

Project **EM.PA.**

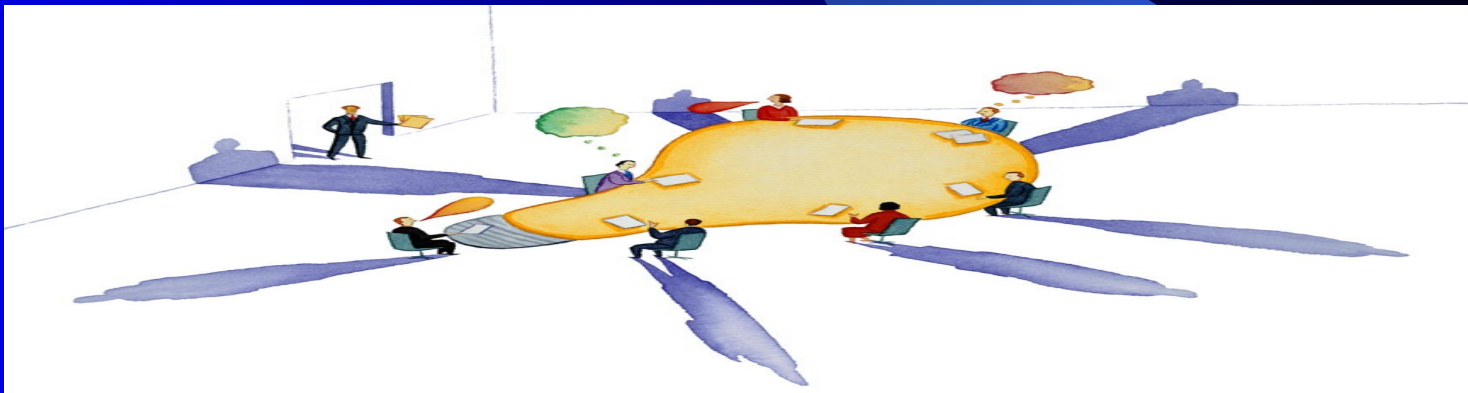
Employees' participation as a lever to employability: dimensions, approaches, impact and perspectives

La partecipazione dei lavoratori nell'UE secondo le direttive comunitarie

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Partecipation

- We can define participation **as the ability of a worker**, as known in an asymmetric position with respect to the employer, to have a chance to win something that is missing, for various reasons, including economic development or socio-cultural change

«PARTEM CAPERE»

Tommaso di Aquino

De hebdomadibus

- «*Take a part to something*»
- In labor law, participation is in the field of enterprise

Two big families

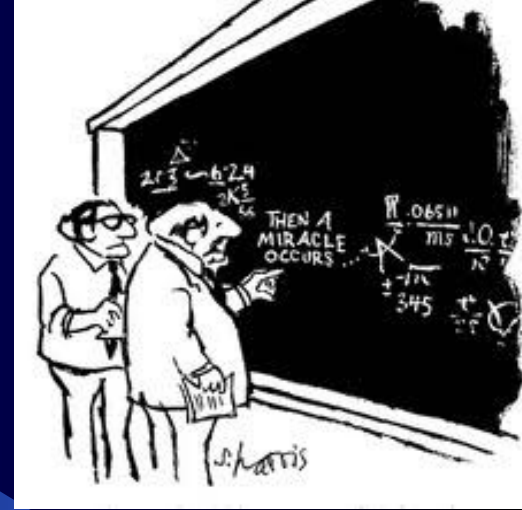
- Participation to decision
- Financial Participation

The legal definition of participation to employer decision



THE REGULATIONS OF PARTICIPATION participation as a law is a type of instrument expressly designed by the legislator to allow workers **to have a voice in the decisions of the company**

EC/UE idea of participation



The evolution of the idea of participation in the Charters of fundamental rights of European Union

- 1) *CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF WORKERS 1989*
- 2) *TREATY ON EUROPEAN UNION 1992*
- 3) *CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION 2000*

Charter of the Fundamental Social Rights of Workers Strasbourg 1989



INFORMATION, CONSULTATION AND PARTICIPATION FOR WORKERS

17. Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

This shall apply especially in **companies or groups** of companies having establishments or companies in several Member States of the European Community.

Charter of the Fundamental Social Rights of Workers Strasbourg 1989



INFORMATION, CONSULTATION AND PARTICIPATION FOR WORKERS

18. Such information, consultation and participation must be implemented in due time, particularly in the following cases:

- when **technological changes** which have major implications for the work force are introduced into undertakings, from the point of view of working conditions and work organisation;
- -in connection with **restructuring** operations in undertakings or in cases of mergers having an impact on the employment of workers;
- in cases of **collective redundancy** procedures;
- when **trans-frontier** workers in particular are affected by **employment policies** pursued by the undertaking where they are employed.

