



European Added Value Assessment

European added value of an EU measure on information and consultation of workers, anticipation and management of restructuring processes

November 2012

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On 4 June 2012, the **Committee on Employment and Social Affairs** (EMPL) requested a European Added Value Assessment (EAVA) to support its work on the legislative initiative report of Alejandro Cercas with recommendations to the Commission on Information and consultation of workers, anticipation and management of restructuring processes (2012/2061(INI)).

In its report, the Committee on Employment and Social Affairs calls on the Commission to submit a proposal for a legal act. The arguments in favour of this approach are set out in detail in this EAVA, which has been drawn up by the **European Added Value Unit** of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Internal Policies (DG IPOL) of the European Parliament.

It builds on external expertise provided by:

- Mark Carley, University of Warwick, on the need for EU intervention
- Isabelle Schömann, Senior Researcher at the European Trade Union Institute, on the need for EU intervention
- Professor Edoardo Ales, University of Cassino and Lazio Meridionale, on the legal and consistency aspects
- Usman Khan & Stephan Kreutzer - Matrix Insight, on economic and social impacts

The above research papers, drawn up on the basis of the document 2012/2061/(INI) dated 8 June 2012, are annexed.

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Executive Summary

The economic crisis, accompanied by increased competitive pressure at EU level, has contributed to a steady rise in the number of companies undergoing restructuring and closure. Against this background, an open attitude to change is essential in order to be competitive in a global and challenging market. At the same time, there is also an urgent need to mitigate the negative consequences for both workers and employers of the ensuing labour market adjustments.

The Report adopted by the Committee on Employment and Social Affairs (EMPL) on 19 November 2012¹ looks at measures which can anticipate change, and aims to introduce proactive (rather than reactive) solutions. It does not seek to deal with change by freezing economic and social structures, which would end up aggravating the problem of competitiveness in the future. It does not and could not prevent individual or collective dismissals.

The Report advocates a holistic approach that includes **the anticipation and management of change**, addresses the needs of workers and employers, and involves elements of almost the entire socio-economic policy sphere.

The current picture across the Member States in the areas targeted by the possible EU initiative on restructuring is one of **considerable variation in company practice, legislation, collective agreements** (both content and coverage) and **public intervention**. Best practices seem unevenly distributed across the EU, and **no country can be said to have a truly comprehensive and integrated framework of regulation** (by law and/or collective agreement). In addition to that, deepening economic globalisation and the increasingly transnational nature of much restructuring indicates that **action at Member State level alone may not be able to address the consequences effectively**.

Research supported by experience on the ground suggests that **many of the objectives of existing legislation have not been fully met and that a number of shortcomings still need to be addressed** (e.g. gaps in existing legislation, poor implementation at Member State level, failure to follow good practice).

Against this background, it is reasonable to conclude that there is little disagreement on the nature of the current problems, but views diverge on the way to address them.

¹ 2012/2061(INI) available at [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/2061\(INI\)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/2061(INI))

The recommendations proposed by the Committee on Employment and Social Affairs are likely to generate added value. EU-level intervention might be appropriate, *inter alia*, to limit the social costs of structural adjustment; to provide an integrated and coherent approach to dealing with restructuring; to eliminate potential distortions of competition within the internal market and inequalities in treatment of workers, resulting from divergences in national regulations.

Clearly the decision to engage in social dialogue and offer appropriate training **will entail a cost to the undertakings and public authorities involved.**

Overall, the scale and effects of the proposed legal act would be considerable, bringing major change across the EU and affecting a substantial number of workers.

Methodology

This assessment note seeks to analyse the potential European Added Value of an EU measure on information and consultation of workers in relation to restructuring processes, in particular by providing the rapporteur with the expertise and arguments to support the Committee's political choices.

Essentially the approach used consists in breaking down the notion of European Added Value into its component parts for the purpose of the assessment, and analysing their various aspects.

First, the assessment note aims to investigate whether there is a rationale for taking action at EU level and whether the instrument proposed 'adds value' to what is already being done at national or regional level.

Second, it looks at both the regulatory and the best practice approaches in order to assess what option is most suitable to achieve the identified objectives.

Third, it looks at the consistency aspect, i.e. the extent to which the proposed instrument is consistent with other EU policies and measures already in place.

Finally, it tries to assess what direct and spillover effects can be expected from the proposed measure, in particular by considering certain aspects affected by the absence of minimum standard rules, notably in the employment and labour market, workers' rights and job quality and the participation of workers in industrial relations. This last aspect is not intended to be exhaustive or to lend itself to a precise measurement, but rather to provide an overview of some of the possible social and economic effects, taking into account, among other things, the current economic and financial crisis.

The different information collected in relation to these was logically analysed, taking into account certain contextual factors identified as potentially relevant. Wherever possible, the legal and economic arguments were supported by specific examples.

Overall, the assessment aims to produce specific findings about European added value and to raise awareness about the need to introduce a legal act at EU level in the policy area under consideration.

The inevitable limitations linked to the degree of precision that can be expected from this EU-wide added value assessment do not affect the overall conclusions, which are based on robust and reliable findings for the purposes of the policy assessment and subsequent decision.

Restructuring in times of crisis

The economic context

The difficulties in adapting to change, which were already considerable before, have increased in the current situation, leaving no branch of the economy or European region untouched. The financial and economic crisis has contributed to the steady increase in the number of company closures and restructurings. In this context, and as social dialogue at company level has gained in importance, informing and consulting workers has become ever more challenging.

Despite some signs of recovery, the latest Review on the Social and Employment Situation in the EU, presented by the Commission in June 2012, confirms that unemployment has been rising in the majority of Member States and has been above 10% since early 2012. As a consequence, living conditions too are deteriorating significantly. Between 2008 and 2010, the share of people unable to pay their utility bills increased on average by 1 percentage point to 9% on average in the EU, and by more than 3 percentage points in 10 countries².

The European Restructuring Monitor (ERM) Quarterly, published in July 2012³, reported that the **unemployment rate was continuing its upward trend**. This situation, accompanied by the unresolved sovereign debt issues in many Member States, leaves little room for optimism about the prospects for EU labour markets.

Unemployment has been climbing for a year and reached 10.3% in May 2012⁴. This is the highest unemployment rate recorded since the onset of the crisis in 2008. Eurostat estimates that this corresponds to **nearly 25 million unemployed men and women in the EU, almost 2 million more than a year ago**.

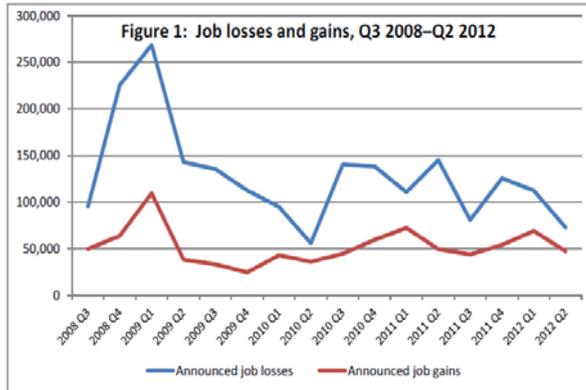
Overall, the situation varies substantially among Member States, particularly between 'core' and 'peripheral' euro zone countries. While unemployment is low in Austria (4.1%), the Netherlands (5.1%), Luxembourg (5.4%) and Germany (5.6%), nearly one in four (24.6%) is currently unemployed in Spain.

