

Position Paper

UEAPME¹ position on the Commission communication - EU Quality Framework for anticipation of change and restructuring - COM (2013) 882 final

Introduction

On 13 December 2013, the European Commission published its new communication presenting a European Quality Framework for anticipation of change and restructuring (QFR) as the follow-up to the Green paper "Restructuring and anticipation of change: what lessons from recent experience" of January 2012 and the European Parliament resolution on information and consultation of workers, anticipating and management restructuring" of January 2013.

General comments

UEAPME would like to recall once more that change and restructuring processes are fully part of the daily life of businesses, whatever their size and sector of activity.

Companies constantly need to adapt to a changing world and notably to changing economic, social, legal environments, to face new consumer demands and to react to market evolutions, to cope with technological innovations in order to remain competitive at a global scale also for companies working locally.

Even if the majority of small businesses tend to be more active locally, they are now more and more confronted with the global competition on their local markets and have to constantly adapt.

Talking about restructuring cannot only be limited to highly emblematic cases of large-scale redundancies. SMEs are also experiencing restructuring in a more silent manner.

As already mentioned, restructuring is part of the normal business cycle with a constant creation or expansion of companies as well as reduction of business activities or a close down. However, in the case of small businesses, one of the main consequences of the very severe financial and economic crisis has been a clear increase of bankruptcies and closures of companies despite the comprehensive anti-crisis packages introduced by many Member States and the genuine capacity of small businesses to be more reactive and to adapt quickly to change.

Anticipation of change and restructuring are leading to a permanent adjustment of job creation and job destruction. In terms of employment, the situation is critical when job destruction is not counterbalanced by sufficient job creation.

The only way to avoid such a negative situation is to create the right business environment for companies to develop and to foster growth and competitiveness leading to more job creation.

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](https://ec.europa.eu/transparency/procurements/notice/55820581197-35).

The negative consequences of adaptation to change can better be mitigated if we have a business friendly environment, quality infrastructure, efficient public services, market responsive educational and training systems, easy access to finance, encouragement of innovation, diversification and clustering, a conducive tax system, balanced employment protection systems and good wage setting mechanisms as well as a constructive dialogue between management and workers.

All these have direct positive consequences for competitiveness and eliminate to a large extent the negative consequences of change and restructuring.

Measures to cushion social consequences of restructuring should not hamper businesses adjustment, adaptation capacity and growth potential for job creation and wealth. Delivering change also means convincing workers who enjoy considerable levels of job security that things need to change while improving their employability, facilitating mobility and making best use of active labour market policies.

This is why UEAPME appreciates the approach taken in the QFR. Even if this QFR is mainly addressing employment and social dimensions of anticipation of change, **it also recognises that there is a need to take a broader perspective on structural change including the role of industrial policy, the necessity to restore dynamic labour markets focusing on transitions, skills and mobility.**

However, UEAPME calls on the need to apply the guidelines in a flexible way. They should only be indicative and not prescriptive in order “to contribute to companies’ long term competitiveness and sustained employability of their workers and mitigate the associated expense, including the social costs of change”.

UEAPME also recalls the importance of exchange of good practices as a meaningful source of inspiration and the usefulness of a peer learning approach for an anticipative, proactive and socially responsible management of change as highlighted in this new QFR. The good practices presented in the guidelines cannot systematically be implemented in all Member States and in all companies in the same way. It will very much depend on the legal framework, industrial relation system, tradition and culture and state of play of the economy.

UEAPME welcomes the EC acknowledgment **that SMEs cannot bear additional burdens and red tape.** This statement should however be transposed into reality. One particular aspect should be to avoid any new EU legislation on employee rights in times of changes.

The Commission rightly points out to the existence of a substantial corpus of EU labour law in case of restructuring.

According to UEAPME there is no need for any additional EU legislation or for consolidation of existing legislation on information and consultation of workers directives. As stated in the fitness check exercise outcomes, UEAPME is of the opinion that the current directive on information and consultation is fit for purpose.

