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CEEP opinion on the European Commission Communication on an EU Quality Framework for anticipation of change and restructuring

Executive summary

- CEEP welcomes the new EU quality framework for anticipation of change and restructuring. We welcome the form of the Commission's support of the restructuring processes throughout the EU, by the sharing of good practices. However, CEEP wishes to make sure that the QFR remains a general framework, composed of various best practices which can only be understood and implemented at national, regional, local and workplaces level.

- CEEP very much shares the view and assessment of the European Commission with regard to the fitness check process on the three directives linked to information and consultation of workers, clearly stating that the three Directives are generally relevant, effective, consistent and mutually reinforcing as well as fit for purpose.

- CEEP is however concerned that despite the general positive assessment coming out of the fitness check the EC continues to address the possibility of opening up a discussion on the three directives and also about merging them into one directive. Therefore, we cannot understand how these three directives, which are covering different legal aspects, could be merged into one.

- In this regard, the situation in central public administrations which are planned to be integrated in the information and consultation directives, is fundamentally different to the developments in the largest public and private sectors which have been subject to a more standardized employment model.

- CEEP is skeptical when the Commission states that it will be monitoring the ways in which the QFR is applied in the Member States and consider the need to revise it by 2016. Indeed, some Member States have already developed quality schemes in both the managing of the restructuring processes and the anticipation of change. Therefore, it should be made clear that if no action has been taken in a few Member States, it does not necessarily mean that the QFR has not been implemented

- In the end, the general framework will need to be seen in the employment and security context of the country in question and therefore will need to be translated and applied to the local, regional and national contexts.

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Introduction

CEEP welcomes the new EU quality framework for anticipation of change and restructuring which appears to be the culmination of a long process initiated by the high level group which gave birth to the “Gyllenhammar report” in 1998. Since then and with an increased pace, numerous projects, including from the social partners, were launched and as many reports were issued in order to ease the creation of a common approach on restructuring fully dedicated to accompanying and anticipating restructuring processes. These reports, meetings and data base have indeed helped defining the principal characteristics of restructuring processes.

There is a strong link between change and restructuring. Change is initiated by macroeconomic evolutions (globalization of the market, of trade and international division of labour), demographic change (population ageing) and technical progress (new technologies) and has now become structural as well as multi-factorial. Restructuring processes can have specific negative outcomes which need to be addressed with various means. A consensus has been drawn on the permanence of the restructuring phenomena which helped break with the previous vision of restructuring as merely events or isolated episodes. This new conception of restructuring processes necessarily raises the issue of the accompanying measures to set up on a long-term scale in order to prevent or limit their negative social consequences.

CEEP’s views on the QFR

CEEP welcomes the choice of the Commission of a non binding instrument for the QFR. Indeed, a common understanding has been reached on the solutions to implement in order to accompany restructuring and to anticipate them. The QFR, by proposing a multi-level approach at the European, National, Regional and Local level is comprehensive to these previously agreed solutions and should provide the Member States with a proper thread to follow when implementing new reforms for managing restructuring processes.

CEEP welcomes the form of the Commission’s support of the restructuring processes throughout the EU, by the sharing of good practices. However, CEEP wishes to make sure that the QFR remains a general framework, composed of various best practices which can only be understood and implemented at national, regional, local and workplaces level.

The role of the social partners will be crucial in implementing the QFR. The decision of how to proceed with the restructuring process always comes initially from the top management but afterward, negotiation is key between the social partners in order to reduce the negative aspects of the profound transformations restructuring always implies. Building consensus at

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every step of the process will therefore be necessary for restructuring events to be accepted and understood by those most directly impacted by it. Through the shared diagnosis by all the stakeholders involved of the solutions to implement and with first objective the necessity to explore all possible options for avoiding redundancies, the managing of restructuring processes shall become more efficient and socially responsible.

In practical situations, the QFR addresses the necessity for every stakeholder to map skills, to provide employees with adequate personal skills and employers with an adequately skilled workforce. According to CEDEFOP data, it is estimated that in 2020, 31,5% of all jobs will need tertiary-level qualification and that around 34% of the labour force will have them. Some 50% of jobs will require medium-level qualifications and around 48% of the labour force will be qualified at that level. The identification of the skills and qualifications necessary on our labour market and their constant delivery at the appropriate time and level are already the main challenges we have to face in order for lifelong learners to truly become a reality.

