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Information and consultation of workers, anticipation and management of restructuring

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▶ **European Parliament resolution of 15 January 2013 with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring (2012/2061(INI))**



The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union, and in particular Articles 9 and 151 and Article 153(1)(e) thereof,
- having regard to Articles 14, 27 and 30 of the Charter of Fundamental Rights of the European Union,
- having regard to the assessment of the European added value of an Union measure on information and consultation of workers, anticipation and management of restructuring process, carried out by the European Added Value Unit of the European Parliament and transmitted to the Committee on Employment and Social Affairs on 19 November 2012⁽¹⁾,
- having regard to 'Managing change - Final report of the High Level Group on economic and social implications of industrial change, set up by the Luxembourg Employment Summit of November 1997'⁽²⁾,
- having regard to Council Recommendation 92/443/EEC of 27 July 1992 concerning the promotion of participation by employed persons in profits and enterprise results (including equity participation)⁽³⁾,
- having regard to Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE)⁽⁴⁾,
- having regard to Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies⁽⁵⁾,
- having regard to the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation⁽⁶⁾,
- having regard to Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses⁽⁷⁾,
- having regard to Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees⁽⁸⁾,
- having regard to Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community⁽⁹⁾,
- having regard to Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees⁽¹⁰⁾,
- having regard to Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids⁽¹¹⁾,
- having regard to Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies⁽¹²⁾,

- having regard to Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees⁽¹³⁾,
- having regard to the Commission communication of 31 March 2005 on 'Restructuring and employment: Anticipating and accompanying restructuring in order to develop employment: the role of the European Union' (COM(2005)0120) and the opinion of the European Economic and Social Committee of 14 December 2005⁽¹⁴⁾,
- having regard to the Commission communication on the Social Agenda (COM(2005)0033),
- having regard to Council Decision 2010/707/EU of 21 October 2010 establishing guidelines for the employment policies of the Member States⁽¹⁵⁾,
- having regard to the Commission communication on 'An Integrated Industrial Policy for the Globalised Era Putting Competitiveness and Sustainability at Centre Stage' (COM(2010)0614),
- having regard to the Commission communication entitled 'Towards a Single Market Act' (COM(2010)0608 final/2),
- having regard to the Commission communication on 'An Agenda for New Skills and Jobs' (COM(2010)0682),
- having regard to the Commission Green Paper on 'Restructuring and anticipation of change: what lessons from recent experience?' (COM(2012)0007),
- having regard to its resolution of 15 December 2011 on the Mid-term review of the European Strategy 2007-2012 on occupational health and safety⁽¹⁶⁾,
- having regard to the Commission communication entitled 'Towards a job rich recovery' (COM(2012)0173),
- having regard to its resolution of 26 May 2005 on the Social Agenda for the period 2006-2010⁽¹⁷⁾,
- having regard to the own-initiative Opinion of 25 April 2012 of the European Economic and Social Committee on Cooperatives and restructuring⁽¹⁸⁾,
- having regard to its resolution of 10 May 2007 on strengthening European legislation in the field of information and consultation of workers⁽¹⁹⁾,
- having regard to its resolution of 9 March 2011 on an Industrial Policy for the Globalised Era⁽²⁰⁾,
- having regard to the Commission communication of 20 September 2011 on a 'Roadmap to a Resource Efficient Europe' (COM(2011)0571),
- having regard to the Commission communication of 8 March 2011 entitled 'A Roadmap for moving to a competitive low carbon economy in 2050' (COM(2011)0112),
- having regard to the findings of research and surveys by the European Foundation for the Improvement of Living and Working Conditions,
- having regard to Rules 42 and 48 of its Rules of Procedure,
- having regard to the report of the Committee on Employment and Social Affairs (A7-0390/2012),

A. whereas restructuring is not a new phenomenon but a practice which happens more frequently due to economic challenges and whereas, in recent years, it has become more prevalent as well as taking many different forms, intensifying in some sectors and spreading to others, with unforeseeable consequences for the economic and social fabric of the Member States;