² Employment and Social Situation Quarterly Review, June 2012, available at:

<http://ec.europa.eu/social/main.jsp?langId=en&catId=113&newsId=1389&furtherNews=yes>

³ <http://www.eurofound.europa.eu/emcc/erm/templates/displaydoc.php?docID=70>

⁴ Compared with 9.5% in May 2011.

Figure 1 - ERM Quarterly, Issue 2, July 2012

Compared to the previous quarter, an increase was recorded in the incidence of announced job losses. This is attributable to various causes, notably bankruptcies (17%), closures (11%) and mergers and acquisitions (7%), while offshoring and delocalisation (3%) decreased somewhat.

In terms of geographical distribution, the country that has recently recorded the highest number of announced job losses was **Germany (14 192 jobs)**, followed by the **UK (9 302)**.

Figure 2 - Summary: facts and figures

1. The EU Restructuring Monitor (ERM) report published in July 2012 reported that unemployment had reached 10.3% in May 2012.
2. Eurostat estimates that this corresponds to nearly 25 million unemployed men and women in the EU, almost 2 million more than a year ago.
3. The countries that recorded the highest number of announced job losses in July 2012 were Germany (14 192 jobs) and the UK (9 302).
4. Since 2002 around 14 000 restructuring events, affecting more than 4 million workers, have been recorded in the ERM database.
5. Much restructuring at present is transnational in scope, in that multinationals' restructuring operations often have effects in more than one country, and indeed can be Europe-wide or worldwide. The ERM database has recorded more than 850 restructuring events (around 6% of all events) classified as having EU or world scope over 2002-12.

Against this background, it is essential to have an open attitude to change in order to be **competitive in a global and challenging market**. Equally, there is also a need to **mitigate the negative effects that the ensuing labour market adjustment may have for both workers and companies**.

Restructuring....what does it mean?

Restructuring is a term used to describe a multitude of different forms of reorganising the activities of the enterprise. Some of them are necessary and unavoidable because the enterprise needs to respond to certain economic and political circumstances while remaining competitive (e.g. globalisation of markets, mergers and acquisitions, technological changes, competitiveness, etc). These processes might have negative impacts from both an economic and a social perspective.

Restructuring is defined by the European Commission as a ‘modification of a company’s workforce that affects both its **qualitative** (skills and qualifications required) and **quantitative** features (number of jobs) following adaptations to the company’s structure, organisation and production⁵’.

Figure 3 - Types of restructuring: the European Monitoring Centre on Change (EMCC) distinguishes between eight different types

- **Relocation:** when the activity stays within the same company, but is relocated to another location within the same country. This differs from outsourcing in so far as the activities which are transferred do not belong to an ‘integrated system’ of a broader production (i.e. supply chain).
- **Outsourcing:** when the activity is subcontracted or contracted out to another company within the same country.
- **Offshoring/delocalisation:** when the activity is relocated or outsourced outside the country’s borders.
- **Bankruptcy/closure:** when an industrial site is closed or a company goes bankrupt for economic reasons not directly connected to relocation or outsourcing.
- **Merger/acquisition:** when two or more companies decide to transfer their assets into a single company or during an acquisition which then involves an internal restructuring programme aimed at rationalising the organisation by cutting personnel.
- **Internal restructuring:** when a company undertakes a job-cutting plan which is not linked to another type of restructuring defined above.
- **Business expansion:** when a company extends its business activities, hiring new workers.
- **Other:** when a company undergoes a type of restructuring that is not one of the above types.

Since 2001, the European Monitoring Centre on Change (EMCC) has collected data and information concerning practices on the management and anticipation of change. The restructuring event database (ERM) managed by the EMCC has recorded **since 2002 around 14 000 restructuring events concerning more than 4**

⁵ SEC(2008)2154: Restructuring and employment. The contribution of the European Union available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2154:FIN:EN:PDF>

million workers⁶. In particular, the last two years have been extremely difficult for the EU economy and have seen an increase in restructuring due to the high incidence of closures and bankruptcies.

Figure 4 - Breakdown of employment affected by type of restructuring since 2002

| Type of restructuring | Planned job reductions | Planned job creation | Number of cases | Share of total |
|---------------------------|------------------------|----------------------|-----------------|----------------|
| Internal restructuring | 3 373 565 | 80 100 | 5 603 | 40.5% |
| Business expansion | 1 594 | 2 364 820 | 4 659 | 33.68% |
| Bankruptcy/closure | 494 662 | 1 615 | 1 411 | 10.2% |
| Offshoring/delocalisation | 195 091 | 581 | 615 | 4.45% |
| Closure | 143 172 | 1 300 | 433 | 3.13% |
| Bankruptcy | 151 226 | 320 | 392 | 2.83% |
| Merger/acquisition | 166 948 | 82 454 | 352 | 2.54% |
| Relocation | 59 739 | 6 893 | 245 | 1.77% |
| Outsourcing | 38 921 | 395 | 68 | 0.49% |
| Other | 34 403 | 5 460 | 55 | 0.4% |
| Total | 4 659 321 | 2 543 938 | 13 833 | 100% |

Given this situation, Europe urgently needs to address its main weaknesses in dealing with the fast-changing business environment and come up with effective solutions.

The analysis is relatively complex for a number of reasons, notably (as mentioned earlier) because **restructuring includes a variety of forms of reorganisation**, because there is **no scientific/systematic follow-up of the announced dismissal** and because industrial relations have structures and practices which vary considerably between Member States that are largely influenced by historical and cultural factors. For instance, there is no agreed definition of 'industrial relations' either in the literature or in EU policy documents⁷.

In this context, it is worth noting that recent Eurofound research found 'extensive variation both between and within countries in the extent and nature of the workplace social dialogue⁸'.

⁶ The database is updated daily and grows at a rate of approximately 20-30 new entries a week. In order to be included in the database, an individual case of restructuring must involve the announced loss or creation of at least 100 jobs, or employment effects affecting at least 10% of a workforce of more than 250 people in the EU27 and Norway.

