Information and consultation of workers, anticipation and management of restructuring

2012/2061(INL) - 15/01/2013 - Text adopted by Parliament, single reading

The European Parliament adopted by 503 votes to 107, with 72 abstentions, a resolution with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring.

Parliament notes that all the Member States where relatively few workers have been made redundant since the start of the crisis have very well developed industrial relations systems which accord workers and their representatives a relatively strong rights in the areas of consultation, information and codetermination, arrangements which have led to joint agreements being concluded at works' level on the basis of laws and collective agreements.

The resolution requests the Commission to submit, on the basis of Article 225 of the Treaty and after consulting the social partners, a proposal for **a legal act based on its 14 recommendations** for strategic restructuring operations of companies and group of companies. Parliament calls on the Commission to ensure that dismissals are seen as a last resort after having considered all possible alternatives, without this diminishing the competitiveness of enterprises. Moreover, the Commission is called upon to assess whether it is necessary to take steps at Union level to supervise the activities of companies in order to prevent abuse of any kind with prejudicial effects, particularly on workers.

The 14 Recommendations may be summarised as follows:

Recommendation 1: this sets out the recitals to the proposed act and notes that good restructuring practices require preparation as early as possible, starting as soon as the need to restructure is first contemplated, making it possible to avoid or to reduce to a minimum its economic, social, environmental and territorial impact. The recommendation states that existing financial support systems channelled through the European Regional Development Fund (ERDF) or the European Social Fund (ESF) within the framework of the new financial perspectives 2014-2020 should not replace incentives at national level based on anticipation, preparation and responsible management. The European Globalisation Adjustment Fund (EGF) should continue, with strengthened capacity, in order to act in a reactive, temporary and palliative way.

Recommendation 2 on the objective: the purpose is to promote information and consultation in economic change and improve the way in which companies, workers' representatives, public authorities and other relevant stakeholders, each with different responsibility at different stages in the process of restructuring, throughout the Union anticipate, prepare and manage in a socially and environmentally responsible way corporate restructuring.

Recommendation 3: this sets out the definitions and scope of the proposed act. Parliament notes that **any Union provision should cover companies or group of companies, both privately and publicly owned**, in accordance with the Union and national law and/or collective agreements. It should apply in any case to major restructuring operations of companies and groups of companies, implying either an important number of workers or an important percentage of the staff of those companies, in a limited amount of time. **“Dependent companies"** mean companies and firms in a situation of substantial dependence on companies to whom the proposed act applies, by reasons of subcontracting, supply contract and others.

"Restructuring operation" is defined any change which falls within the scope of the Collective Redundancies or Transfer of Undertaking Directives.

Recommendation 4 on long-term strategic planning, adaptability and employability: any restructuring operation must be integrated into a **long-term strategy** that aims to strengthen the long-term sustainability and competitiveness of the company, while recognising that in many cases companies are forced to restructure because of unforeseen changes in market conditions or because of developments in technology. Member States must stimulate companies to **ensure access for every worker to training** in order to anticipate changed job requirements within the company. Workers recognise that education and lifelong learning are necessary to enhance their employability and accept relevant training offers.

Recommendation 5 on anticipation of employment and skills needs: companies must establish:

- mechanisms for the long-term strategy of quantitative and qualitative employment and skills needs that are linked to innovation and development strategies and that take into account the foreseeable evolution of the economy, employment and skills and working conditions, both positive and negative as well as mechanisms to determine the current skill levels of individual employees;
- multiannual plans of employment, skills and working conditions development covering the most relevant areas, for example, such as regular individual skills assessment and regular working conditions assessments.

Every worker must be offered a given number of hours of training per year to be determined by law or collective agreement. Contrary to the committee's position, Plenary considered that companies should not be obliged to provide the financial means to cofinance training activities.

Recommendation 6 on early preparation: any proposed restructuring operation should be fully explained to employees' representatives who should be given such information about the proposed restructuring as to enable them to undertake an in-depth assessment and to prepare for consultations, where appropriate. This also applies to companies and their workers in a situation of dependence in relation to the restructuring company.

Employees must be involved in discussions at an early stage so that they can take part in the processes of company restructuring, or of **planning the possible buy-out of the company in the event of closure.**

The impact on dismissals should be dealt with as a priority, with a clear and transparent commitment by the company with regard to employment.

Recommendation 7 on information and consultation concerning business decisions: any restructuring operation, in particular those likely to have a negative impact on employment, should be accompanied by an **early explanation and justification to the relevant stakeholders before any practical measures are taken**, irrespective of whether the restructuring operation is to be carried out on the basis of either long-term strategic goals and requirements or short-term constraints and whether the decision regarding restructuring is being taken by the company or by a group controlling the company.

Recommendation 8 on minimising internal social costs through a social plan: companies must consider all relevant options as alternatives to redundancies and engage into a dialogue with internal and external stakeholders to try and associate them to the solution for redundancies, for example: (i) temporary or long-term working-time reduction or re-organisation; (ii) re-negotiation of working conditions; (iii) internal or external redeployment within the group of companies or other companies not belonging to the same group. When redundancies cannot be avoided or as part of the package to be implemented in the context of alternative options, companies, with the assistance of local authorities and public/private employment services, participate in making available to the workers concerned such assistance as is

appropriate in the circumstances aimed at reinforcing their employability and helping them to re-enter the labour market in a quick and sustainable way (training and re-training, monitoring, surveillance and counselling aimed to avoid or minimise the negative impact of the restructuring process on both the physical and psycho-social for both redundant workers).

Recommendation 9 on agreements on managing restructuring processes: companies and their workers' representatives should negotiate collective agreements to cover the issues arising from the proposed restructuring, where appropriate.

Recommendation 10 on minimising external economic and social and environmental impacts: companies should inform the regional or local authorities and other relevant actors of the measures being prepared in accordance with recommendation 8. They should participate and/or contribute to any task-force or network established at regional or sectoral level to minimise the impact of the operation.

Recommendation 11 on public support: public authorities and employment services should assist or advise, in close co-operation with social partner organisations at the relevant level, the mechanisms for long-term planning and multi-annual plans of employment and skills needs developed within companies, notably in organizing skill assessment for all workers concerned.

Particular recommendations are made for regions affected by structural change.

Recommendation 12 on financial support: the EGF may be useful for providing financial support for the rapid reintegration of redundant workers into employment. Union Funds, and in particular ERDF and ESF, may also be used in supporting integrated action to anticipate and to prepare for restructuring,

Recommendation 13 on designation of the relevant public authorities: Member States should designate the public authorities, at national, regional or local level that are responsible for the purposes of the act.

Recommendation 14: this framework does not in any way prejudice any employment protection obligations related to compensatory payment in the event of employment termination. Its implementation under no circumstances constitutes grounds for a reduction in the level of protection against discrimination already afforded by Member States. As regards fines, Member States should exclude the companies that do not comply with Union legislation from the benefit of public aids from the national budgets.

Plenary does not accept the committee responsible’s position which stated that companies that do not comply with Union legislation should not benefit from any funding in provenance of European Union budget in the five-year period following a judicial decision recognising the breach. Plenary stipulates that Member States should exclude the companies that do not comply with Union legislation from the benefit of public aids from the national budgets. However, nothing precludes the use of funds from the general budget of the European Union and from national budgets for the direct benefit of the workers of the companies.