B. whereas the global economic crisis triggered in 2008 requires companies and their employees to make necessary changes to safeguard competitiveness and jobs, and whereas that crisis has been significantly worsened by financial speculation in the financial sector, speeding up the rate of change sharply, thereby increasing, to an alarming extent, the pressure on workers, territories and all levels of government for structural adjustments;

C. whereas, as a result of radical changes in economic strategies, the last 30 years have seen a massive shift in wealth from the real to the financial economy; and whereas the situation of those who create all the goods and provide all the services, but who bear the full brunt of the economic crisis, needs to be improved;

D. whereas restructuring becomes an issue for stakeholders only at a late stage, most often when redundancies are being considered;

E. whereas, when restructuring, it is the immediate and easily perceptible impact on employment that attracts most attention, while the adverse effect on working conditions and worker's health is not properly recognised and tackled;

F. whereas the multiple and diverse stakeholders involved in restructuring are isolated and rarely cooperate over the long-term;

G. whereas, as consistently highlighted in recent policy papers from the Commission, especially the Europe 2020 Strategy and the Industrial Policy Communication of 28 October 2010, 'Better anticipating and managing restructuring would help employees and companies to adapt to transitions imposed by excess capacities and by modernisation and structural adjustment'. [...] 'Management and employees' representatives are the key players to agree on restructuring strategies at company level. Policy interventions should accompany such restructuring to avoid social hardship and promote new skills and jobs, thus minimising mass redundancies and the decline of entire regions or the relocation of entire industries, by facilitating economic conversion and professional transition';

H. whereas the crisis has led to a new economic governance at Union level, through the annual growth survey and semester and whereas that new economic governance may itself lead to restructurings and thus requires the involvement of social partners;

I. whereas there is a need to prepare workers in a timely manner for a shift towards a resource efficient, climate-friendly economy, and whereas that development has huge employment potential, but will give rise to the restructuring of unsustainable sectors and companies;

J. whereas the number of jobs lost was almost double the number of jobs created in the third quarter 2011, this trend is likely to increase in view of the announcement of major restructurings in strategic fields;

K. whereas more than 6,4 million jobs were lost in the construction and manufacturing sectors between 2008 and 2011;

L. whereas all the Member States in which 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 great many 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;

M. whereas, as stated in the Annual Growth Survey: advancing the Union's comprehensive response to the crisis, 'the positive export performance of some Member States shows that success in global markets relies on wider factors such as sector specialisation, innovation, and skills levels that enhance real competitiveness'; whereas, against the specific background of the crisis, undertakings in some Member States have taken a long-term approach and have made every effort to retain their well-trained and highly experienced workers;

N. whereas Union undertakings may find it difficult to be successful on world markets merely by undercutting their competitors' prices, rather than by developing good products, processes and services;

O. whereas employees in unsustainable sectors should be provided with assistance and training to make the transition to green jobs;

P. whereas there is a danger that the good practices identified in the wake of the crisis, in particular by the ILO, will be largely disregarded and not used to address future crises; whereas, therefore, Union institutions should investigate and document such good practices, so that they can also be used when restructuring is carried out;

Q. whereas, in its Communication on An Agenda for New Skills and Jobs of 23 November 2010, the Commission also recognises that 'adaptability and pro-activity when moving jobs or occupations may however be hampered by insecurity because transitions bear a potential hazard of unemployment, lower wages and social insecurity; whereas positive transitions along people's career paths are therefore essential in order to adapt constantly, maintaining and increasing employability while providing security for individuals and fluidity in labour markets.';

R. whereas, in cases of restructuring where redundancies are unavoidable, vulnerable categories of workers, including younger and older workers are more often targeted for redundancy than other age groups, even when this constitutes age discrimination under the relevant Union legislation;

