ANALYSIS

LABOUR AND SOCIAL JUSTICE

EMPLOYEE FINANCIAL PARTICIPATION

European models and Romanian realities

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Financial participation by employees or their being granted a variable component of the company's profits is widely practiced in Europe and can help reduce the gap between labour and capital in Romania.

French legislation could serve as a model for financial participation by employees in Romania.

Regardless of whether legal obligations are imposed on enterprises or not, regulations governing financial participation must be designed with all employees in mind, not just executive staff; there should be a ban on substituting salary, and company participation schemes must be devised with the involvement of employee representatives.

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WHAT DOES EMPLOYEE FINANCIAL PARTICIPATION MEAN?

*"Such tenants, being freemen, are capable of acquiring property, and having a certain proportion of the produce of the land, they have a plain interest that the whole produce should be as great as possible, in order that their own proportion may be so" (*Adam Smith, quoted in *Laffont and Martimort 2002: 10).*

"[Employee] Financial participation schemes (…) contribute also to the achievement of social policy objectives by leading to a more widespread participation in wealth creation and better social cohesion." Communication from the European Commission "On a framework for the promotion of employee financial participation" COM (2002) 364 final.

It is already a truism to say that in Romania work is poorly paid and that the gap between labour and capital is far greater than in the rest of Europe. In order to remedy this situation, deep and difficult-to-foresee fiscal, administrative and economic reforms are required, given the political context and under-representation of employees' interests in politics and public policies (Ban 2019). However, pay can be improved to a large extent by increasing employee financial participation (EFP), a practice widespread in Europe and supported by European institutions. By acting as a vehicle for the accumulation of financial goods for employees, EPF can contribute to reducing the high level of inequality in Romania and, if it were legislated for certain types of companies, it could compensate to some extent for the negative effects of collective bargaining, which has been weakened over the last decade, while having positive effects on companies (increasing employee involvement while encouraging staff to identify with the company, thus increasing productivity and job performance) (Pendleton 2019). At the same time, however, this analysis suggests that the adoption of binding legal provisions for employers is likely to prove complicated politically speaking.

The concept of employee financial participation refers to the practice of providing staff, in addition to a salary, the right to benefit from a variable component pegged to company profits. Payment of a profit share can be effected directly or can be integrated into various forms of financial schemes which provide for payments of certain sums after an agreed period of time (Maack and Partner 2014). Basically, there are three main approaches in designing an EPF scheme:

1. Cash in the hand (bonuses)
2. Deferred payments through savings plans (including participatory pension plans)
3. Dividend participation (after shares have been granted)

The origins of EFP are to be found in the liberal economy. The idea first crops up with Adam Smith, but it is explicitly articulated by John Bates Clark, founder of the liberal European Economic Association and father of neoclassical economics in its marginalist, quantitative version (the prestigious Bates Clark medal for economics is named after him). Bates Clark sketched a widely shared model of capitalism, which this ultraliberal economist considered to be the most resilient form of economic aggregation (Blasi et al. 2008: 1-2). In the liberal view, the best path for institutionalisation of EFP is to rely on market mechanisms. In the opinion of social conservatives on the left and right, EFP should preferably be implemented as a legal obligation imposed on enterprises, and subject to certain conditions.

In sum total, only a small part of the workforce benefits from EFP schemes in Europe. In 2018, only about 10 million employees were shareholders in Europe[1], and in 2017 almost 400 billion Euros went into employees' accounts by virtue of employee profit-sharing schemes[2]. There is a rich literature on the desirability of employee financial participation (Pendleton 1996; Pendleton et al. 2001; 2003; Poutsma et al. 2003; Poutsma and de Niijs 2003; D'Art 2004; Blasi et al. 2008; Lowitzsch 2009; Torp 2016; Lighart et al 2018). For example, a recent publication by the prestigious US National Bureau of Economics Research stated that "data shows that employee profit sharing has beneficial effects on all aspects except absenteeism and has a strong positive effect on loyalty and hard work, if combined with employee involvement practices, job training and job stabilization systems, with low levels of supervision and fixed salaries at or above average salaries in the industry." (Blasi et al. 2008; also Jones et al. 2019 for the Eastern European context). Over 100 scholarly studies show that EFP in the form of shareholding correlates with higher productivity, pay, and job stability. Moreover, as a result of the co-supervision carried out

1 Promovarea participării angajaților la capital și a implicării acestora" [*Promoting employee participation in capital and their involvement*], 2014, http://ec.europa.eu/internal_market/company/docs/modern/141028-study-for-dg-markt_en.pdf

2 https://www.europarl.europa.eu/doceo/document/A-8-2018-0293_RO.html#_part2_def1.

by employees and the reciprocity systems that appear between them, EFP reduces the risk of parasitic behaviour (*free-riding*) (Krause 2016).

