

# RESTRUCTURING

## REPORT ON SOCIAL PARTNERS' ACTIVITIES ON MANAGING CHANGE

MARCH 2006

# EXECUTIVE SUMMARY

In a context of economic globalisation and on-going technological innovation, adaptation to change has become a constant phenomenon in the lives of companies and workers. In 2003 and 2005, European social partners agreed on two important texts on managing change and European works councils which, on the basis of successfully implemented practices, identify key success factors for managing change and its social consequences in companies undergoing restructuring.

The aim of the present report is to show how social partners at national, regional, sectoral and company level have made use of the key success factors identified in these two texts. Almost thirty good practice examples in twenty-three countries have been selected amongst the most relevant social partners' initiatives. These examples illustrate

--> how social partners have raised awareness of the European social dialogue texts at national, sectoral and company level,s and

--> how they have promoted the key success factors identified through different initiatives. Social partners' actions aiming at explaining the reasons for change and enhancing its acceptance, at managing change processes and their social consequences as well as at developing the employability of workers are described.

They testify to the wealth of activities and to the diversity of approaches and tools chosen by social partners to manage change and its social consequences.

The report demonstrates the commitment of UNICE and its member federations to promote the results of the European Social Dialogue across the European Union. It is an important part of UNICE's response to the Commission's second-stage consultation on restructuring and European works councils published in April 2005 which invites the social partners to continue spreading good practices in this field and asks them to present a report to the March 2006 Spring European Council.

## ADAPTING TO CONSTANT CHANGE

Restructuring operations are both inevitable and necessary for growth and job creation. The competitiveness of European companies requires adapting to constant change. Whether it is to survive or to develop, companies must respond quickly to market trends, move out of unprofitable activities and develop more productive ones.

Restructuring can be painful and a negative perception tends to prevail when the labour market in the affected places offers bleak alternative job prospects. However, if change is managed in a pro-active way, adjustment costs can be minimised.

On the basis of practical case studies, the European social partners have sketched out how restructuring can be carried out and social consequences addressed successfully in two joint texts. The first one, published in 2003, consists of “Orientations of reference in managing change and its social consequences”. It clearly establishes that the social consequences of restructuring are managed locally and emphasises essential factors for success, such as explaining the reasons for change, having a good social dialogue in a climate of confidence, adopting a positive attitude to change, and developing employability.

The second joint text, adopted in 2005, draws “Lessons learned on European works councils”. EWCs are a tool to ensure regular communication between management and labour on cross-border company issues. Their role is much broader than restructuring. Unfortunately, the link made between these two issues in Commission consultations has overshadowed the variety of subjects discussed in these bodies. Dealing with restructuring is the exception rather than the general rule for EWCs. However, when reporting on the promotion of the orientations of reference on managing change and its social consequences, UNICE and its member federations have also integrated relevant initiatives stemming from the lessons learned on EWCs.

Even if these two joint texts do not contain specific follow-up provisions, their adoption by UNICE and its member federations included a commitment to promote them across the European Union. The purpose of the present report is to show how the factors for success identified were integrated in the social partners’ activities at European, national, sectoral or company level.

UNICE believes that the Work Programme of the European Social Dialogue 2006-2008 offers an opportunity for ETUC and its members to join in this exercise of identification of good social partners’ practices for change management and for promotion of the joint European social partners’ texts.

# RAISING AWARENESS AND SPREADING GOOD PRACTICE

Various steps have been taken by UNICE national member federations to raise awareness of the two joint texts negotiated in the European social dialogue and to spread good practice.

- > INFORMATION CAMPAIGNS
- > SOCIAL DIALOGUE
- > WORKING WITH COMPANIES

## ■ INFORMATION CAMPAIGNS

Activities reported include translation of the European texts into the national language, dissemination through websites, newsletters, discussions in policy committees of business organisations, etc.

### IBEC'S INFORMATION CAMPAIGN ON MANAGING CHANGE

Irish Business and Employers Confederation (IBEC) has put in place a fully-fledged strategy to inform its members about issues related to managing change and the role played by EWCs in that respect. The European texts formed a central element of that strategy.

