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Employee Financial Participation Schemes in France and Europe

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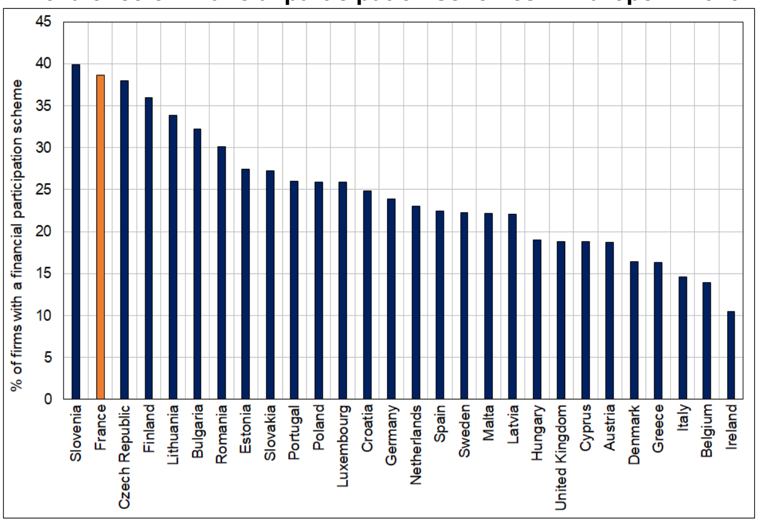
- Financial participation schemes are designed to incentivise employees to participate in the success and capital of the companies they work for. France, which first introduced financial participation in 1959, has two types of profit-sharing schemes – *intéressement* and *participation* – under which employees receive a bonus depending on how well the company performs. These schemes covered nearly 9 million French workers in 2018.
- Financial participation schemes exist across Europe, with varying degrees of coverage depending on the country. Whereas many do not regulate or encourage such schemes, others, such as France, the United Kingdom and the Netherlands, take a more proactive approach.
- In France, major reforms have been underway since the 2019 Business Growth and Transformation Action Plan Act (PACTE Act) to boost the prevalence of financial participation schemes and make it easier to implement and administer them, particularly for small businesses, among which coverage is low.
- France is unique in that financial participation schemes are very widespread, highly institutionalised and an integral part of labour relations. Among European countries, it has one of the highest coverage rates of such schemes, well ahead of its comparably sized neighbours.
- One reason for this widespread prevalence is that participation is mandatory for certain categories of companies. There are also tax incentives in place to encourage uptake.

Prevalence of financial participation schemes in Europe in 2019



Source: 2019 European Company Survey (ECS) and DG Trésor calculations.
How to read this chart: Percentage of companies reporting that more than 20% of employees earn some form of variable pay tied in with the company's overall performance.

1. Financial participation: part income supplement, part profit sharing

1.1 France's two main schemes: *intéressement* and *participation*

There are two main financial participation schemes in France – *intéressement* and *participation*, both profit-sharing schemes – which form part of companies' compensation policies. The primary objective of both schemes is to tie employee compensation in with company performance. They differ from individual performance bonuses in that they are contingent on the company's results, and from other forms of variable compensation such as stock options in that they are paid out to all employees.

Intéressement is an optional scheme in the form of a company performance-based bonus. There are no legal requirements for the bonus-calculation formula, which is left to bargaining. Calculation criteria[1] may be based on results from prior years' operating statements (turnover, gross operating surplus, etc.), operational performance metrics (productivity, production, quality objectives, etc.) or even extra-financial criteria (production quality, workplace accidents, absenteeism, environmental performance, etc.).

Participation is compulsory for French companies with at least 50 employees. It is a means for employees to share in the company's results based on its net profit, a portion of which is redistributed using a legally mandated formula set out in Article L.3324-1 of the Labour Code.[2] The labour agreement instituting the scheme will set out its duration and rules for bonus calculation (if they depart from the default formula set out in law),[3] allocation and administration of participation.

