GROUPE ALPHA

Restructuring in Europe: better anticipation, better management

A contribution by **Groupe ALPHA**

GROUPE ALPHA

In 2008 Groupe ALPHA celebrates its 25th anniversary.

Throughout the course of its development the Group's constant aim has been to:

- ➜ be active throughout the employment chain,
- ➜ facilitate constructive and effective social dialogue within companies and in local areas,
- ➜ promote local development to the fullest possible extent.

Its objective is to help **to promote sustainable social and economic development** regardless of the scale of intervention – individuals, companies or local areas.

Since 1983, **Groupe ALPHA** has rapidly established itself as the leading financial analyst specialising in regular assistance for works councils.

By providing staff representatives with advice and operational support in the field of restructuring, it has become a recognised presence and source of expertise among all works councils.

This has led it to broaden its scope to cover all social changes and working conditions having an impact on workers – forward management of employment, work analysis, health and safety problems, etc.

In 2002, the Group acquired the company SODIE, which enabled it to become more actively involved in worker redeployment and outplacement, and the revitalisation of employment areas downstream of restructuring.

Two years earlier, it had also increased its auditing and management commitment **for cooperative, mutual and non-profit structures** and **local authorities**.

At European level, the provision of high-level operational expertise is vitally important to equip Social Europe and the trade union stakeholders with cognitive and reactive tools.

With this in mind, **Groupe ALPHA** has developed a network of transnational, multi-stakeholder European experts, both for restructuring projects or specific studies and for recurrent consultancy tasks. This enables Groupe ALPHA to contribute to the responsible management of transnational restructuring and to encourage the emergence of a major stakeholder on the European social stage:
European Works Councils.

Restructuring in Europe: better anticipation, better management

The context in which this contribution is written is one of ongoing restructuring within an international division of labour that has been reshaped by the enlargement of the European Union and the globalisation of trade and production. This reshaping is affecting production structures and the geographical distribution of activities (smaller units with a shorter lifespan, less focus on industry and more on services, etc.) and is transforming methods of organisation and management (modular segmentation of the value chain, project-based management, work organisation based on the mobilisation of skills, etc.). Such a context does not automatically improve the quality of individual transitions from one job to another.

Empirical studies show that the social management of restructuring still relies massively on labour market withdrawal mechanisms: retirement, early retirement, and various forms of voluntary retirement. The exclusion of workers affected by restructuring thus continues to dominate good practices, underlining just how vital mobility is, both occupational and geographical, as an adaptation tool for workers, businesses and local areas. Better collective and public action which encourages innovative practices here is thus to be desired.

Groupe ALPHA has recently led and coordinated a number of projects designed to obtain a better understanding of restructuring processes in order to improve how they are anticipated and managed. The AgirE Project (*Anticipating for an Innovative Management of Restructuring in Europe*), financed by the European Social Fund, was supported by a European and multidisciplinary partnership and aimed to identify and promote innovative practices on the basis of a series of 26 recent restructuring case studies[1]. The *Anticipation, Formation, Mobilités* (Anticipation, Training, Mobility) project conducted for the French Ministry of Employment, Social Cohesion and Housing compared practices in France with those in other countries to examine the interplay between stakeholders, particularly at sectoral and local levels. This interplay determines how restructuring is monitored, anticipated and supported[2]. A special study was made of the outlook for the automotive sector in Europe, as part of the European Commission's Restructuring Forum[3].

1. *AgirE (Anticipating for an Innovative Management of Restructuring in Europe).* project director Mireille Battut (Groupe ALPHA), scientific coordinator Marie-Ange Moreau (EUI). Official documents produced under the AgirE Project (papers, case studies, report of the final conference, final report) are available on the project website **www.fse-agire.com**.
2. *Anticipation, Formation, Mobilités (anticipation et accompagnement des restructurations)* (Anticipation, Training, Mobility (anticipating and monitoring restructuring)), Groupe ALPHA, CEREQ, OSE, coordinated by Hugues Bertrand, 2007.
3. *Comprehensive analysis of the evolution of the automotive sector in Europe,* Patrick Loire (Groupe ALPHA), Jean-Jacques Paris (Groupe ALPHA), Terry Ward (Alphametrics), Christian Weis (PCG Project Consult), April 2008, available on the European Commission website at: **http://ec.europa.eu/employment_social/restructuring/docs/draft_auto_v3_en.pdf**

The common ***aim*** of these projects was to help to consolidate and disseminate a practical culture of anticipation and innovation in the management of restructuring: we need to move on from purely remedial measures and at best passive anticipation to active prevention, avoiding crisis situations through the early, negotiated management of restructuring. This way of managing change tackles the risks inherent in restructuring, so that the outcome meets the two criteria for restructuring to be successful: a competitive change in activities and positive occupational mobility for the workers affected.

The projects endeavoured to contribute to this approach in two ways:

- by promoting principles for the public regulation of restructuring at European level;
- by strengthening the role of social dialogue in the practical management of restructuring.