S. whereas, as stated in the Commission communication entitled 'Towards a Single Market Act', 'the sense of disillusionment felt by some towards the internal market may also be the result of the perception that successive liberalisations have been carried out at the expense of the social rights acquired by various economic operators.'; 'The Lisbon Treaty, and the affirmation of the concept of a 'highly competitive social market economy' as one of its key objectives, require 'the Union' to adopt a more all-embracing view of the single

market. Economic freedoms and freedoms of collective action must be reconciled. New life must be breathed into the social dialogue, making it more likely to lead to legislation 'by and for' the social partners, as explicitly provided for by the Lisbon Treaty.'; 'Beyond purely reactive approaches to the economic and financial crisis, pre-emptive strategies have allowed businesses and their employees to ward off industrial disputes through the proactive management of restructuring operations. This is a precondition for economic success and is a social requirement, since it enables resources to be redistributed to emerging sectors and opens new windows of opportunity for workers when their jobs are at risk.'; whereas a Union act for restructuring exercises would make for an environment based on mutual trust;

T. whereas the deepening of the single market leads to extra competition which can lead to restructuring; whereas the Union should take responsibility for this process by setting the framework to alleviate the social consequences;

U. whereas the 'Orientations for reference in managing change and its social consequences' drawn up by the social partners in October 2003 have, however, not been followed by any legislative measure although they have been followed by two cycles of national seminars held by the social partners in the framework of their pluriannual work programmes; whereas these are still largely unknown not only from the national and sectorial social partners' organisations, but also, and more importantly, from companies and their workers' representatives; whereas, however, timely and effective observance of the principles enshrined in those Orientations and resulting also from many other studies and reports would be of great importance; whereas, since company practices in this field are frequently reactive rather than proactive, they intervene too far downstream of the decision-making process and do not involve external entities that could play a role in attenuating its social impact either sufficiently or in a sufficiently timely manner;

V. whereas the Commission has looked for concrete contributions on how to further develop policy in this area through its Green Paper on Restructuring and anticipation of change: what lessons from recent experience?, in which it recognises that 'technological change and innovation may force adjustment strategies for companies and labour, but there are also indications that innovation, combined with research and education can build an effective way to pull Europe out of the crisis';

W. whereas cooperatives manage restructuring in a socially responsible manner and their specific cooperative governance model, based on joint ownership, democratic participation and members' control, as well as the ability of cooperatives to rely on their own financial resources and support networks, explain why cooperatives are more flexible and innovative in managing restructuring over time, as well as in creating new business;

X. whereas, in spite of the strong statements referred to above, the Commission has delivered disappointing responses to parliamentary resolutions on information, consultation and restructuring that highlight the need for urgent and concrete steps in this area as well as to requests coming from other relevant economic and social players;

Y. whereas this resolution is without prejudice to information obligations resulting from other Union and national law; whereas, insofar as Union and national law so provide, information procedures should be fully used to implement the recommendations laid down in the present resolution;

Z. whereas this resolution is without prejudice to employment protection obligations and obligations related to employment termination resulting from national law;

AA. whereas there are currently large differences in national law concerning the responsibilities of employers towards their employees in the process of restructuring; whereas, European social partners have been consulted twice in the previous decade and the Commission has failed to act;

AB. whereas good and effective information and consultation in relation to restructuring means that the relevant measures should be taken several months prior to the proposed restructuring, that they should also cover dependent companies and that they should include the prompt provision of retraining courses in order to help make undertakings and the Union more competitive, thereby sending out a message of certainty and transparency to Union citizens and investors at a time of crisis;

AC. whereas companies which fail to adapt to changing circumstances will be unable to keep pace with their competitors in the long term; whereas companies, workers and sectors tend to be in the best position to gauge their own restructuring needs; whereas each Member State is involved in different restructuring processes and the repercussions are different in each country;