Specific remarks on the contribution of EU labour law to restructuring

As rightly pointed out by the European Commission there is today an existing EU legal framework linked to restructuring processes. CEEP very much shares the view and assessment of the European Commission with regard to the fitness check process on the three directives linked to information and consultation of workers, clearly stating that the three Directives are generally relevant, effective, consistent and mutually reinforcing as well as fit for purpose.

CEEP is however concerned that despite the general positive assessment coming out of the fitness check the European Commission continues to address the possibility of opening up a discussion on the three directives and also about merging them into one directive. This is going against the Commissions own assessment and from CEEP's point of view we cannot understand how these three directives, which are covering different legal aspects, could be merged into one.

In addition, CEEP is particularly concerned about the possibility of including without any nuance public administrations in the scope of these directives and believes that some of the conclusions of the report on the future of employment in central public administration « Restructuring in times of government transformation and the impact on status development » endorsed by the previous Danish, Polish and Cyprus presidency of the council in 2012 have to be recalled.

Restructuring processes have taken a particular form in the public sector. Indeed, the traditional concept of public administration as a single, unified employer is progressively disappearing and. Instead, the movement toward the introduction of individual performance schemes, flexibilisation and decentralization of employment conditions, increased mobility between careers and the public and private sector, impact of different social dialogue outcomes for different categories of staff or slow emergence of a new type of temporary employees has, to some extent, turned the public administration into a heterogeneous body.

However, the situation in central public administrations is fundamentally different to the developments in the largest public and private sectors which have been subject to a more standardized employment model.

Additionally, civil servant status is often governed by constitutions (in some countries), different statutes and by different regulations. It is also subject to different social dialogues. Therefore, any potential inclusion of « public administrations » with regard to the three directives on information and consultation of workers therefore poses threat to the very functioning of central public services.

Monitoring of the QFR implementation

CEEP is also skeptical when the Commission states that it will be monitoring the ways in which the QFR is applied in the Member States and consider the need to revise it by 2016. Indeed, some Member States have already developed quality schemes in both the managing of the restructuring processes and the anticipation of change. The various best practices the QFR is built on illustrate their long experience in these processes. Therefore, CEEP believes that it should be made clear that if no action has been taken in a few Member States, it does not necessarily mean that the QFR has not been implemented. Additional regulation, just for the sake of it, may hamper, in some specific national situations, already efficient restructuring schemes which have long proven their overall efficiency.

Possibility to include SMEs in the directives, prefer an ambitious industrial policy based on access to finance and innovation.

CEEP welcomes the Commission's vision of industrial policy in Europe and calls for the reaching of the ambitious target of 20% of industry's share in Europe's GDP by 2020. The recent communication entitled « for a European industrial renaissance » insists rightly on the need to support SMEs which tend to face restructuring processes in more discreet and pernicious ways. Indeed, the restructuring processes' visibility is very different from one enterprise to the other. The biggest enterprises have instantaneous visibility and quite often make the headlines while SMEs restructuring processes can be less apparent since the stakes may not be as high regarding the immediate volume of job losses.

In this context, the Commission recognizes that :

« *due account should be taken of their specificities (…). Therefore, rather than having SMEs face additional burdens, the QFR is geared to actions being taken by other actors (bigger companies, public authorities) that will allow SMEs, which have less human and financial* *resources, to develop their own planning strategies and to anticipate their skills needs through appropriate training of their employees.* »

However by proposing to include SMEs in three pre-established directives in the framework of the fitness check on EU law in the area of information consultation of workers, the Commission may contradict this very objective by eluding their specific needs for a less burdensome regulatory environment. The major input the EU may provide regarding the accompanying of SMEs is the bettering of their access to financing via structural funds in strategic sectors including clean transport or intelligent networks. SMEs have difficulties investing in innovation and are therefore weaker on the most competitive markets which increase the risks of restructuring. An ambitious industrial policy giving a proper place to SMEs for industry’s development in the EU appears as a good way to effectively anticipate change.

Conclusion

The Commission’s communication on a quality framework has been legitimately conceived on the various best practices identified on the national level of the EU member States and through them formulates a general approach recommended from the macro level. However, we shall always bear in mind the difficulty to articulate the anticipation of change, foreseen at the macro level or sectoral level, with the regulation of restructuring processes’ negative aspects, always confined to a particular place and time. The general framework will need to be seen in the employment and security context of the country in question and therefore will need to be translated and applied to the local, regional and national contexts.