

---

# Italy

by Dario Iossi \*

## 1. The constitutional basis and the evolution of industrial relations

Analysing the Italian experience of worker's participation in companies must take, as its departure point, Article 46 of the Constitution. This article stipulates "the worker's right to co-operate in company management, according to the mode and limits established by law". The Italian Constitution came into force on 1st January 1948. Participation, at this time was not merely a theoretical question, as experience already existed in the so called "management councils". These had been established by workers in many Northern Italian companies during the fight for liberation from nazism/fascism in order to retake control of production. However, the resulting constitutional article, while certainly binding, is in practice it is only "programmatic"; a compromise achieved between the various political powers inside the Constituent Assembly each with highly differing opinions as to the role of workers in the post-fascist Republic. It is also worth noting at this point that that Article 47 deals with another aspect of participation, through shareholdings. On this point it stipulates that "the Republic...facilitates access to popular investment... in direct and indirect share holdings in the large production sites of the country".

The constitutional programme remained substantially unimplemented, as will be shown later in more detail . However, while the divergent political opinions on this matter remained – and still do - they alone can not explain Italy's continued legislative weakness on this point. Rather, this should be understood as the result of a succession of events and decisions which determined other priorities in the political and industrial relations arena:

First one must note that Italian trade unions have always preferred to seek their goals through bargaining rather than legislation. Even though there are differentiated and shaded opinions among the trade unions (pluralistic views of society, evaluations of context and the political and institutional situation) the principle that legislative intervention in the workplace should merely standardise and support the results of collective bargaining continued across the board. This undoubtedly contributed to a strengthening of the trade union presence and role, but also had a notable influence on the legislature's attitude to topics related to trade unions and negotiated evolution.

Secondly, one should consider two major problems for trade union action that have repeatedly often and often simultaneously occurred since the end of the Second World War. On one hand, there are the resolutely conservative positions of Italian employers and of a number of governments during this period, especially during the first decades. This has meant that the trade unions have been deeply engaged in what has often been a very hard conflict to improve the living and working conditions and affirm the fundamental rights of Italian working people (the law commonly known as 'the workers constitution' was approved in 1970). On the other hand, trade union politics has been complicated, characterized by organisational and content related conflicts between organisations, as well as by strong dialectics inside the organisations themselves.

Remaining on the topic of trade union history , one should also remember the big split in 1950 which lead to the birth of Cisl and, a shortly afterwards, to Uil. The trade union context was strongly influenced by the political confrontation at national level and by the events of the cold

---

\* Expert at SindNova / FEMCA CISL, International Department

war. Then, a period followed where a big effort was made by the confederations to maintain or to earn organisational presence and to consolidate their own identity. At the beginning of the 60s, the debate on wage items is faced with the political and economic opportunity to establish negotiation at company level. The second half of the 60s sees the trade unions engaged on the “reform” objective from a social point of view, concentrating on aspects which were fundamental for the quality of life (housing, health care, social protection ). This engagement led to the big social movement known as the “hot autumn” (1969) concentrating on the renewal of the main working agreements.

The beginning of the 70s represents a turning in Italian industrial relations, in terms of the direction of the movement as well as through the construction of a more stable structure defining the role of negotiations and the social actors. It is in this period that the first rights to information and consultation were agreed through collective bargaining in the so-called “first parts” of the national agreements - though not without the strong resistance of employers’ organisations.

However, this first participatory approach is still fitted into a context of a strongly claim-orientated trade union culture and does not develop in the immediately following years. The economic situation, which progressively deteriorated with inflation rates at more than 20% at the beginning of the 80s, leads the focus of debate to the automatic indexation of wages. Beginning with some very sensitive trade union disputes and followed by a referendum, the indexation system was first frozen and then replaced by new principles for social contracts established 23rd July 1993 by the tripartite co-operation agreement called “Protocol on income policy, employment and contractual levels”.

This very brief *excursus* on the evolution of Italian industrial relations is intended to show how the topic of the participation, despite a favourable constitutional basis, has not been able to develop itself in a climate of pressing economic and social situations, fundamentally opposed and deep-rooted positions of social partners and different orientations between the trade union organisations themselves. It is only during the 90s, in an more “standardized” economic and social context that trade union debate once again took up the theme of participation and of economic democracy more generally. Many factors favoured this theme coming back to prominence: the depletion of the economic planning that had been experienced in the past, the practical absence of credible radically alternative socio-economic patterns; the success of the forces of neo-liberalism, as well as the search for instruments able to temper its effects and lastly the more widespread evaluation of the limits of democracy as defined exclusively within the framework of the political representation. The need to extend *economic democracy* and *industrial democracy* is now a consolidated position among trade union objectives, even if there are some diversities of approach and of evaluation on specific aspects. It is generally seen as a *continuum* from the macro-economic general level to the company one.

