

**Opinion of the 'European Economic and Social Committee on the Communication from the Commission — Restructuring and employment — Anticipating and accompanying restructuring in order to develop employment: the role of the European Union'**

(COM(2005) 120 final)

(2006/C 65/12)

On 28 April 2005 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 November 2005. The rapporteur was Mr Zöhrer and the co-rapporteur was Mr Soury-Lavergne.

At its 422nd plenary session, held on 14 and 15 December 2005 (meeting of 14 December), the European Economic and Social Committee adopted the following opinion by 121 votes to 1, with 9 abstentions.

**Executive summary**

The EESC welcomes the comprehensive, inter-sectoral approach selected by the Commission. The Commission has taken up an issue which is equally important for both enterprises and employees. Industrial change and the ability of those affected to prepare themselves for it are key factors in helping to maintain competitiveness. Success in this field does, however, depend upon tackling the social consequences of industrial change.

The EESC in essence agrees with the Commission's analysis of the phenomenon, but would welcome a more in-depth analysis.

Restructuring always involves fear of adverse consequences, particularly for workers. But well managed restructuring can also give rise to new challenges and opportunities. It all depends, essentially, on how the situation is dealt with in the company, how the various stages are managed and how the various players work together and develop a common spirit which enables them to identify the opportunities.

The Committee shares the view that answers to restructuring must be part of the strategy for growth and employment.

Closer coordination within the Commission through the establishment of a task force and regular dialogue with the European Parliament and the Council are welcome measures.

The EESC broadly endorses the priorities set out by the Commission in respect of the review of the European Employment Strategy. The Employment Strategy cannot be addressed without reference to the macroeconomic context and industrial policy.

As regards the reform of the financial instruments, the EESC agrees that they should be directed more towards the anticipation and management of restructuring.

In the Committee's view, the aim in industrial policy should now be, above all, to step up the sectoral approach, which makes it possible to identify tailor-made approaches for the individual sectors. The improvement of legislation applying to enterprises is a key point which requires more specific consideration and clarification.

The EESC regards technology initiatives, especially the technology platforms, as one of the most important means of improving the situation. Care must also be taken to establish an environment that is innovation-friendly.

Turning to competition policy, the question arises as to whether the measures currently available are adequate. In this connection, the EESC stresses the need for greater focus on the relationship between state aid, restructuring and production relocation.

The EESC takes the view that the Dublin-based European Monitoring Centre on Change (EMCC) also has a key role to play.

Special attention should be paid to the extension of the sectoral social dialogue. The EESC agrees with the Commission that, by virtue of their sectoral knowledge, the social partners are able to play a special role in alerting the authorities. This instrument should, however, not only come into play in crisis situations.

The EESC awaits with interest the Communication on *Corporate social responsibility* (CSR) announced by the Commission.

The EESC welcomes in principle the establishment of a *Restructuring Forum*. The Forum's aim must be to explain best practices and discuss local barriers (regulations) to introducing them.

In addition to the regulatory modernisation and simplification measures already provided for in the Lisbon Action Programme — measures which the EESC has always welcomed — the Commission announces that it is to submit a Green Paper on the development of labour law. In restructuring, perhaps more than elsewhere, the aim of developing labour law must be to ensure a balance between flexibility and security.

With regard to promoting intra-Community mobility, the EESC regards the proposal for a Directive on Improving the portability of supplementary pension rights — the sole proposal put forward — as being a somewhat meagre contribution. A package of incentives to facilitate mobility will have to be considered involving areas such as qualifications, the labour market, social legislation and taxation, including the removal of administrative barriers to the free movement of labour.

The EESC welcomes the idea of giving the social partners the opportunity to continue, in concrete terms, their work on the subject of restructuring.

European Works Councils (EWC) have a significant role to play in company restructuring. Consultations on the review of the EWC Directive should therefore embrace this issue, but they need to cover a broader context.

The Committee shares the Commission's conviction that restructuring must not be synonymous with social decline and a loss of economic substance.

Adverse consequences for workers cannot be entirely avoided. In addition to the requirements set out by the Commission, therefore, measures taken at Community level must also aim to give workers the necessary protection in periods of transition.

## 1. Introduction

1.1 Both the Social Agenda, which was adopted on 9 February 2005, and the Communication on the Review of the sustainable development strategy<sup>(1)</sup>, foresee that the Commission will develop a strategy for managing restructuring operations focused on improved interaction between the relevant European policies, greater involvement of the social partners, enhanced synergy between policies and financial levers, and adaptation of the frameworks of legislation and collective agreements.