AD. whereas the Commission, with a view to helping workers and undertakings prepare for change more effectively, has conducted detailed research and studies into the phenomenon of restructuring itself and the supervision of sectors of the economy, including a series of studies of the way employment will change between now and 2020⁽²¹⁾; whereas this prospective analysis has been carried out in conjunction with independent researchers, the social partners and the other Union institutions, such as the European Parliament, and Union agencies and bodies, such as the European Monitoring Centre for Change⁽²²⁾ of the European Foundation for the Improvement of Living and Working Conditions and the European Centre for the Development of Professional Training;

AE. whereas Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund⁽²³⁾ is currently being revised;

1. Requests the Commission to submit as soon as possible, on the basis of Article 225 of the Treaty on the Functioning of the European Union and after consulting social partners, a proposal for a legal act on information and consultation of workers, anticipation and management of restructuring, following the detailed recommendations set out in the Annex hereto;
2. Confirms that the recommendations respect fundamental rights and the principle of subsidiarity; further confirms that the recommendations respect the principle of proportionality, entrepreneurial freedom and the right to property;
3. Confirms the relevance of strong social dialogue based on mutual trust and shared responsibility, as the best instrument with which to seek consensual solutions and common outlooks when predicting, preventing and managing restructuring processes;
4. Calls on the Commission 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;
5. 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;
6. Considers that the requested proposal will have no financial implications;
7. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council.

(1) http://www.europarl.europa.eu/meetdocs/2009_2014/documents/empl/dv/eava_info_of_workers_with_annexes/eava_info_of_workers_with_annexes_en.pdf

(2) OJ C 258, 10.9.1999, p. 1.

(3) OJ L 245, 26.8.1992, p. 53.

(4) OJ L 294, 10.11.2001, p. 1.

(5) OJ L 225, 12.8.1998, p. 16.

(6) OJ L 303, 2.12.2000, p. 16.

(7) OJ L 82, 22.3.2001, p. 16.

(8) OJ L 294, 10.11.2001, p. 22.

(9) OJ L 80, 23.3.2002, p. 29.

(10) OJ L 207, 18.8.2003, p. 25.

(11) OJ L 142, 30.4.2004, p. 12.

(12) OJ L 310, 25.11.2005, p. 1.

(13) OJ L 122, 16.5.2009, p. 28.

(14) OJ C 65, 17.3.2006, p. 58.

(15) OJ L 308, 24.11.2010, p. 46.

(16) Texts adopted, **P7_TA(2011)0589**.

(17) OJ C 117 E, 18.5.2006, p. 256.

(18) OJ C 191, 29.6.2012, p. 24.

(19) OJ C 76 E, 27.3.2008, p. 138.

(20) OJ C 199 E, 7.7.2012, p. 131.

(21) SEC(2008)2154 Commission Staff Working Paper, Restructuring and employment the contribution of the European Union.

(22) In 2001 one of the proposals of the Gyllenhammar Expert Group was implemented. This involved the establishment of a European Monitoring Centre for Change (EMCC) within the European Foundation for the Improvement of Living and Working Conditions in Dublin. The EMCC manages in particular the European Restructuring Monitor (ERM), which collects information on restructuring operations on a certain scale.

(23) OJ L 406, 30.12.2006, p. 1.

DETAILED RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

THE EUROPEAN PARLIAMENT

- having regard to the Treaty on the Functioning of the European Union and in particular to Article 153(1)(e) thereof, considers that the legal act to be adopted should contain the elements below:

Recommendation 1

Whereas:

1. When dealing with the anticipation, preparation and management of restructuring, companies, workers' representatives, the public authorities and the other stakeholders, each in their respective capacity and competence, and at a moment which corresponds to their different responsibilities, act in a spirit of cooperation, based on timely and comprehensive information and consultation, whilst recognising that those processes aim to protect at the same time the interests of companies as regards competitiveness and sustainability and those of their workers.
2. For restructuring to be economically successful and socially responsible, it requires to be integrated into a long-term strategy aimed at ensuring and strengthening the long-term sustainability and competitiveness of the company. It also requires putting human resources at the heart of companies' strategic development.
3. Employers respect anti-discrimination legislation, particularly in the field of age discrimination, when selecting the workers targeted for redundancy.
4. Anticipation, preparation and management of change takes place in the context of strengthening social dialogue and with a view to promoting change in a manner compatible with the preservation of the priority objectives of competitiveness and employment, as well as with the health of workers.
5. There is a need to envisage, promote and enhance measures concerning the company's situation and the likely development of employment and working conditions, in particular where these may be under threat.
6. Restructuring is facilitated and its impact softened when companies continually develop the skills and competences of their workers, increasing their employability and their internal and external mobility.
7. Adaptable companies and resilient workforces develop, in cooperation with workers' representatives, regional and local authorities and other relevant organisations, mechanisms for anticipation and for forward planning of employment and skills needs. They recognise the right for every worker to benefit from appropriate training. Workers recognise that education and lifelong learning are necessary to strengthen their employability.
8. Restructuring processes impact beyond the perimeter of a single company, as companies increasingly work in networks, which intensifies the need to set up multipartite forums for debate on social issues.
9. 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.
10. It is a widely recognised that any restructuring operation, in particular one of major size and which generates a significant impact, should be accompanied by an explanation and justification to the stakeholders, covering the choice of the measures envisaged in relation to the objectives and to alternative options and respecting the full and appropriate involvement of workers' representatives at all levels, prepared in good time to enable stakeholders to prepare for consultations, before the company takes a decision.
11. Serious action aimed at limiting the impact of restructuring requires companies to envisage redundancies as a last resort and only after having considered all possible alternative options and/or having implemented possible supporting measures.
12. The active cooperation and assistance of public authorities at the relevant level in the preparation and management during the implementation of restructuring operations contributes greatly to economic conversion and the retaining of workers. Local economic actors, in particular SMEs being in a situation of dependence towards the restructuring company due to their quality of suppliers or of subcontractors should also be involved.
13. 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.
14. It is important that companies, in conjunction with workers' representatives, create tools for regular evaluation and reporting on their activities concerning the anticipation of restructuring, in respect of national laws or practices.
15. The new focus of economic governance is the consolidation of state budgets, so that restrictions on public spending are jeopardising measures to cushion the adverse impact of restructuring operations.
16. 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. 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.
17. Any Union framework on anticipation, preparation and management of change and restructuring should encourage and give precedent to agreement between the company and its workers' representatives at local level. Only in the absence of such agreement should standard rule apply.

Recommendation 2 on the objective

1. The purpose is to promote and facilitate 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.

2. To that end, companies and workers' representatives, when dealing with restructuring, in a spirit of cooperation, recognise that these processes aim to protect both the interests of companies as regards their competitiveness and sustainability and those of their workers, as regards social, employment, health and working conditions.

Recommendation 3 on definitions and scope

1. For the purposes of this act:

- (a) 'companies' mean companies or groups of companies, both privately and publicly owned, in accordance with Union and national law and/or collective agreements;
- (b) 'dependent companies' mean companies and firms in a situation of substantial dependence of the ones above by reasons of subcontracting, supply contract and others;
- (c) 'workers' representatives' mean the ones provided for by national law and/or practice;
- (d) 'agreements' mean agreements concluded at the relevant level (European, national, sectoral, regional or company-level) by, on one hand, representatives of the companies and/or their organisations, and, on the other hand, representatives of the workers with the capacity to conclude collective agreements under national law and/or practice or under the procedures laid down by the competent trade union organisations at European level;
- (e) 'workers' mean the workers of the companies, irrespective of the type of employment contract;
- (f) 'public authorities' mean bodies of the public administration at the relevant level, as designated by Member States, including local employment services;
- (g) 'restructuring operation' means any change which falls within the scope of the Collective Redundancies or Transfer of Undertaking Directives;
- (h) 'employability' means the employee's ability, in the light of his or her skills, experience and training, to obtain work or change job;
- (i) 'information and consultation' is defined in line with the relevant European and national law in this field;

2. Any Union act should cover companies or group of companies, both privately and publicly owned, in accordance with Union and national law and/or collective agreements. 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.