The relation between participation and negotiation is particularly relevant to the Italian experience. It has been evidenced that there are numerous links between the two, there is a proximity of methods and context, almost like communicant vessels. While many European workers representation systems separate the two functions (*double channel*), Italy has only one representation channel, make the two functions more intricate, with various typologies and significant cases, that we will try to analyse here.

## 2. The forms of the participation

It is stated above that the evolution of the debate on and implementation of workers’ participation in Italy is somewhat removed from the constitutional basis of the topic. In fact, it takes a number

of diversified shapes in terms of objectives, intensity and forms. It is therefore useful to look at some classification typologies. For the purposes of this paper this will be limited to the theme of *indirect participation*, in other words participation which includes collective dimensions in its specific institution and/or in workers representation.

Therefore, we will briefly examine the Italian situation concerning the following:

- Information and consultation rights
- Distributive economic participation
- Strategic-organisational participation (outside the company bodies)
- Strategic and distributive financial participation

In some cases, we will use the distinction between *weak participation*, intended as a whole regarding the forms, procedures and bodies of information and consultation bodies, joint or bilateral, and *strong participation*, intended as a whole of powers and institutional forms of influence and intervention in the strategic and managerial decisions. We will not give to the adjective *strong vs. weak* a signification of value, since the evaluation of “strength” should take into account not only the typology, but also the intensity of various experiences linked to the specific socio-economic, legislative and of industrial relations context.

On the other hand, it is evident that the recalled scheme is not often possible to be implemented *sic et simpliciter* in the real cases, that are often the result of complex evolutions and have in many cases more and intricate typologies of participation. We also have to take into account that we will not consider the participation typology itself as a presence or a power of influence for workers representatives in the management bodies of the companies since this experience has been very limited in Italy.

### 3. Information and consultation

Though in the past there were some procedures (even some legal procedures) for information and consultation of trade unions in particular cases (for example for collective dismissals, the law of 1966 already scheduled prior information and conciliation procedures), the implementation of a “weak” form of participation through an appropriated regulation dates from the renewal of national agreements in the first half of 70s.

The present set-up of this information system, since it became more and more active during a period of 20 years characterized by successive claims and experiences, is very articulated and similar to the national agreements of the principal sectors of production.

In the meantime, one can note the implementation of “sectoral observatories” with a joint composition (employers & trade union federation signatories to the agreement). These bodies aim to analyse all the main dynamics of the relevant sector, including economic, productive, technological and organisational developments, as well as the employment profile and prospects of covered companies in an international context. This is done through regular meetings that allow an exchange of information and opinions, putting into evidence some elements of possible criticism as well as possible forthcoming orientations. The Observatories are scheduled at national level, but often take place also at regional/territorial level in order to analyse the sectoral matters which are more specific to these areas. Moreover, the Observatories often have sections dedicated to specific themes such as environment/health and safety at workplace, or vocational training.

A second level of information rights concerns companies and undertakings, where it is scheduled, during periodical (generally annual) meetings, to provide information regarding the economic situation, employment, research, development, etc.

Afterwards, the partners can make a *joint examination* of the information received and the emerging problems. Information at single company level is provided by companies which are over a threshold (from 100 to 350 employees, according to the specific rules of each national agreement).

It is interesting to underline some aspects of this regulation. First of all, because of its contractual nature, it is not regulated by law. Moreover, it concerns first the sectoral level (over the company), and that gives relevance to the possible influence on industrial policies and related decisions (remembering that there are similar Observatories, for example for the chemical sector and for the fashion system, established by the Ministry for Production Activities, with a tripartite composition).

The sectoral level also concerns the legal ownership of the information system; actually, the involved partners are the employers associations and the trade union professional federations (also for the company level, trade union is often, with the assistance of the company body, in charge of employee representation). Finally, we can note a right to specific information for 'exceptional circumstances' comparable to that generally scheduled for European Works Councils. However, it is possible to say that these minima have been widely surpassed in the actual practice of industrial relations and that can sometimes contribute to making the normal meeting of information at company level rather ritual.

#### **4. The economic distributive participation**

The co-operation agreement of July 1993 also sets out the new principles of collective bargaining by specifying its competences at the two main levels: the sectoral-national level and the company level (also, in some cases, the regional). For the latter, regarding wages, the agreement of '93 allocates the task of negotiating wage quotas, complementary to the minimum remuneration established by national collective agreement, and linked to the income and productivity of companies where these are negotiated.

It is a relevant innovation since it tends to generalize the adoption of a *variable part of the wage*, often linked to objectives of company *performance*. Nowadays, it is calculated that company negotiation takes place in around 40% of the companies (there are understandably greater organisational difficulties implementing it in the small and medium sized companies that from a remarkable part of Italian industrial production).

