



European Trade Union Confederation (ETUC)  
Confédération européenne des syndicats (CES)

## **Résolution**

### **Anticipation du changement et restructurations : la CES demande à l'UE d'agir**

Adoptée par le Comité exécutif du 6-7 mars 2012

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Le dialogue social, la négociation et la participation sont des valeurs et des outils fondamentaux, qui sous-tendent et permettent de concilier la promotion de la cohésion sociale et des emplois de qualité, la création d'emplois et le renforcement de l'innovation et de la compétitivité dans les économies européennes. L'action dans le domaine de l'anticipation et de la gestion du changement implique par conséquent le respect des droits fondamentaux des travailleurs. La CES et les citoyens européens s'opposeront avec véhémence à toute tentative d'utilisation de la crise économique et financière dans le but d'affaiblir et de limiter le rôle de la négociation ou d'autres droits fondamentaux des travailleurs en les présentant comme un luxe dans un contexte d'austérité. Au contraire, le rôle des partenaires sociaux est plus important en période de crise, afin de garantir qu'ils soient en mesure de trouver des solutions à la gestion sociale du changement, dans le souci de promouvoir et de stimuler la croissance et le développement.

Le 17 janvier 2012, la Commission a publié un nouveau Livre vert, intitulé « Restructurations et anticipation du changement : quelles leçons tirer de l'expérience récente ? ». Par le lancement d'une consultation publique en ligne, ce Livre vert vise à dresser l'inventaire des « pratiques efficaces » en la matière ; les résultats de cette consultation viendront alimenter la « stratégie redynamisée en matière de flexicurité » en vue d'orienter le débat sur la « démarche et le cadre dans lesquels doivent s'inscrire les restructurations ». Face à cette initiative peu ambitieuse et à l'absence totale de propositions permettant de répondre à l'urgence croissante de la situation en matière de restructurations, les travailleurs européens ne perçoivent pas clairement pourquoi la Commission a attendu près d'une décennie avant de décider de consacrer encore plus de temps aux pratiques de diffusion. En outre, il est désastreux que la méthode envisagée pour faire face à la restructuration des secteurs public et privé se fonde sur une stratégie européenne du marché du travail déjà discréditée. Le Livre vert mentionne par ailleurs les « orientations de référence » de 2003 négociées dans le cadre du dialogue social européen. Cependant, ce texte n'a jamais été officiellement adopté par la CES. Les affiliés ont seulement pris note de ce document peu ambitieux et clairement exprimé leur volonté de mettre en œuvre un cadre européen sur l'anticipation et les restructurations.

Afin de pouvoir relever les défis posés par la crise économique, l'austérité imposée, la mondialisation, le changement climatique, les tendances démographiques, les inégalités croissantes et l'évolution rapide des technologies et de l'organisation, qui ont une incidence sur la société en général et le lieu de travail en particulier, l'Union européenne doit prendre des mesures urgentes et adopter une approche stratégique et proactive de l'anticipation et de

la gestion des restructurations sur la base d'un cadre juridique européen. Depuis une décennie, la CES a régulièrement demandé une deuxième phase de consultation des partenaires sociaux et une action européenne. Les crises actuelles de l'économie et de l'emploi rendent cette action impérative et urgente.

## **La Commission revient sur ses propres propositions**

La CES critique en particulier la décision de publier un Livre vert plutôt que de procéder à une consultation des partenaires sociaux parce que cette initiative constitue un recul important de la Commission par rapport à son propre programme de travail. Dans le cadre de son initiative phare relative à la politique industrielle, la Commission avait annoncé en octobre 2010 son intention de lancer au cours de l'année 2011 une deuxième phase de consultation des partenaires sociaux sur les restructurations. Cette initiative constituait par ailleurs le seul élément social du nouveau programme de politique industrielle de l'UE. Cependant, cette initiative a été reformulée sous la forme d'un Livre vert, qui fait l'objet d'une consultation publique, imposant de reprendre les discussions sur l'action européenne depuis le début plutôt que de prendre appui sur les travaux accomplis depuis la première consultation des partenaires sociaux en 2002. Non seulement cette approche contredit la position adoptée par la Commission elle-même en 2010, précisant que les partenaires sociaux sont les principaux acteurs impliqués dans les restructurations et qu'il convient de privilégier une action conjointe éventuelle, mais elle reporte également l'action législative de l'UE en faveur d'un cadre pour l'anticipation du changement.

L'anticipation, la gestion et l'accompagnement des processus de restructuration requièrent la participation active de tous les acteurs concernés et doivent être fondés sur des synergies claires entre les instruments politiques, législatifs, contractuels et financiers. En outre, des actions doivent être entreprises à tous les niveaux pertinents, y compris au plan européen. Cet objectif ne pourra être atteint qu'à condition de trouver le bon équilibre entre les intérêts des différentes parties prenantes, à savoir ceux de l'entreprise et de leur main-d'œuvre. Nous savons pertinemment que c'est rarement le cas !

## **Hausse du coût social des restructurations**

2012 devrait être une année difficile pour les travailleurs européens. La concurrence mondiale accrue, l'extension de la crise économique, l'évolution démographique, les progrès technologiques, les obligations liées à la lutte contre le changement climatique, les changements dans les tendances de l'emploi sur les plans individuel et collectif ont un impact considérable sur les marchés de l'emploi. Si l'UE veut relever ces défis, elle devra créer des emplois plus nombreux et de meilleure qualité et permettre aux travailleurs et travailleuses d'améliorer leurs compétences, et notamment les adapter à l'évolution à court terme et à long terme de la demande sur le marché du travail. Cela suppose une vision à long terme de l'anticipation du changement et la mise en œuvre de politiques industrielles communes.

Les syndicats ne désirent pas résister au changement, pour autant qu'il soit justifié, négocié et bien géré d'une manière qui soit socialement responsable. Par contre, la CES s'opposera toujours à ce que les conséquences négatives du changement soient exclusivement supportées par les travailleurs, pendant que bon nombre de dirigeants d'entreprise qui n'ont pas été capables d'assumer leurs responsabilités reçoivent en échange de plantureuses « primes de

départ », d'autant plus impopulaires que s'accroît l'inégalité entre les salaires les plus élevés et le salaire moyen.

