithuanian Trade Union Confederation, the latter being the largest and strongest union with over 120,000 members. In the early stage of transition, unions promoted employee ownership and actively contributed to place EO on

<sup>141</sup> A manager survey conducted in spring 2000 provides information on ownership at the time of privatisation or start-up as a new company for the years 1993, 1996, 1999 and spring 2000 with 405 respondents (for details, see Lowitzsch, 2006, pp. 199, 205, Table 4). In 1993, approximately 50 per cent of employees were owners in the sample of responding enterprises. However, that proportion fell to about one third in 1999. Not surprisingly, the proportion of employee owners was highest in employee-owned enterprises, but here also the proportion of owners fell from 76 per cent in 1993 to 66 per cent in 1999.

the Lithuanian privatisation agenda. The general objective of trade unions is higher wages for employees while associating employee ownership with an increase in company profitability. Although no particular actions concerning employee financial participation are presently on the Confederation's agenda, this issue could garner support if any industrial trade union made a proposal. Employers are organised within the Lithuanian Confederation of Industrialists, which actively promotes the interests of large businesses and in the Lithuanian Employers' Confederation; the question of employee financial participation has not been addressed by either of them. While the former has no official position on this issue, it supports initiatives of individual enterprises. Recently, employers have been paying more attention to employee motivation, for example, through financial incentives; this interest is prompted by the emigration of skilled workers, a growing problem. The coalition parties which came into power in 2004, including the Social Democrats (LSDP), the New Union (Social Liberals) and the newly established Labour party (DP), do not mention financial participation in their official programmes. Their focus is on increasing social guarantees and reducing poverty and unemployment.

## 2. Legal and Fiscal Framework

Employee financial participation is only slightly regulated. Current legal regulations neither contain special provisions on PEPPER schemes nor provide companies with incentives to introduce them.

### a) Share Ownership

**Privatisation (1991, abolished 1995, 1997)** – The first stage of privatisation started when the Law on the Initial Privatisation of State-owned Property of 1991 with the agent of the rapid privatisation in Lithuania being the voucher scheme.<sup>142</sup> Employees had the opportunity to buy a certain percentage of shares in the first round of auctions at lower rates before most of the remaining shares were sold in public offerings in later rounds. The percentage of shares available for employees was increased from 10 per cent in 1991 to 30 per cent in 1992 and to 50 per cent after the former Communist Party came into power in early 1993. The additional 20 per cent shares reserved for employees after 1993 did not initially include voting rights; later the general meeting could convert these shares into regular voting shares. The second stage of privatisation was based upon a new Law on Privatisation of State-owned and Municipal Property of 4 July 1995 which aimed at the sale of residual shares and some of the very large companies, including public utilities and infrastructure enterprises and abolished Vouchers; only cash privatisation was permissible. The third Law on Privatisation, still effective, was adopted on 11 April 1997. Privatisation of the majority of enterprises in Lithuania is now complete. However, privatisation is still

<sup>142</sup> Vouchers and cash quotas were only given to residents and had limited transferability (to relatives, later they could be used in exchange for outstanding housing loans).

possible and the respective legal regulations are still in force.<sup>143</sup> The current Law on Privatisation contains no significant preferential rights for employees in the privatisation process. However, if shares are privatised by public tender, employees can be offered up to 5 per cent of the state-owned shares at par value. This provision does not apply to enterprises under state control or to enterprises in which employees have already acquired shares of their employer enterprises under other laws (Art. 16 (3)). If shares are offered at a public tender or by direct negotiation, the final payment can be postponed for five years in the case of employees (Art. 20 (3)).

**Private Companies (1995, 2003)** – In the course of capital increase, corporations (joint-stock companies as well as limited liability companies) can issue employee shares after all shares subscribed at the time of incorporation have been paid for (Art. 43 Law on Companies<sup>144</sup>, hereinafter referred to as CL). The CL sets no maximum percentage on these new employee shares. They are to be distributed among all employees wishing to purchase them, except for management (Art. 43 (2) CL). A restriction period of not longer than three years must be determined within which employee shares can be sold only to other employees (Art. 43 (3) CL). During this period employee shares are not only of limited tradability, but also non-voting (Art. 43 (3.3) CL), although employee shares are ordinary shares (Art. 43 (1.1) CL). Art. 43 (5) CL stipulates that an employee must pay for subscribed employee shares before the restriction period for the transfer of shares expires. The first payment should be made in cash within a short period; further instalments can be deducted from the employee's salary upon application of the employee. The corporation may not exact pressure on employees to force them to purchase shares or to pay for shares by salary deductions (Art. 43 (4) CL). After the restriction period for the transfer of shares expires, employee shares become ordinary shares and can be sold to third parties not company employees (Art. 43 (3) CL). Since most employees are minority shareholders, provisions on the protection of minority shareholders apply.

## b) Profit-Sharing

There are no specific regulations on sharing profits with employees. Since companies pay income tax on dividends, this is viewed as an expensive method of profit distribution; therefore priority is given to share buyback schemes. Employee monetary incentive schemes used in companies include payments of premiums and bonuses, in some cases related to company turnover and profits. Bonuses have tax advantages, since they are not double taxed as dividends are (firstly at corporate profit tax rate, secondly at income tax rate), but taxed only as income for individuals (33 per cent).

<sup>143</sup> The most important of these are the Law on Privatisation of State Property and Property of Municipalities of 11 April 1997 as amended (hereinafter referred to as PL), the Law on Securities Market of 16 January 1996 as amended, and the Law on the State Property Fund of 11 April 1997 as amended.

<sup>144</sup> Law on Companies from 11 December 2003, No. IX-1889 (Valstybės žinios 2003, No. 123–5574) as amended; according to CL, shareholders have the pre-emptive right to acquire shares or convertible debentures issued by the company, unless the general meeting decides to withdraw the pre-emptive right for all shareholders.

### **c) Participation in Decision-Making**

According to the Labour Code<sup>145</sup> (hereinafter referred to as LC), employees may be represented and protected by trade unions or by work councils (Art. 19 (1) LC).<sup>146</sup> The work council should include representatives of all employees. A trade union, however, can be established by a small number of employees in an enterprise. The works council may be elected only when there is no local trade union and if the staff meeting has not transferred the function of employee representation to the sectoral trade union. The trade unions or works councils have the right to negotiate collective bargaining agreements, to participate in information and consultation procedures, to approve internal work regulation in the enterprise. There is no rules on participation in the management or supervisory boards.

<sup>145</sup> From 4 June 2002, No. IX-926 (Valstybės žinios 2002, No. 64-2569) as amended.

<sup>146</sup> Where an enterprise, agency or organisation has no functioning trade union and if the staff meeting has not transferred the function of employee representation and protection to the trade union of the appropriate sector of economic activity, the employees shall be represented by the work council elected by secret ballot at the general meeting of the staff (Art. 19 (1); 21 (2) LC).