Company negotiation has produced a rather wide range of formulations for the calculation of this varying wage "bonus". These formulations are usually composed of the sum or the product of two different functions:

- a variable parameter of profitability (the most widespread is the gross operational margin) of the company or more rarely the group that the company belongs to or
- a productivity parameter (for example added value) but here combinations of parameters even with a very different nature, like for example the number of customers in the case of a *public utility*) are often used.

It is important to note that the general set-up of the bonus (formula, index to be adopted, linked wage quantity, recurrence, etc.) as well as its actual allocation are linked to the initial negotiation and to further verifications between the company management and workers representation. It is easy to perceive that these phases entail at least potentially on behalf of workers representatives a rather deep capacity of knowledge of the company's economic and organisational variables and of the possible choices aimed to optimise the final result..

Trade unions strongly underline this aspect (it is not a coincidence if many of these wage practices are called "participation bonuses") and this seems in a certain way to be a trend to pass the simple form of the *profit sharing* towards a form of strategic participation.

## 5. The public sector and the privatisations

From 1985 on, some partial operation of privatisation of the important economic activities of public ownership started and found a strong acceleration through specific legal rules in 1992, 1993 and 1995.

At this time, the public companies were present in many industrial and service sectors, with a variety of juridical forms. In the public service utilities (mail, railways, national roads, etc.) the public enterprises assumed the form of "State autonomous companies", under direct control of Ministries; a similar form was adopted for the State Monopolies (mainly tobacco industry). At local level (water, gas, local transports, etc.), these autonomous companies were depending on municipalities ("Municipal companies"). In the industrial sector, there were three "bodies for public participation" controlled by the Ministry with the same name: IRI, with important activities in steel industry, metalworking and agro-industry; ENI, active in the petrochemical, energetic and chemical sectors; EFIM in the manufacturing activities. These bodies had the character of real public holding companies, taking part, for the above mentioned activities, to various joint-stock companies forming sometimes themselves groups of companies. In the services sector, IRI was still present in the so-called "banks of national interest". Moreover, there were big credit institutes of public law.

The methods of implementation of the privatisation (not yet completed in some cases) are many. The usual method for the State autonomous companies has been transformation, from 1985 on, into "public economic bodies", having the quality of specific legal person.. Afterwards, these and the other bodies have been transformed into joint-stock companies depending on the Ministry of the Budget for the cases of national relevance; then total or partial independence – still in progress – was realized. In some cases, the controlled companies have been sold by private negotiation; more often a public offer of sale has taken place. In some cases the ex holding-bodies have been wound up; in other cases (ENI) the holding-body has been transformed into a joint-stock company and therefore privatised (in the ENI case, 30% of the shares are still in possession of the Ministry).

These complex operations have presented, for our objectives, some common characteristics. In the meantime, we have to remember that the State autonomous companies scheduled the presence of workers' representatives in their Management Committee (named CdA). The Italian Mail had, for instance, 4 representatives elected by the workers among a total of 15 CdA members. The elections were organized by mean of Union lists. Furthermore, workers' representatives were also members of other technical-managerial bodies (Upper technical Committee, Discipline Council).

With regard to the "bodies for public participation", the case of ENI is notable because its statute provided, within CdA, a workers' representative elected by blue-collar workers, and a workers'

representative elected by white-collars and managers. CdA was further composed by 6 high-level officers from various Ministries and 5 experts appointed by the Minister of Public Participations. It is interesting to point out that the structure of *governance* in ENI was practically dualistic: direction and management were assigned to an Executive Board, whilst the CdA mostly performed tasks of surveillance (administrative trend, passing the annual accounts, etc.). The companies coming under the ENI-holding, being under private law, had no workers' participation forms.

With the reform of public sector and/or privatisation processes these forms of participation have been substantially bypassed. First we have to consider that Trade union had, on its side, already developed critical considerations on the efficacy and opportunity of this presence, being more orientated in looking for "alternative forms of participation and control". Criticism was based on the fact that the most relevant strategic and managerial choices were beyond CdA competencies, because they were determined by law or regulations from political authorities. Secondly, the minority presence of workers' representatives made in any case difficult a serious conditioning of the choices, also exposed to pressure from political lobbies. The role of workers' representatives seemed consequently neither clearly distinct nor properly effective. Due to these reasons, in several cases the representatives left CdA after decision of confederal Unions.

With passing the State autonomous companies to public economic bodies, the absence of workers' representatives in CdA was formalized. In other cases this happened with the passing to the company form of private law, where the presence of workers representatives misses on a juridical point of view or, - for a better understanding - this possibility is all remitted to the specific statute or para-statutory deals of the single company. In some particular cases it has been implemented in relation to workers shareholdings ( see at 7.2), in many other a shared worry for the possible negative effects of a "participative forcing" when the shares have been offered on the financial market did not allow to follow this way.