Indépendamment des politiques nationales et régionales et des cadres juridiques dans lesquels elles s'inscrivent dans l'UE, les restructurations engendrent toujours des coûts élevés pour les travailleurs et leurs économies régionales et locales. Ces coûts augmentent. Le caractère alarmant de la crise économique et financière et les mesures d'austérité qui continuent à l'alimenter ont eu pour conséquence de réduire le financement du secteur public, entraînant de nouvelles pertes d'emplois, le développement des emplois précaires et l'insécurité de millions d'hommes et de femmes, en particulier les travailleurs et travailleuses intérimaires, à temps partiel et saisonniers, ce qui représente un énorme défi supplémentaire. Les « plans d'assainissement budgétaire » coordonnés à l'échelle européenne se traduisent par de vastes plans de restructuration du secteur public, à savoir des pertes d'emploi et des réductions de salaire, une moindre protection de l'emploi, un affaiblissement, voire la suppression des droits syndicaux, l'externalisation ou la privatisation des services publics, ne laissant qu'une faible ou aucune marge de négociation des plans de restructuration. Entre-temps, au cours des dernières décennies, la concurrence mondiale et la restructuration d'entreprises ont abouti à des pertes d'emplois dans les industries de transformation de l'Union européenne, en particulier parmi les travailleurs peu qualifiés. La CES affirme depuis longtemps qu'un chômage zéro doit être le principal objectif des politiques de gestion des processus de restructuration, parallèlement à la nécessité d'offrir une solution appropriée pour chaque travailleur. Cela suppose un cadre dans lequel s'inscrivent des mesures de soutien et un investissement dans les politiques actives du marché du travail.

Cependant, les systèmes protégeant les travailleurs contre l'impact brutal de l'évolution économique sont sapés par l'austérité et la dérégulation, et on considère de plus en plus que les représentants des travailleurs doivent accepter tout changement sans réagir. Or, seule une participation cohérente et plus forte des travailleurs peut permettre de gérer ce changement de manière socialement acceptable, de nourrir la confiance et d'élaborer des politiques d'anticipation.

Alors que les règles du capitalisme financier et industriel sont mondiales, les normes applicables à la participation des travailleurs dans la stratégie des sociétés et la restructuration restent en grande partie déterminées au plan national, avec quelques outils européens (information et consultation, comités d'entreprise européens, etc.) qui n'ont pas été pleinement mis en œuvre dans tous les États membres. Dans un contexte de mondialisation, il devient de plus en plus difficile de défendre des approches de subsidiarité en faveur de dispositions nationales. À mesure que l'activité économique se mondialise et ignore les frontières nationales, il est essentiel de procéder à un réexamen de la participation des travailleurs dans les entreprises et du secteur public à l'échelle européenne. La législation existante doit être examinée et améliorée afin de refléter la réalité économique. À titre d'exemple, le champ d'application limité de la directive sur le transfert d'entreprises doit être révisé afin que les transferts résultant d'un changement de propriété soient également couverts par cette directive. Ceci est particulièrement important dans un contexte de financiarisation croissante des investissements, alors que les pertes d'emploi et le gel des salaires sont souvent le prix à payer pour un endettement excessif imputable à des acquisitions financées par l'emprunt. C'est sur la seule base d'une forte participation des travailleurs qu'un programme cohérent d'anticipation peut être défini à l'échelle européenne, avec pour objectif premier la promotion d'emplois de haute qualité et de conditions de vie décentes.

Dès 2005, dans sa communication sur les restructurations, la Commission reconnaissait les problèmes liés aux conséquences négatives des restructurations, des délocalisations, des fusions et des acquisitions, non seulement pour les travailleurs, qui ressentent de l'insécurité dans chacun de leur pays car ils craignent que leur emploi ne disparaisse ou ne file à l'étranger, mais aussi pour les différents secteurs de l'économie, exposés directement ou indirectement aux conséquences des restructurations, ainsi que pour l'ensemble des économies locales et régionales. Ces conséquences vont souvent à l'encontre des objectifs de la stratégie Europe 2020, à savoir ceux qui sont liés à la promotion du plein emploi, à la qualité du travail, à la cohésion sociale et territoriale, au programme pour une nouvelle politique industrielle en Europe et au développement durable. Seules des mesures limitées et visant à parer au plus pressé ont été prises depuis cette dernière communication: la refonte plutôt que la révision de la directive sur les comités d'entreprise européens, la création du Fonds européen d'ajustement à la mondialisation, ou, plus récemment, la proposition en faveur de conseils sectoriels des compétences et de l'emploi. Les travailleurs supportent encore une charge excessive liée aux décisions des entreprises quant à l'anticipation et à la gestion du changement.

Les syndicats ont intégré la constance des changements comme étant un paramètre toujours plus présent dans leur action quotidienne si l'on veut maintenir dans les secteurs d'activité européens un certain degré de performance et rester compétitifs sur les marchés mondiaux. Dans un vide juridique, un certain nombre d'entreprises multinationales et leurs travailleurs ont choisi de négocier des conventions sur l'anticipation du changement. Cependant, ces accords transnationaux isolés couvrent un large éventail de questions, manquent d'un cadre juridique garantissant leur application et dépendent par conséquent de la bonne volonté des partenaires. Au cours des derniers mois, le rythme auquel les directions ont cessé de satisfaire à leurs engagements pris dans le cadre de ces accords, comme GM ou ArcelorMittal, illustre leur faiblesse. En outre, si cette stratégie peut être mise en œuvre par de grandes entreprises qui s'appuient sur une culture caractérisée par de solides relations du travail, ces accords ne peuvent constituer un cadre susceptible de contrer les effets de la restructuration du secteur public et de la restructuration silencieuse dans les PME au sein des chaînes d'approvisionnement et des économies régionales.

Cette réalité et les bonnes pratiques mises en œuvre au plan national ont été étudiées dans le cadre d'une série de projets de dialogue social sur les restructurations dans l'UE-27, de plusieurs forums sur les restructurations organisé par la Commission et de projets menés par la CES et les syndicats nationaux. Il existe une littérature abondante et de nombreuses études de cas, mais la volonté politique de tirer les leçons et de les mettre en pratique fait défaut.

## **Nous avons suffisamment évalué les meilleures pratiques – l'heure est à l'action politique**

Dix ans après la première consultation des partenaires sociaux sur cette question, qui avait déjà permis de mettre en évidence les lacunes de la réglementation européenne, la CES exhorte l'UE à agir résolument, de façon préventive, pour améliorer l'anticipation du changement sur les lieux de travail et renforcer le cadre juridique dans lequel s'inscrivent les restructurations. La CES considère que les 5 éléments suivants sont essentiels à l'action de l'UE quant à l'anticipation et à la gestion du changement et aux restructurations :

- **Préparer les travailleurs et leur donner les moyens d'agir : le rôle clé de l'éducation et de la formation**

