



European Trade Union Confederation (ETUC)
Confédération européenne des syndicats (CES)



“Multinational company restructuring: tackling the impact of the crisis through stronger transnational trade union coordination”

1. The nature of the challenge: change and anticipation.

1.1 The context of the project

Cyclical restructuring is not a new issue for Europe. The recent financial crisis has determined an accelerating pace of company restructuring as an exit-strategy from the financial global collapse. Such a sudden change represents a major difficulty for the transnational representation of employees' interests and has forced European trade unionism to make extra efforts to elaborate and organise an adequate, socially acceptable response.

However, the duration of restructuring waves depends more on structural and endogenous characters of the European economy. The crisis somehow contributed to magnify pre-existing issues. Many sectors of the European industry have been suffering pressure of overcapacity, delay in technological innovation, price competition since a long time. The European production strategy proved to be obsolete already before the crisis. Conceiving an innovative and integrated industrial policy is now a more urgent but not new need. A competitive growth strategy will have to finally meet the challenges of a new energy policy, of environmental sustainability, of demographics. These are not new issues and involve multi-dimensional changes meant to produce long-wave consequences. Therefore, in this phase, a successful exit from the crisis only represents a short-term priority: change is announced as permanent and physiological, given the necessary deep and integrated reorganization to make of Europe a “highly competitive social market economy” by 2020.

In a long term change, it is a social priority to grant that workers take active part in managing the change, and possibly not only to try to minimize the damages of a sudden critical juncture. The best would be that workers could be involved into the process of *anticipation* of the consequences of the change dimension to grant workers involvement to the management of the process. In fact, anticipation is a key feature to maximize the benefits of the change for all. A comprehensive approach is the only one able to reduce social uncertainty in strategic decisions and prevent social conflict.

In this context, it is crucial that the workers are provided with adequate methods and tools as well as effective rights enabling them to be actors in the whole process.

The project “Multinational company restructuring“ was meant to tackle the impact of the crisis through stronger transnational trade union coordination. It has been promoted by the European Trade Union Confederation in partnership with the European Trade Union Federations (ETUFs) and the Social Development Agency and designed in a double-folded perspective. In full time of crisis, it primarily aims at enhancing a transnational coordination among trade unions and employees' representatives at different levels in multinational companies exposed to restructuring. The idea was to help those actors to conceive consistent common responses to restructuring events. In a longer perspective, it serves at

establishing and consolidating a methodology enabling workers' representatives to take a proactive part in strategic decision making linked to the enduring change. To this end, the project represented a precious opportunity for ETUFs to test and further develop multi-step coordination strategies in the context of multinational company restructurings. The focus was on the consolidation of methods of communication and action involving all the labour side actors, to enable them to benefit from rights and prerogatives formally recognised at European level.

1.2 Methodological note

Concretely, the project allowed the organisation of 42 trade union coordination meetings, covering some 52 multinational companies undergoing diverse restructuring processes. Meetings gathered together ETUFs officers and coordinators, national representatives of the affiliated organisations, company level representatives, EWC delegates, and sometimes also representatives of international sectoral trade union organisations. The aim was to set up common strategies tailored on the single company situation, to be implemented both at European and national level, in order to ensure a better consideration of workers' interests and reduce the social costs of restructurings.

The following report is based on reports and other documents (press releases, joint statements, meeting records) produced within the framework of the meetings.

Even given the peculiarity of each company situation, the report tries to highlight similarities and common issues which emerged during this experience. In particular the project offered the opportunity to assess the state of implementation of fundamental social and labour rights, especially to information and consultation, within multinational companies. It also allowed to observe the strategies enacted and the actions undertaken on a case by case basis.

2. Ways forward workers' participation in the transnational dimension

2.1 Trade union coordination as a method

The trade union coordination meetings tackled two main aspects emerging from the current context. Firstly, they responded to the constant need to coordinate workers' and trade union representatives and bodies at supra-national level. The very existence of economic structures like multinational companies requires the existence of a transnational labour balancing power. Now, the organisation of a 'transnational labour front' is strictly linked to the complex Europeanisation of industrial relations, and to the transnationalisation of representation modes in groups, given the existence of European representation bodies (namely EWCs). It also deals with differences concerning national representation models, powers of national worker representation bodies and management structures chosen by the company. Therefore, on the one hand, from an 'internal' point of view, the coordination meetings responded to a *methodological structural need* of the labour front. It pertains to the elaboration of the internal identity – common values, interests and paths of action – in the complex transnational environment. Trade union channels, with their capillary, organised, recognised and legitimised structures at different levels, on which coordination relies, are functional to the definition of the above-mentioned labour transnational counterweight.