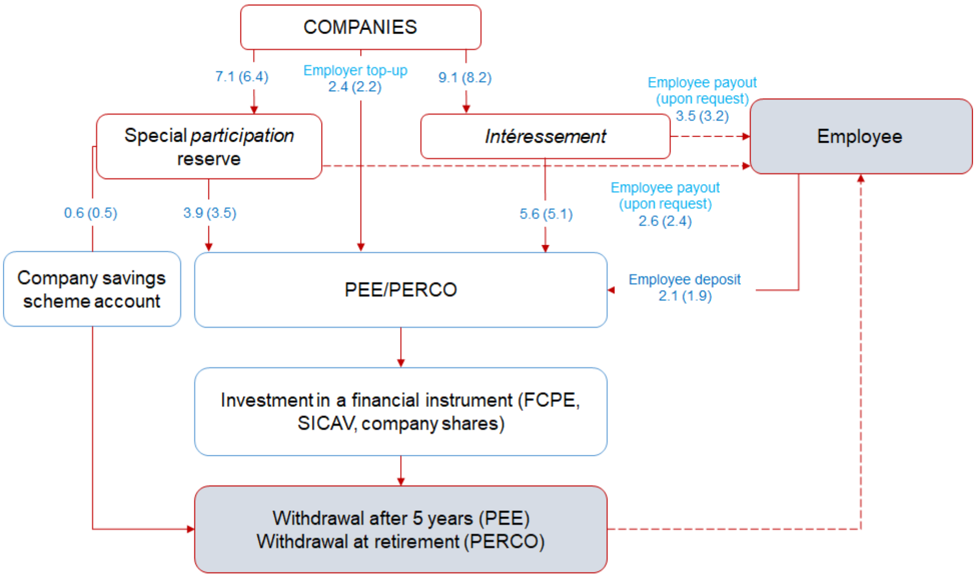
In terms of how bonus amounts are allocated, the company has a choice: equal among all employees, proportional to salary, or a combination thereof. As for employees, they have a choice in terms of how they receive their *intéressement* or *participation* bonuses: they can have them paid out directly or deposited into an employee savings plan (see Chart 1). There are two main types of savings plans: company savings plans (PEEs) and retirement savings plans (PERCOs, and PERs since the PACTE Act).[4] A PEE is a medium-term group savings plan under which employees (and managers in small businesses) invest in securities through the company (potentially including shares in the company itself, since PEEs can allow investors to choose stocks or investment fund shares that hold the company's stock, in some cases with additional benefits such as preferred pricing or employer top-ups). A PER is a long-term savings plan in which employees can build up supplementary retirement savings. It is common for companies to top up their employees' own contributions to their savings plan. Profit-sharing bonuses are exempt from both employer and employee social security contributions – except for general social security contributions (CSG) and social security debt repayment contributions (CRDS) – for all businesses, and from income tax (up to a limit) if invested in a PEE, PERCO or PER (although PEE deposits are locked in for five years and PER deposits until retirement). For both PEEs and PERs, withdrawals of capital are exempt from income tax and social security contributions, and gains are subject to social security contributions. Furthermore, *intéressement* bonuses are only subject to the *forfait social*[5] for companies with 250 employees or more (50+ employees for participation bonuses).

Another part of the financial participation landscape in France is employee share ownership. It is designed to bolster solidarity and social ties within companies, to align interests between employers and employees and to strengthen capital stability for publicly listed companies. However, not all company shares held by employees meet the formal definition of "employee share ownership" under France's Commercial Code.[6] It does not include company shares acquired independently by employees outside of employee savings plans and bonus shares, shares acquired by exercising stock options (unless paid into a PEE), or shares acquired as part of an employee buyout.

(1) There is considerable freedom in the choice of criteria; however, the amount of the bonus cannot be set before the company's results are known, and if a bonus is triggered, it must be paid out to all employees.
(2) *Participation* = ½ [B – 5% C] × [S/VA], where B = the company's net profit; C = the company's capital; S = the company's payroll; VA = the company's value added.
(3) Formulas are allowed to depart from the legal standard so long as the result is equally or more beneficial to employees.
(4) According to the French Asset Management Association (AFG), the total amount invested in PEEs, PERCOs and PERECOs stood at €147bn at year-end 2020, of which €22.5bn was in PERCOs and new PERs.
(5) The *forfait social* is an employer-made contribution. It is levied on pay or other compensation that is subject to the General Social Security Contribution (CSG) but exempt from other social charges and contributions.
(6) Article L.225-102 of the Commercial Code.

Employee share ownership schemes allow employees to acquire shares under special conditions: preferred pricing (discounts), additional employer contributions (top-ups), staggered payment plans, tax incentives. These kinds of special conditions are often tied in with shares being purchased as part of an employee savings plan, in which case the employee share ownership takes the form of shares of a corporate mutual fund (FCPE) within a PEE.

Chart 1: Flows of participation and intéressement payments and employer top-ups in the employee savings plans of companies with 10+ employees (2018)



Source: Dares (2020), op. cit.