L'accès égal à l'éducation et à la formation continue est indispensable pour répondre à l'évolution de la situation et des aspirations des citoyens, d'une part, et des besoins du marché du travail, d'autre part. La CES estime que tous les travailleurs devraient avoir également accès à tous les niveaux d'éducation et de formation, quels que soient leur âge, leur sexe, leur statut professionnel ou leur nationalité, ceci s'appliquant en particulier à ceux dont la participation est faible, comme les travailleurs peu qualifiés, plus âgés, sous contrat temporaire ou intérimaire. Cela leur permettrait d'acquérir, d'actualiser et de développer leurs savoirs, leurs aptitudes et leurs compétences tout au long de leur vie (ex. : par le biais de plans de formation et de comptes de formation individuels). Ceux qui ont le plus besoin de formation ne devraient pas être les moins susceptibles d'en bénéficier. La CES demande instamment à l'UE de combiner cet accès avec le droit des travailleurs à la formation. Un cadre en faveur de l'anticipation doit prévoir des outils adaptés aux futurs besoins de compétences et au renforcement des compétences, dans le cadre d'un dialogue social fort sur la planification des effectifs et de plans pluriannuels relatifs à l'emploi et au développement des compétences dans le secteur public, les entreprises et au plan sectoriel. La CES considère que les employeurs, et en particulier les PME, doivent soutenir les initiatives d'éducation et de formation tout au long de la vie en rendant l'apprentissage plus accessible pendant les heures de travail et mieux adapté aux besoins des travailleurs, soit par l'individualisation des programmes d'apprentissage, soit par le passage à une formation basée sur les compétences ou à une modularisation, soit par le recours à l'apprentissage à distance. La CES demande aux États membres et aux employeurs d'investir dans les travailleurs et les travailleuses et d'augmenter les dépenses affectées, par employé, à la formation professionnelle initiale et continue, notamment pour soutenir les jeunes travailleurs entrant sur le marché du travail (par l'intermédiaire d'une garantie européenne pour la jeunesse) et réaffecter les travailleurs licenciés (Résolution de la CES de décembre 2010 : <http://www.etuc.org/a/8068>).

- **Maintenir et créer des emplois : le rôle clé de la politique industrielle**

Une politique industrielle plus ambitieuse et durable, favorable à la création et au maintien des emplois, grâce à des investissements publics et privés importants dans la R&D, l'innovation et les infrastructures, afin d'élaborer une approche stratégique qui ne se résume pas au renforcement des conditions cadres, mais vise à promouvoir une réflexion axée sur le cycle de vie et le respect de l'environnement, qui soutienne la mise au point et la diffusion de technologies d'une plus grande efficacité et le développement de marchés pour les biens et services durables, en veillant à adapter l'industrie à ces marchés et technologies et à l'utilisation rationnelle des énergies et des ressources (Résolution de la CES d'avril 2011 : <http://www.etuc.org/a/8683>).

- **Permettre aux travailleurs de prendre part aux décisions stratégiques : le rôle clé de l'information, de la consultation et de la participation**

Le renforcement des droits des travailleurs à l'information, à la consultation et à la participation est fondamental. Les représentants des travailleurs et les syndicats ne devraient pas seulement être considérés comme un moyen de garantir l'acceptation du changement, et leur rôle ne peut se résumer à la participation dans le cas des restructurations. Un programme d'anticipation implique un dialogue systématique, le renforcement de la confiance mutuelle et un modèle de gouvernance d'entreprise dans lequel les droits des travailleurs de contribuer aux stratégies de l'entreprise sont renforcés. Il faut renforcer la participation des travailleurs aux décisions stratégiques des entreprises, qui sont souvent prises à l'échelle européenne ou mondiale. Cette participation doit s'inscrire dans le cadre d'une politique industrielle et d'un

programme de gouvernance d'entreprise ambitieux et définis à l'échelle européenne. Dans ce contexte, les représentants des travailleurs doivent disposer d'un pouvoir de décision dans les domaines de l'investissement, de la production, de l'innovation et des dépenses en R&D, et en ce qui concerne la direction générale de l'entreprise, du point de vue économique, social et environnemental. La crise actuelle doit être considérée comme une opportunité d'améliorer la participation des travailleurs pour renforcer la viabilité à long terme des lieux de travail en Europe. Les droits d'information, de consultation et de participation en cas de restructurations et de changements de propriétaires d'entreprises doivent être améliorés pour permettre aux travailleurs d'avoir leur mot à dire et aux syndicats d'avoir les possibilités de négocier des solutions équitables pour les travailleurs. Ce processus devrait s'inscrire dans le contexte d'une harmonisation vers le haut. Les instruments juridiques existants en matière d'information, de consultation et de participation doivent être pleinement respectés et appliqués, et des efforts doivent être consentis afin de garantir leur cohérence. Les employeurs qui ne respectent pas ces instruments doivent être effectivement sanctionnés. Dans le cas de procédures de contrôle de fusions, la DG Concurrence devrait prendre ses décisions sur la base d'un certain nombre d'aspects et de la participation des travailleurs, à savoir ceux qui se rapportent à l'emploi et à la politique industrielle. Ceci confirme la nécessité d'une meilleure interaction entre les différentes politiques de l'UE au moment de concevoir une stratégie appropriée de gestion des restructurations. En outre, les mécanismes de direction des entreprises doivent permettre l'autonomie de gestion, afin d'éviter une attention prioritaire portée aux demandes à court terme des actionnaires (voir la Résolution de décembre 2011 : <http://www.etuc.org/a/9559>).

- **Garantir un cadre juridique européen : le rôle clé de la négociation collective**  
La création d'un cadre juridique européen pour la négociation et les conventions collectives transnationales au niveau de l'entreprise ou au plan sectoriel, dans le respect de la compétence de négociation des syndicats, afin d'aider les entreprises des secteurs public et privé à relever les défis liés à l'organisation du travail, à l'emploi, aux conditions de travail et à la formation (Résolution de la CES : <http://www.etuc.org/a/1844>).

- **Offrir une protection : le rôle clé des politiques actives du marché du travail, de la protection sociale et des mesures de soutien**

Un cadre réglementaire applicable à la restructuration doit inclure des mécanismes de soutien pour les travailleurs victimes de l'évolution économique et reconnaître l'importance et le rôle des services publics de qualité. Ces mécanismes doivent être clairement définis, préalablement au processus de restructuration et tout au long de ce processus, qui doit être supervisé durant une période appropriée en vue d'analyser la viabilité des mesures prises. Ces mesures devraient inclure des évaluations de l'impact des plans de restructuration dans les domaines de la santé et de la sécurité et du genre, la recherche active de solutions alternatives au licenciement, des mesures adaptées en matière de conseils en emploi, de formation, d'aide à la recherche d'un travail, de remplacement dans une autre entreprise, d'aide à la création de nouvelles activités avec accès au crédit nécessaire, une protection sociale adéquate durant la période de chômage et de recherche d'un travail. Le tout dans une perspective négociée de mobilité géographique et de la carrière professionnelle ainsi que dans un contexte non discriminatoire, tout en évitant les « fuites de cerveaux » entre les pays. Ces mesures devraient être cofinancées par les Fonds structurels de l'UE (Résolutions de la CES : <http://www.etuc.org/a/9511>).

## Annexe:

### ETUC response to questions posed in the 2012 Green Paper on Restructuring and anticipation of change: what lessons from recent experience?

