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***“COMMERCIAL LAW FROM A
EUROPEAN PERSPECTIVE:
BETWEEN OVERREGULATION AND DEREGULATION,
MANDATORY RULES AND PRIVATE ORDERING,
HARMONIZATION AND FLEXIBILITY”***

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Worker Participation in Corporate Governance

Law No. 76 of 15 May 2025 marks the first comprehensive legislative recognition, in Italian corporate law, of worker participation in corporate governance. Formally grounded in Article 46 of the Constitution—a provision long interpreted in a restrained and largely programmatic manner—the statute introduces for the first time a framework enabling employee representatives to sit on corporate boards, provided that the company's bylaws expressly so provide and that collective bargaining agreements regulate the relevant procedures. Rather than imposing codetermination, the reform structures participation as a voluntary and reversible option within existing governance models.

The statute operates across the traditional, monistic, and dualistic governance models. In the dualistic model, worker representatives may sit on the supervisory board; in the traditional and monistic systems, they may become members of the board of directors or of the management control

committee. The reform therefore does not create a new organ, but inserts employee participation within existing corporate structures, leaving intact their functional distribution of powers. It applies to corporations and cooperatives irrespective of their size, yet its effectiveness depends entirely on the adoption of an ad hoc bylaw clause.

The centrality of the bylaw clause and of collective bargaining reveals the hybrid nature of the reform. Appointment and removal procedures are largely entrusted to collective agreements, while the legal status of employee representatives remains aligned with that of other directors or supervisory board members, including duties of loyalty and care toward the company. Participation thus occurs within the logic of corporate organs, not as external representation of sectional interests. Although Articles 3 and 4 of the statute employ language that might suggest a representative mandate, the reform does not transform worker representatives into delegates of labor vis-à-vis capital; once appointed, they are integrated into the organ and subject to the same fiduciary obligations that define managerial authority.

Against this background, the statute cannot be reduced to a merely technical innovation. Even in its optional and attenuated form, the reform affects the conceptual architecture of Italian company law. By allowing – though not requiring – a limited sharing of governance authority with the factor of labor, it reconfigures the traditional equation between capital ownership and exclusive managerial power. The reform does not dismantle the proprietary paradigm, but it introduces a controlled opening within it, acknowledging that participation in production may ground a claim – however circumscribed – to participation in governance.

Viewed comparatively, the Italian solution positions itself along a spectrum that ranges from German codetermination in supervisory boards to Nordic forms of direct co-management in managing boards, while remaining structurally distant from the shareholder-centered model that continues to dominate in the United States. Unlike the mandatory and institutionally entrenched regimes of Northern Europe, the Italian approach preserves the primacy of capital by leaving the activation, scope, and intensity of worker participation to corporate autonomy and collective bargaining. Participation is not imposed upon ownership, but activated through it.

The significance of Law No. 76/2025 lies less in its likely short-term diffusion than in its systemic meaning. It signals a cautious shift toward a

more pluralistic understanding of the corporation as an institution embedded in a broader economic and social order, while still operating within the structural foundations of the proprietary model. In doing so, it reflects a selective reorientation of Italian corporate law toward European trajectories of stakeholder-sensitive governance, without abandoning its historically rooted commitment to capital-centered governance.