Different channels of communication have been used which include

--> setting up a new section on the IBEC website to profile European texts and provide a location of reference;

--> publishing the full text in the Industrial Relations Database;

--> regular information to IBEC's governing body;

--> regular articles and updates in both IBEC's newspaper and electronic newsletter which are sent to all members;

--> discussion with the Human Resources and Social Policy Committee made up of senior HR Managers and Directors in organisations/companies;

--> internal presentations and briefings for colleagues responsible for dealing with member queries and advising companies undergoing change or preparing for possible change;

--> presentations and briefings for Regional Executive Committees and some Regional HR Groups.

Dissemination and awareness-raising actions were also undertaken in cooperation with trade unions. Swedish central social partners, for example, have presented the Lessons learned on EWCs to all Swedish companies with a EWC as well as to all the Swedish trade union members of EWCs. The Belgian national employers and trade unions have disseminated the orientations for reference in managing change and discussed them in the framework of the National Council of Work (Conseil National du Travail).

## ■ SOCIAL DIALOGUE

In some countries, the European texts have been taken over by national social partners. For instance, the draft agreement on protection of workers and employment development discussed by the cross-sectoral social partners in France specified that the management of restructuring and its social consequences had to take place in the context of the framework created by Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies and the orientations for reference in managing change of the EU social dialogue. The negotiations, which unfortunately failed in 2004, had led to a draft text which insisted on anticipating change and suggested concluding agreements on the information and consultation procedure to be followed in case of collective dismissals (see further details in chapter 2 below). Even if the negotiations failed, the content of the draft agreement inspired key elements of the law on managing change adopted in January 2005.

## SPANISH NATIONAL AGREEMENT ON COLLECTIVE BARGAINING 2005

Spanish National Agreements on Collective Bargaining serve as guidelines for collective agreements' negotiators throughout the country.

The main objective of the national agreement adopted in 2005 was to sustain the rhythm of economic and employment growth by on the one hand enhancing the competitiveness of Spanish companies and on the other hand improving the contents of collective bargaining, notably on issues such

as flexible working time, classification mechanisms to promote internal mobility, wage increase systems, etc.

The national agreement refers explicitly to the orientations of reference in managing change adopted in 2003 and uses as its reference the points agreed upon at European level. The national agreement also distinguishes between issues for information and issues for consultation of workers in companies.

In the new Member States, awareness-raising and spreading good practices takes place in the context of a joint project of ETUC, UNICE/UEAPME and CEEP carried out with financial support from the European Commission.

## SOCIAL DIALOGUE SEMINARS ON RESTRUCTURING IN THE TEN NEW MEMBER STATES

A common feature of the new Member States is that they need to do three things at the same time. They must perfect the functioning of either relatively small and insular or young market economies. They also have to carry out the necessary readjustment linked to joining the European Union and implementing the legal acquis. Moreover, like all European countries, they have to face up to the challenges of globalisation, technological change and demographic ageing.

The work programme of the social dialogue 2003-2005 foresaw producing a joint study on restructuring in the ten new Member States. The main objective of the study was to provide European social partners with material in view of a prospective discussion on EU social and employment policies after enlargement. It has also provided excellent opportunities to promote the orientations of reference on managing change as well as the lessons learned on EWCs and raising awareness about the importance of trying to

identify key changes expected in these economies. The preparation of the study has been entrusted to experts who prepare a dossier on each country. It describes the broad economic and social context of the countries concerned complemented by brief descriptions of concrete cases of restructuring in companies, sectors or territories which exemplify the challenges facing the countries concerned.

The work resulting from this first phase is presented to the social partners of these countries during national seminars and discussions on the main restructuring challenges are fed into a revised version.

Eight national seminars have been held so far, leading to the finalisation of corresponding country dossiers on Cyprus, Malta, Lithuania, Czech Republic, Hungary, Poland, Slovakia and Slovenia. The country dossiers on Latvia and Estonia will be finalised in the coming months.

A second phase will consist in preparing a synthesis of the country dossiers to identify common challenges to the new member states and the interactions of the changes under way in these countries with those in EU 15. This synthesis will be structured around three priority themes common to EU 25. Here also, the synthesis will identify concrete cases of change or restructuring that could enrich the synthesis and social partners will have an opportunity to discuss

the synthesis prior to its finalisation during a thematic seminar to be held in June 2006. Discussions on the basis of the presentation of several case studies for each theme will be fed into a revised version of the synthesis.