A second aspect concerns a more 'external' perspective. Restructuring processes are nowadays multifaceted: they are multi-level, and relate to reorganization of working methods as well as to

financial aspects. Given this complexity and variety, transnational trade union coordination enables to better respond the multi-dimensional pressures. In fact it is able to adopt multi-dimensional approaches as much as increasingly multi-dimensional are the restructuring processes. In this sense, they represent the ground to address the frequent asymmetry of power between management and workers' representatives, whereby the former are much better able to take into account the various levels and dimensions than the latter. This should finally enable that social impacts of restructurings are kept in due consideration even in such a complex context.

2.2 Trade union coordination and information and consultation rights

For an efficient workers' participation in a transnational company, fundamental right of workers to be informed and consulted, recognised by the EU legislation for years now, represents a key feature. Trade union coordination strategies in fact primarily rely on a solid Europe-wide information platform. On this ground consultation and involvement of employees can be activated and point at influencing decision making at transnational level with specific responses to restructuring related issues.

A full and correct implementation of these rights represents therefore a *prerequisite* to ensure an actual degree of participation, all the more important in the view of anticipating and preparing change in a socially responsible way and timely manner.

This circumstance explains the crucial position of good functioning EWCs, deputed to manage group-wide information and consultation procedures. They represent a pivot, a convergence tool for Europe-wide coordinated strategies. The importance of EWCs within trade union coordination strategies resides in the combination of roles they are potentially able to play. They can potentially act simultaneously as the hosts of proactive interaction between labour actors at different levels, an early warning system, the nexus of a multi-directional information flow, the point where consultation procedures at different levels start and converge, and a proactive interlocutor of company management and actors of company-level social dialogue.

It is on these attitudes that ETUFs rely when they widely focus on the correct establishment, recognition and functioning of EWCs for managing restructurings.

However, to these ends, EWCs need to be universally recognised as the “crossroad” of a series of national and local instances. Their involvement in restructurings is functional if national and local representatives and trade unions are conscious of and accept their possible role as transnational stakeholders. Therefore, in its turn trade union coordination serves in a sense to provide the necessary support for all those situations EWCs could (or should not) face alone (i.e. negotiations) and to legitimise them in their potential and complex role.. Only thanks to an integrated and coordinated management of resources and competences among different levels of information and consultation, it will be possible to play an anticipatory role at transnational level.

2.3 Evidence of the practice impacting anticipation and management of change

Building European trade union action strategies around EWCs has proved to be a successful method. Given the role they may play, many ETUFs consider that dealing with restructurings firstly means assessing the state of EWCs and their manner of functioning, especially in terms of meaningfulness of information and consultation procedures. In fact, during the meetings many interventions focused on

the establishment and enforcement of EWCs as strategic milestones to ensure they are enabled to proactively serve to trade union aims within the strategies settled.

However, the synergy between EWCs and other representation levels still present several difficulties: some of them are due to the natural complexity of realizing coordination at transnational level. Nonetheless, what is more worrying is that some other difficulties are connected to an incomplete or even absent implementation of European legislation in practice. In particular, the experience of most of the meetings reveals a still poor functioning of information and consequently consultation and participation rights in transnational groups. Now, group-wide workers' coordinated response is based on the even complex but necessary cognitive phase of information coordination, as functional to consultation. As a matter of fact, trade union coordination strategies should be able to rely on this primary, fundamental stage as given for granted. The emerged low state of effectiveness of information and consultation rights at European level therefore sometimes determines additional efforts to set up almost *ex novo* the conditions for their fulfillment. As early warning systems rely on the good functioning of information mechanisms, this situation not only does not allow any anticipation, but also delays the impact of trade union interventions to the very hearts of the matters. In this sense, the anticipatory and 'problem-solving' stages appear strictly interrelated, as experience proved that the existence of properly functioning information and consultation mechanisms at group level and EWCs already in place favours concrete and prompt solutions to workers' restructuring-related issues.