⁷ In the Commission's second report on industrial relations in Europe in 2002, an attempt was made to describe the features of industrial relations, albeit in a very general way, as follows: 'Industrial, labour or employment relations regulate the link between the company and the employee and also, indirectly, between society as a whole and its citizens', available at: <http://ec.europa.eu/social/keyDocuments.jsp?type=0&policyArea=0&subCategory=0&country=0&year=0&advSearchKey=IRIE&mode=advancedSubmit&langId=en>

⁸ Eurofound 2012: Workplace employee representation in Europe, page 57, available at:

Figure 5 - Industrial relations regimes or arrangements

| | North | Centre-west | South | West | Centre-east |
|--------------------------------------|--|--|--|----------------------------------|--|
| Production regime | Coordinated market economy | | Statist market economy | Liberal market economy | Statist or liberal? |
| Welfare regime | Universalistic | Segmented (status-oriented, corporatist) | | Residual | Segmented or residual? |
| Employment regime | Inclusive | Dualistic | | Liberal | |
| Industrial relations regime | Organised corporatism | Social partnership | Polarised/state-centred | Liberal pluralism | Fragmented/state-centred |
| Power balance | Labour-oriented | Balanced | Alternating | Employer-oriented | |
| Principal level of bargaining | Sector | | Variable/unstable | Company | |
| Bargaining style | Integrating | | Conflict oriented | | Acquiescent |
| Role of SP in public policy | Institutionalised | | Irregular/politicised | Rare/event-driven | Irregular/politicised |
| Role of the state in IR | Limited (mediator) | 'Shadow of hierarchy' | Frequent intervention | Non-intervention | Organiser of transition |
| Employee representation | Union based/high coverage | dual system/high coverage | Variable (*) | Union based/small coverage | Union based/small coverage |
| Countries | Denmark Finland Norway Sweden | Belgium Germany (Ireland) Luxembourg Netherlands Austria Slovenia (Finland) | Greece Spain France Italy (Hungary) Portugal | Ireland Malta Cyprus UK | Bulgaria Czech Republic Estonia Latvia Lithuania Hungary Poland Romania Slovakia |

Source: J. Visser, extended on the basis of Ebbinghaus and Visser (1997); Crouch 1993; 1996; Esping-Andersen (1990); Schmidt (2002; 2006); and Platzer and Kohl (2007).

(*) In France employee representation in firms incorporates both principles, in Spain and Portugal it is dualist, in Italy and Greece it is merged with the unions but based on statutory rights.

It should also be recalled that **many EU policies affect the restructuring process, including employment, social dialogue, education and training, competition, innovation and cohesion policies**, as well as a number of financial instruments which have been designed to contribute to the objective of adapting to change.

Concerning **public intervention**, while recognising that most Member States have no systematic approach to public support during restructuring, a number of measures are however in place.

Figure 6 - Examples of measures at national level

- **Economic and labour market forecasting measures.** For example, in Romania local employment agencies conduct studies concerning employment opportunities.
- **Monitoring observatories, anticipating and warning systems.** In Luxembourg, economic cycle committees can be set up by the government to monitor redundancies in companies with more than 15 employees and to encourage social partners to negotiate a plan for maintaining employment in such companies. In Finland, a well-developed early warning system of anticipation and forecasting activities predicts labour market trends and enables social partners to put appropriate measures into place to help mitigate any negative effects of restructuring.

<http://www.eurofound.europa.eu/publications/htmlfiles/ef1214.htm>

- **Continuous vocational training provided by employment agencies.** In Portugal the Employment and Vocational Training Institute runs programmes to stimulate job offers.
- **Supporting individual transition**, such as bipartite sectoral training and development funds in the Netherlands.
- **Publicly funded or subsidised short-time working, partial unemployment and temporary lay-off schemes**, such as those used in Austria, France, the Netherlands, Belgium, Germany, Italy and Luxembourg, and since the recession also in Hungary, Latvia, Malta, Poland, Portugal, Romania, Slovakia and Slovenia. These are often linked to an obligation on companies to provide short-time workers with training during times of low business activity (e.g. in the Netherlands).
- **Providing advice and support to workers**, largely through public employment services or through tripartite social agreements (e.g. the UK's 'Train to Gain' programme), as well as a contribution to training costs.
- **Advice to companies** on how to organise in-house training.
- **Supporting economically weak regions through provision of industrial sites, subsidies, tax reliefs and other investment incentives**, often on the basis of long-term development plans (e.g. in Belgium, Czech Republic, Estonia, Poland, Slovakia and Spain).
- **Regional re-employment schemes**, which are widespread in Austria and Ireland (in the latter, efforts are made to replace jobs lost in traditional industries with new jobs in retail and high technology areas).
- **Tripartite 'taskforces'** that aim to minimise adverse effects on local labour markets, such as those established in the United Kingdom.

Lastly, it should be noted that much **restructuring at present is transnational in scope**, in that multinationals' restructuring operations often have effects in more than one country, and indeed can be Europe-wide or worldwide. For instance, the ERM database has recorded more than 850 restructuring events (around 6% of all events) classified as having EU or world scope over 2002-12.

This element is particularly relevant in an economic downturn, with national economies increasingly affected by negative developments in other countries beyond their control.

Figure 7 - Examples of transnational-scale restructuring events so far during 2012 (as reported by ERM)

- Hewlett-Packard (information technology, USA) announced plans to reduce its workforce by 27 000 worldwide, with 8 000 jobs to go in Europe.
- Nokia (telecommunications equipment, Finland), announced that it would cut 14 000 jobs globally by the end of 2013, including the closure of plants in Germany and Finland.
- Allied Irish Banks (financial services, Ireland) stated that it would cut 2 500 jobs (about 19% of the total) across its UK and Irish workforce.
- PPG (paints, chemicals and glass, USA) announced its intention to cut 2 000 jobs (5.2% of the company's global workforce of 38 400).
- Fiat IVECO (motor manufacturing, Italy) plans to cut over 1 000 jobs in Europe, with plant closures in France, Austria and Germany.
- DSM (chemicals, Netherlands) announced a workforce reduction of 1 000 jobs, including 400 job losses in the Netherlands.
- Lundbeck (pharmaceuticals, Denmark) announced plans to restructure its European operations, resulting in 600 jobs being lost in subsidiaries, mainly in Europe.

To a certain extent experience also supports these conclusions. A recent study carried out by Eurofound concluded that although restructuring can occur for a variety of reasons, the main reason identified was a **need to adapt to changing market conditions in order to maintain or re-establish profitability**.

In practice, the case studies demonstrated that **there is rarely a single causative factor behind restructuring**, but rather a series of events that affect the market opportunities for companies and, hence, their competitiveness. Moreover, the identified drivers have an influence on the different approaches to tackling the consequences of the restructuring process. The reasons companies restructure often determine the measures they use to implement the process.

The study found that '**companies suffering severe financial difficulties are less likely to provide additional support to workers over and above that required by law, with severance packages offered to employees kept to a minimum**. On the other hand, companies that are not experiencing financial difficulties, but simply restructure as a pre-emptive measure to increase competitiveness, are also more likely to provide additional financial support above the legal minimum, in part to protect the company's public reputation⁹'.

In the current economic context it is reasonable to assume that the majority of restructuring processes are triggered by financial difficulties. It should be noted, however, that academics generally take the view that the current financial and economic crisis has not revealed any hidden problems, but rather it has shed additional light on problems which existed before.

For the above reasons, one cannot expect enterprises to provide support (including training) to workers affected by the process in the absence of legal requirements. Furthermore, it is worth mentioning that currently there are no clear signs that the Member States or social partners are moving towards any kind of convergence or upward harmonisation in this area. Thus, without any EU intervention, the current scenario is likely to continue.

To sum up, the complexity of the process explains why a holistic approach at EU level, including partnerships with all stakeholders (workers and employers, but also local and regional entities, public authorities, etc.), is generally considered the most effective way of ensuring sustainable growth in the future.