#### Lessons from the crisis

- 1. Are the policy measures and practices outlined above in relation to restructuring, with special reference to short-time working schemes during the crisis appropriate? In what specific contexts? Are they able to cope with persistently weak demand? Finally, what can Member States, the Commission or the social partners do to exchange, disseminate and encourage wider application of the best practices in this domain?**

The Green Paper wholly fails to address either the drivers of restructuring in the current crisis or the manner in which stable and strong industrial relations has avoided greater unemployment.

The economic crisis has demonstrated the need to go further in the discussion through EU legislative action on anticipation of change and restructuring. In those cases/countries where the social partners have been allowed/able to find joint solutions they have been highly innovative and successful in doing so. However, as this is not the case throughout the EU there is a need for EU legislation to address those gaps.

Unfortunately, little attention is paid to understand what and how instruments in which countries have helped to maintain employment levels in some countries during the crisis. Short time schemes and the use of working time accounts are only possible on the basis of a two-track approach: strong employment protection and intensive collective bargaining. However, the Commission gives a limited analysis on the situation in Germany, Belgium, Austria or the Scandinavian countries which managed to maintain employment at a high level despite collapses in production. The Commission stresses the risk of “prolonged use of short-time work”, “possibly delaying” restructuring and argues that short-time work schemes hold back productivity growth. Indeed the productivity growth was negative in these countries, but very positive in Spain. As the Commission for ideological reasons does not accept “more non-productive time”, described as “labour hoarding”, the Commission’s view of short-time is ambiguous and unclear. This approach is neither helpful nor appropriate.

For the ETUC, the active intervention of public authorities and/or social partners through 2008-9, through the rapid application/extension of existing labour law measures (largely based on arrangements for seasonal professions) and the negotiation of new collective agreements, demonstrated the importance of strong labour market institutions, in avoiding a far deeper and more rapid collapse in employment. Short-time working schemes proved a highly successful model for smoothing the short-run adjustment.

When private sector demand evaporated and production plummeted following the collapse of Lehmann Brothers in autumn 2008, public sector-led demand stepped in, both in the form of ‘automatic stabilizers’ (unemployment benefits and benefit support for short-time working schemes) as well as in the form of explicit demand stimulus.

Countries which already had these schemes in place had an advantage as they avoided delayed reactions of this buffer. An important factor in making best use of these schemes seems to have been their quick adaptation to the new needs, although some countries did not avail themselves of this option, or did so to only a limited degree. Countries that introduced such schemes for the first time suffered delays in the buffer effect but, on the other hand, were able to design them directly in the manner best suited to the current crisis. The short-run buffer function of ALMPs depends, among others, on prior expenditure and intensity levels, on timing (early activation or not) and on the focus of measures (short-term versus long-term, training versus employment subsidies).

In many cases, they provided the emergency provisions needed to cope with unanticipated collapse, ensuring the maintenance of purchasing power for workers and maintaining skilled workforces close to companies.

Trade unions have been highly critical of companies' that have exploited the availability of such schemes to hold workers in a 'limbo' for a long period without investment in training or activity, and effectively supported through a state subsidy of salary costs. Therefore, these schemes were largely destined to be short-term and must be linked to demand-focused economic and sustainable industrial policy measures (e.g. the 'cash for clunkers' or energy efficiency and renovation programmes). Such policies ensured that key manufacturing industries and services in Europe were able to rebound by early 2010.

As the Commission Staff Working Paper demonstrates, much has already been done to share the lessons of these national experiences at interprofessional and sectoral level.

Despite the broad dissemination of different practices (through Restructuring Forum, social dialogue committees, within social partner organisations), the lessons of 2008-9 were very quickly forgotten in the context of the spiralling financial and economic crisis from 2010 to date. Economic governance rules (through the so-called 6-pack as well as the hastily and undemocratically concluded 'International Treaty on economic governance') have pushed member states to adopt extremely pro-cyclical policies. With austerity squeezing countries to breaking point as unemployment rockets up, under these circumstances, it would be sensible to let the automatic stabilisers work. That is what the eurozone member states did in 2009. It ensured that the recession, while very deep, was at least not excessively long. However, this option is now tightly curtailed, removing key tools to ensure the cushioning of economic change. The short time working arrangements ensured that the workforce was available to quickly respond to increased demand. A rebound currently being jeopardised by the excessive austerity imposed in the context of the sovereign debt crisis. Supply-side labour market reform will not ensure future growth and employment in Europe; this must be addressed through demand-led sustainable growth policies, including the promotion of a Just Transition to an energy and resource efficient model.

The experience gathered over the past decade and particularly since 2007-8 demonstrates the importance of European action to create a legal framework through a European directive on the anticipation of change and restructuring, based on the good practices already developed at company, sectoral and national level. The ETUC demands EU legislative action to ensure this is taken forward.



**2. The Commission would like to hear views from stakeholders on the following questions:**

**a. What types of framework conditions are most appropriate in order to enable successful industrial adjustment?**

In the view of the ETUC, 5 key framework conditions must be addressed through EU action: macroeconomic framework conditions, the promotion of social dialogue and collective bargaining, investment in education and training, worker participation and corporate governance, and the creation of a European industrial policy capable of reorienting the European economy towards sustainable development, and generating jobs in the process.

1. Sustainable and progressive macroeconomic policies are the bedrock for public services and private companies operating in Europe. While social Europe has been stalled, we have witnessed the liberalisation of labour markets, the greater introduction of both precarious employment and economic flexibility, and changes in our welfare states which promote greater wealth inequality - especially in relation to unemployment policies and pensions. Wages and labour costs have increasingly been targeted undermining purchasing power and consumer demand. We urgently need coordinated and sustainable investment, and integrated social, economic and sustainable industrial policies, to ensure public confidence in the economy and stimulate economic demand, protecting jobs in the real economy. Growing wealth and income inequalities must be addressed through fair taxation policies. Excessive inequity in pay structures between senior management and their workforces has to be rebalanced (i.e. maximum bonuses awarded to top management must be regulated). Workers should be compensated fairly for productivity gains achieved by their company. The share between profit and wages should be more fairly balanced in order to support the development of workers' purchasing power. Moreover, measures to tackle fiscal dumping in the EU are needed, including the directive on a harmonised corporate tax base, the abolition of tax havens and greater effort to fight tax evasion.
2. In the context of today's economic restructuring, the role of social dialogue and collective bargaining on local, national and European level is of crucial importance to ensure the framework conditions for socially acceptable restructuring and the anticipation of change. Stronger co-operation between social partners at all levels is needed. During the crisis we have seen the benefits to be gained by the social partners adopting joint solutions, however, more recently in many countries the crisis is being used as an excuse to undermine social dialogue structures and interfere with the autonomy of the social partners, particularly in relation to collective bargaining and wage setting.
3. Europe's social and economic well-being is dependent on having a well-educated and highly skilled population, and education and training play an essential role in giving citizens the knowledge, skills and competences they need to participate fully in society and the economy. It is particularly important in the context of