Moreover, it is also important to remember that, at least at the beginning, with the public offers of sale, the wish was to achieve the implementation of *public companies* (meaning widespread shareholding by many small shareholders), with a small part of shares going to the employees (even in the more significant cases, Alitalia excluded, it didn't cover more than 4% of the capital). But in other cases, groups of private or institutional investors reached the control of the company (Banca Commerciale, Telecom).

The subscription of shares of privatised companies by salaried employees is another common characteristic that we will analyse afterwards. Here, we put into evidence that the subscription of employees to buy shares from their own company is generally higher (for example, in the case of Acea, more than 90% of workers) than for the subscribed capital. As has been noted, the high adhesion of the workers seems to elude an explanation based on the simple economic advantage..

Somewhat separate to this, although deserving a mention here, is the topic of Public Administration. Until 1980, since there was no formal recognition of collective bargaining for public employees, the trade unions were involved in forms of organic participation with their presence as workers representatives in the CdA of Ministries ( 1/3 of total members) and in other "collective bodies" established by the regions or by local bodies in the public services (school, transports, health, etc.) with tasks even including joint management for staff administration (promotions, disciplinary measures, transfers, competitions, etc.).

This presence has been important, calculated in 1970 at more than 18 000 employee representatives and, as we have seen, has been critically reviewed by the trade union themselves.

The obligations and the behaviours linked to the particular juridical nature of the public employment working relations pushed therefore the main trade union organisations to require with determination to put into the collective agreements the wage and legal aspects through the privatisation of the working relations. In 1993, this change has also been implemented by law, by introducing a new system of trade union relations. Therefore, the forms of participation with a character of direct management have been cancelled. The forms which are scheduled at the moment are regulated by collective agreement and regard information, consultation and co-operation, also through joint bodies (Committees, Observatories, Commissions) distinct from management bodies.

Lastly, a mention should be made of the bodies (called Institutes) for managing and paying public social security (mainly INPS, which pays out public pensions to c. 15 millions ex-workers from private enterprises and self-employed persons; INPDAP, which pays out pensions to c. 2.5 million ex-civil servants; INAIL, for compulsory insurance against occupational accidents). Also in these institutes workers representatives were present in CdA, from which they left in the mid 80s in a fully analogous way as mentioned above. Following the reform of these Institutes, still in force, a quasi-dualistic form was introduced, with workers representatives (and employers representatives as well) as members of bodies, distinct from CdA and named CIV (Committee of Stance and Surveillance).

## **6. The strategic-organisational participation without presence in the company bodies**

The development of industrial relations has brought some interesting realizations of strategic-organisational participation that do not fit into the “strong” model of the presence in the company bodies. This concept takes origin in the public participation companies. These companies and these undertakings wanted to remain apart from the private companies from the associative point of view (that means that they did not join Confindustria, but they created their own association) as well as from the contractual one (they stipulated collective agreements different from the private sector ones) and for a philosophy of trade union relations bases on the recognition of its legitimacy and of the role, even if different.

On this basis, two important agreements have been defined in 1985 in two important industrial groups with public participation, IR and ENI. These agreements are “protocols” of industrial basis defined on a typology that today could be defined as ‘participative’. The Protocols had the objective to develop a confrontation between the partners more based on dialogue and on the prevention of conflicts through the implementation of a number of structures and procedures regarding information and discussion of industrial, organisational and employment matters as well as behavioural guidelines orientated to problem solving.

The ENI protocol is characterized by a set-up based more on the guidelines of a programmatic nature while the IRI one gives more details on regulations and procedures regarding in particular trade union conflicts and the cooling of conflicts in general. Both have in common a system of information and consultation that is more advanced than the prescriptions of collective agreements, and in particular the implementation of joint committees at group level, at controlled companies level and of territorial articulation for the analysis of production innovations and strategies.

The implementation of these protocols can be seen nowadays as more limited than it could have been, due on one hand to persistent reluctance in the *management* of some companies as well, or because of the coming evolution towards privatisation. But a problem of dissemination remained

and afterwards involved public privatised public companies (Ferrovie dello Stato, Anas) as well as fully private companies..

Among these last ones, we have to mention **Electrolux-Zanussi**, where a “Single text”, widely inspired by the IRI protocol has been negotiated. This text establishes many Joint Committees at plant level (for ecology and safety, organisation of production, training, conflicts and equal opportunities), and at group level. At this level, the National Commission for Guarantee, for the resolution of conflicts and the Monitoring Committee, with right of prior consultation on the industrial and organisational choices.

Unfortunately, this interesting experience showed and still shows sensitive difficulties, due to moment of opposition between participative bodies and bodies of workers representation at workplace, doubts on behalf of the company management until the cancellation of the agreements and also to different orientations and difficult relations between the trade union organisation, added to the load of the Electrolux restructuring plan in Europe

The **ENI** case is more recent and as much interesting. This company has maintained its structural identity during the privatisation process and has shown a strong continuity in the group identity, in the company culture, as well as in the industrial relations style. In June 200à, a new “Protocol of industrial relations” was signed with the trade unions. This Protocol goes in the direction of the participative model, based on the “prior information, consultation and experimentation of new models of participation”.