1 CLARIFYING THE RESPONSIBILITIES OF PUBLIC AND SOCIAL STAKEHOLDERS

1.1. Towards the public regulation of restructuring at European level?

Managing restructuring requires ***public-interest monitoring and forward-planning frameworks***, on an appropriate scale and with a sufficiently broad outlook, able to identify and understand the productive, commercial and financial dynamics influencing the sectoral and geographical context of the restructuring. The aim is to provide shared forward references for the various stakeholders involved, helping them to anticipate risks and opportunities, define their strategies and decisions and establish a negotiating position.

- The database on restructuring developed by the European Restructuring Monitor (ERM, European Foundation for the Improvement of Living and Working Conditions) is a useful tool which, since 2002, has been shedding light on certain features and developments affecting restructuring in the EU. Despite its acknowledged benefits, however, it still has certain weaknesses (mainly the data collection methods and the partial coverage of restructuring) and limitations (the questionable relevance of the restructuring typology and sectoral nomenclature, and the lack of statistical follow-up of workers affected by restructuring); the only way to correct these problems is to mobilise administrative information channels on restructuring and redundancies across Europe, as provided for in various regulations. Eurostat should be involved in this work in order to improve the quality of the statistics. Setting up this data system will allow ***a more accurate assessment to be made of the short- and long-term impact of restructuring on employment and growth in Europe.***

- The monitoring and analysis of the dynamics that lead to restructuring by ***multi-stakeholder monitoring centres or forums, on an appropriate sectoral and geographical scale*** for managing restructuring and individual career paths, should be encouraged. These monitoring centres or forums should involve the social stakeholders concerned and have appropriate competences. Their job would be to trace a prospective map of the risks of restructuring, and to outline possible scenarios depending on macroeconomic parameters, production changes, the geographical redistribution of activities (research, production, assembly), and the strengths and weaknesses of company strategies. They should take account of the particular problems of SMEs and provide them with an anticipatory framework, which they most often lack. They would also provide back-up for sectoral information, consultation and negotiation procedures on the prospects for restructuring and what it involves. In a recent working document the European Commission envisages the possibility of developing sectoral “employment and qualifications” councils as an instrument of social dialogue and forward planning in sectors facing profound change in the structure of employment[4].

4. “Restructuring and employment, the contribution of the European Union”, SEC(2008) 2154, 2 July 2008

Information taken from the ERM restructuring database

The ERM tries to identify all restructurings reaching the threshold of 100 jobs lost, or in which at least 10% of jobs are affected on a site with over 250 workers. Over the five years between 2002 and 2006 the ERM recorded on average around 700 annual cases of restructuring involving job losses of some 550 000 (around 800 jobs lost per case). However, because of the highly empirical data collection methods, it cannot be certain to have met its target of identifying all cases, and given the average number of job losses recorded per restructuring, it is likely that the actual collection threshold is higher.

The most traumatic restructurings are few in number. Closures in the strict sense of the word account for around 20% of the restructurings and more than 10% of the jobs lost. Relocations account for around 10% of the restructurings and job losses and are not showing any clear upward trend. Some countries (such as Ireland and Portugal) appear more vulnerable to an increase here. Foreign companies (particularly American) are relatively more involved in relocations than in restructurings as a whole. The countries of Central and Eastern Europe have a particular profile, with jobs being lost in State-owned undertakings, and jobs created in foreign businesses. Relocations from the EU15 are primarily to the Central and Eastern European countries, and then to Asia. Internal restructuring in all its many forms accounts for around half of the cases and some two-thirds of the job losses. These internal restructurings are clearly linked to the international development strategy of the companies concerned, over and above relocations in the strict sense.

The impact of restructuring is fairly severe not just in the "old" sectors under threat from competition, but also in developing sectors like banking, insurance and telecommunications. Sectors that shed a lot of jobs through restructuring can, however, also create plenty (like the automotive sector). Since the ERM's recording of job increases is uncertain, however, it is not easy to distinguish between intensive job rotation and the net effect of restructuring on employment.

The measurement of the length of time between the restructuring announcement and the end of the restructuring operation varies widely from one country to another. The period increases with the size of the company. It is a useful indicator, but one which is probably not easy to interpret correctly. For instance, Germany is the country with the most cases (54%) where the period is over two years, but this is perhaps also because the announcements are made earlier than elsewhere!

An example of sectoral social dialogue on restructuring: the automotive industry

A high-level group of experts (the *Car 21* initiative) worked on the prospects resulting from changes to the production and geographical structure of the automotive industry (carmakers and automotive suppliers) and from environmental policies, with a view to establishing a competitive regulatory framework for the sector.