How to read this chart: The numbers in parentheses are the net flows of social security contributions and social charges (CSG & CRDS), which correspond to 9.7% of gross amounts. In total, companies made €7.1bn in gross participation payments and €9.1bn in gross intéressement payments, or €6.4bn and €8.2bn net, respectively.

In 2018, 9 million employees had access to at least one participation, intéressement or employee savings scheme,[7] which is 50.9% of private-sector employees (excluding the farming sector). For that same year, companies paid out €19.4bn (roughly 3.4% of total private-sector payroll), of which €18.6bn was by companies with 10 employees or more (see Chart 1). Of this €18.6bn, slightly less than one-third (€6.1bn) was paid directly to employees at their request, and the remainder (€10.1bn, plus €2.4bn in company top-ups) was paid into employee savings plans or company savings scheme accounts. There is much less quantitative data available on employee share ownership schemes, but according to the 2015 European Working Conditions Survey, 6.5% of French employees were worker-shareholders, which is comparable to the FAS[8] estimate of 3.5 million worker-shareholders (including former employees). The amount invested in employee share ownership mutual funds – the most popular means of employee share ownership – stood at €50.8bn at year-end 2020.[9]

1.2 Reforms introduced to boost *intéressement* and participation schemes

A number of legislative changes have been introduced since 2019 to facilitate and encourage increased use of *intéressement* and *participation* schemes by companies:

In 2019, the PACTE Act introduced social security and tax incentives and simplification measures to boost *intéressement*, participation and employee savings plans, particularly with small businesses, which often do not have anything in place. Other initiatives were introduced to make it easier to set up and administer *intéressement* and participation plans: making turnkey

(7) "Participation, intéressement et épargne salariale en 2018" (2020), Dares Résultats No. 044.
(8) French Federation of Associations for Employee Share Ownership.
(9) AFG figures.

form templates available online so that small businesses can easily introduce company savings agreements, making it mandatory for sectors to negotiate standard agreements so that SMEs without specialised legal teams can, in some cases, choose to directly implement the sector's standard agreement. The retirement savings reform also contributed by upgrading plans to make them more appealing and make it easier to transfer entitlements.

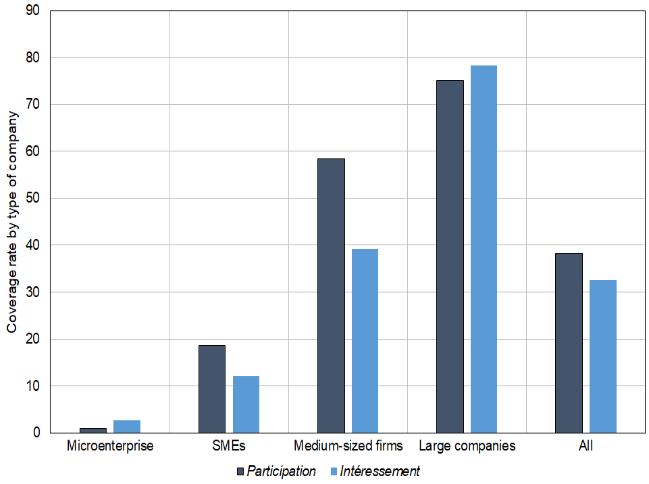
Reforms introduced under the Act of 17 June 2020[10] and the Government Action Acceleration and Streamlining Act of 7 December 2020 (ASAP Act) include the ability for very small businesses to unilaterally implement an *intéressement* agreement, the option to negotiate short-term *intéressement* agreements (the previous three-year minimum was lowered to one year) and a deadline extension for negotiating sector-level collective agreements on profit sharing until December 2021.

2. France has an unequal distribution of company savings plans

2.1 Use is concentrated among large companies and industry

Financial participation schemes are more prevalent in large companies. In 2018, while 38% of private-sector employees were covered by an *intéressement* agreement and 33% by a participation agreement, rates were only 1% and 3%, respectively, in microenterprises (1-10 employees) and 19% and 12% in SMEs (10-250 employees), compared to 78% and 75% in large companies (5,000+ employees)[11] (see Chart 2). A breakdown by sector also reveals an imbalance: employees covered by an *intéressement* or *participation* scheme are more likely to work in certain sectors of industry (transport equipment manufacturing; coking and refining; electric, electronic and computer equipment manufacturing; machinery manufacturing) or certain tertiary sectors such as finance/insurance or information/communication. Conversely, employees in construction, accommodation and food service, or other service sectors are less likely to be covered by such schemes.