A Committee for industrial relations with a joint composition has been implemented at national level, with competences for the group strategic themes and other ones as training, environment and safety. The Committee meets three times, in event of important moments of evaluation and strategic elaboration: the ongoing economic accounts and investment plan, the previsions of evolutions of the macroeconomic and sectoral framework, the updating of the strategic guidelines and of the four-year Strategic plan. The Committee, on request of one of the partners, can moreover meet for exceptional circumstances. For the occupational problems, a “joint table for employment” has been established.. Moreover, similar Committees has been established for business lines and controlled companies..

An attached protocol, dedicated to international industrial relations and that improves the agreement on the European Works Council, as well as a global agreement on social responsibility that commits ENI to the respect of social rights wherever le group is present, with moments of information and verification on this aspect and on the development of the activities in the various areas of the world are also relevant.

Here, we have to put into evidence that such participative experiences do not consider the simultaneous presence of forms of employee financial participation, even if in some cases the drawing-up of agreements concerning share participation has led at the same time to the constitution of similar bodies.

## **7. The financial participation**

### **In general**

The interest for the financial participation of workers grew, as noted previously, when the privatisation processes, especially through public offers, generated a number of diversified experiences that cover – often intricately – the various known typologies. At company level, there were cases of share investment with use of saving or of the deferred wage for workers, with

mainly of economic /income intents. In other cases the objective of the strategic participation to the company decisions was clear. Finally, there were some cases aimed at distribution according to the “para-wage” function.

In general, the most relevant aspect for trade union organisations is undoubtedly the strategic one. It has been noted that also the distributive financial participation tends to make the shareholder employee aware of value creation. But without the possibility to influence decisional processes, the exposure to the risk of an uncontrolled company raises. Even with the intervention of a strategic nature a kind of *auto conflict of interests* can be generated. The expectations of employees can privilege the short-term economic result, maybe at prejudice of working conditions, neglecting the long-term innovative development, which is however the only one able to correspond to the solidity of employment.

There is a sign of this intrinsic difficulty in the different approach that the three trade union confederations expressed on this matter. CISL strongly supports the shareholding since it is considered the easiest way to follow in Italy towards forms of “strong” participation. CGIL rather tends to underline the risks and the contradictions of this approach by preferring forms of strategic influence based on industrial relations and investments financed through Funds. UIL seems to prefer participation forms based on the dual model of companies. Such a different approach, among others, has contributed in many concrete cases to make the experiences of financial participation in companies difficult.

At the normative level as well, the modifications made to the “Single text” of 1998 introduce methods “*to favour the shareholding of employees*” turned out to be seriously lacking in terms of the possibility for collective intervention to create shareholders associations able to receive delegation, as the collecting of delegations has to be repeated for every convocation of the Members Assembly. The very recent provisions on company law still has strong limits as is underlined in the point 9. Regarding the tax issues, the existing facilitations are rather limited: the conferring of shares on employees up to a maximum of €2000 p.a. are tax-exempt, provided that the shares are conferred to all the employees of the companies and not sold before 3 years.

### **Some relevant cases of workers shareholding**

The **Alitalia** case is undoubtedly the most advanced and complex experience. In 1996 the Italian national air company found itself in a rather serious financial situation. Competition was increasing with the progressive removal of protection barriers and the privatisation process was accelerating. The confederal trade union organisations and the professional associations accepted a recovery plan with reduction of labour costs through participative involvement based, first of all, on the subscription on behalf of employees of shares for more than 20% of the capital. The protocol of agreement that regulated these questions scheduled the presence of 3 representatives of the shareholder-employees in the Management Committee. Moreover, a new model of industrial relations with the implementation of various bilateral bodies has been set up.

The real core that arises is the collective representation of the workers shares. A first form of associationism does that does not go through the Stock Exchange authority (Consob). Clashes between trade union and professional organisations lead one of them to promote a cooperative company, where the employees can confer the shares through a public offer of exchange. But the operation has only a rather limited impact. CISL promotes a collection of delegations, and the association of P & M shareholder participation staff does the same. With these instruments, the 3 categories have been able to express a representative for each one of them in the Management Committee.

The shareholding experience at Alitalia is therefore both advanced and interesting, but it was also not very easy due to the limits of the regulations and the different evaluations of the concerned associations, in addition it maybe also be seen as somewhat extraneous compared to the processes coming from the new model of industrial relations.