restructuring and anticipation of change, to equip and prepare workers for changes in their workplace/industry. Global competition, demographic developments, technological progress, climate change obligations and shifts in patterns of employment individually and collectively are having a dramatic impact on labour markets and the need for new knowledge, skills and competences. If the EU is to meet these challenges, it will need to create more and better jobs and enable working men and women to improve their skills and more specifically match them to short-term and long-term labour market demand. “Comprehensive lifelong learning strategies are required to ensure employability of workers. It is important to establish effective concepts for initial and further training, create jobs, not least for those who are excluded from the labour market due to, for example, shortcomings in their education, and to take effective steps to remove discrimination as far as access to and remaining in the labour market are concerned. Well educated workers and the capacity to innovate are key elements of competition and a prerequisite for prosperity. This is indispensable for the creation of productive and highly-skilled jobs” (a 2010 joint statement ETUC, BUSINESSEUROPE, CEEP and UEAPME <http://www.etuc.org/a/7327>). The ETUC considers that all workers should have equal access to education and training at all levels, regardless of their age, gender, employment status, or nationality, and particularly groups with low participation, such as the low-skilled, older workers and workers on temporary or part-time contracts, so that they are able to acquire, update and develop their knowledge, skills and competences throughout their lifetime. Those that need training the most should not be the least likely to obtain it. The ETUC calls on the EU to underpin this access with a workers’ right to training. The ETUC considers that employers, and particularly SMEs, should support lifelong learning initiatives by making learning more accessible during working hours, and better suited to workers’ needs, either through the individualisation of learning plans, the shift to competence-based training, the move to modularisation or the use of distance learning. These elements should be integrated into a European legal framework on the anticipation of change and restructuring.

4. Socially responsible restructuring and the anticipation of change fundamentally rely on timely and adequate worker information, consultation and participation. Negotiated solutions to restructuring must be prioritised in all operations and all countries. The current crisis demonstrates the need for a profound renovation of the current model of corporate governance which has proved its limitations. We need a new model which gives workers a stronger say in corporate strategy and prevents the excesses of financial capitalism which have weakened long-term corporate development. The ETUC calls for workers’ involvement in the public sector and companies to become more effective through the strengthening of information/consultation and participation rights both at national and European levels. Workers are concerned about the sustainable development of their workplaces and want to be better involved in shaping the future of their organisation or companies via participation in the development of company policies. In order to achieve this they have to be informed and properly consulted – this entails having the relevant information in due time and before decisions are taken so that their views can be genuinely taken into account. Participation in decision-making bodies (such as supervisory boards or executive boards) should be strengthened. Effective and strengthened involvement of workers is a pre-

condition to ensure sustainable futures for companies and to ensuring socially responsible transitions.

5. The ETUC has long called for the European Union to ensure more coordination and strength in its industrial policy. In the context of providing alternatives to a downward spiral of competition on wages and labour conditions, trade union led innovation initiatives and the development of industrial policy concepts show that there are alternatives to concession bargaining, extending working hours and reducing pay to increase competitiveness and profitability. The European economic growth model cannot be built only on the increase of labour productivity, the uptake of ICTs or the knowledge economy but should take on board the development and uptake of sustainable technologies as well. Short-termism in business decisions has to be addressed through corporate governance and industrial policy instruments, e.g. distribution of shareholder dividends must not be done to the detriment of investment in the workforce and infrastructure and the company's development which are pre-conditions for guaranteeing a healthy and sustainable enterprise. The use of job losses and cost cutting programmes by many companies as the only means to maintain profit margins has to be addressed by public policy makers, with incentives created for longer term planning. It is widely recognised that the competitiveness of companies will be ever more dependent on the way in which they are able to invest in the development, adoption and utilisation of technologies and processes for more energy and resource efficiency. This medium to long term agenda is only possible if the constraints of short-term 'shareholder value' are eased. To support this, European industrial policies must be developed through regulation, standards and incentives, and directed towards developing a new economic model based on innovation, eco-efficiency, sustainable technologies, sustainable production and consumption, and the internalisation of ecological costs. Worker participation in industrial and innovation policymaking and implementation is of vital importance, since this engagement ensures an anticipation approach is possible through forward-thinking collective bargaining agreements and joint positions (e.g. the December 2010 joint position Confindustria-CGIL/CISL/UIL on the state of Italian industry and energy efficiency, which follows the broader 'Industry 2015' governmental initiative on an industrial policy tool-box). In the current Europe 2020 strategy, European industrial policy has risen up the agenda, however little regard is given to the importance of social dialogue and worker participation in horizontal or sectoral industrial or innovation policies – this is to the detriment of this approach and its effectiveness.

**b. What existing measures on access to finance to accompany structural adjustment constitute good practice?**

The European Social Fund is “the EU financial instrument” for restructuring (as stated in the current Art 3.1). Lessons have to be drawn from the use of the Structural Funds to support the recovery of the European Union. There can be no-one-size-fits-all solution as, for example, the differences in unemployment rates in member states show but we consider that the future ESF needs to include such measures and priorities as:

- providing particular support for the young, older workers and the most vulnerable groups
- improving work organization by ensuring the conciliation between living and

working time

- establishing labour market observatories
- encouraging the “recycling” and vocational retraining of workers, with a focus on innovation and the transition to a low-carbon economy
- improving support for SMEs, very small enterprises and “social economy” enterprises
- defining the role of training in times of crisis on the basis of discussions on the way sectors and regions will develop in the future
- improving dissemination of good practices, such as investing in training during periods of short-time working
- reinforcing social dialogue by joint training courses for social partners
- determining new sources of jobs creation namely in the activities linked to the fight against climate change.

The measures foreseen in the framework of the European Globalization Adjustment Fund have to be included in the ESF. On the one hand, it is essential to ensure coherence between the “curative” measures following an enterprise restructuring, which are tackled by the EGF, and the “preventing” measures foreseen by the ESF. On the other hand, it is of the utmost importance to ensure a coherence between the principles of both Funds, above all concerning partnership and particularly the involvement of trade unions. Finally the ESF supports the development of social dialogue namely by improving social partners’ capacity building and it has to continue to do so.

### **c. What further measures need to be taken to improve bankruptcy proceedings?**

The ETUC regards Directive 2008/94/EC as an indispensable instrument of Union’s law, providing minimum protection to workers throughout Europe. But as the Directive leaves a significant margin of manoeuvre to the national legislator to implement its principles, it is essential that the Commission carries out a thorough monitoring of the transposition law in each of the Member States, having regard to the general principle of useful effect. Whilst the Insolvency Directive is an essential element of protection, its actual impact will be minor if an appropriate framework to address the consequences of the economic crisis is not in place. The risk that public authorities and companies throughout the Union are becoming unable to meet their duties towards their employees is dramatically increasing. The best protection of employees against insolvency is to avoid bankruptcies. The ETUC urges the Commission to further reflect on measures designed to prevent bankruptcies, including:

- good governance policies. If some insolvencies can be the result of economic difficulties, other reasons such as insufficient capitalisation, bad management or fraud are at the origin of many bankruptcies
- the role and size of the European Globalisation Adjustment Fund must be reassessed in the light of the increased economic difficulties
- the potentially unequal protection between employees’ rights in case of insolvency and employees’ rights in case of redundancy for economic reasons must be addressed.