1.2 The Commission's Communication of 31 March 2005 on Restructuring and Employment<sup>(2)</sup> sets out the measures which the EU has to introduce or strengthen in order to mobilise its available potential. The Commission adopts both a hori-

zontal and a sectoral perspective and proposes a series of measures in a variety of EU policy areas.

1.3 Since the Commission Communication is intended for a wide public, the text includes general points, particularly regarding the restructuring faced by businesses in the common situation of grappling with the need to adapt.

## 2. Gist of the Commission document

2.1 The Commission firmly believes that restructuring must not be synonymous with social decline and a loss of economic substance. On the contrary, restructuring can underpin economic and social progress — but only if such measures are properly prepared, and provided firms can manage the necessary change quickly and effectively and there is public action to help ensure that the change is carried out in sound conditions.

2.2 The restructuring of enterprises often entails costs that can be very high, not only for the workers concerned but also for the local or regional economy. The preservation of social cohesion, which is a distinctive characteristic of the European social model, requires the introduction of accompanying policies designed to minimise the social costs and to promote the search for alternative sources of jobs and income.

2.3 It follows that the response at Community level must focus on four essential requirements:

- A need for consistency between the various policies, if growth and the ensuing restructuring are to avoid destroying human capital.
- A need for a long-term perspective encompassing the various Community policies. If the economic and social players are to act effectively, they need to be able to see the way ahead.
- A need for participation on the part of all the stakeholders, first and foremost the social partners.
- A need to pay heed to the local dimension — it is, after all, at local level that anticipating change is most effective. The European Union's regional and cohesion policy must act as a catalyst here.

2.4 The Communication sets out the measures to be developed or strengthened by mobilising the various means available to the Union through cross-cutting and sectoral action. When these measures are implemented, it is necessary to limit as far as possible the burdens imposed on enterprises, while ensuring improved anticipation and management of restructuring operations.

<sup>(1)</sup> The 2005 Review of the EU Sustainable Development Strategy; Initial Stocktaking and Future Orientations (COM(2005) 37 final), dated likewise 9 February 2005.

<sup>(2)</sup> COM(2005) 120 final.

2.5 Specifically, Annex I to the Communication sets out a series of 12 proposed measures, including:

- review of the European Employment Strategy;
- reform of the financial instruments and creation of a growth adjustment fund;
- creation of a 'Restructuring' Forum;
- enhanced monitoring of sectors most liable to undergo restructuring in the short-term.

### 3. General comments

3.1 The EESC welcomes the comprehensive, inter-sectoral approach selected by the Commission. The Commission has taken up an issue which is equally important for both enterprises and employees. The EESC has already set out its views on this issue in various earlier opinions. Industrial change and the ability of those affected to prepare themselves for it are a key factor in helping to maintain competitiveness. Success in this field does, however, depend upon tackling the social consequences of industrial change.

3.2 The Commission's Communication addresses the issue of 'restructuring'. A question which clearly also arises in this context is how this term is to be defined. In a variety of earlier opinions, the EESC drew the following distinctions between 'industrial change' and 'restructuring': 'industrial change' represents an ongoing process of development in a given enterprise or sector, whereas 'restructuring' refers to a specific form of industrial change, generally characterised by an abrupt process of (frequently forced) adjustment to take account of general economic conditions with a view to regaining competitiveness.

3.2.1 Even if the Commission does not make this distinction between the two terms, which would make the text clearer, the EESC recommends that it pursue a more differentiated approach. The key to tackling industrial change is clearly to be found in the anticipation and pro-active shaping of this change. Industrial restructuring, for its part, presents a growing and more complex challenge in a global context. These two issues require the adoption of a different approach and different measures.

3.2.2 The promotion of change cannot be an end in itself. A clearly defined and forward-looking long-term industrial policy can exert a positive influence on change and mitigate its consequences by giving rise to new opportunities. The Committee will examine the new Commission Communication on a new industrial policy (COM 2005 — ...) in this light.

3.3 The EESC agrees in principle with the Commission's analysis of the phenomenon. Essentially, the Commission sets out four main reasons for restructuring:

- The development of the European single market and the opening-up of economies to international competition.
- Technological innovation.
- The development of the regulatory framework.
- Changes in consumer demand.

3.3.1 The Commission restricts its analysis, then, to very familiar unspecific factors. Another crucial issue is whether restructuring is the subject of long-term planning to avoid certain developments or is triggered at short notice by external pressures or management failures. One example of this is the development of the relationship between market potential and production capacities: ignoring this will result in overcapacities, which sooner or later are themselves a cause of restructuring. As these scenarios imply different approaches, the Committee would welcome a more in-depth analysis.