Recommendation 4 on long-term strategic planning, adaptability and employability

1. Any restructuring operation is integrated into a long-term strategy that aims to ensure and strengthen the long-term sustainability and competitiveness of the company, in order to promote a culture of innovation, while recognising that in many cases companies are forced to restructure because of unforeseen changes in market conditions or because of developments in technology.

2. Long-term strategy includes economic development, as well as human resources, employment and skills objectives focused on developing, on a permanent basis, the skills and competences of the workforce in order to increase the competitiveness and sustainability of the company and its capacity of adaptation, as well as to increase the employability of workers, to ease the transition of workers and to enhance their internal and external mobility.

3. To that end, Member States 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.

4. The training courses on offer represent a genuine long-term investment, whatever the age of the worker. They cover in particular the needs of advanced industrial sectors, new information and communication technology, the transition to a green economy, and health care, and more widely the sectors that will be most effective in achieving the objectives of the EU 2020 strategy.

Recommendation 5 on anticipation of employment and skills needs

1. Companies design, in consultation with workers' representatives with due regard for their reciprocal rights and obligations, and as appropriate with public authorities and other relevant stakeholders, human resource development strategies tailored to their own individual circumstances, as well as mechanisms that anticipate and plan for future employment and skills needs.

2. To that end, companies establish, in co-operation with workers' representatives and other relevant stakeholders:

- (a) 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;
- (b) multiannual plans of employment, skills and working conditions development covering the most relevant areas, for example:
 - identification and anticipation of competence and qualifications needs;
 - support for the creation of learning culture to help workers enrol in an adequate training;
 - regular individual skills assessment leading to individual training maps;
 - regular working conditions assessments especially in regard to the organisation of work;
 - individual training plans with quantitative targets;
 - an annual training budget;
 - individual learning accounts;

training programs, both in-house and externally

- training programs, both in-house and external;
- leave of absence for educational purposes;
- specific training measures to deal with identified problems.

3. Every worker is offered a given number of hours of training per year to be determined by law or collective agreement. However, the training needs should be mainly identified through skill-assessment, to check that their employability is maintained.
4. The training needs of individual workers should be reviewed on a regular basis and appropriate training solutions identified, where necessary.
5. The provisions of paragraphs 1 to 3 do not refer to companies and workers covered by an agreement, concluded at the relevant level and with the relevant parties, on the procedures for anticipating skills or assessment of employment and skills needs.
6. Whenever possible and appropriate, companies:
- (a) develop the mechanisms and plans provided for in paragraph 2 in close cooperation with external actors, including regional authorities, universities and other education and training providers, technological institutes;
 - (b) participate or contribute to external employment and skills observatories, partnerships, networks and other relevant initiatives taken in the region and/or sector concerned, innovation centres and development agencies;
7. The practical implementing arrangements shall be laid down in an agreement concluded between the parties concerned.
8. Dependent companies are informed of the changes and plans provided for in paragraph 2. Their workers can be covered by those mechanisms and plans upon the request of the dependent company, justified on the grounds that those mechanisms and plans are required or useful for their own adaptation and development. This does not preclude dependent companies from developing their own mechanisms.