3. Analysis of common issues

3.1 The causes of restructurings and the breach of social and labour legislation

Company meetings organised in the framework of the project displayed a series of different background causes for relocation, delocalisation, closures, mergers, acquisitions, take-overs, reorganisation of production, outsourcing of activities as just the most common forms of restructuring that multinational companies and their workforce are going through.

In several companies, these were due **to long-time structural difficulties** that the crisis has contributed to worsen. This is true especially for certain sectors, such as metal, steel and automotive ones (GM, Bosch, Arcelor, IBM, Fiat, Delphi, Bosch, Johnson Control among others). Some other companies have been affected as a consequence of the high interdependence of all economic actors along the supply chains, as it is the case for the building sector (Thyssenkrupp Elevator). Restructurings are also due to a series of increasing institutional demands related to energy and environmental concerns, such as those operating in the white goods sector (Indesit, Whirlpool, BSH, Electrolux), in the cement sector (Holcim, Heidelberg Cement, Lafarge, Buzzi), in the waste (SITA) and energy sector (EON). In other branches of the economy, the crisis has worsened the strong price competition with respect to Eastern markets, combined with a decrease in European demand, as in the cement and building sectors and in the graphical and packaging industry (Amcor, Circle Printers, Rio Tinto Alcan).

The crisis has also functioned as an accelerator of restructuring processes connected to financial operations, at least not primarily related to production issues (TRW, InBev, CocaCola). In many cases, the analysis of the financial situation of the company revealed that, despite the sectoral problems, companies undergoing restructuring measures were technically still profitable (Arcelor Mittal, Bosch, GM Europe, Fiat): change appeared as determined on the one hand in the view of preserving the

business in the long term, on the other following managerial cultural attitudes (inBev) in the name of pure shareholders' interest. Therefore, while some internal reorganisations seemed more clearly justified by a concrete need to re-launch profitable operations (Rentokil, DBA), in other situations the problem was to find the way to face apparent managerial incapacity (Clariant) or 'greedy' choices where the cost was going to be borne only by the workforce (GM, Arcelor Mittal, InBev).

In several cases, the economic crisis, the pressure on costs and the need of restructuring measures seemed to have worked as a pretext not only to lower employment but also working conditions. In some cases, this happened in **breach of EU social and labour legislation and in connection with an overall under-implementation of social and workers' rights**. Increased recourse to temporary workers employed with lower guarantees and protections (Johnson Control), worsening of working time conditions (Bosch), lower safety standards (ThyssenKrupp Elevator), and other social dumping practices (Circle Printers, UPS, DP-DHL, AB InBev, Pfizer, Bayer, Fiat) have been registered. Sometimes a poor implementation of the EU legislation is accompanied by uncertainties linked to the exercise of labour rights on a transnational scale. Companies can take advantage of these uncertainties regarding the national legislation to apply, the competence of the courts, the national subjects to address. In global delivery companies (UPS), for instance, restructurings appeared to be linked to the exploitation of 'law shopping' practices and of a low level of implementation of EU legislation on working time, driving and rest time and other social and labour rights.

Frequent consequences of these situations on the workers' side are firstly of an economic and employment nature: closures of plants, job cuts, sites put in competition, lack of training and adequate preparation to the transition.

Furthermore, in a number of EU based companies **fundamental trade union rights** are sometimes heavily under serious threat (Vattenfal, Vion, Delphi). The issue concerns in particular, but not only, employees and workers' representatives based outside the borders of the Union (Mexican workers in Johnson Controls, Turkish ones in IBM).

In particular, the almost systematic **breach of fundamental workers' rights to information and consultation** at European level represents an overall problem, as the potential action of workers' representatives and trade unions may find themselves dramatically weakened (Kuhne&Nagel, UPS, DP-DHL, Circleprinters, AB INBev, Arcelor Mittal, GM, Bosch, IBM, Johnson Controls, Delphi, Clariant, AGC, Vattenfal). In terms of representation of employees' interests, this is all the more evident in certain specific forms of company corporate restructuring, namely mergers, take-overs, outsourcing or selling-off of activities (Compass, Areva T&D, Schneider, Alstom; Rio Tinto-Amcor; Veolia-Transdev; BA-Iberia; DOW; Wyeth-Pfizer), where the contextual creation of new corporate structures, usually accompanied by a drastic reorganisation (employment downsizing, plants closures, reorganisation of production), are not accompanied by the creation of workers' representative bodies capable of managing the new situations.