⁹ Eurofound Study 2010, ERM case studies: Good practice in company restructuring: <http://www.eurofound.europa.eu/docs/erm/tn0903016s/tn0903016s.pdf>

Need for action at EU level

The EU has a long history, dating back to the 1970s, of legislating on issues relating to restructuring and its employment aspects, and notably the issue of informing and consulting (I&C) the employees affected. Since the 1990s, the EU has also adopted a range of non-legislative initiatives aimed at promoting the socially responsible anticipation and management of restructuring. For their part, the EU-level social partners have engaged in a range of activities in this field, at cross-industry and sectoral level.

As mentioned in the previous section, restructuring is nowadays a permanent risk for undertakings, and its economic and social consequences require prompt and coordinated solutions. While this is not a new phenomenon in Europe, several studies reveal an increasing asymmetry of resources between the actors of restructuring processes and the inadequate legislative responses, both at national and EU level, to such processes¹⁰.

It is generally acknowledged that current **European and national legislation only partly covers restructuring** and that restructuring should be considered a permanent economic instrument for dealing with global adaptation to change. Ideally, it would need to be addressed in a more rational, comprehensive and specific way.

In providing employees with the right to be informed and consulted in particular situations in the life of their undertakings, the existing Directives deal with a variety of situations. This fragmented EU system causes legal uncertainty and only partly covers the diverse forms of restructuring.

A number of uncertainties have been identified in relation to the content and scope of the current legislation, general procedure, employees' rights and enforcement arrangements¹¹.

¹⁰ Battut M. 2008: L'anticipation des restructurations dans l'Union européenne. Rapport final du projet AgirE. Lesfresne F. and Sauviat C. 2009: Mode de gouvernance et régimes de restructuration: une étude de cas. Travail et emploi, pp 39-51, Moreau, M. A. 2008: Les restructurations d'entreprise et les politiques européennes : quelles interactions ? Revue internationale de droit économique, 2(2), pp.127-141. DOI : 10.3917/ride222.0127.

Bruun, N., 2010. Employees' participation rights and business restructuring. Keynote Paper on the occasion of the 3rd Annual Legal Seminar of the European Labour Law Network, 11-12 November 2010, The Hague.

For more examples of inconsistency in current legislation see annexed research paper written by Isabelle Schömann, 2012.

¹¹ For more details see European Labour Law Network, 2010 thematic report: Protection, Involvement and Adaptation. EU labour law in time of crisis, restructuring and transition, available at: http://www.labourlawnetwork.eu/publications/prm/73/size_1/index.html

Finally, it is worth mentioning the **poor implementation at Member State level** because Member States have often shown a certain reluctance to properly implement certain aspects of the relevant social Directives, or used legal loopholes to circumvent workers' information and consultation rights¹².

Since the early 2000s one of the main characteristics of European Commission initiatives to tackle restructuring processes at EU level has been to provide for a **good practice path**, promoting the involvement of many actors (e.g. public authorities, employers and trade unions at European and national level).

However, after a decade, this soft law or peer learners approach seems to have reached its limits as it has failed to translate best practices into more coherent and effective incentives for both workers and employers. On the one hand, experience has shown that **best practices rarely serve as incentives** and the expected peer learning effect does not materialise. Restructuring processes remain sporadic, largely owing to the legal requirements in terms of information and consultation of workers.

Implementation is also a significant issue. A range of shortcomings have been identified in the implementation reports drawn up by the European Commission (e.g. a 2008 review of the application of Directive 2002/14/EC in the EU¹³, a 1999 report on the implementation of the Directive on Collective Redundancies¹⁴, a 2007 report on the Directive on Transfers of Undertaking¹⁵), in the synthesis report on the 2002/14/EC Directive¹⁶ establishing a general framework for informing and consulting employees in the European Community¹⁷ and the EU Labour Law Network thematic reports (ELLN 2010 and 2011).

Those who argue, in general, for the need to intervene in this area recognise that a **minimalist approach** would be the most appropriate course of action. Such an approach is in line with the general assumption that because the extent and nature of social dialogue is clearly related to a wide range of workplace and workforce characteristics, the costs and benefits of social dialogue may be viewed differently by different parties. It is therefore somewhat difficult to determine

¹² For more details see the analysis of the Renault Vilvorde case in Schömann, Clauwaert and Warneck, 2006.

¹³ <http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPageId=210>

¹⁴ <http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPageId=215>

¹⁵ <http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPageId=208>

¹⁶ Ales E. 2007: Directive 2002/14/EC establishing a general framework for informing and consulting employees in the EC. Synthesis report. Madrid: Labour Asociados Consultores.

¹⁷ There has been no recent study on the implementation of Directive 98/59/EC on collective redundancies other than the 1999 study and a range of studies on the termination of employment relationships, i.e. not specifically on collective redundancies.

<http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPageId=215>

what the optimal situation is, leading to the conclusion that any intervention should be minimalist.

The fact that the legislation is designed to set minimum standards requires a compromise between the need to allow discretion in its adaptation to national/regional/local circumstances and the necessity of avoiding ambiguity and uncertainty.

The aim of the proposed intervention is to lay down basic principles and rules that should be applied to any restructuring process, this is the reason why it leaves scope for national decision in many areas. Therefore, the scope described below is generally considered in line with the scope usually left to national legislators in social Directives (e.g. definitions of workers' representatives, differentiation of public authorities, confidentiality, sanctions and enforcement)¹⁸.

Figure 8 - Summary: need for action at EU level

1. The current picture across the Member States in the areas targeted by the possible EU measure on restructuring is one of **considerable variation in company practice, legislation, collective agreements** (both content and coverage) and **public intervention**. Best practices seem unevenly distributed across the EU, and **no country can be said to have a truly comprehensive and integrated framework of regulation** (by law and/or collective agreement).
2. While there is a **lack of information on the exact nature** of company practice, what is clear is that **good practice in numerous areas** is, for many companies and their employees, **not underpinned by any statutory or collectively agreed guarantees**; it is left largely to the individual employer's discretion.
3. EU legislation has a proven track record in dealing with restructuring and information/consultation. **The legislation has to a certain extent achieved its objectives** in this area, **though in practice it has tended to deliver less than hoped for**. This is particularly true of the 2002 Framework Information and Consultation Directive.
4. An exception to the general lack of convergence is the fact that many Member States responded to the effects of the financial and economic crisis at its deepest over 2008-10 with some of the restructuring-management actions targeted by the proposed EU measure, though **few measures went beyond seeking to alleviate the employment impact of crisis-related restructuring** in order to prepare companies and workers for the future.
5. According to Eurofound's 2011 ERM report on public instruments, in most Member States there is no comprehensive, systematic or specialised framework for anticipating or managing restructuring. Despite the fact that **in most Member States there is no systematic approach to public support during the restructuring process, a range of measures are in place across all Member States**.
6. The 2012 European Commission Green Paper¹⁹ pointed out that steps to reduce the impact of restructuring are still **often reactive rather than proactive and happen too late to be effective** in minimising the impact of restructuring.