Chart 2: Proportion of covered employees by company size



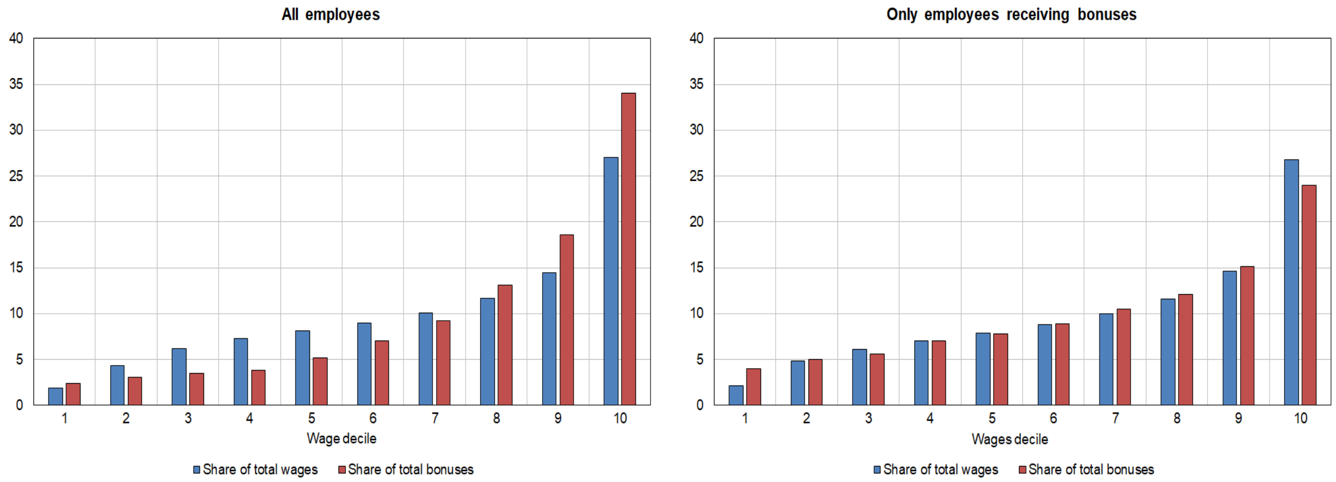
Source: Dares, 2019 Acemo-Pipa and Acemo-TPE surveys.
How to read this chart: At year-end 2018, 0.9% of microenterprise employees were covered by a participation agreement and 2.7% by an intéressement agreement.

2.2 Unequal distribution by income level and by profession

There is a higher concentration of profit-sharing bonuses at the top end of the pay scale (8th decile and up) (see Chart 3). However, after accounting for inequality in access, i.e. by limiting the sample to only those employees who do receive bonuses, the distribution is actually very close to what it is for overall wages.

(10) Act no. 2020-734 of 17 June 2020 on a variety of COVID-19 provisions, other emergency measures and Brexit.
(11) Dares (2020), *op. cit.*

Chart 3: Share of total wages and bonuses by wage decile in France (2016)



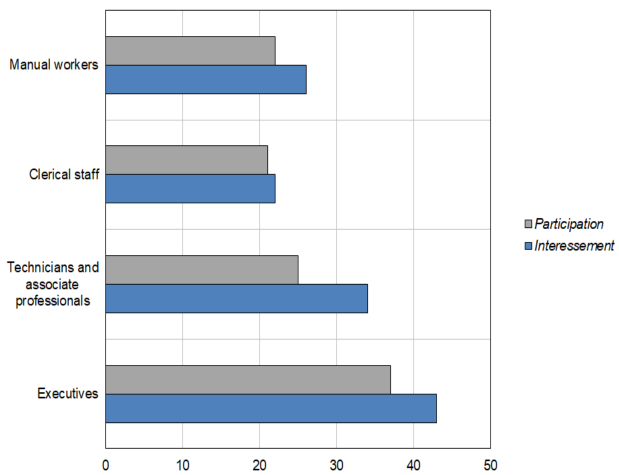
Sources: ECMOSS 2016 and DG Trésor calculations.
How to read this chart: Among all employees, those in the upper wage decile account for 27% of all wages and 34% of all bonuses. When limited to employees who receive bonuses, those in the upper decile account for 27% of all wages and 24% of all bonuses.