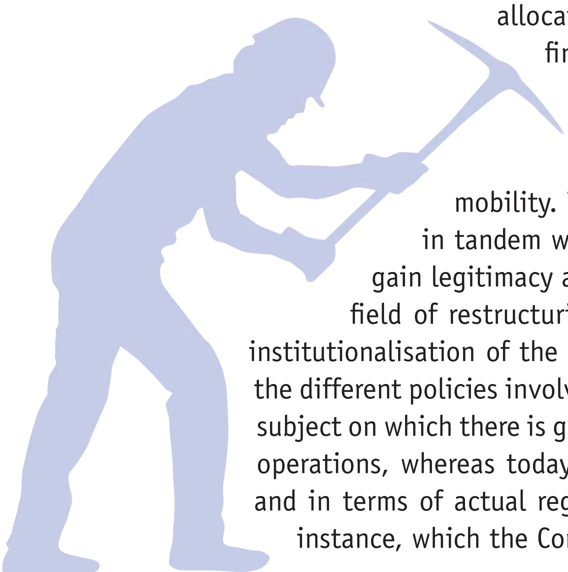
Following this work, a "Restructuring Forum" (October 2007) set up by the European Commission led attempts to form a multi-stakeholder partnership to anticipate restructuring in the automotive sector.

These efforts were followed by the Automotive Sector Skills Workshop focusing on future employment and skills, to which Groupe ALPHA contributed directly: how to attract new skills to a sector that will have to shed jobs, in order to achieve the desired "green" economic, social and environmental scenario ?

At the Commission's instigation the European Union is taking a more determined line towards redefining strategic public action in the field of industrial policy and restructuring: defensive action on restructuring is to be replaced with a policy of strengthening the competitive advantages of the industrial base and responding proactively to future skills needs by mobilising clusters and local areas. It seems easier today to make this compatible with a competition policy that is more in tune with people's views. Competition policy remains as strict as ever when it comes to monitoring mergers and it still restricts the creation of "European champions", but it allows greater freedom in allocating public aid. This is therefore the right time to be encouraging the better use of national and European public funding in order to have a positive influence on restructuring.

- ***EU public policies all have their own effect on the outlook for restructuring***, and this will be even more the case if they are strengthened. As far as environment policy is concerned, this is already tangible in sectors such as the automotive and chemical industries (energy-climate package, *Reach*). The impact of these policies should be evaluated, *ex ante* as well as *ex post*, and incorporated by the social stakeholders in their efforts to anticipate restructuring. Leaving the Member States to manage the consequences alone would be a literal and politically impractical interpretation of subsidiarity. The research conducted as part of the AgirE Project produced the ***3M rule***, according to which restructuring is a Multidimensional phenomenon requiring a Multi-level approach and Multi-stakeholder management of the changes. In particular, the political and social stakeholders must be encouraged to take proper and specific account of the implications of public policies in the active anticipation of restructuring.

- ***The organisation and commitment of European funding*** (Structural Funds, European Social Fund, European Globalisation Adjustment Fund) must be rethought in line with the considerations set out above, in order to provide practical support for preventive measures in relation to restructuring. The way in which the ESF is used is still far too rigid to keep up with the constant developments in restructuring, while the recent European Globalisation Adjustment Fund has no anticipatory function and is still very underused, well below its already small allocation. If the funds were reorganised they could finance anticipation and partnership systems to ensure that restructuring is successful. These systems would also help to support workers affected by restructuring and to secure their mobility. This reorganisation of European public funding, in tandem with national and private sources of finance, will gain legitimacy as the Community's public responsibilities in the field of restructuring are clarified: on a political level, with the institutionalisation of the ***restructuring task force***, which will coordinate the different policies involved; on a legal level, by making "restructuring" a subject on which there is greater EU authority, particularly for transnational operations, whereas today it is mainly governed by national legislation; and in terms of actual regulation, in the form of a code of conduct, for instance, which the Commission has talked about for businesses.



1.2. Economically and socially successful restructuring through early, negotiated management

- ***Every restructuring is individual.*** The sectoral and local context, the company's particular combination of technologies, the structure and requirements of its body of shareholders, its organisation model and culture, the interaction between pressures outside the company and its productive and financial choices etc. all make each restructuring an individual case: although general tools (procedures, codes of conduct, financial instruments and so on) and the lessons learnt from other experiences can be mobilised, they do not provide a model. What they do instead is help ***to open up, in good time and at the appropriate moment, an opportunity for information and negotiation*** allowing the actual problems facing the company and its workers to be brought out into the open and discussed. They can help to bridge the gap between individual national practices but without eliminating the differences between them: with the Rhine model worker representatives are generally involved in difficult decisions at an early stage, whereas in the Latin countries the inadequate nature of their involvement means that bodies at various levels are heavily State-influenced; by contrast, the widespread distribution of the Anglo-Saxon model tends to shift the decision-making power to financial actors who have a heavy influence on the life of companies, including in the Rhine model countries. To put it plainly, it is not enough just to want to reproduce good practices. Learning innovative practices is the way forward.

The practical management of restructuring will depend on the various types of resources which the stakeholders can mobilise. Where the distribution of those resources between employers, trade unions, local authorities etc. is too asymmetrical, this will clearly not be beneficial to shared anticipation and the negotiated management of restructuring. There are ***cognitive resources*** (each stakeholder's own perception of the company's situation and the factors involved in the restructuring); ***organisational resources*** (the ability to coordinate at the right time with stakeholders sharing common interests); and ***public resources*** (access to public mechanisms, particularly financial ones, that can support the management of restructuring). The availability of these resources partly depends on each stakeholder's own traditions (the quality of the trade union representation, for instance, and the attention it pays to relations with workers at other sites and sub-contractors), but it can be improved through incentives and support from public institutions and by learning how to use them: information and consultation procedures, early warning systems, agreements on method and procedure, outside consultants, and so on. Access to these mechanisms and training in how to use them should be encouraged. Should the European Commission take responsibility for providing information and training here, it could promote the use of organisations and experts that have the appropriate professionalism to do this.