Insolvency hardly comes out of the blue and often there are cash flow problems causing irregular payment of wages for a longer period than 3 months. Because of the significant divergence in the national transposition laws on the ceilings, the situation needs to be assessed on a case by case basis. A significant number of national trade unions have

expressed strong concerns that in their Member States there is a large number of workers whose unpaid wages exceed the limits set by national law. Moreover, a number of Member States apply a narrow definition of ‘remuneration’ (e.g.: excluding severance pay, bonuses, reimbursement arrangements etc.). This can result in the non-fulfilment of considerable claims.

Therefore, an improvement in existing EU provisions on

*The challenge of adaptability of businesses and employability of workers – companies at the centre*

**3. Is the anticipative approach feasible with regard to management of change and restructuring?**

Yes. It is already being practiced but in a quasi-legal vacuum at European level, as demonstrated by the Commission’s Staff Working document accompanying this consultation. These transnational company and national examples must be supported and extended through the creation of a European legal framework on anticipation of change and restructuring.

**4. How can the existing orientations and guidelines on restructuring be improved in light of the lessons learned from the crisis and the new economic and social challenges? How can the lessons from the crisis be disseminated and implemented?**

Throughout the Green Paper, the objective is to better identify and disseminate good practices, but this is not enough. Through its argumentation, the Green Paper (and the Staff Working Document supporting it) reinforces the crucial role of legislative/contractual regulation in providing a framework not only for anticipation and prevention but also the handling of decisions concerning restructuring operations. One cannot sufficiently stress the importance of the concept of “in due time” in the context of consultation and the provision of information. The ETUC goes further; regulation should not be based on good examples but should act as it always has done at the European level, to provide minimum standards that will make it possible to avoid bad practices.

Since the Gyllenhammar report “Managing change” requested and published by the Commission in November 1998, the Commission has consulted the social partners via two communications on restructurings and employment. The first was presented in January 2002, “Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring”, and the second in March 2005 “Restructuring and employment”. Rather than taking into consideration the recommendations made in response to those consultations, the Commission has instead chosen to use a draft document that was never formally adopted by the interprofessional social partners, the 2003 joint orientations, as a basis for the consultation. This is wholly unacceptable.

There is little convincing analysis in the Green Paper of the current situation of massive job losses and unemployment in the deepest recession since the 1930s, as compared to the situation in 2008/9 when automatic stabilisers and collective bargaining ensured lower job losses than foreseen. This is notably the case in respect of the public sector and the impact of national and European fiscal constraint and austerity on restructuring in public and private sector workplaces. The Commission limits itself to a self-referential framework, self-referencing many Commission communications (“Think Small First” 2008, “Review of Small

Business Act” 2011, “Economic Recovery Plan” 2008, State aid rules...) rather than the reality. The failures of the financial markets and of corporate governance are not reflected, rather there is an over-focus on the “internationalisation of world production” and the “competitiveness challenge”. The proposed remedy is “to enhance the competitive base” of European companies. The Commission starts from scratch and avoids analysis of its own previous policies – for instance the Commissioner Bolkestein’s action plan on financial services which pushed towards extreme liberalisation of financial markets or the flexicurity agenda which pushed for more social insecurity for workers and more atypical jobs. The Commission continues to stress that the concept of flexicurity is at the core of an integrated strategy and the adaptation capacity of workers needs to be further enhanced, when all evidence from the ground demands increased social dialogue and worker protection against precarious work.

Much evidence and experience has been amassed over the past decade through union or employer-only, joint social partner, Commission initiatives and EP activities. Several recommendations made by the Gyllenhammar report have never been addressed: one aimed to encourage major companies and public sector employers to publish a “report on change management” whilst another sought to encourage public authorities to obtain sufficient resources to play a role in training or retraining workers and facilitate necessary changes without losing workplaces. The same is true of the refusal to provide public subsidies to any company making dismissals without taking measures to safeguard the employability of dismissed workers. All restructuring should be subject to gender and health and safety impact assessments. It is now time to put this good practice into action. This should be fed into the elaboration of a legal framework on restructuring and the anticipation of change.

The key lesson drawn from the crisis is on the need for a strengthening of worker resilience through better and stronger information, consultation and participation, a worker-focused skills agenda and strong public industrial policies supporting active labour market policies at all levels. This is best done through a European legal framework on anticipation of change.

#### *Creating synergy in the process of industrial change*

- 5. What could be done to encourage strategic long-term and innovative approaches to the management of change, including employment and skills issues, be encouraged? How can synergy be improved between companies, local authorities and other local actors? How should specific responsibilities and roles be distributed among companies, social partners and public authorities be distributed in this field?**

The rules of financial capitalism are global, yet, the applicable standards on workers’ participation in corporate strategy and restructuring are still largely shaped at national level, with a few European tools (information and consultation, EWCs etc.). With ongoing globalisation, it is becoming more and more difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers’ involvement in the public sector and companies is essential at European level. It is only on this basis that a strong anticipation agenda at European level can be developed, which has as its central goal the promotion of high quality employment and decent living standards.

Trade unions have integrated constant change as an ever more present feature of their daily action in order to maintain a certain level of performance in the European sectors of activity and to remain competitive in the global market. In a legal vacuum, a number of multinational companies and their workers have chosen to negotiate agreements on the anticipation of change. However, these individual transnational agreements lack a legal framework to ensure their application and therefore depend on goodwill on the part of the partners. During recent months, the speed with which management has abandoned its commitments included in such agreements, e.g. in GM or ArcelorMittal, demonstrates this weakness.

Moreover, while this is strategy available to larger companies with strong industrial relations cultures, these agreements cannot provide a framework to tackle the wider effects of public sector restructuring and the silent restructuring in SMEs in broader supply chains and regional economies.

**6. How can effective practices for anticipating employment and skills needs within companies be further encouraged? How can training be developed as a permanent feature of human resources management? How can synergy between action taken by companies and public sector initiatives be promoted to facilitate appropriate employment and skills policies?**

Preparing and enabling workers to anticipate changes demands a key role for education and training. Therefore the ETUC demands that a future framework on anticipation of change and restructuring addresses workers' rights in this regard, and ways of applying them.