In any given company, the distribution of bonuses should not be any less equal than the distribution of wages, since companies cannot use a wage-based formula for distributing bonuses that would disproportionately benefit higher wage earners.[12]

But at aggregate level, there is a more unequal distribution of bonuses than wages. The 10% of employees who receive the highest bonuses among all employees account for 57% of total bonuses; and the 10% of employees who receive the highest wages among all employees account for 26% of total bonuses.[13] There are two reasons for this. Firstly, the apparent concentration of bonuses does not so much reflect an unequal distribution in paying them out as it does the fact that a large number of employees are simply not covered by profit-sharing or bonus schemes. When limiting the sample to only those employees who do receive bonuses, the upper decile only accounts for 37% of the total.[14] Secondly, there are a small number of companies that pay out particularly high bonuses, which further concentrates the overall distribution.

The distribution of profit-sharing bonuses also varies by socio-occupational category. Executives receive the largest share of *intéressement* (43%) and participation (37%) bonuses, followed by technicians and associate professionals (34% and 25%), manual workers (26% and 22%) and clerical staff (22% and 21%) (see Chart 4). This reflects the type of employees who work for companies more likely to offer *intéressement* and *participation* schemes.

Chart 4: Distribution by socio-occupational category, 2016



Source : ECMOSS 2016 and DG Trésor calculations.
How to read this chart: In 2016, 43% of executives received an *intéressement* bonus and 37% received a *participation* bonus.

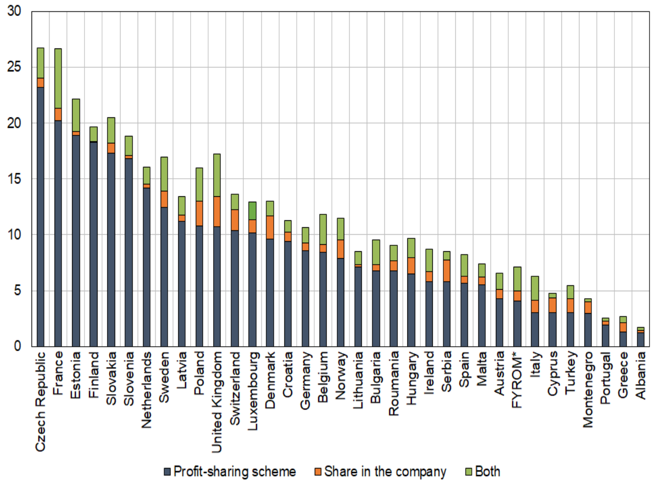
(12) Article L.3314-5 and Article L.3324-5 of the Labour Code.
(13) Amar and Pauron (2013), "Participation, intéressement et plans d'épargne salariale : quelles différences d'accès et de répartition entre les salariés ?", Insee, Emploi et salaires, 2013.
(14) Ibid.

3. Financial participation schemes more prevalent in France than the rest of Europe

3.1 Higher coverage rates in France

Financial participation schemes exist in all countries across Europe, but with varying degrees of uptake and government support. According to the 2015 European Working Conditions Survey, France is in second place with 21% of employees covered by either an *intéressement* or a *participation* scheme, behind the Czech Republic (with 24%) and ahead of the United Kingdom (13%) (see Chart 5). France's standing can partly be attributed to history: the country first adopted profit sharing in 1959, much earlier than its neighbours, which did so in the 1980s and 1990s.[15]

Chart 5: Financial participation schemes across Europe in 2015
(Employee survey: % of employees covered by a scheme)



Source: European Working Conditions Survey (EWCS) 2015.
Question: Thinking about your earnings from your main job, what do they include? Payments based on the overall performance of the company where you work [Chart legend: Profit-sharing scheme]; Income from shares in the company you work for [Chart legend: Shares in the company].
How to read this chart: The EWCS survey combines France's intéressement and participation schemes in the same category (company performance-based pay) in the sense that both schemes are tied in with the overall performance of the company. Compared to its European partners, France is the only country to have made profit-sharing mandatory for certain categories of companies, creating a distinction between an "institutionalised" form of profit-sharing (participation, compulsory for 50+ employees) and a more "flexible" form (intéressement).
(*) FYROM: Former Yugoslav Republic of Macedonia.

3.2 Differing objectives and incentives between countries

In many European countries, the specifics of financial participation schemes are left to companies and their employees to work out, without any particular tax incentives or regulation. Such is the case for most of Western Europe and some Nordic countries such as Sweden and Denmark. That does not mean that such schemes are not widespread: in the former Eastern Bloc countries, when public companies were privatised, profit-sharing schemes were often introduced as a way to compensate former civil servants. As for Sweden and Denmark, there is a history of such schemes owing to a culture of corporate bargaining.