The full study will be discussed in the social dialogue committee in view of trying to identify the priority issues for the next EU social policy priorities and future joint work by the social partners.

## ■ WORKING WITH COMPANIES

The negotiation and adoption of the European texts has also prompted initiatives aimed at spreading good practices and ensuring their acceptance among companies. IBEC and CBI, for instance, have been very active in promoting good management practices in EWCs, as part of the overall discussions on employee involvement in enterprises which accompanied implementation of the new information and consultation legislation in Ireland and the UK. Furthermore, in the Netherlands, employers have organised peer discussions between EWC experts to exchange views on EWC practices and learn from the experiences of the companies involved, notably on the basis of the joint lessons drawn by the EU social partners.

### CBI PROJECTS TO SPREAD GOOD COMPANY PRACTICES ON MANAGING CHANGE

The Confederation of British Industry (CBI) engaged in a work organisation project entitled “achieving competitive advantage through change at work” which was published in November 2003. This project was sponsored by the UK Work Organisation Network (a coalition supported by both the CBI and TUC) and received support from the European Social Fund. The initiative looked at a range of organisations which had already implemented changes at work to achieve competitive advantage – employee involvement proved key to the success in each case. A number of lessons were drawn from each case study, which provides inspiration to other firms embarking on a similar change process.

The CBI has also developed an employer’s guide to information and consultation and has established a member forum for discussing and sharing good practice on informing and consulting employees in the workplace and promoting the principles of managing change effectively. The Forum has heard from a wide range of stakeholders, including unions and academics.

These initiatives have been highly valued by CBI members and their results have been widely disseminated.

# RAISING AWARENESS AND SPREADING GOOD PRACTICE

Social partners have taken actions on the issues highlighted in the European texts as key success factors in managing change on the one hand and operating in EWCs on the other hand. Depending on their specific situations and needs, employers have undertaken different types of actions, unilaterally or jointly, at national, sectoral, regional or company levels. They have highlighted more specifically the three aspects set out below.

- > EXPLAINING THE REASONS FOR CHANGE
- > MANAGING CHANGE AND ITS SOCIAL CONSEQUENCES
- > DEVELOPING EMPLOYABILITY



## ■ EXPLAINING THE REASONS FOR CHANGE

Explaining the reasons for change is essential to ensure its acceptance. The strategies used to promote this key factor for success need to be adapted to the challenges faced on the ground and depend on the audience to be reached. Social partners have therefore acted in different ways and at different levels.

For example, on 7 January 2005, Portuguese social partners signed a national agreement to “dynamise” collective bargaining at lower levels. The national agreement gives recommendations to social partners on issues to discuss, focusing on managing change and measures to develop the employability of workers. It recognises the need to be well informed on change in order to prevent crises, and encourages social partners to collect information, including statistical data on industrial trends. In the UK, social partners and the government worked closely together for two years to reach agreement on how to transpose the European Directive on information and consultation. The tripartite framework agreement of July 2002 aimed at ensuring that regulations would be workable and promoting positive aspects of managing change through the information and consultation of employees.

The Spanish social partners launched different initiatives at sectoral level with the objective of helping sectoral players to tackle industrial change. Social partners from the chemical and textile industries, for example, decided to create observatories to analyse jointly the developments in their sectors and advise companies on successful strategies to adapt, with special attention paid to SMEs. Another initiative prompted by the national government aimed at creating a forum to discuss industrial change stemming from observance of the Kyoto protocol in certain sectors.

### FRAMEWORK COOPERATION AGREEMENT BETWEEN THE SPANISH GOVERNMENT AND THE SOCIAL PARTNERS

The aim of this tripartite agreement is to establish the basis for collaboration and action of the signatory institutions in order to foster the implementation and the modernisation of industrial sectors, through measures such as promotion of productive and export company competence, investment and employment consolidation, technological modernisation and adaptation to new international competition conditions.

