

12 February 2014

Quality Framework for anticipation of change and restructuring – BUSINESSEUROPE position

KEY MESSAGES

- 1** The focus of restructuring-related policies should be on creating an environment conducive to job creation and growth as well as enabling and encouraging redundant workers get back to work quickly. The Commission Quality Framework on Restructuring should therefore be more closely related to the Commission's goal to achieve an "industrial renaissance" in Europe.
- 2** A constructive dialogue can help employees and companies deal with change successfully. Existing EU legal framework on information and consultation of workers, supplementing various national rules, provides a complete basis for such a dialogue. BUSINESSEUROPE would oppose a consolidation of existing Information and Consultation of workers Directives, as this is not needed and would lead to legal uncertainty.
- 3** The Commission Quality Framework should not be understood as a rigid list of tasks to be implemented by all stakeholders, but rather as a "source of inspiration and guidance". Its application should be "appreciated on a case by case basis". Moreover, BUSINESSEUROPE has concerns over some of the Commission's recommendations. In particular it is hard to understand why regional authorities should "monitor social plans" implemented by companies.

WHAT DOES BUSINESSEUROPE AIM FOR?

- Placing the EU debate on restructuring-related policies as part and parcel of EU renewed industrial policy.
- Mobilise the EU Commission to make full use of the European Semester to inspire and trigger national labour market reforms that enable the effective management of restructuring without damaging growth.
- Demonstrate that many companies already implement actions in line with the quality framework, but that to be effective such actions need to be tailored to the needs of each company on a case by case basis.



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Communication on *Quality Framework for anticipation of change and restructuring* – BUSINESSEUROPE position

Introduction

1. On 13 December 2013 the European Commission published the Communication on *Quality Framework for anticipation of change and restructuring* which provides a set of recommendations towards employers, workers and their representatives, as well as social partners' organisations. With this position paper, BUSINESSEUROPE takes the opportunity to comment on the issues raised in the Communication.

General remarks – policy framework supporting adaptation to change

2. It is a managerial responsibility to adapt corporate strategy to current and anticipated market developments, consumer preferences, technological innovations etc. The aim of restructuring processes is to enhance company competitiveness and productivity, and consequently to increase prosperity of the society.
3. Measures to anticipate and manage restructuring are influenced by many national, cultural, political, legal and economic factors as well as different industrial relations systems.
4. BUSINESSEUROPE fully supports the EU goal of increasing industry's share of production to 20% by 2020 set in the European Commission Industrial Policy Communication from October 2012. One of the requirements for reindustrialisation is that labour markets function effectively and companies can smoothly adapt to change, as BUSINESSEUROPE also emphasised in its Industrial Compact on 28 January 2014.
5. With regard to employment policies, the aim should be to create open, dynamic and mobile labour markets. Europe 2020 strategy has rightly prioritised reforms to improve flexibility and security of employment, focused on encouraging job creation and ensuring smooth labour market transitions. Policy makers should in particular:
 - ensure availability of different contractual arrangements in the labour markets;
 - provide for necessary working time and wage flexibility, while respecting the autonomy of social partners in the collective bargaining process;
 - encourage employers to hire more staff by reducing the tax burden on labour, including targeted cuts in employers' social security contributions;
 - recognise that skills are crucial for both competitiveness and employment security;
6. BUSINESSEUROPE believes the EU should support national labour markets reforms that enable the effective management of restructuring without damaging growth. The Commission Communication on a Quality Framework for Restructuring rightly recognises that the Annual Growth Survey, for instance, can be an important



policy instrument in this respect. It is important that Country Specific Recommendations inspire and trigger action, but also that EU action is appropriate to national labour market practices.

7. BUSINESSEUROPE agrees with the statement in the Commission Communication that “*the EU has a comprehensive legal framework for regulating the way in which social dialogue within companies and groups of companies should address, amongst other issues, anticipation of change and restructuring*”. This EU legal framework, complementing extensive national laws and practices, does not require changes, as broadly confirmed also by the *fitness check* conducted by the European Commission¹.
8. BUSINESSEUROPE does not see the rationale for the consolidation of the three Information and Consultation Directives² as there are no legal uncertainties to be resolved. In fact, a consolidation could create unnecessary uncertainty for companies on what EU rules will apply. Moreover, the three directives have different scope of application (collective redundancies, transfer of undertakings, general information and consultation) therefore differences e.g. in the scope of information and consultation processes they impose, is essential and logical. It is also important that the review of EWC Directive in 2016 will not lead to measures slowing down restructuring processes.
9. As other EU Directives in the social field, the three information and consultation Directives leave a margin of appreciation for Member States on how to implement them in their national legal frameworks, in order to reflect their industrial relations and institutional context. Therefore, national rules on information and consultation of workers vary between countries. This diversity functions generally well for companies. At the same time, Member States should ensure that their national legal frameworks for information and consultation of workers are clear and manageable. Decision-making processes should not be unnecessarily delayed by over-prescriptive rules and any conflicts between management and employees that may inevitably arise should be resolved efficiently.
10. BUSINESSEUROPE welcomes that the recent Commission Communication “For a European Industrial Renaissance” (COM 2014 (14) 2) recognised that regions have a particular role to play in fostering industrial change and modernisation, including through ‘smart specialisation’ strategies.
11. EU funds, including ESF and ERDF, can play a role in increasing employability of workers, and facilitating structural changes at regional level when needed. BUSINESSEUROPE agrees with the Commission Communication that in order to increase effectiveness of EU-funded measures, Member States should fully apply the partnership principle.