This circumstance forces trade unions at all levels (but especially at the European one) to additional efforts to intervene and restore conditions for a timely intervention, or to advance tailor-made proposals. As a consequence of it, the whole process aimed at finding appropriate and coordinated responses may result delayed.

3.2 Information management in restructuring contexts

An outstanding aspect of the experience gathered in the course of the meetings pertains to a general **systematic partiality and fragmentation, when not even complete lack of a correct, timely and complete flow of information** from the management to the deputed employee representation structures. The problem is multifaceted: it threatens the ability to entirely realise the dimension of the change, to find room for a meaningful consultation, to design appropriate reactions and moreover to reason in terms of anticipation of change.

Information is not disclosed in a *timely manner*: EWCs and employee representatives often obtain information from the press and other informal channels rather than from the management (Lucchini, Bosch, AGC, GM Europe, Arcelor Mittal, Circleprinters), when restructuring measures are already on the way of implementation, and a consultation procedure is almost impossible and meaningless.

Partiality and fragmentation of information go hand in hand with the often short *time frame* to which they pertain, rarely with mid or long term perspectives (Bosch). This circumstance sometimes responds to a company strategy often in breach of information rights (i.e. when company management claims not to be aware of long term plans, for example, because the decision making centre is based outside of EU (Pfizer, InBev)).

Fragmentation also concerns the *scope* of the measures endorsed and consequently the *actors* involved. National or even local workers' representatives are often informed before the EWCs (and even exclusively). In most cases this reveals a clear attempt to put into action so called 'salami strategies' expressively aimed at avoiding a comprehensive dealing of the restructuring matter on a transnational level (AGC, DP-DHL, Circleprinters).

3.3 Information and consultation: specific issues regarding EWCs and their role

The incorrect implementation of information and consultation rights at European level represents a crucial issue for ETUF.

In principle, the absent or inadequate functioning of an EWC do not seem to impeach the circulation of information at all, but surely make it is fragmented, inefficient and not functional for an integrated and accomplished use on a larger scale.

A specific issue regards **the existence of EWCs**, in some companies not established yet, either in the lack of requests from workers (Rentokil), or even following the opposition of national instances (Vion), or because of negative management attitudes (Kuhne&Nagel, Vion).

EWCs' efficiency is often affected by **the adequacy of the agreements** on which their functioning is based. Many of them are very poor in content (UPS, DP-DHL), do not even foresee a consultation procedure, or do not include the necessarily specific clauses concerning restructuring as an issue of competence of the EWC, or regarding 'exceptional circumstances', or the provision of extraordinary meetings.

In case of corporate restructurings (as mergers, take-overs, outsourcing or selling-off of activities) the process of creation of a new corporate structure often takes place without a proper involvement of different level of employee representatives. It means that employees from concerned subsidiaries cannot meet to exchange information, articulate common responses, or rapidly negotiate a new representation body allowing employees' interests to promptly be represented in the new structure at European level.

Companies almost systematically tend to enact **elusive practices of information and consultation**

procedures. Management sometimes informs the EWC only partially and very late on the measures that are going to be taken, making the conception of a meaningful consultation very difficult (Arcelor Mittal, Bosch, AGC, GM Europe, Circle Printers, Fiat, UPS, DP-DHL).

The debate involves the **transnational competence of EWCs**. Two opposite situations emerged from case studies: either decision regard more than one site at the same time, or different phases and measures undertaken are divided into smaller individual operations in order to handle it country by country, when not even site by site – but in no case was there any doubt on the actual transnational character of the measures undertaken.

The issue mainly focuses also on the obligation to consult the EWC *before* national and local bodies, a necessary condition to mobilise workers in a coherent and unitary way. However this approach is only possible if a *broad approach to transnationalism* is adopted. Now, existing EWC agreements make reference to what can be considered as 'transnational' in very different manners. However, practice shows that EWCs tend to be excluded from interactions frequently enacted by management only at local level (Bosch, Bayer, Delphi, InBev, Clariant, Circleprinters, DP-DHL, AGC). Measures locally undertaken, often accompanied by fragmented negotiations of social plans, do not match the wider scope of company strategies and workers are not given the possibility to oppose equally coordinated responses. The negotiations of extended working time in a site to counterbalance the closure of another site, is a typical example (InBev).