Expertise among workers in Europe

The "market" for economic expertise in works councils and trade unions is organised in very different ways in the EU countries: it is not always actually a market, where the expertise is internal to trade unions or *Mitbestimmung* bodies. French labour law provides a complete framework for the involvement of experts. With the most recent legislation introduced in the early 2000s, the regulations cover not just information/consultation, but also negotiation (particularly in the case of restructuring).

However, the high rate and ongoing nature of restructuring is generally leading to the development of expertise in Europe. The development of the European Works Councils is also encouraging this. The involvement of experts is moving away from being a statutory measure, required as a matter of public policy, and is becoming more of a contractual arrangement, agreed between the parties. This development is helping to blur the distinction between information/consultation (which is more a prerogative of works councils) and negotiation (which is more a matter for the trade unions).

Experts are contributing more directly to the influence that the stakeholders have and how it is exercised. Thus, in working to shed light on the real causes of an announced restructuring, they help to shift the focus of diagnosis and help the stakeholders to produce a better assessment of the scope for and content of negotiation[1].

1. See, on all these points, Mireille Battut, Philippe Duchamp, Pascal Nonat, "Le rôle de l'expertise dans la transformation de la demande et du jeu des acteurs. Du diagnostic à l'anticipation", November 2007, http://www.fse-agire.com

The purpose of ***mobilising these resources*** is to allow the ***negotiated management of restructuring*** based on early diagnosis, which reduces disputes by working to make the cognitive perceptions of the various stakeholders compatible with each other. To be realistic, this requires ***the definition of relevant negotiating parameters***, appropriate to each restructuring: the scope of the negotiations (group, company, site, etc.), the field (whether alternative options are available) and the stakeholders involved (within and outside the company). The idea, in line with the "3M rule", is to correct, not to consolidate, the power and information asymmetries that exist between stakeholders who are not equally able to cope with the challenges of globalisation, and to try to overcome the barriers between global and local action as well as competition between sites, while acknowledging the difficulty of achieving this. The "3M rule" sets out an objective: when applied it must be adapted to each individual case, taking account of the twin trends towards decentralised negotiations and the delegation of negotiating power to the works council, which can undermine control of the multi-level dimension of restructuring. In particular it must be ensured that the active consultation phases do not systematically disrupt the timetables for anticipation and action. It will be seen that the practices of shared strategic anticipation actually speed up the operational phases.

The local factor is important because the local area is at the intersection between the collective management of restructuring and support for individuals and their occupational mobility. However, involving local stakeholders in the anticipation and preventive management of restructuring remains a difficult issue. On the one hand, local balances of power and the influence of the media still have an effect on the company's need to show corporate social responsibility towards the areas where it is located (and there are some companies which have actually made this local corporate responsibility part of their identity). On the other hand, local social and public stakeholders are not guaranteed to be able to organise and coordinate themselves in good time when faced with a given restructuring (though there are also local stakeholders and councillors who have gained real know-how in promoting their area). So when the relevant timescale is not really the same for the company stakeholders and the local stakeholders, unequal access to decision-makers (in terms of proximity and also culture) introduces real imbalances between the areas themselves. The temptation then might be to conclude individual agreements, and to ignore the "3M rule" Yet this rule usefully draws attention to the need for such agreements to take account of the local implications: this should be a condition for having access to public funding to support restructuring. Agreements within the company must include the principle of social responsibility towards the local area, which must start with an evaluation of the local impact of the company's decisions.

Given the mobility of production sites, companies must be made to contribute to ***the revitalisation of the local area***, but this is not enough to promote the economic identity of the area in the long term: before revitalisation, there must be vitalisation through the development of local social capital to consolidate the existing sites and promote new ones. If this is to be successful, the local or regional stakeholders must be able to act as leaders and coaches. Spurred on by this leadership, multi-stakeholder partnerships must focus on promoting the area's assets in the long term, without waiting for radical breakdowns in the area's economic structure. Competitive clusters bringing businesses, education and research establishments and public authorities together in one high-tech project are useful initiatives. The European Structural Funds, whose effectiveness in regional development has been the subject of conflicting assessments, would be allocated and mobilised more strictly and effectively if they were targeted at the multi-stakeholder partnerships that are genuinely able to contribute to that development.

Anticipating restructuring is of strategic nature where it covers a period of several years, enabling ***production changes to be linked to the preventive adaptation of jobs and skills*** on the basis of a regularly updated diagnosis. It is ***of operational nature, at the intersection between preventive action and remedial action***, where the timescale is medium-term, too short to take full account of the training needs generated by the genuinely forward-looking management of jobs and skills, but long enough to prepare properly for the individual redeployment of the workers affected. It is seen as pointless where there is excessive reliance solely on labour market flexibility to absorb the individual transitions resulting from restructuring as they happen.