Treaty on European Union and the Treaty on the Functioning of the European Union (text from APS 1992)



- Article 153 (ex Article 137 TEC)
 1. With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:
 - (a) improvement in particular of the working environment to protect workers' health and safety;
 - (b) working conditions;
 - (c) social security and social protection of workers;
 - (d) protection of workers where their employment contract is terminated;
 - (e) **the information and consultation of workers;**
 - (f) representation and collective defence of the interests of workers and employers, **including co-determination,**

CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION Nice 7.12.2000



CHAPTER IV SOLIDARITY

Article 27

WORKERS' RIGHT TO INFORMATION AND CONSULTATION WITHIN THE UNDERTAKING

Workers or **their representatives** must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Community law and national laws and practices.

Three directives on information & consultation



1. Dir. 2002/14/EC (general framework on I&C)
2. Dir. 2001/23 (transfer of undertaking)
3. Dir. 98/59 (collective dismissals)

Tre directives on information & consultation



1. anticipation of risks
2. Small medium Enterprise
3. Transnational scale dimension: NOT REQUEST

SE E SCE

Legal basis

Art. 308 EC



DEFINITION OF INVOLVEMENT

"involvement of employees" means any mechanism, including **information, consultation and participation**, through which employees' representatives may exercise an influence on decisions to be taken within the company

SE E SCE

Legal basis

Art. 308 EC



DEFINITION OF PARTECIPATION

- (k) "participation" means the influence of the body representative of the employees and/or the employees' representatives in the affairs of a company by way of:
 - - the right to elect or appoint some of the members of the company's **supervisory or administrative** organ, or
 - - the right to recommend and/or oppose the appointment of some or all of the members of the company's **supervisory or administrative organ.**

SE E SCE

Legal basis

Art. 308 EC



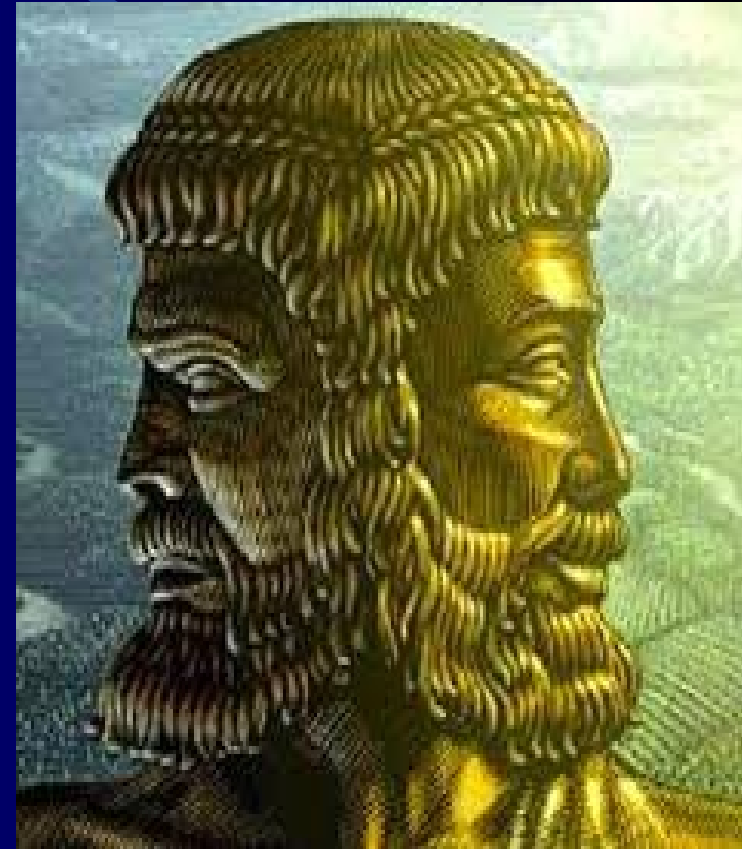
PARTECIPATION = CO-MANAGEMENT
NO CO-DETERMINATION

DIRECTIVE 2009/38/EC (EWC)

- Information & Consultation
ON TRANSNATIONAL
MATTER

Ratio:

**anticipating and
managing change**



Dir. 2005/56 (cross-border merger) before after principle

- Article 16

Employee participation

The company resulting from the cross-border merger
**shall be subject to the rules in force concerning
employee participation**, if any, in the Member State
where it has its registered office.

Directive 89/391 (H&S)

- Information art. 10
- Consultation art. 11
- Participation art. 11



Partecipation and employability