Fragmentation strategies may lead to **conflicts of interest among workers**: the playing-off of workers against each other mostly took the form of competition between sites as an inherent component, even not always sought, of such company approach. It regarded the maintenance of employment (Bayer, Delphi, Inbev), of wage levels and working conditions (Bosch), or the allocation of future investments (Clariant: better to keep few sites in the long term, investing in R&D or keep more plants open but in a shorter term perspective?).

3.4 Internal weaknesses of the combined action of EWCs and trade union coordination

The issue related to fragmentation of strategies also highlights some internal structural difficulties in the combined action of EWCs and trade union coordination at transnational level.

EWCs might have weak links with trade unions. Sometimes, they are not assisted either in the negotiation of their agreements or in their actions, mostly because of management opposition (IBM, Vattenfal). A similar situation is observed with regards to the infrequent use of experts, either not foreseen by the agreement, or opposed by management, or because EWC delegates are not fully aware of their right to be assisted by experts.

A crucial aspect pertains to the **powers afforded to national and local workers' instances**. A few national trade unions and works councils seemed to tend to fall back on the protection of their own sites, in the belief to better manage restructuring consequences at local level (Bayer, Clariant), or to preserve their legitimacy to act on the restructured site without external (namely EWCs') interferences. On the contrary, when a transnational event is at stake, a coherent response on a supra-national dimension requires wider solidarity, transparency, trust and cooperation, for the composition of the interests of different groups. Overcoming the cultural differences deeply rooted in the national trade union structures and practices is crucial. But solidarity needs to be built in time and with the proper support of trade union instances at different levels, bringing their collective values and practices.

4. Strategic responses of European trade union coordination

Trade union coordination strategies point at developing those conditions enabling transnational worker representation bodies to represent an effective counterweight in multinational companies. Strengthening the role of the different workers' representation structures therefore primarily means strengthening the links between trade unions at European, national and local level and representation bodies, sometimes also with the involvement of the international trade union federations. This involvement might make coordination more complex but can widen the perspective, improve the information and also empower a stronger reaction (GM Europe, InBev, Amcor). This explains the establishment and the reinforcement of European networks involving different level of worker reps and trade unions as the first positive outcome of the meetings.

In the face of fragmentation, partiality and bad timing in the information procedures, much room has been primarily devoted to a full, comprehensive **assessment of the information platform**. In particular, meetings allowed to compensate shortages in information provided to EWCs (*before* lower representation instances), in order to systematise the situation in a transnational dimension. They allowed to prepare the ground for a more consistent consultation at different levels, especially at the European one (Bosch, DBA, Wyeth-Pfizer, DOW, UPS, DP-DHL, GM Europe, Heidelberg Cement, Lafarge, Italcementi, Buzzi).

This coordination stage goes along with a long term action aimed at **supporting and strengthening roles and capacities of the EWCs**. The latter so become the central pillar of a shared diagnosis of transnational restructurings, within the framework of an integrated dimension involving both national and European trade unions.

Some meetings were meant to pave the way to the **creation of a new EWC** (Vion, Rentokil, Kuhne&Nagel) as a necessary step to manage the envisaged change. In those companies affected by huge structural changes, meetings discussed the creation *from scratch* or the adaptation of the existing representation structures in order to ensure a transparent and full handover between worker representatives.

Actions also aimed at ensuring a **better functioning of the EWCs** in the long term, to find solutions to their above mentioned structural weaknesses. The focus was on the need to update obsolete and poor agreements, and to strengthen the link EWC-ETUFs. Improvements concern coordination via ETUFs, use of experts, training and tools.

Information coordination by EWCs tackled fragmentation practices and the consequent rise of conflicts of interests (Vattenfal, Fiat, Clariant, AGC, Bosch), weakening the workers' front. It enabled ETUFs to pave the way to mediation procedures for the settlement of disputes (Bayer, Vion) among national trade unions or local employee representatives.