Nevertheless, with a view to the public agenda in Romania, it is important to keep in mind that the following arguments have been forwarded by the major political groupings in the European Parliament:

(1) Employee participation in decision-making could improve the organisational performance and quality of professional life of employees, as it could serve as a tool for innovation at the workplace, promoting a sense of belonging, increasing the flow of information within the company and improving trust and confidence between employers and employees.

(2) Companies that offer their employees financial participation create more jobs and increase their sales (2 percent per year) and productivity (4 percent per year) more than companies that do not do so.

(3) The concentration of capital is reduced, which leads to increased economic competition.

(4) The risk of a company's activities being relocated or outsourced is reduced.

(5) Shareholder employees accumulate more pension assets, receive better salaries and are less exposed to the risk of unemployment than other employees. At present, household income depends largely on wages, so shareholder employees benefit from increased capital income, which reduces inequalities in the distribution of wealth in society.

(6) The Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth emphasises the need for inclusive growth that, among other things, empowers citizens through employment, investment in skills, the fight against poverty and the modernisation of labour markets and social protection. Financial participation of workers provides concrete tools in this regard.

(7) EFP involves employees in the consultation and decision-making process, benefiting both employees and company, including in terms of sustainable governance, transparency, social dialogue, mutual respect between employees and employers, and other issues, such as recruitment, retention, motivation, job satisfaction and skills development, as well as overall performance and profitability;

(8) In the context of the EU's priority of fostering the integration of capital markets, EFP could improve the inclusion and transparency of economic activity. Combined with training of participants by businesses and Member States, EFP could improve the financial education and skills of EU citizens.

(9) EFP helps businesses restructure their economic activities by addressing issues like company succession and integration of the next generation.

(10) EFP helps to develop the social economy based on solidarity, for example by boosting the accessibility of investments and financing;

(11) EFP complements EU programmes aimed at improving access to capital, especially for SMEs, such as the COSME programme, the Innovfin programme, the “Creative Europe” programme and the European Structural and Investment Funds.

2

WOULD STRENGTHENING THE FINANCIAL PARTICIPATION OF EMPLOYEES BE UNWARRANTED IN VIEW OF RECENT PAY RISES IN ROMANIA?

As the debate over increases in minimum wage or the role of the public sector shows, there is a risk that the proposal to pass legislation to increase employee income through employee financial participation will clash with popular economic discourse in various areas, all of which tend to focus on low productivity in Romania in relation to other European countries. The actual foundations for this line of argument are, however, extremely shaky.

It is true that declining or stagnating productivity cannot offer a basis for wage increases. Nevertheless, in the case of Romania, this problem can only be addressed as an issue if one ignores basic data and, instead of a sober analysis of statistics, opts either for a political-moral critique, which is skewed in favour of employers, or a narrative (empirically unsupported) that links wage increases to the risk of a decline in profits, and, therefore, a reduction of investment and slower economic growth. The statistical reality of the relationship between remuneration and productivity has been analysed with statistical precision and analytical rigour by Stefan Guga in the FES-Syndex study (Guga 2020). The study confirms two things that would seemingly support the hegemonic discourse: (1) from the beginning of the economic recovery (2013) until 2019, Romania also displayed the same regional trend toward sustained wage growth and, (2) in the medium term (2013-2018), the growth rate for employees' remuneration in Romania was higher than the growth rate for productivity, with the Czech Republic and Romania leading the region. But if we go beyond this, scratch the surface and look at data at several other levels, it becomes clear that labour is remunerated below its real value in Romania. In short, the "*decalogue*" of productivity and pay is characterised by the following:

(1) *The long-term increase in remuneration* was a form of recovery; over the last 20 years, productivity has grown faster than pay; the fact that this growth is not structural can be seen in the slowdown in this growth after 2017 and its reversal in 2019; on the whole, it is not the increase in the remuneration of labour, but that of capital which rose too rapidly in relation to the evolution of productivity.