With this aim six sectoral observatories and two horizontal observatories have been created. The sectoral observatories have been created in the following sectors: Textile-Apparel; Chemicals; Automotive machinery; Automotive; Equipment goods; Electronics. The two horizontal

observatories concern the Spanish technological parks and Innovation and Technologies entities.

The work of each of these observatories, managed by employer’s organisations, trade unions and public institutions, will be based on follow-up reports focused on three different areas:

--> economic foresight and situation of the sector, dealing specifically with the evolution of its competitiveness.

--> employment evolution and growth and future developments on the social field.

--> recent technological development and future technological needs and scenarios.

The reports will be elaborated every year and renewed the following years if necessary.

Restructuring is first and foremost a company issue. Explaining the reasons for change is important for a successful implementation of the company's business strategy. At company level, different procedures are in place for information and consultation of workers and/or their representatives. In the company BASF, for example, worker representatives in the EWC engaged in a project with management to anticipate change linked with enlargement of the EU.

## RESTRUCTURING PROCESS IN SIEMENS

The two Divisions of Siemens Information and Communication Networks (ICN) and Siemens Information and Communication Mobile (ICM) were merged to form the Siemens Division Communications (Com) in 2004. This was a consequence of wide-ranging market changes in the field of network technologies offering end-to-end solutions for all segments, integration of fixed and mobile networks, etc.

The first steps to the decision were made by the top management of both Siemens AG and the two Divisions to be merged (ICN and ICM). Due to financial market rules, confidentiality was absolutely required. In the early stage of the merger any leak would have forced Siemens to release public information immediately.

Human resources management was involved as soon as possible. The Committee for Economic Policies (CEP) of the central works council was informed in writing on 7 July 2004. Due to the high impact of the merger on the whole Siemens organisation, an additional meeting with the CEP took place on 5 October 2004. Just before, a meeting was also held with the representatives of the affected countries in the Siemens Europe Committee. In both meetings, future members of the Divisions'

Executive Board explained the situation of the Divisions of Siemens ICN and Siemens ICM, the reasons that had led to the decision to merge the two Divisions, the new position of Siemens Com including structure, business volume and employees and market position, the strategy of Siemens Com, and presented an eight-point roll-out programme for the integration of Siemens Com. After those meetings, the process of worker information and consultation became national again.

In addition to the national processes, there were several information sessions with employees worldwide, for example, on the occasion of a Com Day in October 2004 and of an Internet chat with the Head of the of the Divisions' Executive Board in November 2004. Representatives of the employees by the mergers were involved insofar as they were affected.

Thanks to this intensive communication and discussions with the Siemens Europe Committee and the Committee for Economic Policies, a smooth transition phase was ensured. Worker insecurity and productivity losses were avoided.

## ■ MANAGING CHANGE AND ITS SOCIAL CONSEQUENCES

The social consequences of change are managed locally. It is a complex process, in which the management may have to deal with several layers of information, consultation or negotiation and different types of workers' representatives in the company.

To help companies to carry out restructuring in a pro-active way, a new tripartite initiative was launched in Austria in May 2005. It consists in a programme co-financed by the ESF through which companies can obtain advice from professional consultants in the fields of organisation management, training, internal and external mobility, working time flexibility, diversity management, etc., on how to manage change effectively and, as far as possible, avoid job losses. The public employment service is the authority responsible for management of the programme.

### FRENCH COMPANY-LEVEL SOCIAL PARTNERS DETERMINE THE APPROPRIATE INFORMATION AND CONSULTATION PROCEDURES IN CASE OF COLLECTIVE REDUNDANCIES

The French law imposes a lengthy multi-layered information and consultation process for collective redundancies. Since January 2005, a new law (see chapter 1 above) opens up the possibility to negotiate company-level agreements on information and consultation procedures in case of collective redundancies ("accords de méthode").

Between 2003 and 2004, 207 companies, including 87 SMEs, signed such "accords de méthode". These agreements aim at increasing ownership of information and consultation procedures by companies and worker representatives and at better anticipating change by adopting procedures tailored to the needs of each company.

In these agreements, social partners mainly deal with three issues:

--> adaptation of information and consultation procedures to the specificities of the company as well as to rhythm and deadlines of the restructuring process;

--> deepening of company-level social dialogue or social concertation in general;

--> development of more effective measures of professional reconversion ("reclassement");

All these elements are in the EU orientations of reference, even though the terminology used can be different.