UEAPME has serious concerns about a possible revision of the existing threshold currently excluding smaller enterprises from the information and consultation directive. A lowering of thresholds would neither be adequate nor justified.

Instead we support the non-legislative approach for establishing a culture of social dialogue and of awareness raising of employers and employees about information and consultation rights and obligations. There are different models of industrial relation systems in Europe and this diversity should be respected.

Social dialogue has always been less formalised in small enterprises, but it does not mean that social dialogue does not exist in small companies. It is well known that the dominant form of social dialogue in micro-companies is bilateral communication and less formalised and structured social dialogue.

It is true that SMEs in general but even more micro and small companies need the support of external stakeholders for anticipating change in a constructive manner.

When developing forward looking strategies including management of human resources with continuous training, innovative approaches should first and foremost be supported by public authorities at all levels as well as by professional structures such as chambers or business organisations.

The role of larger companies towards smaller companies should be further discussed. Larger companies' support to SMEs can be a win-win solution in the case of subcontracting or value chain for anticipating change and investing in further training and defining adequate development strategies.

However larger businesses cannot supplant the role of the entrepreneur or manager of small businesses. His/her decision making power should be fully respected.

What would be more relevant in cases of restructuring and notably collective dismissals is that workers of small businesses included in the value chain could benefit from the same tools and support than the ones at the disposal of - large businesses.

Finally it is mentioned that fast growing SMEs are facing some very specific challenges in terms of recruitment, which is certainly true. However, the vast majority of small businesses need further support for hiring qualified workers at local and territorial level for an optimal anticipation of change and restructuring and not only in terms of human resources strategies.

Specific comments on the Guidelines and good practices of the QFR:

- UEAPME agrees with the necessity to mobilise all relevant actors at all levels including the individual workers for successfully anticipating change and managing restructuring process. However a good management of restructuring requires timely initiatives.
Any attempt to artificially postpone a restructuring process is in most cases leading to more job losses and more negative social impact.
- UEAPME has problems with some guidelines and notably with the task given to national and/or regional authorities to "monitor social plans"
- The EU Commission acknowledges that this catalogue of measures for anticipating change and managing restructuring processes does not necessarily fit with the reality of SMEs and therefore that SMEs cannot be expected to fully implement them.
- In a more realistic way, without systematic and well focused external support SMEs and even more micro and small companies will not be able to comply with the vast majority of measures presented in the QFR.

1 Role of employers:

On anticipation of change: it is the most strategic aspect where SMEs need a strong external support.

Due to their size and scarcity of resources, they have intrinsic difficulties in developing and implementing long-term strategies on their own, including on human resources investments.

A continuous mapping of jobs and skills needs is not their immediate priority notably in difficult times as it is when most restructuring actions occur.

It is obvious that on measures targeting individual employees, SMEs will have to turn to external support for defining human resource development strategies, continuous training measures including training plans, career development measures, measures to promote mobility.

They will have to rely on expertise coming from local or regional structures such as professional organisations, chambers, business associations, training centres, development agencies, etc...

At the same time, all these services should be easily accessible, reliable, tailored to the reality of micro, small and medium size enterprises and at an affordable price.

On Management of restructuring processes: SMEs need strong help for organising personalised support towards individual employees made redundant. In most cases employees from small businesses do not have access to social plans and other types of personalised accompaniment measures. They mainly rely on public employment services with all their limits. More efforts should be done at local and territorial level for delivering adequate support to workers and entrepreneurs of small businesses in the case of restructuring notably for small businesses very much dependant of larger businesses.

2 Role of employees' representatives

In the case of SMEs and where employees' representatives exist or have been elected according to national law and practices, in some countries they may negotiate the so called social plans in cases of restructuring like in Austria for enterprises with more than 20 employees. These plans may encompass measures accompanying restructuring and may include training and support for employees

Anyhow they should establish a constructive dialogue with management and contribute positively to the process of restructuring. They are effectively the link between management and employees and should participate in the implementation of company specific procedures for dealing with particular restructuring situations, conveying the right messages to the workforce.