(2) *The increase in remuneration did not impact competitiveness*. Common sense tells us that productivity must be adjusted to the cost of labour and, if we do this, the labour force in Romania appears to be among the most productive in the European Union, with huge gaps in comparison to Western countries and even with other countries in the same region. While in 2018 productivity in Romania was 62.8% of the EU average, which is about two times lower than for those countries with the highest productivity (Denmark, France, Germany, Benelux), Romania is 2.5 times cheaper costs-wise , with only Bulgaria having lower costs (52.7%)

(3) *The increase in remuneration did not affect the pursuit of profit*. The data clearly indicate that the greater increase in remuneration in relation to productivity was perfectly in line with growth in profits.

(4) *Do not confuse salary with remuneration*; even if in the medium term increases in remuneration outpaced productivity, the portion of value-added accounted for by employees remains very low. Romania ranks below the other countries in the region, where remuneration has increased more slowly, but the portion accounted for by salaries and wages there is significantly higher. In countries like Germany, remuneration of employees increases at the same rate as productivity, but the portion accounted for by salaries and wages is considerably higher than in Romania

(5) *It is difficult to find countries with higher increases in productivity than Romania*; the rate of growth in productivity in Romania has been the highest in the EU after Ireland. Moreover, it is much higher than the rate for other competing countries from the region, and it is much higher than in "western" countries (EU 15)

(6) *Productivity growth would be higher if employers were more competitive in domestic investment and reform*; current levels of productivity growth are pushed down by the modest level of investment and organisational efforts made by employers in an economy based less on increasing capitalisation and the added value of goods and services and more on the labour force.

(7) *The level of productivity in Romania is underestimated*. Estimates of average productivity are artificially reduced by

(8) *The increase in remuneration has not significantly changed the ratio of labour and capital in GDP*. Looking at the short term, the share of GDP accounted for by wages and salaries increased in Romania between 2016 and 2018 by over 6 percentage points (from 32.3% in 2015 to 38.5% in 2018); but beyond the fact that 2019 marked the halt of this growth, in the medium and long term, this increase has only served to recover the losses suffered by employees in the last 10 years.

(9) *There are structural limits to growth in productivity*. Without rethinking the development model, even the increases to recover former levels of pay are in jeopardy; productivity can no longer grow at the same rate in the absence of an increase in the capitalisation of the economy, the level of specialisation of employees and the integration of technologies and production processes that would bring the economy up on the scale of added value.

3

EUROPEAN CONTEXT

Since the beginning of the twentieth century, EFP has been touted by social reformers as one possible response to desires voiced by employees (Adams & Sumner, 1905). However, the adoption of specific legislation at national level had to wait for a favourable post-World War II political context. Virtually all liberal democracies in Europe have developed legislation and practices that encourage (rather than impose by law) this solution through taxation, corporate regulation, pension systems, and so on. The basic underlying principle everywhere has been that financial participation should provide additional benefits to employees above and beyond salaries and wages.

At EU level, we have the European Council Recommendation on employee participation in company profits and results (so-called PEPPER), which was issued in 1992. The Recommendation calls on Member States not only to ensure that national legislation does not inhibit these forms of participation, but also to consider tax incentives to encourage them.

Furthermore, we have the European Commission Communication of 2002 on this topic, which sets out the principles for granting EFP:

De asemenea, Comunicarea Comisiei Europene din 2002 pe această temă clarifică principiile adoptării PFS:

- EFP should usually be granted on a voluntary basis as far as enterprises and employees are concerned (compulsory granting of EFP is hence not excluded)
- EFP should be open to all employees.
- EFP should be managed transparently, with information and consultation being provided to employees and their representatives
- EFP should be granted based on a predefined calculation formula
- EFPs should be designed to avoid unreasonable risks to employees and not to replace salaries and wages and bonuses.

Debates in the European Parliament have shown that it is not appropriate to devise a single general model for employee financial participation at EU level. The European Parliament, through a resolution, clearly supported a rich repertoire of justifications for different models of employee financial participation, such as: profit participation, individual capital participation, workers' participation in cooperative models and capital participation plans. The basic idea is that there should be support at Community level for (a) highlighting the potential of these systems as well as the obstacles that the Commission and the Member States have to fight against; (b) EU-wide measures such as awareness-raising campaigns, exchange platforms for good practice, financial education of citizens, increased transparency and information, more incentives and reflection on transnational barriers.