The majority of these agreements (52%) increase the efficiency and speed up the process by allowing the two-step procedure to be carried out simultaneously, better articulating the different levels of information and consultation (establishment committee, company committee and group committee). They achieve this by creating specific bodies to inform and consult. 70% of the agreements focus on reconversion measures. Only nine of them regulate departure allowances.

According to the companies involved, negotiating these agreements has improved the capacity to manage social consequences of change in an effective way, both for companies and for employees.

## THE ROLE PLAYED BY ITALIAN SOCIAL PARTNERS WITHIN THE LEGISLATIVE FRAMEWORK PROVIDING ECONOMIC PROTECTION TO WORKERS INVOLVED IN COMPANY RESTRUCTURING

Italy has significant experience, started in the 40s, in dealing with company restructuring through the implementation of agreements executed between social partners. These agreements have often represented the legal basis for subsequent legislative initiatives ruling on management of the social and economic consequences of restructuring.

More recently, the active role played by social partners in this field, mainly through agreements executed between confederations, finally resulted in the enactment of Law n. 223 of July 1991, ruling on company restructuring. This law still represents a central point of reference for companies and trade unions taking part in the management of restructuring proceedings.

According to this law, a mechanism called “cassa integrazione guadagni” can be activated by companies undergoing a temporary crisis or a restructuring process which may lead either to a temporary suspension of the working activity (ordinary activation of the instrument) or to redundancies of workers (extraordinary activation). The objective of this mechanism is to ensure that all affected workers receive economic protection (80% of last remuneration), partly paid by companies and partly by the State.

The ordinary activation (cassa integrazione guadagni ordinaria) may be started when the interested company is undergoing a temporary crisis, implying a future restarting of the working activity.

Alternatively, extraordinary activation (cassa integrazione guadagni straordinaria) refers to situations specifically identified by law, such as company restructuring,

reorganisation, crisis, industrial restructuring. These are situations which may involve a partial recovery of the working activity, but which may also lead to collective redundancies of workers.

As regards the procedures described above, it must be noted that not all companies, even if belonging to the industrial sector, necessarily meet all the legal requirements for the activation of this mechanism (this is the case, for instance, of very small industrial enterprises, employing fewer than 15 employees). In these cases, when particularly serious company crises occur, social partners may formally activate themselves, at both local/regional or sectoral level, in order to stipulate an agreement in force of which the “cassa integrazione guadagni straordinaria” will be extended also to the companies which do not meet all the legal requirements for having access to the mechanism. This possibility finds its legal basis in the financial Law enacted each year by the Parliament, which regulates the procedural aspects for the execution of these agreements (e.g. the agreement must be formalised before the central Government).

Finally, the issue of social safety nets (of which the cassa integrazione guadagni is part) has been formally discussed by the Government and by the social partners and transposed in an agreement signed on 5 July 2002 (Patto per l'Italia), whose execution was aimed at fostering competitiveness in Italy. The agreement was also aimed at creating a more efficient and proactive system of social safety nets, through the provision of professional training to be granted to unemployed workers. The guidelines contained in the agreement have been partially transposed in Law n. 80/2005, which provides some efficient measures for reform of social safety nets.

## ■ DEVELOPING EMPLOYABILITY

Maintaining and developing workers' competences and qualifications in order to foster internal and external mobility and ensure the success of the business is essential. It is also important to act as early as possible in order to prepare the evolution of jobs and competences and, if possible, anticipate them. A rising number of initiatives are being taken in the field of competence development in general as documented in the follow-up reports to the framework of actions on the lifelong development of competences adopted by UNICE/UEAPME, CEEP and ETUC in 2002. In February 2006, Portuguese social partners signed an interesting agreement on vocational training because it includes a special focus on competence development in change situations. Portuguese social partners recognise in the agreement the importance of vocational training, aiming to qualify and reconvert workers involved in restructuring processes, whether they occur in companies or sectors.