3.3.2 Restructuring always involves fear of adverse consequences, particularly for workers. But well managed restructuring can also give rise to new challenges and opportunities. There are many examples of successful and less successful restructuring. It all depends, essentially, on how the situation is dealt with in the company, how the various stages are managed and how the various players work together and develop a common spirit which enables them to identify the opportunities.

3.4 The Communication proposes few practical measures and some are merely announced for the future. The EESC is aware that the Commission cannot go much further as things stand, but it feels nonetheless that the Communication is a useful basis for developing Community policy on this issue, and that that policy requires coordination among the directorates-general concerned and the Member States.

### 4. Specific comments

4.1 The EESC agrees that responses to restructuring must form part of the strategy for promoting growth and employment. Tackling industrial change can make a key contribution towards achieving the Lisbon objectives.

4.1.1 In this regard, the EU must consider what contribution it can make in addition to the measures adopted at local, regional and national level. It has an essential role to play in furthering the discussion process in the Member States and helping to raise awareness of the issue. It can also use all the instruments at its disposal to anticipate and foster change.

## 4.2 Mobilising horizontal EU measures

4.2.1 Closer coordination within the Commission through the establishment of an internal task force, and regular dialogue with the European Parliament and the Council are welcome measures. Involving all the directorates-general concerned could help to develop synergies between the different areas of policy seeking to anticipate and manage change. In the EESC's view, however, steps must be taken to ensure that the task force concentrates on its coordinating role and that responsibilities for legislation and the implementation of EU measures continue to be clearly defined within the Commission.

4.2.2 The EESC broadly endorses the priorities set out by the Commission in respect of the review of the European Employment Strategy. In this connection, there needs to be particular focus on training, lifelong learning and effective organisation of work, including sound management of human resources. The Employment Strategy cannot be addressed without reference to the macroeconomic context and industrial policy. The coordination of economic policies with industrial policy and the Employment Strategy would enable change to be managed better.

Stable, predictable and coordinated macroeconomic conditions in Europe are an important basis for successfully managing restructuring measures.

The local conditions in which restructuring takes place are crucial and must be integrated into an overall policy.

4.2.3 As regards the reform of the financial instruments, the EESC agrees that they should be directed more towards the anticipation and management of restructuring, but feels that the general objectives of the existing Funds should be retained.

4.2.4 The financial instruments proposed by the Commission under the heading 'the Community's capacity to intervene in a crisis' were initially regarded with scepticism in the Council. However, in the Committee's view, a detailed discussion on the possibilities of financial intervention to facilitate change where unforeseen events have had severe regional, sectoral or social repercussions is still necessary. It therefore supports the Commission in its endeavours to create a set of instruments of this kind.

4.2.5 The EESC has already set out its view on industrial policy in its opinion of December 2004 <sup>(3)</sup>. In its view, the aim should now be, above all, to step up the sectoral approach, which makes it possible to identify tailor-made approaches for the individual sectors. These measures should not, however, only embrace economic fields which are in a state of crisis; analyses should be carried out in the greatest possible number of sectors which are of importance to the EU in order to tackle industrial change at an early stage and take a pro-active line in shaping change. The social dialogue needs to play an essential role in this context.

<sup>(3)</sup> JO C 157 of 28.6.2005 – Fostering structural change: an industrial policy for an enlarged Europe (COM(2004) 274 final).

The improvement of legislation applying to enterprises is a key point which requires more specific consideration and clarification, with a view to easing the burden on enterprises without lowering social and environmental standards.

4.2.6 The EESC also regards the technology initiatives, especially the technology platforms, as one of the most important means of improving the situation. Technological innovation is the key to breaking out of apparent gridlocks, particularly in the fields of energy, waste emissions and product recycling. The ensuing technological advances would help to make the industrial sectors concerned competitive once again.

4.2.6.1 In this context, steps also need to be taken to ensure that an innovation-friendly environment is created. The crucial elements here are tax incentives and protection of intellectual property. However, consideration should also be given to the need for organisational and social innovation when tackling restructuring.

4.2.7 Turning to competition policy, the question arises as to whether the measures currently available are adequate. An increasing number of elements affecting competitiveness which are not addressed by competition policy are playing a prominent role; one example is corporate taxation.