5. Outcomes and coordinated reactions

The different background company situations displayed above determined that integrated coordination efforts addressed different issues, in many cases pre-existing the restructurings and concerning basic conditions for an effective response of workers' representatives to restructuring consequences. Trade union coordination can improve and strengthen transnational cooperation often compensating structural weaknesses in the EWC functioning. It allowed to better articulate different levels of workers'

involvement with a view to optimise the interaction with the EWCs and trade unions in the event of significant confrontation with management in consultation phases. The creation and consolidation of multi-directional representation networks, involving high proportion of actors and countries, contributed to raise awareness of national workers representatives and national trade union organisations about their capacity to join forces, create a level playing field at European level, fostering a European identity of the labour side.

Trade union coordination proved to be capable to build up tailor-made solutions and improve the impact of planned actions. Strategies implied coordinated reactions to the management decisions, to be enacted at European as well as at national level. Awareness raising in public opinion through the media and specific campaigns was used to recall the company to a socially responsible attitude in managing change. In some other cases, the reaction took the form of collective actions, such as different forms of strikes (InBev) and demonstrations, sometimes of European dimension, which proved a remarkable mobilisation capacity of the ETUFs and their affiliates (GM Europe).

Positive outcomes have been recorded in those cases where workers' representatives could advance concrete and not only defensive counter-proposals, based on social dialogue at transnational company level, or on the extension of the outcomes reached by social dialogue at national level (Veolia - Transdev). Once agreed by company trade unions and workers' representatives, negotiated solutions were proposed vis a vis the company management during the EWC meetings. EWCs acted as 'spokesman' of the group-wide workforce, after 'internal' phases of discussion on topics of both European (DBA) and global relevance (Heidelberg Cement, Lafarge. Italcementi, Buzzi).

Interesting European framework agreements could also address the anticipation of change. These results are reached on the field of a mature social dialogue, and in spite of the initially hostile management attitude, proving the potential of impact that the organised workforce is able to develop. The innovative nature of these agreements is illustrated both by their European dimension and their contents. They covers employment management in the contexts of an acquisition (the sale of Areva T&D to Schneider and Alstom), a restructuring (ArcelorMittal), and an internal reorganization (DBA). The agreements approach the consequent change stating the intention to maintain existing tools and plants, workforce and its current purchasing power, the limitation of job-cuts and loss of salary to the maximum extent possible. Specific provisions regard guidelines on training and development of competencies, and also the reinforcement of social dialogue and of workers and trade union representatives, including EWCs, as guarantees for a socially responsible management of change.

6. Conclusions

In such a context of global change, experience begs the question whether workers' side is actually provided with an adequate set of tools allowing its involvement to manage change. The question concerns the consistency of the legal *acquis*, the actual state of implementation of fundamental rights, the recognition and the support paid to social and labour instances by public institutions, which appear to be uncertain, whereas crisis and change often seem a pretext for their reduction. A situation in which change is envisaged as structural, permanent and almost physiological calls for structural guarantees for effective workers' participation in it, if social cohesion is meant to accompany the process.

In a context of transnationalised economy, consolidation of participative paths should enable workers and their representatives to be involved in strategic decisions of their companies. Transnational

coordination strategies led by trade unions in principle have the potential to enhance collaboration among economic stakeholders in an anticipatory view. Anticipating change means that industries should be equipped to face the future. It also means that restructurings have to be planned in due time to reduce the social impact of change. But in terms of information and consultation rights, anticipating change means that employees should be still in a position to influence company decisions, and not only to try to minimize the social cost of restructurings.

However, the labour capacity to structure coherent responses to change-related issues needs a strong legal, political and institutional support especially at European level. Reduced operational capacities, in particular of Europe level worker representation, make it more difficult and delay quality issue management and anticipatory interventions at the heart of the matters raised by restructurings. On the contrary, trade union coordination at European level shows a good degree of impact when enabled to play an interlocutory role through EWCs. Furthermore, more awareness within employee representatives can trigger a different company management attitude. If the latter is often reluctant to start a dialogue with employees and address the issue of change, or available to do it only in a partial way, labour side enabled to play an interlocutory role seems to defuse the hostility, which sometimes turns out to be more related to a lack of strategy than to actual opposition to alternative solutions. Hence dialogue is possible and can open constructive anticipatory perspectives in the common interest.



avec le soutien financier de la Commission Européenne

with the financial support of the European Commission

mit der finanziellen Unterstützung der Europäischen Kommission