Recommendation 6 on early preparation

1. Except in circumstances where restructuring is triggered by unforeseen or sudden events, any restructuring operation, in particular when it is likely to have a significant negative impact, is preceded by an appropriate preparation with the relevant stakeholders, according to their respective competences, concerned with a view to preventing or alleviating its economic, social and local impact.
2. Restructuring is in general triggered by exceptional circumstances resulting from changes in markets or developments in technology. It is in the interest of all concerned that when such exceptional circumstances occur management and employees engage in timely discussions in line with the information and consultation requirements of existing Union legislation.
3. 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.
4. This preparation is carried out as early as possible and starts as soon as the need to restructure is contemplated, respecting the methods and procedures negotiated at the level of the sector, of the region or of the company concerned, should the case arise. Except in the exceptional circumstances referred to in paragraph 1 above, it is carried out within a timeframe that allows for meaningful consultation of all concerned stakeholders and the adoption of measures making it possible to avoid or to mitigate to the minimum its negative impact from the economic, social and local point of view.
5. The local economic actors, in particular companies and their workers in a situation of dependence in relation to the restructuring company should also be informed from the beginning about the proposed restructuring.
6. It is crucial that there should be transparency and timely information for employees concerning a company's situation so that they can be involved in restructuring and in the processes of anticipating change. 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.
7. In the context of any restructuring 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

1. Any restructuring operation, in particular those likely to have a negative impact on employment, is 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.
2. The measures provided for in paragraph 1 include the reason for the choice of the measures envisaged in order to achieve the objectives, after having evaluated other possible options, in the light of all the interests concerned.
3. Companies from the beginning inform the public authorities and workers' representatives at the relevant level, in particular at local level in due time, and involve them as much as possible in the implementation of the restructuring process.
4. The local economic actors, in particular companies and their workers in a situation of dependence in relation to the restructuring company are also informed as soon as possible about the restructuring process.
5. This provision shall not apply if comparable rules on the information and consultation of employees' representatives are in force at national level.

Recommendation 8 on minimising internal social costs through a social plan

1. When the need to restructure occurs, companies consider redundancies only as last resort and only after having considered all possible alternative options and identifying and, where available, implementing supporting measures.
2. In particular, companies consider all relevant options as alternatives and engage into a dialogue with internal and external stakeholders to try and associate them to the solution for redundancies, for example:
 - (a) phasing planned measures over time;
 - (b) reduction in work intensification;
 - (c) temporary or long-term working-time reduction or re-organisation;
 - (d) re-negotiation of working conditions;
 - (e) internal or external redeployment within the group of companies or other companies not belonging to the same group;
 - (f) in-sourcing of external activities;
 - (g) negotiated departures; and
 - (h) natural departures.
3. 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.
4. Notwithstanding their obligations resulting from EU and national law and practices, companies envisage the following employability measures insofar as they prove to be necessary or useful for limiting the impact of the operation:
 - provide information to workers threatened by redundancy or made redundant about the labour market, their rights and the conditions negotiated during the restructuring process;
 - creating redeployment and/or mobility cells;
 - training and re-training;
 - individualised professional guidance;
 - help in job-search, including paid time-off to search for jobs;
 - fair compensation;
 - facilitating the creation of own business and co-operatives, as well as different forms of financial participation;
 - 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, if any, and those staying;
 - awarding reemployment rights for previously made redundant workers;
 - facilitating transfer of undertaking, including to employees in a form of a co-operative;
 - providing psycho-social assistance, where appropriate.

Recommendation 9 on agreements on managing restructuring processes

1. Companies and their workers' representatives should negotiate collective agreements to cover the issues arising from the proposed restructuring, where appropriate.
2. The provisions of Recommendations 6 and 7 are not meant for companies and workers covered by an agreement concluded at the relevant level and with the relevant parties on the procedures and mechanism for preparing, managing in a socially responsible way and minimising internal social costs of restructuring operations.