¹⁸ For more details see annexed research paper written by Professor Edoardo Ales.

¹⁹ COM(2012)7 final: Green Paper Restructuring and anticipation of change: what lessons from

7. Deepening economic globalisation and the increasingly transnational nature of much restructuring indicates that action at **Member State level alone may not be able to address the consequences effectively.**

Legal action vs. best practice approach

At EU level a quite extensive body of legislation deals with issues related to those addressed by the possible new EU measure²⁰. Further, Directive 2002/14/EC establishes a general framework for informing and consulting employees, setting out EU-wide minimum requirements as regards employees' information and consultation rights.

Several other Directives are transnational rather than national in scope and provide for the essentially optional creation of information and consultation structures or procedures in multinational companies, which may be used for dealing with, among other things, restructuring-related matters²¹.

Against this background, the proposed EU measure would have to build on existing EU legislation regulating information and consultation, mainly by adding new factors such as changes in work processes, location or qualitative impacts on employment. Another change would be that the involvement of employee representatives would have to occur as early as possible, starting as soon as the need to restructure is contemplated. The current EU legislative framework generally uses arguably less specific terms, such as 'in good time' and with 'appropriate' timing. While certain elements of the proposed instrument would not be entirely new, many of its aspects have not previously been touched on by substantive EU legislation.

Figure 9 - What the current EU legislative framework does not do

- The current EU legislative framework does NOT :
- deal significantly with anticipation and long-term planning, providing at most for information and consultation of employee representatives on the probable development of the company's activities and economic situation, and on the probable development of employment and on any anticipatory measures envisaged;
 - provide for general training obligations on employers or entitlements for workers (except in specific areas such as health and safety);
 - require employers to treat redundancies as a last resort or to consider any specific alternatives before proceeding to redundancies;

recent experience?

²⁰ Insolvencies (Directive 2008/94/EC), collective redundancies (Directive 98/59/EC), business transfers (Directive 2001/23/EC) and takeovers (Directive 2004/25/EC).

²¹ European Works Councils (EWCs) Directive (2009/38/EC).

- oblige employers to draw up and implement any form of social plan – while employers are obliged to negotiate with employee representatives, they are not required to reach agreement;
- require employers, where appropriate, to provide psychosocial assistance to employees;
- provide explicitly for the involvement of any external stakeholders in anticipating or managing restructuring, except for the notification of prospective collective redundancies to the relevant public authorities;
- require public authorities in the Member States to take particular action to support, promote or monitor the anticipation and management of change in companies or regions.

Aside from legislation, the content of the proposed measure is closely related to the extensive work of the European Commission in promoting the socially responsible anticipation and management of restructuring since the late 1990s. It should be recalled that the anticipation and management approach has been incorporated into the European Employment Strategy, and the 'flexicurity' principles that form part of the strategy.

It is reasonable to argue that the general objectives of the proposed intervention are in line with the EU's 2020 Strategy, and in particular with the flagship initiative 'An agenda for new skills and jobs',²² which presented a set of concrete actions that will help accelerate reforms to improve flexibility and security in the labour market, equip people with the right skills for the jobs of today and tomorrow, improve the quality of jobs and ensure better working conditions. The proposed measure will also improve the effectiveness of workers' rights to information and consultation at the appropriate level and in good time, as required by Article 27 of the Charter of Fundamental Rights of the European Union.

The conclusion that the best practice path seems to have reached its limits is supported also by part of the research. A 2010 preparatory study for an Impact Assessment of an EU Code of Conduct on restructuring states:

'A non-binding EU instrument encouraging companies to undertake early preparation for restructuring was considered to be of limited value **in encouraging employers to undertake more timely information and consultation. While employers were more likely to consider such an instrument to be unnecessary**, employee representatives clearly considered that in order to make a difference, such an instrument would have to be legally binding.'²³

²² COM(2010)682, An Agenda for new skills and jobs. A European contribution towards full employment, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0682:FIN:EN:PDF>

²³ GHK, 2010: Preparatory Study for an Impact Assessment of a European Code of Conduct on restructuring.

The **added value of a legal act**, compared to best-practices approach, is **manifold**, and to some extent would benefit both workers and employers. It would help workers raise their employability through training schemes, increase their involvement in and understanding of business strategy, and also improve their job security as a result of better controlled transitions in the event of restructuring.

The risk of workers becoming unemployed when affected by restructuring could be reduced. This is particularly the case when local and regional authorities, as well as national governments, become involved in the anticipation of change, so as to facilitate a forward-looking approach likely to foster economic and social dynamism.

For companies, such standards would provide for more adequate risk management of restructuring processes and would strengthen anticipative paths in terms of better providing adaptability to change, in particular when anticipating training needs, while possibly leading also to less distortion of competition.

Figure 10 - Summary: need for a legal act

1. The **existing legal framework deals with different situations at enterprise level**; the fragmented EU system provides for the right of employees to be informed and consulted in special situations in the life of their enterprise, and only partly covers the diverse forms of restructuring.
2. The existing legislation **hardly provides an appropriate legal framework** for tackling restructuring processes, particularly given some Member States' **lack of enthusiasm for transposing** the content of these Directives and implementing the resulting legislation.
3. After the implementation phases in the Member States, **a range of shortcomings have been identified in the implementation reports drawn up by the European Commission and the EU Labour Law Network thematic reports (ELLN 2010 and 2011)**.
4. **A Code of Conduct will not meet the aim of the proposal**. The choice of a legal instrument would be justified by the fact that, at transnational level (where most restructuring is now taking place), self-regulatory instruments are not legally binding. Many of these transnational tools are structured as a code of conduct unilaterally drafted by the companies and accepted as such by workers' representatives. For this reason the idea of having a European Code of Conduct on restructuring will not meet the aim of the proposal.
5. A 2010 Eurofound study concluded **that companies suffering severe financial difficulties are less likely to provide additional support to workers over and above that required by law**, with severance packages offered to employees kept to a minimum.
6. **A legal act would potentially benefit both workers and employers**.
7. A small-scale survey conducted in 2010 by GHK, involving management and employee representatives in 40 large multinational companies active in the EU²⁴, found that a majority of companies generally **engaged in good practice because they were required to**

²⁴ GHK, Preparatory study for an impact assessment of a European Code of Conduct on Restructuring, Final Report, 2010.

by law or collective agreements. GHK data seems to suggest that legislation and collective agreement are rather more likely than any form of non-binding instrument to have an effect on company practices in this area.

8. The 2012 European Commission 'fitness check' on the current Information and Consultation Directives found that overall they were 'fit for purpose', but that **they tended to deliver below their potential in practice.**

Added value of the proposed measure

As mentioned earlier, there is extensive variation both between and within countries in the extent and nature of the workplace social dialogue, meaning that it is not possible to draw general conclusions from single case studies. However, some common points can be underlined and serve to draw some basic principles for further action.

First, industrial relations are not the only factor affecting the economic and social impacts of the proposed instrument. When assessing the potential benefits and costs, other contextual factors should be considered, such as the economic context and the labour market. Given the range of factors at play, it is widely acknowledged, based on extensive research, that there is an objective difficulty in establishing a direct link between different industrial relation practices and a precise evaluation of economic and social impacts. Against this background, it is understandable that there has so far not been an exhaustive cost-benefit analysis of workers' information and consultation that is applicable to the whole EU market.