They can also to a certain extent advise employees on the steps they should take to deal with the new circumstances and participate in external partnerships, networks, etc, to deliver support to individual workers. As far as the anticipation of change is concerned, they should usefully promote internal and external mobility of individual employees as well as set up diversification of activities.

3 Role of Individual employees

Besides the role and task of employers, it is crucial to recognise the responsibility of the individual person to maintain his/her employability.

On anticipation of change: individual employees should accept to participate in further training. They should also contribute to innovation by developing their creativity and entrepreneurship spirit.

On management of change: employees should be pro-active in job search, they should be ready to accept various job offers, to go on retraining and also to be open to geographical and/or occupational mobility.

4 Role of social partners and sectoral organisations

On anticipation of change: social partners have a key role to play.

They are genuine stakeholders for negotiating relevant collective agreements at the most appropriate level.

The sectoral social partners are the best placed to identify skills needs and jobs evolution notably at regional and territorial level.

However a purely "theoretical" or "technocratic" approach would be counterproductive. Social partners should work in close cooperation with the most relevant education and training actors. They should be involved in the regular adaptation of the curricula to better fit new labour market needs.

Social partners should also be able to share joint diagnosis and facilitating professional transition and mobility.

On management of change: social partners should act in accordance with the industrial relation system in place in the Member States and in full respect of the existing legal framework. In any case management of change is better done at local level/plant level, where the real problems are.

In SMEs the management of change is mainly dealt with at company level between the employer and the trade unions if they are present in the company, or the representative of employees (where they exist) or in most cases directly with employees. For SMEs, the individual support to redundant workers is one of the most relevant issues. This is where external expertise is necessary be it from social partner, local development agencies or public authorities including notably public employment services and private agencies.

5 Role of public authorities

On anticipation of change: public authorities are genuine interlocutors for SMEs. Without the strong support of local, territorial, regional or even national authorities SMEs can hardly anticipate change. They are the ones responsible for devising the best adequate legal and administrative environment. They should work in close partnership with economic and social partners for devising the most appropriate policy for employment and education and training at regional level. They are also responsible for promoting adaptation tools with the direct management of the financial support coming from the European level and notably the European Structural and Investment Funds.

On management of restructuring process: UEAPME has problems with the guidelines “explore all possible options before implementing redundancies and monitor social plans”.

Public authorities cannot replace the business managers’ decision in case of redundancies and even less monitor plans implemented by companies. They can facilitate the outplacement programmes, promote job creation, support business development or takeover but not intervene in the direct company management of restructuring process.

6 Role of the European Commission

The EU Commission is obviously entitled to carry out the monitoring report. However it will be extremely difficult to have an accurate overview of practices implementation all over Europe without the full contribution of public authorities, social partners and other stakeholders active on the ground.

According to UEAPME, besides the overall management of the European funds notably the EU Structural and Investment Funds and the EU Globalisation Adjustment Fund, one important task of the European Commission should be to facilitate the exchange and transfer of good practices and to promote further peer learning.

On the EU legal framework, UEAPME does not see the need for a consolidation of the three employee involvement Directives, but will reply as European Social Partner to the consultation in due time.

Anticipation of change and restructuring is a permanent process which should be best supported in case of SMEs without imposing numerous obligations and constraints if one wants to maintain viable employment places and/or encourage and stimulate job creation.

Finally, we would like to stress that additional legislative measures at European level in relation to change anticipation and managing the restructuring process will not help to overcome the problems but will create additional burdens for the business sector notably SMEs and have the opposite result on job creation.

20/03/14

For further information on this paper, please contact:

Liliane Volozinskis
 Director for Social Affairs and Training policy
 UEAPME
l.volozinskis@ueapme.com