The **Gucci** case is different since it is not linked to the privatisation process, but finds its origin in a consolidated practice of industrial relations that, even in event of a hostile takeover attempt, gave origin to a proposal for an *Employees Stock Ownership Plan*. This proposal, valid for all employees of the various countries where the group operates, became the object of negotiations leading, at the beginning of 2000, to a trade union agreement. This latter schedules the progressive assignation of 32.25 shares for each employee with the obligation to keep the shares for 3 years and the creation of an association of shareholders employees. Furthermore, the agreement also deals with industrial relations, establishing new joint bodies “for the development of more participative relations, information and responsibility”.

This experience, even if it is characterized by the distributive aspect, refers a lot to a strategic influence. However, the process hardly took wing, due to the conflicts between the organisations after the creation of the Association and the difficulties of implementation of the commitments regarding the industrial relations system. One should also add that the assignment of the allocated shares is nowadays very attractive as their market price has increased 30% on the assigned value.

In the case of **Dalmine**, number one Italian producer of steel pipes, the question of the employees shareholding originates with the privatisation of the ILVA company (IRI group) which was planed to be sold to private entrepreneurs. In July 1998, further to a specific trade union claim, a principle agreement was reached and, in 2000, there was an operational agreement establishing the possibility for employees to buy ordinary shares, with the possibility of payment through an advance on severance pay (a part of the remuneration that it is compulsory for the company to put aside and paid to the employee only at the end of the working contract). The implementation of a voluntary association that, in event of possession of shares for at least 10% of the capital, would give the right to the nomination of a Management Committee member, was also scheduled.

This agreement, which is interesting since it is clearly orientated towards strategic financial participation experienced a double difficulty. Some structural problems with the offer (doubt on the purchasing price, lack of economic facilitations or promotions), probable ambiguity of perception on behalf of the employees between economic and strategic aims, conflicts in the trade union orientation allowed to achieve a subscription of less than 2% of the capital. The comeback of the initiative has been stopped afterwards due to the assignment of the company to the Tenaris group, that also made an offer of public purchase, still open, for the shares not yet purchased. The outcome of this experience is therefore uncertain and also showed how difficult it is to launch these forms of participation given the speed of the market mechanisms.

We shall finish this overviews of company cases with that of the of the **ENI** company. This is because of the relevance of the privatisation operation as well as the lack of impact of the shareholding proposal for employees on participative industrial relations, which developed on the though the more typical method of confrontation between partners, as described above.

The ENI privatisation started in 1995 with a public offer of sale in four subsequent *tranches*, which put 70% of the capital on the market for a capitalization of more than 50 billion Euros. The offer to the general public scheduled a slight discount on the price and a *bonus share* of 10% for

shareholders who keep the shares for more than one year. ENI also allocated payment through an advance up to 70% of the severance pay of the put aside value to its employees. About the half of the employees subscribed to the offer, creating an initial possession of about 3% of the share capital on the market.

It was therefore an operation clearly considered as a financial investment. As such, it enjoyed a healthy success for the employees' "calculated trust" in terms of the group's value. Despite the adverse stock market situation, Eni shares are rated today at more than four times the price of the first "tranche" and still more than the price of the fourth one. The distributed dividend allowed a significant return that can be calculated, for two years, at up to 6%. Undoubtedly, the revaluation of the share value pushed to the sale: the part that the employees still own is calculated to be at around 1% of the capital. At the end, we have to mention that at ENI there are practices of *stock grants* and *stock options*, but only for the managers of the group.

## 8. Other forms of participation

Among the other forms of participation, different from the ones we have analysed up to now and that deserve to be mentioned briefly, we shall now look at the so-called Bilateral Bodies.

These are bodies established at the end of the 1980s through agreements between social partners with a joint composition: representatives of the main trade union organisations and of the correspondent employers organisations. The purpose of the Bilateral Bodies is to approve initiatives and to provide a succession of services to companies and employees in fields like training, some aspects of social protection as well as technological and organisational innovation.

Important experiences have been implemented in the industrial sector and in training activities, like the implementation of an inter-industrial body (Confindustria/trade unions confederations). Moreover, the experience in the artisan sector is very significant, where a complex of bilateral bodies, articulated at national level, are playing an important role- including the implementation of specific funds - to support this branch of activity with objective structural limits and less social protection.

Another form of participation that we will mention, and that can also be defined as of a financial nature regards the subsidiary pension funds. In Italy, their constitution and diffusion is rather recent and it is of course widely due to the need to integrate – increasingly so – the pension incomes paid by the public system which the economy shows have severe and increasing difficulties.

The funds that we look at here (so-called "closed funds" since there are not accessible to anyone other than the interested workers, while the funds managed by the insurance companies are "open" since they are accessible to anybody) are mainly sectoral (for example, for chemical workers) and originate from national trade union agreements. These agreements schedule a voluntary subscription from the worker himself and are supplied by own contributions from the worker himself and the company he works for. The amounts paid by the fund are liable to tax advantages.