Figure 11 - Efforts by some Member States to present a quantitative analysis

Germany has a long tradition of informing and consulting, but also of co-determination rights for employees, and therefore there have been several attempts to quantify the costs and benefits of existing measures. In general, both the actors involved and academics recognise the effectiveness and relevance of the existing system. Some studies point out the **positive impact of Works Council involvement in specific management issues and decisions** (e.g. on firm-provided further training and thus adaptability and employability of employees)²⁵, while others noted a positive influence of Works Councils in reducing the number of dismissals.

It is generally acknowledged that it is quite difficult to identify precisely the direct and indirect effects of employee participation for quantification and monetisation purposes. There are a number of reasons for this, including the fact that the costs and benefits of pre-existing legislation cannot be isolated, or the fact that costs and benefits are related to the specific circumstances of the company and the country in which they occur.

²⁵ Stegmaier, 2010: Effects of workplace representation on firm-provided further training in Germany, IAB-Discussion Paper, 14/2010.

The UK Department for Trade and Industry made an attempt to quantify costs and benefits related to information and consultation in 2004 in its Final Regulatory Impact Assessment: Regulations to establish a general framework for informing and consulting employees in the UK. Other studies concluded that enhancing employee involvement by fostering communication channels **may increase productivity, reduce absence rates and decrease staff turnover**²⁶.

In general terms, the added value of a new instrument in this field depends **on the extent to which it introduces improvements to the existing legal framework** (consisting of EU legislation transposed and implemented in individual Member States together with national initiatives and actions taken by individual companies), while the magnitude of the impact in each Member State will depend on their existing practices. It is therefore extremely difficult to identify how any new EU legal act would interact with the individual elements of the above-mentioned framework.

It is possible however, to look at company and Member State-level practices in the relevant areas and elaborate a broad overview of how those practices relate to the measures outlined in the report in order to determine the level of impact. At company level, the first step is to collect evidence concerning the impact²⁷ of measures corresponding to the main recommendations of the report.

This approach is justified by the fact that there are no studies systematically investigating these impacts for the above measures at EU or Member State level. Using such evidence has its advantages in that it provides real-life examples of the impacts generated. However, reliance on case studies also has its limits, notably the fact that individual case studies tend to focus on single companies and their experience often cannot be generalised for the entire sector, much less for a single Member State or the EU as a whole.

Examples of quantified impacts at company level²⁸

Data from the European Industrial Relations Observatory²⁹, Eurofound's monitoring instrument on industrial relations, suggests that in many of the cases recorded by the ERM, a cooperative approach shared by employers and unions

²⁶ Addison and Belfield, 2001: Updating the Determinants of Firm Performance: Estimations using the 1998 UK Workplace Employee Relations Survey, British Journal of Industrial Relations, London School of Economics.

²⁷ The main impacts investigated include:

- impact on the number of redundancies (impact on job security);
- impact on the prospect of workers finding future employment (impact on employability);
- impact on workers within their current employment (impact on job quality).

²⁸ For more details see annexed research paper from Matrix Insight.

²⁹ Eurofound, 2010. Industrial relations and restructuring: some recent cases.

has allowed companies to adapt productively to economic challenges while minimising the detrimental impact on workers.

The following tables summarise information from individual case studies where information on the initial number of planned dismissals and the number of employees actually dismissed is available. As already mentioned, these figures must be treated with caution due to the very limited sample of companies and the uncertainty surrounding the influence of different factors at play.

Figure 12 - Impact of consultation on job security

| Measure | Planned dismissals ³⁰ | Actual dismissals |
|--|----------------------------------|---|
| Volvo Car Corporation/Sweden Negotiations with management ³¹ | 6 000 | 4 616 |
| Opel/Spain Agreement with works council | 900 | Turned into temporary dismissals |
| Nissan/Spain Trade union campaign and concerted local government action | 1 680 | 700 |
| PZU/Poland Negotiation | 1 500 | 600 |
| Karmann/Germany Negotiation | 513 | 300 |
| Inbev/Belgium Restructuring talks, agreement to renegotiate employment terms instead | 300 | No dismissals - instead renegotiation of employment terms |
| SIA Triāls/Latvia³² Early consultation | 90 | 30 |
| Wiltz/Luxembourg³³ Early consultation/collective agreement | 45 | 0 |
| Hirschmann Automotive/Austria³⁴ Negotiated social plan | 155 | 115-125 |
| Northern Rock/UK³⁵ Early consultation/taskforce | 2 000-2 500 | 1 300 |
| Total | 13 183-13 683 | 7 661-7 671 (43% reduction) |

³⁰ It is important to note that in some restructuring cases, the planned number of dismissals may not necessarily be the expected number, but rather the number used by employers in the negotiations.

³¹ CEDEFOP. 2010. Socially responsible restructuring.

http://www.cedefop.europa.eu/EN/Files/6107_en.pdf

³² Voss, Eckhard. Willke, Maack and Partner. Organising Transition in Response to Restructuring. Study on instruments and schemes of job and professional transition and re-conversion at national, sectoral or regional level in the EU.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

Figure 13 - Impact of consultation on employability

| Company/Country | Impact and Evidence |
|--|---|
| Volvo Car Corporation/Sweden ³⁶ Job Security Council engagement | 50% of dismissed workers found new job within nine months |
| Danisco Sugar Kedainiai (DSK), Lithuania Advance warning, early consultation | About 60% of the dismissed employees have found new employment |
| DaimlerChrysler, Netherlands Consultations for 14 months | 800 out of 950 (84%) dismissed employees found new employment within a year |
| UPM, Finland Consultations | 454 ex-employees (68% of dismissals) found employment solution within 10 months |
| Average share of employees who found new work within a year | 66% |

Figure 14 - Impact of training on employability

| Company/Country | Impact and Evidence |
|--|---|
| Job Security Councils in Sweden Permanent works councils offering training and advice to workers already being made redundant. | 2/3 of people assisted by a Job Security Council found new work at the same or a higher salary. 90% of clients have an overall positive impression. 3/4 of managers find them useful in restructuring processes |
| Occupational Transition Contracts, France Redeployment scheme providing training | 61% of participants found a new job/started their own business within 12 months |
| Reconversion cell at Ford, Belgium Helped workers find new positions through training and other assistance. | After two years, over 80% of registered workers – a total of 1 215 – had found alternative employment, become self-employed, taken early retirement or had entered long-term training. |
| Better West Midlands project, United Kingdom ³⁷ Training and re-training measures, support, mentoring and advice. | The project claims to have achieved over 90% of returns to work before the current recession, but success rates are likely to decrease during the economic downturn. |
| Average share of employees who found new work within two years | 72% |

³⁶ Unless stated otherwise: European Commission, 2008. EU Synthesis Report. 27 National Seminars Anticipating & Managing Restructuring. p. 57. For more detailed information, see Annex 3, Table 15.