The dominant European practice at European companies is the payment of cash, with the form of participation based on shares characteristing the American liberal model. A survey conducted by the European Foundation for the Improvement of Living and Working Conditions (2009 European Company Survey) 1 canvassing 27,000 human resource specialists showed that "most European countries have national policies that promote the financial participation of employees in a deliberate political effort to strengthen financial participation and wealth creation among them"[3]. But only 5% of EU companies with more than 10 employees offered share-based participation, while 14 percent of them offered profit-sharing plans. In Denmark, 13 percent of companies shared profit by granting shares, followed by Belgium, with 11 percent. But while in these countries we are talking about profit-sharing with a large portion of employees, in countries like Romania and Sweden, where 11 percent of companies have sharing plans, the beneficiaries were the management and administrative staff.

According to the same European Company Survey, this time from 2013, 30 percent of companies with more than 10 employees gave employees the right to participate in profit. With regard to profit-sharing through cash payments, a way of sharing offered to the entire workforce of a company, the champion is far and away France, a country with mandatory sharing by law for companies with more than 50 employees (about 35%), followed by the Netherlands (25%) , Sweden (24%t) and Finland (23%). At the bottom of the ranking are Italy (3%) and Greece (4%).

According to the 2015 European Working Conditions Survey, 13 percent of European employees receive income from

3 https://www.worker-participation.eu/National-I ndustrial-Relations/Across-Europe/Financial-Participation

profit-sharing and 4 percent from dividends related to share ownership, an upward trend compared to 2005 (Pendleton 2019).

With the exception of France, EU Member States set themselves limits in creating the legal framework for EFP, including the granting of tax incentives, leaving it to companies to decide whether or not to grant these benefits. In some Member States the law requires EFP to be granted only by agreement with employees' representatives, while in others it is explicitly stipulated that EFP only be established through collective bargaining (Weltz and Fernández-Macias 2008).

What kind of companies are more inclined to share their profit?

1. *Larger companies.*
   Profit-sharing tends to increase with the size of the company: 13 percent of companies with 10 to 50 employees opt for these arrangements, while at those with between 50 and 199 employees this figure rises to 22 percent, and to 28 percent at companies with over 200 employees. Small companies (with less than 50 employees) have major difficulties in providing EFP due to high administrative costs.

2. *Trade union companies*
   Financial participation is practiced by 21 percent of private companies with an employee representation body, with this percentage decreasing to 10 percent where this representation does not exist.

3. *Financial enterprises and those with a large proportion of white-collar workers and employees who perform complex work.*
   In general, the level of training of employees is higher at companies with EFP (Pendleton 2019).

4. Enterprises in countries with a high level of regulation of financial and non-financial markets display a lower incidence of EFP (Raith 2003). By contrast, *countries with strong collective bargaining* increase the incidence of EFP, although not through the granting of shares to employees (Poutsma, Hendrickx, and Huijgen 2003; Famdale et al 2019).

Where EFP has a long history, employers' associations remain very supportive of EFP. At the same time, however, they are usually extremely firm in defending the rights of employers to implement types of EFP that suit the company. Employers generally oppose a legal right of employee representatives to negotiate the form and management of EFP plans (Pendleton 2019).

Regarding the role of trade unions, European practice is not exactly pro-trade union. Thus, only in Belgium does the law require EFP to be subject to collective bargaining. In general, the union perspective on EFP depends on the ideological tradition and the salary base represented. Socialist and former communist unions (such as those in Italy and France) tend to be more reserved than liberal, social democratic or Catholic unions, but those in the first category also work pragmatically with this institution. Moreover, unions in the area of manual labour are less favourable than those in the area of white-collar unions. However, these forms of opposition are not rigid, with even hostile ones approaching the EFP issue pragmatically.

The main reason for union reluctance is the fear that EFP can substitute for wage increases that may be obtained in collective bargaining, that it may weaken unionism through a decentralising effect toward the company level and may weaken employees' attachment to their union. At the level of the community trade union movement, in 2002 the ETUC officially supported EFP on the condition that clear regulations be adopted on equal participation, protection of employees from unreasonable financial risks, prohibition of substitution with salaries and consent of employees and their representatives. The data show that where unions have the power to negotiate EFP terms, this has a positive effect on EFP coverage and employee stock purchase plans (Kalmi et al. 2006).

4

FRANCE: THE SUCCESS MODEL

Looking at the form of profit-sharing, employee financial participation (participation des salaries) is the most widespread in France. In this country, since 1959[4] and emanating from one of the central economic ideas of General De Gaulle[5], this regime is now mandatory by law at all companies with more than 50 employees (a limit lowered in 1990 from the level of 100 employees that had been introduced in 1967[6]). In both France and the Netherlands, employees' shares are channelled into employee savings plans, while in most countries they are transferred directly to employees. However, it must be underscored that De Gaulle forced the adoption of this legislation in a special political context marked by a failed coup in 1958, the collapse of the Fourth Republic and the return of de Gaulle to power as a unifying figure. The ensuing constitutional reform gave de Gaulle, as head of state with powers typical of a quintessential presidential regime, the chance to initiate EFP legislation in 1959 despite opposition from employers and from the large trade union confederation Confederation Generale de Travail[7].