As regards state aid, reform redirecting aid towards the areas which contribute most to growth and employment is still a long way away. In this connection, the EESC stresses the need for greater focus on the relationship between state aid, restructuring and production relocation. The rules on state aid must remain non-discriminatory and promotion of social cohesion must continue. In this context, the Committee recommends that particular attention be paid to practices outside the European Union.

4.2.8 On the subject of the EU's external policy, the EESC has already set out its views in a number of opinions.

4.2.9 The EESC takes the view that the Dublin-based European Monitoring Centre on Change (EMCC) also has a key role to play with a view to developing the requisite analytical instruments for monitoring restructuring. The CCMI should continue to strengthen its cooperation with the Monitoring Centre.

## 4.3 Strengthening the partnership for change

4.3.1 Special attention should be paid to the extension of the sectoral social dialogue. The EESC agrees with the Commission that, by virtue of their sectoral knowledge, the social partners are able to play a special role in alerting the authorities. This instrument should, however, not only come into play in crisis situations but should apply in the case of all situations in which, in the view of the social partners, there is a need to take action, not only when they wish to alert the Commission to 'a particularly worrying development'. This approach would be more in line with the requirements in respect of anticipating and accompanying restructuring.



4.3.2 The EESC awaits with interest the Communication on *Corporate social responsibility* (CSR) announced by the Commission; this will focus on positive initiatives being taken by enterprises and the various stakeholders to address restructuring. There is clearly a need to publicise and promote not only the development of the legal bases but also examples of good practice in tackling change. The EESC draws attention, above all, to the need to take account in these processes also of those parties which are indirectly affected by the restructuring of individual enterprises (e.g. suppliers, service-providers, etc.).

The EESC has already set out its views on CSR in an earlier opinion.

4.3.3 The EESC welcomes in principle the establishment of a *Restructuring Forum*. The Forum's aim must be to explain best practices and discuss local barriers (regulations) to introducing them. It is still too early to assess the results. The Committee is very willing, however, to contribute its expertise to the Forum and help to ensure it adds value to EU policy-making. For this to happen, its modus operandi must not entail the creation of a new bureaucracy and it must focus on those questions which have so far not been adequately addressed. The civil society organisations concerned must have the opportunity to take part in its work.

#### 4.4 *Adapting the framework of regulation and collective agreement*

4.4.1 In addition to the regulatory modernisation and simplification measures already provided for in the Lisbon Action Programme — measures which the EESC has always welcomed — the Commission announces that it is to submit a Green Paper on the Development of labour law. In restructuring, perhaps more than elsewhere, the aim of developing labour law must be to ensure a balance between flexibility and security.

4.4.2 With regard to promoting intra-Community mobility, the EESC regards the proposal for a Directive on Improving the portability of supplementary pension rights — the sole proposal put forward — as being a somewhat meagre contribution. Worker mobility in relation to restructuring is a very complex issue and cross-border mobility is just one aspect of it. Workers must be able to adapt to new circumstances brought about by restructuring. At the outside, this could mean a career

change or looking for a new job. Thought therefore needs to be given to what measures must be taken at Community, national or regional level to make this transition easier for workers. A package of incentives to facilitate mobility will have to be considered involving areas such as qualifications, the labour market, social legislation and taxation, including the removal of administrative barriers to the free movement of labour.

#### 4.5 *Second phase of the consultation of the social partners on company restructuring and European works councils*

4.5.1 The Commission has here, for the first time in a Communication aimed at a wide readership, initiated a consultation of the social partners on two different issues. This method is not universally endorsed and it has yet to be established whether the right process for consulting the social partners has been selected in this case.

4.5.2 Irrespective of these procedural questions, the EESC welcomes the idea of giving the social partners the opportunity to continue, in concrete terms, their work on the subject of restructuring.

4.5.3 European Works Councils (EWC) have a significant role to play in company restructuring. Consultations on the review of the EWC Directive should therefore embrace this issue, but they need to cover a broader context. The right of employees, laid down in the EWC Directive, to be informed and consulted is not confined to the issue of restructuring.

#### 4.6 *The Commission's conclusions*

4.6.1 The Committee shares the Commission's conviction that restructuring must not be synonymous with social decline and a loss of economic substance. Restructuring can make an appreciable contribution to economic and social progress. But the Commission has rightly noted, the conditions in which restructuring takes place are of crucial importance.

4.6.2 However, adverse consequences for workers cannot be entirely avoided. In addition to the requirements set out by the Commission, therefore, measures taken at Community level must also aim to give workers the necessary protection in periods of transition.

Brussels, 14 December 2005.

The President  
of the European Economic and Social Committee  
Anne-Marie SIGMUND