Without going into the complex matter of the funds financial management, we have to note that the management orientations are decided by the management bodies where representatives elected by the employees are present. Moreover, consultative bodies of evaluation and orientation, formed by representatives of social partners signatories of the constitutive agreement have been established.

One thing that is important to remember is that, beyond this “institutional” participation in the management of the funds, trade union organisations conceive the same funds as a piece and – even more important according to the relevance of the controlled capital – in the mosaic of economic democracy instruments, in particular for the possibility to have some influence with their choices of companies and markets in which they invest.

## **9. The reform of the company law**

In January of this year, the Government issued a legislative decree on “the organic reform of the capital companies and cooperative companies discipline” which brings serious innovations to Italian company law and tries to solve some requirements established by the EU legislation on the European Company.

The Decree introduces first of all new patterns for joint-stock companies. Close to the previous pattern which schedules a management committee and a trade union council, a “monistic” pattern, which schedules only a management committee which elects a control body and a “dualistic” one, with a council having company management tasks – elected by a monitoring council which also has the task of approving the budget.

However, this innovation does not bring Italian legislation close enough to the European: the presence of employees is not only not scheduled, but in a certain way also impeded since the those having a working relationship with that company cannot be elected to its monitoring council. Similarly this applies to bodies and procedures for information and consultation such as the European Company.

Moreover, the theme of economic democracy through workers’ shareholdings is substantially bypassed. The new discipline scheduled that shares can be assigned to employees without the right to vote, other special “financial instruments, other than shares with property or administrative rights, excluded the right to vote in the General Assembly of shareholders and, among others, make it difficult to be sold or negotiated on financial markets. In this case, there could be the possibility to nominate a member of the management or monitoring committee, but this possibility is only referred to the constitution of the single company.

The CGIL, CISL and UIL confederations have therefore considered this reform of company law “a lost opportunity to favour the development of industrial relations practices useful for employee participation and for a more mature planning of *corporate governance*”, also expressing strong criticisms that the reform has been implemented without scheduling any consultation with trade union organisations.

## **10. The transposition of the 2001/86/CE and 2002/14/CE directives**

The general preference of the Italian trade union organisations for the contractual negotiation is clear in the case of the transposition of the “Directive on workers implication in the European Company” and of the “Directive establishing a general framework regarding information and consultation of workers” with the possibility given by the treaties to the social partners, who therefore made a formal request in this sense.

In a recent parliamentary hearing regarding a legal proposal on employee participation at financial and decision-making level, the General Manager of the employers confederation (Confindustria) announced the availability of that organisation to start a negotiation with trade union organisations

with the objective of achieving “common opinions” for the transposition of the above mentioned directives.

However, such disposability towards negotiation does not conceal the probable difficulty of this matter. In order to understand the current Confindustria philosophy, it is sufficient to remember that in the same hearing it has been said, for example, that “a generalized participation of all employees in the decision-taking process for the management of the company would create some distortions in the combination of production factors, dangerous for company stability and for the system as a whole”.

With this premise, it is easy to understand that Confindustria will try to reduce the profile of the transpositions as much as possible, trying to use the *opt-out* scheduled by the 2001/86 directive, or to take advantage from the suspending options scheduled by the 2002/14, on the basis of the presumed lack of “a general and permanent legal system” of information and consultation. However, it has to be said that trade union positions on this matter are very solid, careful and unified.

## 11. Hypothesis of perspective

The diversity of these forms and experiences of participation in Italy show the increased interest of trade unions and of some entrepreneurs.

The prescriptions of articles 46 and 47 of the Constitution, as we have seen, have not yet been implemented in a comprehensive and organic way, despite some marginal legislative interventions in the framework of prescriptions dedicated to other matters. Since the implementation of the constitutional law is left to the common law, in past (and present) legislation there have been many proposals for legal change. However none have yet achieved their objective.

We must also remember that the present Government seems very reluctant to innovate regarding work and workers rights, with the exception of innovations of a ‘free-trade’ nature, as is proven by the recent reform of company law. The refusal to use the term “cooperation”, replacing it with the vaguer “social dialogue” shows – beyond the terminological conflict – how it is more complicated to achieve legal prescriptions in a mutual way, and many of the questions analysed here need precisely these provisions.

At legislative level, therefore, an evolution of participation towards “strong” forms close to the established forms typical of the Northern and Central European experience, the German one in particular, does not seem probable in the middle-term. This evolution will, in the short term, probably be limited – following a difficult path between Government and social partners – to the harmonisation of the EU directives. Nevertheless, the workers’ participation issues are still present in the agenda of the parliamentary commissions responsible for discussing the aforementioned proposals of law.