This legislative initiative turned out to be of a lasting nature, and has been subsequently strengthened by various additional legislative bills (the most important one being adopted in 1967), whose positive consequences for companies and employees have been confirmed in a wide-ranging and detailed manner by a rich scholarly literature (Fakhfakh 2004; Fakhfakh and FitzRoy 2018; FitzRoy and Vaughan-Whitehead 1993; Floquet et al. 2014; 2016; Kabst et al. 2006; Ludovic 2004; Tall 2016). As a result of these interventions by lawmakers, today the French state enforces EFP, making it mandatory for companies with more than 50 employees, but it also provides incentives: EFP is exempt from social security contributions for employers, and EFP is exempt from income tax for employees if the money is invested in savings plans set up at the enterprise level. Companies with less than 50 employees can grant EFP voluntarily[8]. The sharing agreement applies to all employees (except those working for less than 3 months for the company). If the company has less than 50 employees, an agreement can be concluded by a simple decision by the head of the enterprise insofar as the content of such is in accordance with the collective labour agreement governing the enterprise. The financial participation premium cannot exceed a ceiling set annually by the French state, which in 2020 was € 30,852 per employee.

Calculation method:

- B: net profit / profit
- C: capital
- S: salaries
- V: added value

[½(B – 5 % C)] x [S/V].

More broadly speaking, how does the French state motivate actors to adopt this practice?

1. Exemption of companies from paying their share of social contributions
2. Companies with less than 250 employees are exempt from the flat-rate tax on remuneration that is exempt from social security contributions.
3. Deduction of the taxable benefit from amounts paid as a share and from other special premiums.

4 Ordonnance n° 59-126 du 7 janvier 1959 [archive] Légifrance.

5 La participation, idée centrale de la pensée gaullienne - charles-de-gaulle.org» [archive], sur *www.charles-de-gaulle.org*

6 https://www.la-croix.com/Debats/Gaulle-participation-timide-troisieme-voie-2020-07-16-1201105169

7 Page 9 at https://halshs.archives-ouvertes.fr/halshs-01401959v2/document

8 "„Les entreprises employant habituellement au moins cinquante salariés garantissent le droit de leurs salariés à participer aux résultats de l'entreprise. Il en va de même pour les entreprises constituant une unité économique et sociale d'au moins cinquante salariés reconnue dans les conditions prévues à l'article L. 2322-4."Tous les salariés de l'entreprise sont bénéficiaires de ce mécanisme (caractère collectif), quel que soit leur type de contrat (CDD ou CDI), une limite d'ancienneté n'excédant pas 3 mois (depuis loi du 19 février 2001) au cours du dernier exercice, ainsi que les 12 mois précédents, peut être prévue. Les personnels intérimaires bénéficient de la participation via leur société d'intérim (ancienneté ramenée à 60 jours, consécutifs ou non au cours du dernier exercice uniquement). Participation volontaire: art. L.3323-6 du code du travail. Les entreprises avec un effectif inférieur à 50 salariés, et qui souhaitent faire bénéficier leurs salariés des résultats de l'entreprise, peuvent tout à fait le décider par un accord de participation." https://www.legifrance.gouv.fr/codes/id/LEGIARTI000038613208/2019-01-01/
"Companies that usually have more than 50 employees guarantee them the right to participate in the company's profits. The same shall apply to undertakings which constitute an economic and social unit with at least fifty employees recognized under the conditions laid down in Article L. 2322-4." "All employees of the company are beneficiaries of this mechanism (collective character), whatever their type of employment contract (fixed-term or indefinite), and a limit of seniority of no more than three months may be provided (according to the law of 19 February 2001) at the time of the last exercise, as well as the last 12 months. Personnel subcontracted through another company benefit from participation through the intermediary company (up to 60 days old, consecutive or not, only at the time of the last exercise). Voluntary participation: art. L.3323-6 of the labor code. Undertakings with a workforce of less than 50 employees and wishing to benefit from the profits of the undertaking may establish it following a participation agreement." https://www.legifrance.gouv.fr/codes/id/LEGIARTI000038613208/2019-01-01/

4. Exemption from some special taxes imposed on employees (such as those for continuing training and education); the benefits from sharing are subject to the payment of social contributions due from the employee as well as income tax.