Recommendation 10 on minimising external economic and social and environmental impacts

1. When a restructuring operation has major local effects, companies seek to develop complementarities and synergies between their preparatory action and the actions of the all the other actors, with a view to maximising the re-employment opportunities of workers, in order to encouraging economic, social and environmental re-conversion and to developing new sustainable economic activities generating quality jobs by concluding agreements between companies of the same activity or geographical sector for the re-employment of workers made redundant.
2. For the purpose of paragraph 1, companies inform the regional or local authorities and other relevant actors of the measures being prepared in accordance with recommendation 8. They participate and/or contribute to any task-force or network established at regional or sectoral level to minimise the impact of the operation.
3. Insofar as this proves to be necessary and in accordance with national or regional requirements, companies design and implement strategies aimed at rehabilitating and/or reallocating industrial sites likely to be abandoned, as an environment measure, as a means to attract new activities and a way to absorb a proportion of the jobs to be lost.
4. The measures referred to in Recommendation 8 shall cover, as far as possible, the workers of companies that are dependent. Dependent companies and their workers are informed of those measures if such information is required or useful for their own adaptation and for the management of the restructuring process within those companies.

Recommendation 11 on public support

1. Member States will also ensure that the public authorities and all bodies depending on their own authority provide the assistance or advice which is required from them in order to ease and facilitate a smooth process of restructuring, in order to minimize the impact.
2. Public authorities and employment services at different levels intervene in an anticipation and management capacity by:

- (a) Promoting the dialogue, coordination and the collaboration of external stakeholders
- (b) Supporting the anticipation of processes and particular restructuring operations, with a view to alleviating their economic, social and environmental impact.

3. Public authorities and employment services 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.

4. In regions affected by structural change, public authorities should consider as appropriate, in close co-operation with social partner organisations at the relevant level:

- (a) creating permanent bodies, networks or observatories to anticipate change processes and provide free skill assessment, in priority for workers suffering from lack of employability;
- (b) promoting territorial employment pacts aimed at favouring employment creation and adaptation, as well as decent working conditions and try to attract investment by all means, taking into account of the local tissue of micro, small and medium-sized undertakings;
- (c) promoting or create mechanisms facilitating employment transitions including by company networking and exchange of good practices;
- (d) implementing training actions benefiting small and medium-sized companies and their workers and support dialogue and co-operation between these and large companies;
- (e) favouring regional employment and economic, social and environmental re-conversion;
- (f) encouraging possibilities for technological innovations, particularly in connection with reducing carbon emissions.

Recommendation 12 on financial support

1. Without prejudice to the obligations of companies resulting from Union law, national laws or practices, public authorities provide, where possible, financial support and other assistance resources to employability measures favouring workers of companies undergoing restructuring, insofar as this type of support is necessary or appropriate for allowing them to quickly re-enter the labour market.

2. In accordance with the rules governing them, Union Funds, and in particular ERDF and ESF, may be used in supporting integrated action to anticipate and to prepare for restructuring, as well as to help employers to adapt to change for the purposes of paragraphs 1 and 2.

3. Without replacing any obligations of Member States or employers resulting from Union law, national laws or practices, in accordance with the rules governing it, the EGF may be useful to provide financial support for the rapid reintegration of redundant workers into employment.

Recommendation 13 on designation of the relevant public authorities

Member States designate the public authorities, at national, regional or local level that are responsible for the purposes of this act.

Recommendation 14

1. Companies create tools for the regular evaluation and reporting on their restructuring practices, in co-operation with workers' representatives and, when appropriate with the external organisations involved in that process.

2. Member States cooperate with the European Foundation for the Improvement of Living and Working Conditions by providing statistical information on restructuring operations.

3. This framework does not in any way prejudice rights and obligations resulting from EU law in the fields of worker involvement. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment.

4. 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.

5. Each Member State provides, in specific cases and subject to the conditions and limitations laid down by national legislation, that companies are not obliged to transmit information when its nature is such that, according to objective criteria, it would seriously harm their functioning or would be prejudicial to them. A Member State may provide that such dispensation is to be subject to prior administrative or judicial authorisation.

6. Member States provide that workers' representatives and any other person who accede to information which has been provided to them expressly as a result of these acts are not authorised to reveal it if it has been delivered on a confidential basis according to national law and practice.

7. Member States should exclude the companies that do not comply with Union legislation from the benefit of public aids from the national budgets.

8. Notwithstanding paragraph 7, 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 referred to in that paragraph.