Equal access to continuing education and training is essential to respond to citizens' changing circumstances and aspirations on the one hand and the needs of the labour market on the other. The ETUC considers that all workers should have equal access to education and training at all levels, regardless of their age, gender, employment status, or nationality, and particularly groups with low participation, such as the low-skilled, older workers and workers on temporary or part-time contracts, so that they are able to acquire, update and develop their knowledge, skills and competences throughout their lifetime (e.g. through individual training plans and learning accounts). Those that need training the most should not be the least likely to obtain it.

The ETUC calls on the EU to underpin this access with a workers' right to training.

An anticipation framework must address tools focused on future skills needs and the upgrading of skills, through strong social dialogue on workforce planning and multiannual plans on employment and skills development in the public sector, companies and sectorally. Trade unions not only play an important role in the context of improving skills development and developing innovative concepts and industrial policy through their bargaining powers, but also are able to directly influence the practice of workers and learning environments as demonstrated through the UnionLearn initiative of the UK's Trade Union Congress (TUC).

The ETUC considers that employers, and particularly SMEs, should support lifelong learning initiatives by making learning more accessible during working hours, and better suited to workers' needs, either through the individualisation of learning plans, the shift to competence-based training, the move to modularisation or the use of distance learning. Regional social partner approaches, together with public authorities, offer a tried and tested

means of ensuring the engagement of SMEs and their workforces. The sectoral social dialogue has a key role to play in coordinating joint responses at European level.

The European Social Fund should be better used in the future to promote these initiatives – this should be taken into account in the current negotiations on the 2013-2020 EU budget proposals. There can be no-one-size-fits-all solution as, for example, the differences in unemployment rates in member states show but we consider that the future ESF needs to include such measures and priorities as:

- providing particular support for the young, older workers and the most vulnerable groups
- improving work organization by ensuring the conciliation between living and working time
- establishing labour market observatories
- encouraging the “recycling” and vocational retraining of workers, with a focus on innovation and the transition to a low-carbon economy
- improving support for SMEs, very small enterprises and “social economy” enterprises
- defining the role of training in times of crisis on the basis of discussions on the way sectors and regions will develop in the future
- improving dissemination of good practices, such as investing in training during periods of short-time working
- reinforcing social dialogue by joint training courses for social partners
- determining new sources of jobs creation namely in the activities linked to the fight against climate change.

At transnational company level, the EMF-Schneider Electric framework agreement providing for skills anticipation and training for individual workers certainly offers a good practice example.

The ETUC calls on Member States and employers to commit to increased investment in working men and women. Now is not the time to cut back national education and training budgets and programmes as these will provide the basis for future innovation and ensure that crippling skills gaps are avoided. Therefore, commitments should be made for an increase in expenditure per employee for education and continuing vocational training (ETUC Resolution December 2010: <http://www.etuc.org/a/8067>).

## **7. How can companies and their workforces be encouraged to engage in early and adequate preparation of restructuring processes favouring acceptance of change? What best practices exist in this field?**

Giving workers a voice and place in strategic decisions is a precondition to socially-responsible restructuring, meaning a key role for information, consultation and participation. The strengthening of worker rights to information, consultation and participation is fundamental.

The rights of information, consultation and participation in restructuring and particularly in the case of a change of ownership must be improved to ensure adequate ‘voice’ for workers and opportunities for trade unions to negotiate fair solutions on their behalf. This process should take place in a context of upward harmonisation.



Existing legal instruments on information, consultation and participation must be fully respected and enforced, with efforts made to ensure coherence. Employers which do not respect these instruments should be sanctioned effectively.

In the event of merger control procedures, DG Competition should take decisions on the basis of a number of different aspects and worker involvement, namely those related to employment and industrial policy. This confirms the need for better interaction between the relevant EU policies when designing an appropriate strategy for managing restructuring.

A stronger participation of workers in strategic business decisions which are often taken at European or global level is necessary. The current crisis must be considered as opportunity to strengthen worker involvement to strengthen the long-term viability and sustainability of workplaces. Furthermore, corporate governance rules should ensure managerial autonomy to avoid an over-emphasis on the short-term demands of shareholders (see Resolution December 2011: <http://www.etuc.org/a/9425>).

There is a key role of collective bargaining within a future European legal framework. To reflect the increasing importance of transnational restructuring, the Commission should finally propose the creation of a European legal framework for transnational collective bargaining and agreements at enterprise level or sectoral level in order to support companies and sectors (public and private) handle challenges dealing with issues such as work organisation, employment, working conditions and training.

Thirdly, trade unions do not resist change, as long as it is justified, negotiated and well-managed in a socially responsible way. What the ETUC will always resist is a scenario in which the negative consequences are borne exclusively by workers, whilst a significant proportion of managers who have failed to live up to their responsibilities receive a 'golden handshake' in return.

As the very systems cushioning workers from the brutal impact of economic change are being undermined through austerity and deregulation, worker representatives are increasingly considered only as a means of ensuring the acceptance of change. On the contrary, it is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop.

Crucial to that trust and policy framework are active labour market policies, social protection and support measures. Any restructuring framework must include support mechanisms for workers who fall victim to economic change. These mechanisms must be clearly defined, both prior to the restructuring process itself, throughout that process and by monitoring it over an appropriate period of time in a bid to analyse the sustainability of the steps taken. These steps should include job cuts as a last resort, an active search for alternative solutions to redundancy, tailor-made measures in the areas of job counselling, training, support in finding a new job, placements in another company, support for the creation of new activities with access to necessary loans, adequate social protection during unemployment and a job search period. All this with a view to promoting geographical and career mobility ensuring non-discrimination. Good practice examples include the tools of 'redeployment taskforces' which are already used in various member states to support workers. These measures should be integrated into the EU legal framework to ensure that all workers may benefit across Europe and should be co-financed by the EU's Structural Funds where needed.

**8. To what extent can mutual trust and shared diagnosis play a role in good management of restructuring? How can this be promoted within companies and in broader contexts?**

It is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop. An absence of dialogue can have ruinous consequences, as can be seen from Eurofound data on restructuring and workplace health as well as recent suicide cases in some prominent companies.

There are examples from across Europe of how governments and public sector employers have completely failed to take on board any of these. Pay freezes and/or cuts, job freezes or cuts and other changes to working conditions have been imposed on millions of public sector workers without any consultation or negotiation. Any mutual trust that existed before, and indeed some progress on social dialogue was observed in the years before the financial crisis, has now been totally undermined or seriously weakened.

Anticipation and preparation for change are the pre-conditions for managing change in a socially responsible way. Developing regular joint analyses on the situation of a plant, company, sector or region can provide a key means of generating and focusing this dialogue, improving mutual understanding and finding innovative solutions. This demands an equalizing of the balance of power between employer and worker through measures to ensure worker representatives have access to expert and union support. Since this was one of the key improvements of the revision of the EWC directive in 2007, this right should be extended to all EU information and consultation norms.