³⁷CEDEFOP. 2010. Socially responsible restructuring.
http://www.cedefop.europa.eu/EN/Files/6107_en.pdf

Figure 15 – Impact of public support on employability

| Measures | Impact and Evidence |
|---|---|
| Rapid Response Services, United Kingdom Provided by Jobcentres to assist redundant workers with job advice, training, referrals to employment agencies. | Over 60% of individuals whose destinations are known moved into employment after having used the services which were directly responsible for 'placing' around 30% of those who found jobs. |
| Reconversion cells, Belgium Assist victims of restructuring with psychological support, advice on redeployment and social and administrative affairs. | More than 50% of beneficiaries are in employment again, with a high percentage of open-end contracts. The social partners perceive it to be a very effective tool. |
| Response service to collective redundancies, Estonia Provides workers facing redundancy with tailor-made services such as mediation between workers and potential future employees with the aim of avoiding unemployment or reducing the duration of unemployment. | Job prospects of redundant workers have improved as a result of this scheme by between 10 and 20%. |
| Pre-redundancy counselling services, Romania Services available to workers facing redundancy informing them about local job vacancies, briefing them on how to look for a job, identifying available vocational readjustment opportunities in the same company and providing short-term training courses. | From 1 January to 30 September 2010, 53 235 people found employment via the information and counselling services provided by local employment services. |
| ReAct, United Kingdom Welsh programme that covers training, subsidies recruitment and job-related training of workers facing redundancy or recently being made redundant. | Six months after benefitting from the programme, 81% have found employment. |

Quantified impacts at Member-State level

As mentioned before, it is not possible for a number of reasons to simply transpose data from company level cases to Member State level. Compared to the effectiveness of measures at company level, **their impact at European level is therefore reduced by approximately 50%**, owing, *inter alia*, to the unequal distribution of current performance on consultation and information as well as planned job reductions (in 2011) across Member States. Based on the proposed approach:

- Distributed over all EU Member States, **early consultation would reduce the number of redundancies by 23%** compared to an estimated effectiveness of 43% at company level. Were this to have taken place in

2011, when there were 464 448 planned reductions, such measure could have resulted in an estimated reduction of approximately 100 000 redundancies.

- Distributed over all EU Member States, **early consultation would help 35% of workers made redundant find new work**, compared to 66% at company level. In 2011, out of 464 448 redundant workers, over 160 000 would have found new work within a year if such impact were to materialise.
- Finally, distributed over all EU Member States, **training would help 36% of workers made redundant find new work**, compared to the 72% estimate based on the company case studies. Similar to the previous example, this could help over 165 000 workers find new employment.

It should be noted, however, that in many cases the countries with the highest number of planned job reductions in 2011 were also the countries which performed relatively poorly in terms of existing consultation and training measures, increasing the potential impact of the proposed instrument.

Finally another issue to be considered when analysing the potential effectiveness of the proposed measure is the **rate of compliance**, which depends on two factors:

- the degree to which the proposed measure would be implemented in Member States³⁸ and,
- the extent to which companies in the different Member States will implement it.

Based on these two factors and on information on company compliance regarding previous social Directives, it is reasonable to assume that the rate to which companies would comply with the legal act proposed by the report would be at least 50%. Using this rate, the impact identified for the various measures above should be reduced to the following (given 50% company compliance):

- **Impact of early consultation on job security: 11%** down from 43% at company level;
- **Impact of early consultation on employability: 17%** down from 66% at company level;
- **Impact of training on employability: 18%** down from 72% at company level.

³⁸ Eurofound, 2002. The impact of the information and consultation Directive on industrial relations shows that five years after the entry into force of the Information and Consultation Directive and two years after its implementation deadline, three countries had not implemented it, while 25 had..

Qualitative assessment of additional impacts

In addition to the quantitative analysis, other impacts should also be mentioned even though a precise quantification was not possible in this EU Added Value assessment. In view of the specific instrument proposed, the overall scale and effects of the proposed legal act would be considerable, bringing major changes across the EU and affecting a substantial proportion of the workforce³⁹. The changes required would, for example, be much more wide-ranging than those required by the Framework Information and Consultation Directive, which required only relatively minor transposition measures in over half of the Member States. The proposed intervention **would, evidently, bring most benefits to those employees who are not currently subject to the practices and approaches it promotes**, or lack the security provided by statutory or collectively agreed guarantees in this area. For instance, in national terms, the greatest beneficiaries would therefore be many workers in countries such as Bulgaria, Cyprus, Estonia, Hungary, Ireland, Malta, Poland, Romania and the UK, which currently have the least regulation in this area, though employees in all Member States would all benefit to some extent. If socially responsible anticipation and management is as generally beneficial as its proponents maintain, then national economies and labour markets, and individual companies, would also benefit to the extent that they do not already feature the practices concerned.

Figure 16 - Non-exhaustive list of possible benefits

- increased awareness of the rights of employees;
- better acceptance of management decisions, and therefore,
- reduced severity of industrial action and conflicts between employers and employees;
- reduced 'quit rate' (e.g. the rate at which people leave their job);
- increased adaptability;
- increased employability, and therefore,
- reduced longer term unemployment (resulting from the loss of possible motivation and skills);
- reduced social and health effects and the related costs on social welfare (e.g. health-related treatment).⁴⁰

Based on the increased acceptance of management decisions and the consequent reduction in the severity of industrial action, there could also be a reduction in the damage caused to both workers and employers.

³⁹For more details on the affected workforce, see annexed research paper by Matrix Insight, 2012.

⁴⁰ A high level of unemployment over a long period may have an influence on those without jobs who may give up searching for work because of their relatively low employment chances. Skills mismatch and the absence of effective policies can worsen this discouragement to participating in the labour market.

Figure 17 - Possible avoidance of damage to be considered

| Damage to employers (non-exhaustive) | Damage to workers (non-exhaustive) |
|---|---|
| Lost sales and profits from lost output | Lost pay |
| Internal distraction for management and the business from the core activity | Potential loss of customer and public support (depending on the reasons for the action) |
| Risk that action will result in legal proceedings | Risk that action will result in legal proceedings |
| Damaged relationship with workers may adversely affect motivation, productivity, etc. | |

A number of studies also reported the negative impacts of restructuring on workers' health in the form of stress, depression and the subsequent adverse labour-market and general-welfare outcomes of employees who lost their jobs due to restructuring⁴¹.

Concerning training, for example, often the measures offered by companies are either confined to compensation or focus on internal redeployability within the same company or group of companies, or they are not always tailored to the needs of those affected by the process of restructuring. This is despite the fact that a number of studies confirmed that the success of redeployment is strictly related to the past career of the workers involved and to the training and career guidance they have received during the transition⁴². A recent study published by the EU Centre for Development of Vocational Training (CEDEFOP) looked at how enterprises, in different contexts and sectors, can respond imaginatively to restructuring needs (not only in supporting redundant workers but also, and more specifically, in reintegrating workers into employment). The main message from the report is that appropriate strategies, policies and partnerships can reverse the negative impact on affected workers and local communities, and in this context **career guidance and continuing training play a key role**⁴³.