5. Under certain conditions and if the amounts are paid under an employee savings plan, the right is granted to set up an investment provision not exceeding 50 percent of the amounts paid by the company to supplement the value of the sharing premium when the provision is lower than the ceiling provided by law.

EFP starts with an agreement between the company (regardless of its form, number of employees or field of activity) and the employee representatives. An agreement is signed for a period of at least 3 years that stipulates the calculation method and the rules for the distribution of benefits. The sharing agreement may or may not be part of a collective bargaining agreement. If the agreement is proposed by the employers and 2/3 of the employees vote in favour of it, for example, it can exist outside the collective agreement. The French state makes available a standard agreement that can be downloaded by anyone[9].

The level of the sharing quota varies from company to company and is pegged to various parameters such as turnover, delays in delivery, performance on a certain project, etc. There are three mandatory limits which may not be exceeded, however:

1. The sharing premiums granted to all employees may not exceed 20 per cent of the gross annual salary paid.
2. The amount paid per employee may not exceed EUR 30,852 per year.
3. The level of the sharing quota must be the same for all employees in terms of the proportion of their salary or working hours.

The amount is to be paid no later than by the last day of the fifth month following approval of the balance sheet (at the end of the financial year - la clôture de l'exercice).

In addition to the mandatory sharing of profits through EFP, since 1967 there has been a voluntary method called "interesting the employees" (*Interessement des salaries*)[10]. This is an optional legal device whose purpose is to encourage employees to get involved in achieving company objectives. Called "a beautiful Gaullist invention" by Emmanuel Macron, the "interesting the employees scheme" is a kind of premium pegged to employee performance and company profit, so that, in the words of the French president, "all employees have a fair share when things go well and on the way dialogue"(Baghdadi et al. 2013; Floquet et al. 2016). Following some legislative changes in 2015, when an employee does not indicate what they want to do with the amounts related to the "interesting the employees scheme" (there is an option to withdraw these amounts or invest them), the amounts are automatically paid into their account. However, if there is a savings plan for employees at the company level, the amounts relating to the "interesting the employees scheme" are to be governed by the terms of this plan. Also following these changes, in order to mobilise this income of employees to finance the economy, the amounts of participation and "interesting the employees scheme" that are transferred to a collective savings plan (*plan d'épargne collectif pour la retraite* or Perco) benefit from tax exemptions. On the other hand, the 2015 laws repealed the provision introduced by President Nicolas Sarkozy which had imposed a profit-sharing premium on all companies that had raised their dividends for two consecutive years[11].

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9 https://www.service-public.fr/particuliers/vosdroits/F2140.
10 L'intéressement, la participation et l'actionnariat salarié: Note de synthèse [archive], septembre 1999, senat.fr.
11 https://www.lemonde.fr/les-decodeurs/article/2015/08/06/ce-que-contient-desormais-la-loi-macron_4714255_4355770.html.

5

SWEDEN: FAILURE OF SALARY FUNDS

Between 1973 and 1975 a committee of experts of the largest Swedish trade union confederation of manual workers, *Landsorganisationen i Sverige* (LO), a commission led by the economist Rudolf Meidner, the architect of the "Swedish model", proposed the most radical concrete form of financial participation: the establishment of employee funds to be financed from about 20 percent of the company's profit, as dividends granted to employees following share transfers. The proposal was radical because its application would have reopened the discussion over the issue of capital ownership in Sweden, an issue left unquestioned by labour-capital negotiations upon which the Swedish model has rested since the 1930s (Blyth 2002).

Thus, employees' funds were to be set up at the sector level in such a way that the benefits of all the companies listed on the stock exchange were distributed equally between the very profitable and the least profitable companies. The funds were to be managed by certain union-dominated boards. Thus, the more profitable companies were, the sooner employee funds would become majority shareholders. The Meidner Commission estimated that in a few decades, employee funds would become the majority shareholders in listed companies (Furaker 2016).

The plan had four explicit objectives: strengthening the principle of solidarity in wage policy by dividing profits between owners and employees, preventing the concentration of private capital, giving more control over the workplace to employees (economic democracy) and increasing the supply of capital for productive investment (Furaker 2016). At the same time, however, the Meidner plan was not just a form of cash redistribution to employees' accounts. Thus, of the money from dividends distributed to employees' funds, one part was to be reinvested in companies to increase the percentage share held by employees, part went to employees as cash and part was invested in professional training and research capacities of employees to prepare them to take control of companies when their funds become the majority (Pontusson and Kurvila 1992).