Social partners also take actions specifically tailored to restructuring processes in order to ease workers' mobility and reconversion. Different measures are taken with the objective of reforming existing labour market regulations, tailoring guidance and supporting to individuals' needs, etc. In the Netherlands, for example, national social partners in the Labour Foundation agreed on a recommendation to promote prevention of unemployment and re-integration of unemployed workers in April 2005. This recommendation was made in parallel to proposals to modernise unemployment legislation and includes recommendations to social partners at company or sector levels. It covers issues such as the need to mobilise resources proactively, reconversion of workers threatened by dismissal, measures to enhance employability. The Belgian national collective agreement on outplacement also focuses on measures to re-integrate unemployed workers and the tripartite discussions which recently led to an in-depth revision of the law on restructuring closely linked the debate to the demographic challenge facing the country and the need to develop active ageing measures.

Moreover, social partner are heavily engaged in devising practical tools to enhance the employability of workers and ease their reintegration in the labour market. Examples include:

--> the possibility, since January 2005, for employees to make an early notification to the employment agencies that their contract will end in order to benefit from active labour market measures at an earlier stage, and the development of individualised assistance plans for employees by the public employment agency in order to better analyse the specific situation and needs of the jobseeker, resulting from tripartite discussions in Austria;

--> a foundation which helps finance the upgrading of qualifications for people having found a job but suffer from skills mismatches, created in Austria in 2000;

--> development of tailored reconversion measures for employees to be dismissed for economic reasons in France as part of an individual plan agreed by the individual and his/her employer and financed partly by the social insurance system and by the employer who pays the amount of the salary corresponding to the notice period.

Social partners' activities are also developed at company level. In order to adapt to privatisation and technological change, the company Deutsche Telekom, for example, implemented a comprehensive training policy and established an internal Human Resources Service Agency looking at employment opportunities both in the Deutsche Telekom Group and on the labour market.

## SWEDISH COLLECTIVE AGREEMENT ON OUTPLACEMENT

Swedish national social partners had agreed in the 70s to create an organisation which provides advice to companies in restructuring processes as well as support to white-collar employees in career transition processes. This organisation is financed by employers' contributions. It has about 26,000 client companies and has helped 140,000 redundant employees during the last decade.

In 2004, Swedish national social partners agreed to create an equivalent outplacement system for blue-collar workers. It is also financed by employers. Contractors, such as temporary work agencies, help workers to find a new job after a dismissal.

## FINNISH MODEL FOR MANAGING CHANGE

The Finnish comprehensive income policy agreement for 2005-2007 includes a new model for managing change. This model has been implemented by means of legislation. The model aims at improving cooperation between the social partners at workplace level and with public authorities as well as improving the employment prospects of redundant workers.

The main features of the new model are the following:

The employee is entitled to:

--> look for work for max. 20 days during the notice period (with full pay);

--> a personalised employability plan drafted together with the employment authorities;

--> a higher unemployment benefit (financed collectively by the employers) during the actions taken under the employability plan.

The model places several obligations on the employer. These include the obligation to draw up an activity plan for re-employment under the restructuring consultations and the obligation to notify the employment authorities before notifications.

## CONCLUSION

The initiatives reported above testify to the wealth of activities by social partners to improve the management of restructuring processes and enhance Europe's capacity to adapt to change.

At company level, cooperation between management and labour can make a real difference when it aims at enhancing business competitiveness and ensuring acceptance of necessary change.

Far-reaching EU and national legislation on worker information and consultation is in place. It includes the EWC directive, which has proved its worth. Experience shows that EWCs can help management and workers to build a corporate culture and adapt to change in fast-evolving transnational companies or groups. However, operating multi-layered and complex information and consultation systems is costly. Unnecessarily slowing down restructuring processes is counter-productive as negative social consequences tend to increase when necessary changes are postponed. It is of vital importance that no further burdens are imposed on companies.

In order to contribute to successful implementation of the European growth and jobs strategy and because they are committed to promoting the positive approach to change advocated in the EU social dialogue, UNICE and its member federations wish to continue exchanges on relevant social partners' initiatives, whether taken jointly, separately or together with public authorities. UNICE believes that the Work Programme of the European social dialogue 2006-2008 offers an opportunity for the ETUC and its members to join in this exercise of identification of good social partners' practices for change management.

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