EU incentives for businesses should promote the conclusion of forward management framework agreements in line with the strategic timescale, and on methods or procedures agreements governing the operational timescale, where circumstances have not allowed earlier anticipation. A Community code of conduct could single out these two types of agreements and provide them with a secure legal basis. A redundancy plan organising redundancies and redeployments as an emergency measure should only ever be a last resort: should businesses implementing such redundancy plans without forward planning agreement or procedural agreement face a "surcharge" proportionate to the scale of the redundancies? If the company evades its responsibility to take action (through an agreement), it could be "punished" by a responsibility to pay[5].

5. As the Commission staff working paper "Restructuring and employment, the contribution of the European Union", (SEC(2008) 2154, 2 July 2008) points out, the possibility of imposing financial penalties, at least by denying them access to public aid, on companies proceeding with dismissals without having taken the necessary steps to safeguard the employability of the workers dismissed was envisaged as early as 1998 in the report on "Managing change" by the Gyllenhammar Expert Group.

Demonstrating innovative practices (but not always) on the ground

The AgirE Project endeavoured, through a series of case studies, to identify innovative practices in the anticipation and management of restructuring, and also the obstacles that they are coming up against as they progress (such as factors encouraging stakeholders to maintain a collective silence and wait-and-see approach to the risk of restructuring)[1].

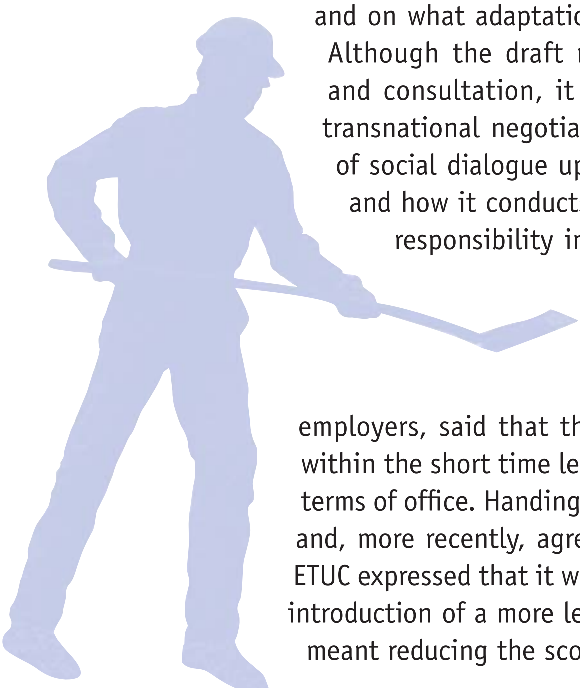
- **Thomson Video Glass**: a proactive strategy, through a substantial method agreement, involving retraining and finding a buyer, which mobilised both management and union in the face of the irreversible loss of market shares.
- **ST Micro-electronics** (Agrate site): the negotiation of a collective agreement on reorganising production, in an activity facing strong competitive and technological pressure, meant that job losses could be reduced and the future of the site consolidated.
- **Novelis** (sites at Ohle and Lüdenscheid): a cooperative framework was established, within this centralist group, for the operational anticipation, over two years, of restructuring affecting two sites as part of a huge reorganisation of the group. Each measure was worked on in advance by a committee of middle managers and works council representatives; the implementation of the restructuring conditions for each department was covered by a company agreement that was detailed enough for the worker representatives to be able to follow the progress of the restructuring.
- **SABAF** (Lumezzane site): the tripartite governance of a competitive restructuring requiring a site relocation, involving management, trade unions and local authorities.
- **RKL** (Essen): staff representatives and, to a lesser extent, the local authorities made a vital contribution to developing solutions to safeguard a site under direct threat, at the price of an agreement to review certain collective guarantees.
- **Schneider Electric**: a European agreement on the forward management of labour and skills was signed between the management and the European Metalworkers Federation. The European Works Council played a key role in preparing and implementing the agreement.

Alongside these innovative examples, there were others where the (excessive) speed of restructuring meant that anticipation was impossible. These were mainly cases of outright closure, demonstrating the management's inability to anticipate changes in the market and technology. However, poor shared anticipation was also to be found in cases of recurrent, centrally-managed restructuring, which relied mainly on substantial compensation for those leaving the company, where possible voluntarily. That was the case with IBM, for example, although the recent introduction of method agreements is making it easier to put in place forward management and mobility mechanisms.