Unfortunately for employees, this version of the Meidner Plan failed, when the Social Democrats, who returned to power in the '80s, adopted a more diluted version. The notion itself of EFP via wage funds was eventually emasculated by the economic right and the financial crisis of 1992.

At the beginning, things looked promising. The Meidner Plan was adopted by the powerful Social Democratic union confederation *Landsorganisationen i Sverige* in 1976 with the support of the Social Democrats (SAP). But a series of problems ensued. First there was the electoral misfortune: after almost 50 years of uninterrupted dominion over Swedish politics, the Social Democrats lost the 1976 elections, with failure being attributed to the radicalisation of the Swedish Social Democracy (Blyth 2001).

The Meidner Plan was then promoted at a time of intellectual transition in Swedish-applied economics from Keynesianism to a series of aggregate theories under the popular notion of "neoliberalism". This transition also affected the Social Democrats who, upon their return to power in 1983, reappeared ideologically transformed, now calling for a diluted form of employee funds: financed for seven years with a small component of profit-sharing and minimal union control, with government members having the majority leadership (Pontusson and Kurvila 1992). The transfer of 20 percent of the profits of large companies was maintained and every year 3 per cent of managed capital went to pension funds, but a limit of 7 per cent of the capital market was placed on their acquisitions, and of 40 per cent of the shares of a company and after 1990 no profit being transferred. Funds have come to control 2.6 percent of the total amount listed on the stock exchange, thereby obtaining benefits from invested capital that are above the market average, in a democracy facilitating legitimisation the concept of collective investment funds as an instrument of economic policy (Whyman 2006).

But in 1992 the right wing returned to power and subsequently privatised these funds in order to destroy the economic basis for a discussion of "socialism" in Sweden, just in time for the financial crash in the same year, which was triggered by a housing bubble further inflated by the financial deregulation policies of the same right-wing government (Blyth 2002). Nevertheless, the most important factor was the resistance of employers and the division of the unions. Predictably, employers' unions mobilised effectively, including through "marches of entrepreneurs," a rare phenomenon in history but encouraged in Sweden by LO's mistake of cultivating a certain ambiguity when it came to including small businesses in the range of enterprises that would be forced to share profits with employees. Somewhat less predictably, even in the conditions of a somewhat radical Social Democracy like Sweden in the 70s, the unions did not make a common front. Above and beyond the usual fluctuations in opinion, the trade unions of professionals (Saco) and white-collar workers (TCO) did not support the Meidner Plan, prefering to have shared profit transferred to individual employee accounts, a position that resonated with a majority of Swedish public opinion at the time (Furaker 2016).

In short, the most radical version of EFP was unable to become a reality even in one of the best possible worlds of the democratic economic left.

6

EMPLOYEE FINANCIAL PARTICIPATION IN ROMANIA

In Romania in transition, EFP was laid down by art. 178 para. (4) of Law no. 31/1990 concerning Companies, according to which "the founders, administrators and staff of the company shall participate in the benefits, if this is provided for in the articles of association or, in the absence of such provisions, if this was approved by the extraordinary general meeting". This was a lax provision, which left EFP at the discretion of a majority of shareholders. EFP was extremely widespread in the 1990s following privatisations based on the MEBO method. Thus, until the early 2000s, profit-sharing was possible in the form of cash payments in the amount of 10 percent of the net profit, with payments being executed under collective labour agreements at the national level.

The change in the philosophy of privatisation in the 2000s towards attracting strategic investors weakened EFP. Somewhat synchronously, starting in 2003, the possibility of EFP provided for in art. 183 paragraph (4) of the Companies Law was amended to remove staff from the category of persons who could apply for profit participation. Currently, according to art. 1 paragraph 1, letter (e) of GO no. 64/2001, amended by GO 61 from 5 August 2004, profit participation is granted by law only in the public sector, in "national companies, national enterprises and commercial companies with capital held in full or majority by the state, as well as the autonomous public entities that have committed and established through their revenue and expenditure budgets, the obligation to participate in profit, as a result of the services of their employees in their relations with them." EFP is granted for up to 10% of the net profit, "but not more than the level of an average monthly basic salary, achieved at the level of the economic operator, in the reference financial year."