¹ SWD(2013) 293 final

² Directive establishing a general framework for informing and consulting employees (2002/14/EC), Transfer of Undertakings Directive (2001/23/EC) and Collective Redundancies Directive (98/59/EC)



Specific remarks - recommendations contained in the Quality Framework

12. The Commission Communication contains a set of recommendations regarding managing and anticipating social aspects of restructuring processes, directed at employers, employee representatives, individual workers, social partners' organisations and public authorities. BUSINESSEUROPE welcomes the fact that the Commission recognises that various stakeholders can play a useful role and have responsibilities in managing social consequences of restructuring processes.
13. BUSINESSEUROPE underlines that managing social consequences of restructuring operations is best done at local level, as the measures need to be tailored to a specific situation of a company, employees involved, region, country etc. It is important to avoid a rigid, top-down approach. Therefore, we welcome the fact that the Commission Communication clearly recognises that practices contained in the Quality Framework "*are not automatically transferable*" and their application should be "*appreciated on a case by case basis*".
14. In this context it is important to recognise that the division of responsibilities between different actors (such as companies, social partners, national and regional authorities) varies between Member States and regions. For example, while in some countries social partners' organisations may be responsible for "*supporting redundant workers individually*" or "*mapping of jobs and skills needs*", in others it may be the duty of public authorities. The Quality Framework should thus not be understood as a rigid list of tasks to be implemented by all stakeholders, but rather as a "*source of inspiration and guidance*" as indicated by the Commission.
15. BUSINESSEUROPE also agrees with the Commission that SMEs in particular may not be in a position or in need to implement the recommendations contained in the Quality Framework. They may have less human and financial resources for developing anticipation and change management strategies, and can rarely offer their employees services going above legal requirements.
16. BUSINESSEUROPE continues to support the view that when restructuring occurs, a constructive social dialogue can facilitate finding solutions that meet the needs for restructuring and help employees and companies deal with change successfully. In 2003 social partners negotiated "Orientations for reference in managing change and its social consequences". BUSINESSEUROPE believes the principles enshrined in them are still valid. Linked to this, "Joint study on restructuring in the EU" prepared by cross-industry social partners between 2004 – 2010 gathered further evidence on restructuring practices and social partners involvement in management of change.
17. Some of the recommendations contained in the Commission Communication go in the similar direction to the ones in "Orientations..." (e.g. importance of maintaining and developing workers' competences and qualifications, facilitating internal and external mobility, building external partnerships in case of wider territorial impacts, exploring alternatives to dismissals when managing restructuring). BUSINESSEUROPE agrees with the Commission that "*many of the good practice*



presented in the Quality Framework on Restructuring are already implemented by many companies and industrial sectors”.

18. However, some recommendations may be unfeasible and/or counterproductive. For example:
- As companies may work with thousands of suppliers, “inclusion of the whole supply chain in preparations for and management of restructuring operations” would often be impractical and significantly slow down decision making process.
 - It is not clear why regional authorities should “monitor social plans”.
 - Establishment of “joint diagnosis” between management and employees representatives regarding the need for and management of restructuring process may not always be possible. It is a managerial responsibility to adapt corporate strategy to current and anticipated market development.

Conclusions

19. Restructuring processes are aimed at helping companies enhance competitiveness and productivity, and consequently create jobs and increase prosperity of the society.
20. BUSINESSEUROPE underlines that restructuring operations differ from each other and it is vital that practices presented in the Commission’s Communication are seen as a source of inspiration, taking into account a situation of a particular company undergoing restructuring as well as local industrial relations and economic contexts.
21. With regard to policies facilitating structural changes, the EU has a role to play in overseeing the implementation of national labour markets and business environment reforms, aiming at boosting growth and job creation as well as ensuring smooth labour market transitions.
22. BUSINESSEUROPE acknowledges the value of the recommendations presented by the Commission in the Quality Framework and will work with member federations on the appropriate follow-up, considering the different situations and industrial relations systems in Member States.