Generally speaking, measures aimed at keeping the transition period from one employment to another as short as possible also have a significant impact in terms of reducing long-term unemployment (e.g. due to loss of motivation and skills).

One could also mention the impact on **job quality**, indeed a report⁴⁴ on restructuring and well-being notes that there is evidence of a link between perceived job security and job quality. In this sense, any impact that early

⁴¹ Di Nunzio D., Hohen P., Hasle P., 2009: Impact of restructuring on health and safety and quality of work life. Storrie 2006; Mire project, 2007; Vogel 2011; ETUI Monthly Forum: Restructuring and health 2012.

⁴² B. Gazier, 2005: Using active and passive employment policies to accompany globalisation-related restructuring, offshoring and the internalisation of employment - A challenge for a fair globalisation. ILO.

⁴³ CEDEFOP 2010: Socially responsible restructuring, Effective strategies for supporting redundant workers.

⁴⁴ Wiezer et al. 2011. Exploring the link between restructuring and employee well-being, p. 50f. <http://www.psyres.pl/21963.html>

consultation has on increased job security it will naturally also have on job quality. Other research shows that when employees are involved in the process of restructuring and participate in the decision-making, their well-being is better than is otherwise the case. In sum, two-way communication, participation and support are the three main factors of a healthy restructuring process⁴⁵.

Figure 18 - Summary: potential impacts (non-exhaustive list)

| |
|--|
| <p>Impacts on workers</p> <ul style="list-style-type: none"> • There is evidence that early consultation and training potentially has a substantial impact on job security and employability during restructuring processes. • There is some evidence that these measures can also have a positive impact on job quality during restructuring processes. • Training seems to have a stronger positive impact on employability than early consultation. However, training also appears to be less cost-effective than early consultation (at company level) in terms of its impact on employability. • Early consultation and training measures appear to be more cost-effective in cases of large-scale restructuring and where the average duration of unemployment is long. <p>Impacts at EU level</p> <ul style="list-style-type: none"> • In Member States with well-established early consultation and training practices the added value of the recommendations in the report is likely to be lower than in countries where such measures are absent or less well developed. • Given overall prevalence levels, the aggregate impact of the measure at EU level is likely to be approximately half the potential impact observed at company level. The aggregate impact will also depend on the future distribution of planned redundancies. • There is evidence that public support measures can have a positive impact on job security and employability. However, since such measures are already in place in many Member States, the added value of the relevant recommendations in the report is likely to be limited. <p>Impact on public authorities</p> <ul style="list-style-type: none"> • Public authorities would be required to supplement their restructuring-related intervention, which is generally relatively extensive at present, to ensure that it covers a range of specified areas (e.g. coordination, support and monitoring of anticipation, regional initiatives and co-financing of employability measures). Although comprehensive data on current intervention is not available, it seems that most countries would have to implement at least some new interventions, and possibly to a greater extent in post-2004 Member States. <p>Overall impacts</p> <ul style="list-style-type: none"> • Measures in the report are likely to generate added value, especially in the case of early consultation. Under adverse economic conditions both early consultation and training can have a positive impact even if they are not as effective as at company level. • Research suggests that legislation on I&C helps employers, employees and public authorities work towards common objectives, such as redeployments and/or training in order to limit the social costs of structural adjustment⁴⁶. |
|--|

⁴⁵ Wiezer et al. 2011. Exploring the link between restructuring and employee well-being, p. 9. <http://www.psyres.pl/21963.html>

⁴⁶ Eurofound (2008): ERM case studies: Good practice in company restructuring, Eurofound (2010):

- EU-level intervention might be appropriate in eliminating potential distortions of competition within the internal market, and inequalities in the treatment of workers, resulting from current divergences in the national regulation and public intervention frameworks.
- EU-level intervention could also provide an integrated and coherent approach to dealing with restructuring, which is currently lacking in legislation, policy, practice and perceptions in many Member States, and a common understanding of the issue, which is not shared across the EU at present.

Costs associated with the proposed measure

In addition to evidence concerning impacts, it is also important to mention the costs to individual companies of the measures proposed. The preparatory study for an impact assessment of a European Code of Conduct on Restructuring⁴⁷ provides evidence concerning costs associated with consultation and training in restructuring processes. These are outlined below.

Figure 19 – Costs of consultation procedures

| Cost item | Costs per employee |
|--|------------------------|
| Meetings with employee representatives (at all levels) | €7-€400 ⁴⁸ |
| (Internal) Meetings management/HR | €48-€769 ⁴⁹ |
| Meetings with external stakeholders | €1-€80 ⁵⁰ |
| Total cost | €56-€1249 |

Figure 20 – Costs of training

| Cost item | Costs per employee |
|---------------------------------------|-----------------------------|
| Cost of retraining | €400 - €9 000 ⁵¹ |
| HR administrative costs ⁵² | €35.3 - €580 ⁵³ |
| Total cost | €435.5 – €9 580 |

The broad cost range can be attributed to the fact that the information collected as part of the GHK study came from a small number of companies in a range of countries, which in turn resulted in substantial discrepancies in costs.

Legal framework for restructuring, Eurofound (2010): Restructuring: job creation measures, Eurofound (2010): Restructuring: support measures for affected workers, Eurofound (2010): Social partner and government agency involvement in the restructuring process.

⁴⁷ GHK (2010). Preparatory study for an impact assessment of a European Code of Conduct.

⁴⁸ Evidence from DK, FI, NL, RO

⁴⁹ Evidence from SE, FI, NL

⁵⁰ Evidence from DK, FI, RO

⁵¹ Evidence from AT, SE, DK, NL, SK. FI and RO estimate was €0, this was not included in analysis.

⁵² Includes costs of informing public authorities and costs of designing and administering training

⁵³ Evidence from DK, FI, NL, SK

Conclusions

It is reasonable to conclude that the proposed intervention does not, and could not, prevent individual or collective dismissals, but that a high level of information and consultation accompanied by appropriate training **may generate positive effects on employability and adaptability**.

Measures outlined in the recommendations proposed by the Committee on Employment and Social Affairs **are likely to generate added value**, especially in the case of early consultation. Under adverse economic conditions both early consultation and training can have a positive impact even if at member State level they are not as effective as at company level.

Research and experience show that **information and consultation are positive for both workers and employers**. A consistent process might help managers consider alternative solutions so as to retain staff, either by reducing redundancies or **limiting the negative effects of planned dismissals**, and see the practical implications of the solutions envisaged.

An intervention at EU level could also provide an **integrated and coherent approach to dealing with restructuring, which is currently lacking in legislation**, policy, practice and perceptions in many Member States, and a common understanding of the issue, which is not shared across the EU at present. It might possibly help in eliminating potential distortions of competition within the internal market, and inequalities in the treatment of workers, resulting from current divergences at Member State level.

Finally, it is worth mentioning that the decision to engage in social dialogue may also be the result of a cost-benefit calculation where any consequential costs are weighed against potential benefits, such as increased labour productivity. **Costs are generally acknowledged, but seen as worth paying** in order to create the conditions for economic, social and technological development, while recognising the different roles played by the multiple stakeholders involved.

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