The idea of changing the law to stimulate the introduction of EFP for all employees is fair and equitable and moreover, importantly, it is already accepted in the business community in terms of its basic principle. The principle of profit-sharing is not considered extreme by the Romanian business elite - as long as it relates to the management. Thus, Deloitte describes the scheme as follows:

“Offering benefits in the form of shares in the company is a type of remuneration through which the employer can connect the individual performance of top management employees with the performance of the business, generating both their loyalty and additional motivation. Although the taxation of this instrument is clearly more advantageous than for the usual salary elements, the implementation decision should be generated primarily by the business development strategy and the need for employees to be interested in carrying it out.”

From this perspective, Romania is on a good position when it comes to sharing the profit of companies with senior management ("stock options *pentru* top management," as is said in "Romglish"). Thus, according to a recent Deloitte report, offering shares in the employing company to key employees is more fiscally favourable compared to the same scheme in other countries in the Central and Eastern European region.

More specifically, the Romanian tax legislation creates a small tax haven for these senior executives because by offering shares, taxation of employees' remuneration is shifted to taxation of their capital income at a rate much lower than taxation applicable to an employment contract. Thus, if the tax burden is 42 percent for work performed, reclassifying this work as capital allows senior executives to receive an additional 32 percent. Romania is also a relatively speaking smaller tax haven for this social strata: while income tax on capital gains is 20% in Latvia, 19% in Poland, and 15% in Serbia and Hungary, it is 10% at present in Romania.

7

CONCLUSIONS AND RECOMMENDATIONS

Depending on how it is legislated, the establishment of EFP by law can be a way to restore the work-capital balance, it can increase the level of welfare of employees and, if channelled to savings plans, will contribute to growth of the real economy.

Case studies suggest that the Swedish model of using employees' funds is not politically realistic even in the most favourable context. The fact that the discussion about those funds has not been revived in Sweden (Furaker 2016) and especially that the Meidner Plan failed in the most generous and well-funded of welfare states, with a record rate of employee activity, permanent tax surpluses, competitive export industries that are nationalised, a full-fledged society based on solidarity in which the unionisation rate has been 80 percent and in which a cultural hegemony is enjoyed by the social left is not likely to offer any realistic hopes that it could be implemented in a country like Romania, where the situation is diametrically opposite on all six factors listed here. Another lesson from the failure of the Meidner Plan was that discussions about the inclusion of small businesses in EFP's mandatory range were politically counterproductive, leading to a state of uncertainty which pushed small entrepreneurs into a defensive alliance with the big companies. The lesson here is that any EFP plan must clearly exclude small employers.

On the other hand, the consensus around the French “variable geometry” model adopted in a country with activist and adversarial unions, but extremely weak in terms of the density of their members, suggests that this may be a sustainable form of EFP. These are reasons why the French legislation, favourable to employees, but also offering benefits to employers in terms of tax breaks and environment financing, would be best suited as a source of specific inspiration for similar legislation in the Romanian context. On the other hand, however, the political context surrounding adoption of this legislation in France (a new republican system, the "third way" economic ideology of the de Gaulle regime, with the backing of some French employers at the time, a leader invested with strong presidential powers, significant political pressure from the political left in the conditions of the Cold War, a system of indicative planning of the economy in which coordination between the state and capital was deeply institutionalised, the existence of a strong protest culture but also 30 years of economic growth) could prove difficult to replicate, which means that additional political reflection is warranted, but it especially means tough political work ahead for proponents of such measures in Romania.

Beyond these considerations, as a general recommendation, EFP schemes should be adjusted along the lines of the ETUC (European Trade-Union Confederation) recommendations. This means that EFP schemes should:

(1) be designed for all employees, not just senior management, so that the redistribution function of schemes is truly effective;
(2) be accompanied by a prohibition of substitution of salary for EFP payments;
(3) be accompanied by mechanisms to protect employees against unreasonable financial risks;
(4) be devised with the involvement of employees'/ unions' representatives;
(5) be accompanied with stipulation of a threshold beyond which it is to apply.

12 Loriaux (2007); Lutz (1969).

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EMPLOYEE FINANCIAL PARTICIPATION

European models and Romanian realities

Financial participation by employees or their being granted a variable component of the company's profits is widely practiced in Europe and can help reduce the gap between labour and capital in Romania.

French legislation could serve as a model for financial participation by employees in Romania.

Regardless of whether legal obligations are imposed on enterprises or not, regulations governing financial participation must be designed with all employees in mind, not just executive staff; there should be a ban on substituting salary, and company participation schemes must be devised with the involvement of employee representatives.

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