Despite the existence of good national legal tools and practices (e.g. GPEC in France) there is a need to go beyond the national level and develop a joint approach at European level. With ongoing globalization and European market integration, it is becoming more and more difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers' involvement in companies and the public sector is essential at European level.

**9. What can companies and employees do to minimise the employment and social impact of restructuring operations? What role can public policies play in facilitating these changes?**

The ETUC has long argued that zero unemployment should be the main goal of policies managing restructuring processes alongside the recognition that policies must deliver appropriate solutions for each and every worker.

This demands parallel public policies and investment promoting the creation of good quality jobs, here there is a key role for strong European and national industrial and innovation policies. A stronger and sustainable European industrial policy agenda creating and maintaining jobs through significant public and private investment in R&D, innovation and infrastructure, to develop a strategic approach that goes beyond enhancing framework conditions but promotes life-cycle thinking and the need to close the ecological loop, supporting the development and diffusion of more eco-efficient technologies and fostering the development of markets for sustainable goods and services, while adjusting industry to these upcoming sustainable markets and technologies and preparing industry for greater energy- and resource-efficiency.

Public policy must also provide a safety net through active labour market policies, strong social protection and support measures.

A European restructuring framework must include support mechanisms for workers who fall victim to economic change. These mechanisms must be clearly defined, both prior to the restructuring process itself, throughout that process and by monitoring it over an appropriate period of time in a bid to analyse the sustainability of the steps taken. These steps should include job cuts as a last resort, an active search for alternative solutions to redundancy, tailor-made measures in the areas of job counselling, training, support in finding a new job, placements in another company, support for the creation of new activities with access to necessary loans, adequate social protection during unemployment and a job search period. All this with a view to promoting geographical and career mobility ensuring non-discrimination. These measures should be co-financed by the EU's Structural Funds.

**10. What can companies, local authorities and all the other stakeholders usefully do to minimise the regional impacts of restructuring? How can companies affected as a result of the restructuring of another company be supported in their own adjustment process? In particular, how can SMEs be better informed and assisted in the restructuring process?**

A characteristic of public debates on restructuring is that they overwhelmingly refer to cases and developments in large enterprises. When it comes to restructuring and change in SMEs little is found in the press, despite the importance of SMEs in terms of employment (over 3/4 of workforce in many countries) and number of companies (99% of European companies). This clearly limits data collection and analysis in EU instruments such as the EMCC/Eurofound. The crisis has shown the importance of addressing restructuring in supply chains and regional networks, but in sectors dominated by SMEs workers are poorly addressed in current EU policy.

It is therefore not surprising that 'silent restructuring' is increasingly one of the ETUC's main concerns over the past years – it is also one of the main reasons that a European legal framework is urgently needed to link territorial and sectoral measures on employment and skills anticipation with the majority of the workforce.

SMEs are at a disadvantage to large companies in relation to financial and other instruments for dealing with and managing restructuring. Meaning that structural change often means dismissals as other alternatives are unavailable. Once redundancy is pending, a worker in an SME has often more limited access to redeployment services and training opportunities – increasing the cost for the individual worker rather than easing the transition into another job. The development and use of regional and sectoral approaches has proved successful in a number of member states (e.g. the Italian management of 'Territorial Crisis' has been used to extend national provisions on support measures to SMEs on a regional basis).

Therefore a European legal framework should give a clear role to regional and local authorities. This must be complemented by an obligation on employers to cooperate with public authorities and trade unions, as experience and good practice from Scandinavia as well as France and Italy demonstrates that this is the only means of ensuring that information is delivered at the earliest possible stage allowing proper preparation of support measures and social plans.

**11. What role can evaluation and reporting of past restructuring operations play in increasing knowledge and improving stakeholders' practices?**

Learning from experience and analysing the situation over time, particularly at sectoral level, are crucial to ensure that policies are achieving their aims. The promotion of sectoral skills and employment councils and observatories is essential to this end. This experience should be fed into the improvement of European institutions tools in the field, notably the European Monitoring Centre on Change, which despite its initial role is currently only seen as a limited aid for social partners engaged in restructuring and anticipation. European Restructuring Forum are another useful tool, however once good practices are identified political will must be engaged to ensure they are implemented or adapted in other countries. This has not been the case without a legal framework, but these elements could usefully be integrated into a legal framework, e.g. by implementing the Gyllenhammar report's recommendation on pressing major companies and public sector employers to publish a "report on change management". Ideas of regional reporting could be developed to ensure the SME-dimension is represented adequately.

**12. What role social dialogue could play in better disseminating and encouraging best practices for the anticipation and management of restructuring?**

Social dialogue has been the main vehicle for disseminating good practices in the past decade. This should undoubtedly continue to be a key tool, but must be complemented by an improvement in the regulatory framework. Under the guise of economic governance, there is a wholehearted attack on industrial relations, with challenges to the Labour Codes and basic labour and social rights in many countries, and a concerted attempt to decentralize collective bargaining to the lowest level. This is a dismantlement of the key mechanisms to guarantee solidarity and social cohesion within and between member states. Social dialogue is crucial to ensure the framework for the anticipation of industrial change. It is therefore more than counter-productive to be dismantling when we should be reinforcing industrial relations structures to prepare for the changes coming in the light notably of the transition towards an energy and resource efficient model. Hypocritical demands from European institutions for more social dialogue on the one hand, while the foundations of social dialogue are undermined on the other, is deeply cynical.

**13. While fully taking into account the huge differences between Member States in this regard, the Commission would like to hear the views of stakeholders (in particular national authorities and social partners' organisations) on whether some aspects of the employment protection systems need to be reviewed in the light of this intended transition towards anticipation and proactive protection of employment.**

Strong and effective employment protection systems, together with stable industrial relations as a centre element, are crucial to ensure fair transitions in the labour market. Any attempt to further deregulate the labour market under the guise of the Commission's flexicurity or restructuring initiative will be strongly opposed by the trade union movement. Measures are urgently needed to reduce precarious work and generate new jobs to counter the rising unemployment in Europe. Supply-side labour market policies do not create jobs. Reducing workers' protection further will not create a more proactive strategy on anticipation but increase insecurity and resistance to change.

*The role of regional and local authorities*

**14. How can a supporting role be encouraged for public authorities, particularly at regional level, in anticipation processes, as well as in particular restructuring events, taking into account differing national traditions regarding the involvement of public authorities in company-level processes?**

Public authorities are crucial actors in ensuring the coordination of anticipation strategies at different levels, the engagement of both sides of industry, developing longer term strategies for regional and local economies together with stakeholders, and ensuring the coherence between employment creation policies, skills anticipation and support measures for workers affected by restructuring.

The Commission should also recognise more broadly the role public authorities not only as a supporting actor, but also public authorities' role as a key employer at different government and sectoral levels. Public sector restructuring – currently the strongest wave of restructuring in the EU through unilateral austerity measures – should also be foreseen within a framework of socially responsible restructuring and anticipation.