

UNICE REPLY TO THE COMMISSION'S FIRST-STAGE CONSULTATION ON ANTICIPATING AND MANAGING CHANGE

I./ Introduction

On 15 January 2002, the European Commission launched a first-stage consultation of the social partners on "anticipating and managing change: a dynamic and positive approach to the social aspects of corporate restructuring". The purpose of this document is to consult the social partners, in accordance with article 138, paragraph 2 of the EC Treaty, on the possible direction of a Community action on social aspects of corporate restructuring.

The Commission suggests identifying and developing best practices on anticipating and managing restructuring and asks the social partners' opinion on:

- the usefulness of establishing a number of principles at Community level, which would support business good practice in restructuring situations,
- the method of developing these principles,
- other appropriate initiatives that should be considered.

II./ General comment on the approach

A. Actions envisaged at EU level must be judged on their capacity to facilitate change and achieve the Lisbon goals

UNICE supports the main thrust of the Commission's analysis on economic change. European employers warmly welcome three fundamental elements of the Commission analysis, which must be at the forefront when conclusions are drawn from the debate:

- Firstly, recognition that economic and social renewal is at the heart of the Lisbon strategy: adaptation to change by companies and corporate restructuring are indispensable to turn Europe into the most competitive knowledge-based economy in the world, as decided by the European Council in Lisbon. Restructuring is also fundamental to the process of wealth creation and the raising of living standards. European businesses must be able to change work organisation to take advantage of new technologies and boost productivity or pursue economies of scale in order not to fall behind global competitors.
- Secondly, acknowledgement that there is no link between differences in national systems governing corporate restructuring and companies' decisions to restructure operations in certain countries rather than in others. Restructuring decisions are based on economic reasons, not on the level of social legislation. However, social legislation should not make change difficult, as this could deter the initial decision to invest and therefore have negative effects on employment in the long term.
- Thirdly, the specificities of SMEs, and their "more limited capacity to act", need to be taken into account.

In UNICE's view, any action taken at EU level must fully reflect this analysis. To be in line with the positive approach necessary to achieve the goals set in Lisbon, the added value of actions at EU level must be judged on their capacity to facilitate change.

B. It is essential to avoid additional regulatory constraints on businesses

With regard to social aspects of restructuring, European employers would like to recall that a substantial legal framework already exists at EU level (Directives on collective redundancies, on transfer of undertakings, on European Works Councils, on European Company Statute and on national information and consultation) as well as at national level.

The way restructuring is handled in Member States is also often determined by agreements between social partners at various levels in accordance with the specificities of industrial relations systems of each country. These systems reflect a balance where all aspects of the employment relation is taken into account. This balance of interests stems from a complicated combination of regulations, and an interaction between responsible players to find solutions. This imposes considerable demands on business. It is essential to avoid the imposition of additional regulatory constraints on businesses.

C. The transnational dimension of economic change does not mean that decisions on how to alleviate adverse social effects can be taken at EU level

UNICE acknowledges that there is often a transnational dimension to corporate restructuring. In a global economy, companies can no longer define their business strategy on the basis of purely local considerations. Within Europe, development of the Internal Market, introduction of the Euro and the future enlargement are important drivers of economic change.

European employers agree that all stakeholders (public authorities, social partners, companies and individual employees) must better integrate the processes of international adjustment generated by globalisation to take sound decisions.

However, this European dimension does not mean that the social consequences of corporate restructuring in individual companies can be or should be dealt with at the European level. Practical measures to alleviate temporary negative effects of corporate restructuring can only be decided at local level if they are to be targeted on the real needs of the people affected and involve them in the definition of the most suitable measures.

III./ Conclusion

In UNICE's view, any action taken at EU level must be fully in line with the positive approach necessary to achieve the goals set in Lisbon, the added value of actions at EU level must be judged on their capacity to facilitate change.

In a global economy, there is often a transnational dimension to corporate restructuring. Within Europe, development of the Internal Market, introduction of the Euro and the future enlargement add a European dimension. However, this European dimension does not mean that the social consequences of corporate restructuring in individual companies can be or should be dealt with at the European level. Practical measures to alleviate temporary negative effects of corporate restructuring can only be decided at local level if they are to be targeted on the real needs of the people affected and involve them in the definition of the most suitable measures.

The principles to be complied with are defined in the Community legal framework, complemented by national legislation, collective agreements at national, sectoral or company level. European employers do not see the need to develop new EU principles for corporate restructuring .

UNICE considers that there could be value in organising exchanges of experience on companies' practices for anticipating and managing change in order to promote a positive attitude to change across Europe. UNICE would be willing to discuss restructuring in the social dialogue on this basis.