1. Cf. Mireille Battut, Philippe Duchamp, « Conditions pour l'anticipation des changements, du point de vue des représentants des travailleurs »: **http://www.fse-agire.com.**
   Summaries of the case studies are also available on the website **www.fse-agire.com.**

European Works Councils (EWCs) are already pioneers when it comes to these possible developments, in that they enable workers to be represented at a level corresponding to the group's or company's multinational scale, and they aim to promote equal treatment for workers in different countries facing common problems. However, even though the EWCs differ in terms of the agreements concluded to set them up and how these are actually applied by the stakeholders involved, their practical experience is much more modest. The sharing of roles with the national bodies remains tricky, to say the least: the definition and practice of subsidiarity are a factor here too. The links between the roles of the trade unions and the works councils, which vary from one country to another, do not make it easy to agree on what the powers and role of the EWC are: the trade unions, both national and European, may fear that the EWCs are too independent. The work of the EWC tests the coordination and solidarity of the European trade union movement, and its limitations handicap the EWCs' ability to react to events. Rightly concerned about their operating conditions and means, the EWCs may be strangled by red tape even before they have reached maturity as an institution. Legal uncertainty, particularly with mergers, may also affect the EWCs' credibility and legitimacy.

The review of the 1994 European directive, the draft of which was published by the European Commission in early July 2008, is intended to bring it more closely into line with other European legislation (the 2002 directive on the information and consultation of workers, and the 2002 and 2003 directives on the European company and worker involvement in it). It is an opportunity to clarify the transnational powers of the EWCs, to spell out and strengthen their rights to information and consultation, to recognise the role of the trade union federations in the work of the EWCs, and to promote negotiation on the links between national and transnational levels of information and consultation and on what adaptations are needed if companies change their structure. Although the draft review brings significant progress on information and consultation, it says very little about securing the conditions for transnational negotiation. It also cannot make up for the shortcomings of social dialogue upstream: what use is the EWC to the company itself and how it conducts its strategy? How can it help to promote its social responsibility in the long term? The review of the directive, which accompanies broader initiatives to promote social dialogue, is suffering from the current limitations of social dialogue itself. The European Trade Union Confederation (ETUC), facing manoeuvres from the employers, said that the review was not feasible through social dialogue within the short time left until the end of the Commission's and Parliament's terms of office. Handing responsibility for the review back to the Commission and, more recently, agreeing on a joint position with Business Europe, the ETUC expressed that it would prefer the outcome of the review to be the rapid introduction of a more legally binding mechanism than at present, even if it meant reducing the scope of the review.



2 A FLAGSHIP PROPOSAL FOR BETTER LINKAGE BETWEEN SOCIAL DIALOGUE AND PUBLIC POLICY

2.1. A mechanism based on the conditional commitment of European funding to support the anticipated and negotiated management of restructuring and change

The aim here is to facilitate the anticipated and negotiated management of restructuring in a practical way, through incentives that are subject to certain conditions.

Provided that:

- there is advance notice of restructuring (of a reasonable period, such as 6-12 months depending on the scale of the restructuring, from 100 to over 500 job losses),
- there is a "method" or "procedural" social agreement (a pre-existing forward management framework agreement meets this condition) as proof of efforts to anticipate at least on an operational level, and
- the studies and operational support measures referred to in the agreement in question are carried out immediately.

The European Union would commit ***funding for three types of measures***:

- studies of the impact on employment and the local area: diagnoses and recommendations along the lines of an "action plan for the employment area";
- early training in new skills for workers threatened by the restructuring;
- early revitalisation of the employment area.

Access to EU funding would thus be conditional on the existence, within the company undergoing restructuring, of an agreement on the forward management of employment and skills, or, at the very least, a method agreement organising the restructuring process, as well as on sufficiently early advance notice of restructuring. This would mean that ***local stakeholders would have an interest in effective social dialogue within the company***, although their own timetable should not force or reduce the pace for stakeholders in the company.

The Commission (or more precisely the Community body in charge of the proposed funding) would be responsible for examining the case files and taking the final decision, in order to prevent unfair competition between areas. In the case of transfrontier restructuring, the decision would also take account of the opinion of the European Works Council. This conditional mechanism could form ***part of a European code of conduct*** that would apply to companies facing the prospect of restructuring.

FEATURES OF THE MECHANISM	
Objective	To ensure that the restructuring is economically and socially successful
Degree of anticipation required	At least operational
Beneficiaries	Individuals and employment area
Leading stakeholders	Social partners
Tracking	Steering Committee (social partners and local stakeholders)
Minimum number of job losses allowing access to the mechanism	Modelled on thresholds for ERM recording of restructuring
Advance notice	Indexed to number of job losses Notified to the European Commission
Role of the European Commission	Receives advance notice and examines case file, takes final decision after validation by the Steering Committee and opinion of the EWC
Funding available	Once there is agreement in the company, validated by the Steering Committee and then the European Commission

ADVANTAGES AND RISKS OF THE MECHANISM	
Advantages	Risks
Incentive to negotiate agreements for the anticipated management of restructuring	No action taken to help individuals and local areas in the absence of advance notice and agreement (except corrective penalties: ultimately, a surcharge?)
Involvement of three groups of stakeholders: management, trade unions, and local public and political stakeholders	
Funding conditional on actual capacity for social dialogue and agreement between social partners	
Advance notice guarantees beneficiaries that operations are carried out in due time	
The agreement and its validation encourage the clear allocation and effective use of funding	Need for supervision mechanisms to prevent firms from playing areas off against each other