The path of negotiation, which seems to offer interesting possibilities - at least in particular cases, remains still possible. In this regard the recent “Financial Law 2004” passed by the Parliament on December 24<sup>th</sup>, 2003, has established a Fund of €30 million by the Labour Ministry, to support programmes – defined for the implementation of union agreements or single company constitutions – for promoting workers’ participation in the “results” or “managerial choices” of the enterprise. Of course, the scope, rules and efficacy of this measure are not predictable at the moment.

In the meantime, the debate and the development of the European regulation regarding participation is destined to have a more than marginal influence. The principles on information and consultation rights of workers, stated again in the Nice Charter, that will also in one way or another be transferred to the European Constitution, will form a solid basis to strengthen at least the “weak” forms of participation. The dissemination of information and consultation on a wide scale in the small companies, together with a more precise definition of prior information and consultation in due time will have also a cultural impact on management and the worker representation bodies. In the same direction, in a more limited way regarding the number but with the added value of the transnational dimension, we can already see this regarding European Works Councils.

Regarding the state of participation in Italy, the European regulation offers the possibility of a very positive impact, since it evidences, in the implementation of actual cases, the contractual method in good combination with the “classical” Italian union action. Moreover, the contact with “strong” forms of participation through the constitution of European companies can give a contribution to the growth of consensus regarding this form of employee participation in the company bodies of the entrepreneurial world - although not only this.

More in general one can foresee the persistence of the contiguity between negotiation and participation, also due to the very probable persistence of the single channel of representation, with the development of participation forms referable to the industrial relations context. On this matter, we have to signal the relevance of the sectoral level also as a form of indirect influence on company policies. Incidentally, these data correspond well with the desired intensification of European sectoral social dialogue as well with the ever more relevant European legal interventions with direct effects on the production sites. At company level it will be possible to establish other participative relations of the ENI kind. That, however, will only be possible where a pre-existing company and industrial relations culture will be favourable. On the other hand, an extension of the economic participation forms like *profit sharing* is probable in its quantity compared to the fixed wage as well as in its implementation to non traditional economic sectors.

Regarding employee shareholding, the interest for this form will partially survive, but actually it will be still only be implemented in limited cases. On one hand, the difficulties of the strategic participation will emphasize the aspect of financial investment; on the other hand, the vicissitudes of the stock markets and some notable bankruptcies of companies with episodes of criminal opacity regarding their *governance* will have the consequence of encouraging great caution in middle term.

In any case, the most critical theme remains that of an efficient and stable collective representation of the shareholders employees. Therefore, it necessary to modify the present regulation regarding the associations and the presence in the company bodies.

In the end, we have to remember these diversified approaches to the theme of participation – not always and not on everything – of the three trade union confederations. Since it seems rather obvious that the intrinsic nature of this theme does not make it possible to claim participative experiences in event of reluctance or opposition between the organisations, that are not even attractive for companies, we can foresee that these experiences will extend more easily if the trade union positions become more convergent. It is to be hoped that that this will now become possible on many aspect of workers participation.

## Essential Bibliography

**To examine closely the context in which the debate on participation is developed, refer to:**

Cella G.P., Treu T. (edited by), *Relazioni Industriali. Manuale per l'analisi dell'esperienza italiana*, Il Mulino, Bologna 1989

Cella G.P., Treu T., *Le nuove Relazioni Industriali*, Il Mulino, Bologna 1998

Bianchi G., *Le Relazioni Industriali tra cooperazione e conflitto*, Franco Angeli, Milano 2003

**On participation and its aspects, also with reference to the Italian case:**

AA.VV., *Oltre la soglia dello scambio. La partecipazione dei lavoratori nell'impresa*, Cesos, Roma 2000

Ambrosini M. (edited by), *La partecipazione dei lavoratori nell'impresa: realizzazioni e prospettive*, Franco Angeli, Milano 1998

Ambrosini M., Colasanto M., Saba L., *Partecipazione e coinvolgimento nell'impresa degli anni '90*, Franco Angeli, Milano 1992

Baglioni G., *Democrazia impossibile? Il cammino ed i problemi della partecipazione nell'impresa*, Il Mulino, Bologna 1995

Baglioni G., *Lavoro e decisioni nell'impresa*, Il Mulino, Bologna 2001

Cella G.P., Provasi G. (edited by), *Lavoro, sindacato, partecipazione*, Franco Angeli, Milano 1995

**For some considerations on the European Company and its impact in Italy, refer to:**

Guarriello F., Bordogna L. (edited by), *Avere voce in capitolo. Società Europea e partecipazione dei lavoratori nell'impresa*, Edizioni Lavoro, Roma 2003

**Among reviews, the following is of great interest being devoted to the argument:**

*L'impresa al plurale. Quaderni della partecipazione*, Franco Angeli, Milano

Particularly:

- N° 3/4, may 1999, on participation and italian Constitution
- N° 6, october 2000, on participation and public sector
- N° 7/8, may 2001, on financial participation