In other countries, such as Germany and Spain, employee share ownership is more actively encouraged. Since 2009,[16] the German government has been topping up employees' deposits into company savings funds used to purchase company shares, and companies that allow their employees to participate in the company's share capital pay less in employer contributions. These countries use financial participation schemes to encourage more equitable corporate governance. Employee share ownership is seen as a good way to align employer and employee interests, and it can be used as part of a co-determination approach.

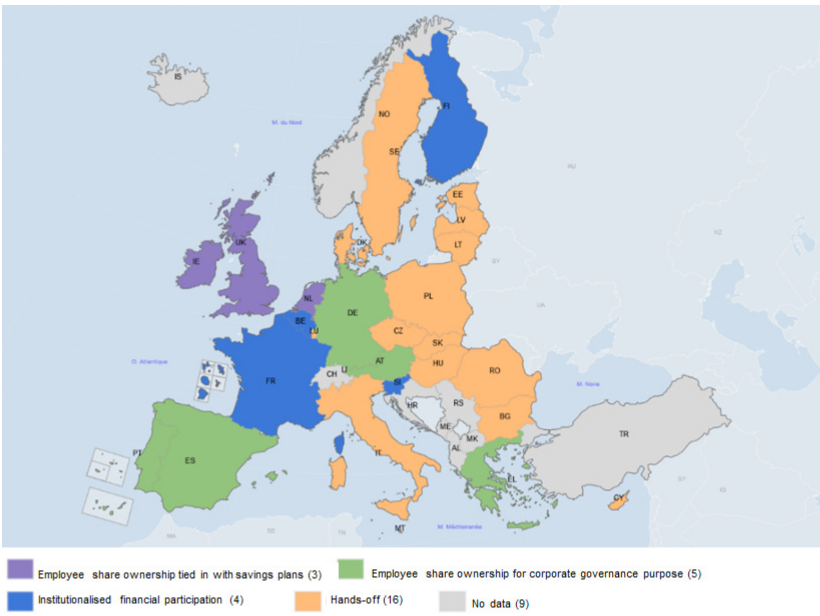
Employee share ownership is also encouraged in the United Kingdom and the Netherlands, but from a social security perspective. "Save as you earn"-type schemes play an important role in financially protecting against social risks (mainly by building up retirement savings) and are therefore actively encouraged: any gains made from selling stocks purchased under such schemes are exempt from income tax, and interest earned on investments is exempt from capital gains tax if the employee transfers it to a retirement account.

(15) Cette G. and J. Barthélemy, "Plaidoyer pour le concept de participation, Semaine sociale Lamy" – 8 February 2021 – No. 1940.
(16) The outcome of the adoption of the act concerning tax incentives for employee-owned enterprises ("Mitarbeiterkapitalbeteiligungsgesetz") in April 2009.

Furthermore, several European countries actively encourage the use of profit-sharing schemes. France, for instance, has introduced a number of tax incentives, seemingly more generous than in other countries, for *intéressement*, *participation* and employee share ownership schemes. In particular, it appears to be one of the only countries to fully exempt profit-sharing bonuses from social security contributions for specific categories of companies. Other countries, such as Belgium, Slovenia and Finland, also encourage profit-sharing schemes in addition to employee share ownership, by both excluding bonuses from income tax calculations and making such compensation elements at least partially tax-free for employers. In these countries, financial participation schemes serve multiple purposes: to offer an income supplement, to include employees in company decision-making as part of a co-determination approach, and to provide a savings instrument for employees.

In summary, the approaches taken across Europe range between strong institutionalisation and promotion of financial participation schemes (the French model) and little government intervention (see Map 1). Systems can be divided into four main categories:[17] (i) those that take a hands-off approach; (ii) those that promote employee share ownership to ensure better employee representation in corporate governance; (iii) those that promote employee share ownership for social security purposes; and (iv) those (including France) that have "institutionalised" financial participation.

Map 1: Financial participation across Europe



Source: Wilke, Maack and Partner (2014) and the LABREF database for more recent reforms.

(17) Wilke, Maack and Partner (2014), "Country reports on Financial Participation in Europe" (www.worker-participation.eu) provided an exhaustive overview of effective legislation; this was updated using the LABREF database, which has kept track of all new labour legislation passed in European countries since 2000.

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