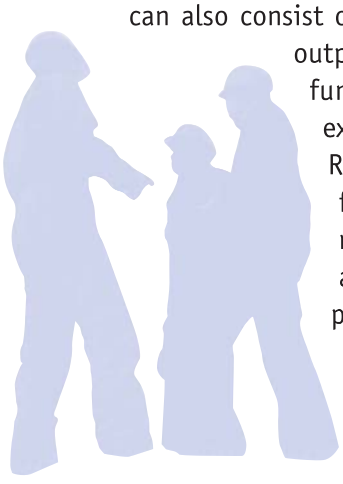
2.2. Outline of institutional and financial requirements of the proposal

Existing aid and European funding[6]

The European Structural Funds and the public aid allowed under EU rules heavily influence how companies manage restructuring and change, but the way in which these sources of funding are organised and the rules governing their use do not allow them to be targeted sufficiently on preventive measures:

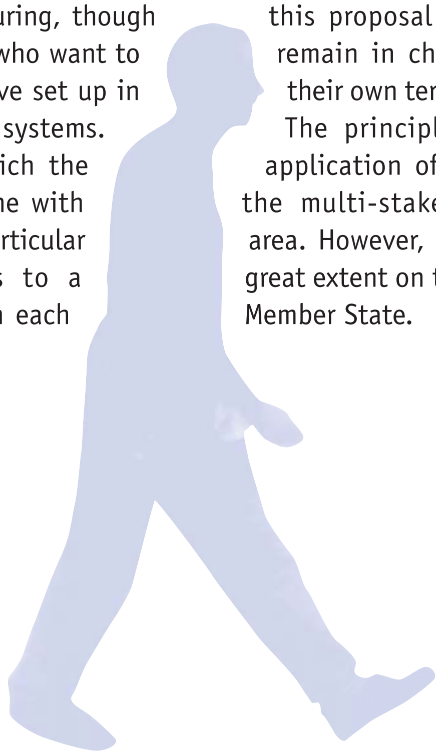
- EU regulations and case-law allow ***public aid for the restructuring of companies in difficulty*** in exceptional cases. By definition, a company in difficulty has probably not been able or has not known how to anticipate in time. A viable restructuring plan must be proposed, which involves a commitment from the State in question. The conditions for allowing public aid include requirements which focus on the negative side of restructuring (sale of assets, reduction in capacity) in order to avoid distorting competition. The controls on restructuring aid do not prevent workers who are victims of the restructuring from being compensated, and the companies receiving aid must still meet their statutory obligations in that respect, which vary depending on their national rules. Once a company has received restructuring aid, it may not apply for it again for ten years.

- ***Public regional aid is covered by guidelines*** which help to identify the disadvantaged regions in which companies are eligible for State aid. They also help to fix the maximum amount of aid that may be given to an investment project led by a company. In some ways it is the complement to the restructuring aid for companies in difficulty, since it usually involves aid for initial investment (even though this "initial" investment does not always involve creating a new site from scratch, but can also consist of, in the words of the 2006 guidelines, "diversification of the output of an establishment into new, additional products" and "a fundamental change in the overall production process of an existing establishment"). What the Dublin Foundation's European Restructuring Monitor (ERM) records in its typology as the majority form of restructuring – "internal restructuring" – may thus be regarded, without stretching the meaning of the guidelines, as coming under the public regional aid rules. The important point is that this aid, which is designed selectively to reduce the handicaps faced by disadvantaged regions in proportion to the scale of those handicaps, can influence where companies decide to locate their sites geographically.



6. See the papers as part of the project AgirE by Karine Caunes, *Les nouvelles orientations du fonds social européen : quel impact sur les restructurations ?* and by Julien De Beys, *Restructurations et contrôle des aides d'Etat.* **www.fse-agire.com**

The ***European Structural Funds***, which are designed to improve social cohesion by promoting the development of areas disadvantaged by initially lagging behind, or handicapped by redevelopment problems, help to define the local context which influences companies' strategic choices when it comes to development and restructuring. In particular, the European Social Fund (ESF) is an instrument whose overall aim is to encourage improved anticipation of restructuring, especially when, as at present, there is a desire to harmonise the objectives of the Structural Funds with the updated Lisbon Strategy. The 2006 ESF regulation specifically refers to the need to "improv[e] the anticipation and positive management of economic change", in particular through investment in human resources and the development of qualifications and competences. The EU strategic guidelines direct how the ESF is used by the Member States, which are required to draw up their own national strategic reference frameworks and operational programmes for implementing them. The guidelines refer to the introduction of permanent systems for monitoring economic and social change involving the social partners, businesses and local authorities, together with the development of early warning systems in businesses and support measures for those affected by restructuring. The ESF thus appears to be the reference financial instrument when it comes to anticipating the changes associated with restructuring and softening their social impact. The Commission has gone further by proposing to implement a special operational programme for measures relating to business restructuring, though this proposal has failed to convince the Member States, who want to remain in charge of the operational programmes they have set up in their own territory in accordance with their own planning systems. The principles of partnership and co-financing on which the application of the ESF is conditional are very much in line with the multi-stakeholder governance of restructuring in a particular area. However, the application of these principles depends to a great extent on the local institutions and political practices in each Member State.



The ***European Globalisation Adjustment Fund (EGF)***, which was set up at the end of 2006, has been given a small amount of residual, unused appropriations (EUR 3.5 billion over the whole of the 2007-2013 financial planning period). It focuses on active support for individuals affected by restructurings over a certain threshold (1000 workers made redundant over a limited period) or with a sufficiently serious impact on a given area. These restructurings must be specifically attributable to major changes in trade patterns, a requirement which is difficult to interpret. The Adjustment Fund takes a strictly remedial approach to crisis situations, rather than anticipating or preventing. It does not appear possible to combine it with other funds, though complementarity is encouraged. The Commission's report on the Fund's first year of operation shows that it is aware of these limitations, which have resulted in relatively little request for the Fund and its resources, although its few interventions have concerned large-scale restructurings of significant scope[7]. The report therefore envisages changes to the EGF Regulation in order to make the conditions for using the Fund broader and more flexible. The Groupe ALPHA's proposal is along the same lines, but takes a more determined approach to eliminating these obstacles.

Estimated costing of the proposal

The flagship proposal forms part of a drive to overcome firstly the barriers between the various European and national financial instruments that can be mobilised to support restructuring, and secondly the problems of constructing multi-stakeholder partnerships in the preventive management of restructuring.

A ***European Fund for Action on Restructuring and Change*** (EFARC), which would replace the EGF, could be set up under the aegis of the European Social Fund and would bring together funding specifically earmarked for that purpose, which could be mobilised subject to co-financing from the national authorities and businesses. A restructuring operation could then apply for finance from the Fund to help with the anticipatory adaptation of local areas and individuals (social and local impact studies, retraining, revitalisation of the employment area). Access to the Fund's resources would be subject to certain conditions (see section 2.1). A body within the restructuring task force would be responsible for implementing the Fund in order to guarantee rapid intervention.

7. "Solidarity in the face of change: the European Globalisation Adjustment Fund (EGF) in 2007: review and prospects", Communication from the Commission to the European Parliament and the Council, COM(2008) 421 final, 2 July 2008.

What sort of scale might this Fund be on? Let us take as a starting point that ***any restructuring resulting in the announcement of at least 100 job losses could apply to the Fund.***

Data from the European Restructuring Monitor (ERM), which endeavours to record all restructurings reaching this threshold or affecting at least 10% of jobs at a site with more than 250 workers[8], could be used as a reference here.

Over the five years between 2002 and 2006, the ERM recorded ***on average around 700 cases of restructuring per year, involving announced job losses of some 550 000*** (almost 800 jobs lost per case). Closures in the strict sense of the word accounted for around 20% of the restructurings and more than 10% of the jobs lost, while relocations accounted for around 10% of the restructurings and 10% of the job losses, so these two types of operation were far from being in the majority. Internal restructurings, on the other hand, formed a huge group and accounted for around half of all cases and some two-thirds of the jobs lost. A fund which aims to encourage the anticipatory management of restructuring, rather then just correcting the impact of some individual operations, should apply a broad yardstick for restructuring, provided that the job losses involved are over the requisite threshold.

Today, again according to the ERM's figures, ***around one third of cases of restructuring result in the company taking measures to help workers who have lost their jobs***. We could assume that once the mechanism has been introduced, at least half of the restructurings announced every year, corresponding to 300 000 announced job losses, would be entitled to apply for EFARC funding, because an agreement exists and advance notice has been given.

The total funding mobilised from the European Fund, national and regional co-financing and the company itself might be evaluated at ***a minimum of EUR 10 000 for each job lost,*** covering three components: social and local impact studies; a training, reskilling and redeployment budget; and a contribution to revitalising the local area. In the scenario described above, with an annual volume of 300 000 jobs lost, the minimum funding necessary to finance these measures would be EUR 3 billion.

8. It cannot be certain to have met its target of identifying all cases, however, and given the average number of jobs losses recorded per restructuring, it is likely that the actual collection threshold is higher. The advance notice which has to be publicly submitted to the competent national and EU authorities would be another way of improving the data collection.

If the European Fund provides one third of this sum, it would need to be allocated EUR 1 billion per year.

HYPOTHESES		SOURCES AND PARAMETERS	ESTIMATED FIGURES
H1	annual volume	ERM data	700 restructurings 550 000 jobs lost
H2	remedial measures	One third of restructurings	
H2a	remedial & anticipatory measures	Aim to increase to 50% of restructurings	350 restructurings almost 300 000 jobs involved
H3	individual cost	Minimum EUR 10 000	EUR 3 billion if H2a is applied
H4	EU contribution	One third of cost	Minimum EUR 1 billion

The proposal by Groupe ALPHA takes account of new features of the restructuring and change to which Europe's economic fabric is constantly exposed. It aims to promote closer and more effective links between social dialogue and public instruments in managing these changes, in order to create the conditions for them to be economically and socially successful: more competitive companies, workers capable of mobility, and proactively adapted local areas.

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Restructuring in Europe:

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