



European Commission's Green Paper COM (2012) 7 final *Restructuring and anticipation of change: what lessons from recent experience?*

EPSU response

Introduction

EPSU, the European Federation of Public Service unions, represents 8 million employees in Europe. It is a member of the ETUC.

Until now, the debate on restructuring and related workers' rights at EU level has been framed for the private industrial sector. This is why EPSU welcomes the references in the Green Paper to the crucial role that the public sector plays both as an employer and service provider for Europe's social and economic cohesion and the specific question on the application of management of change and restructuring to the public sector .

For the past 3 years, the crisis and its impact on public services workers and users are a central priority of EPSU and the European social dialogue committees in public services, notably local and regional government (LRG) and central government administrations (CGA). Given the little positive attention brought to these sectors in EU policies they will be the main focus of our response below.

However, EPSU regrets that just when the Commission brings attention to public sector restructuring it is in the context of a Green Paper instead of a 2nd stage consultation of social partners as was initially planned. Yet a Consultation would be much more appropriate to:

- Prioritise the role of social partners in restructuring matters
- Not delay further needed improvements to the EU and national frameworks on restructuring especially as European employment is again on a downward trend and there is growing evidence that the most vulnerable and low-paid workers are bearing the brunt of the impact of fiscal consolidation and austerity measures¹. As the ETUC states *"it's time for action not more procrastinating on restructuring"*.
- Put into practice good governance principles and sound use of public monies by building upon the work undertaken by social partners, both at cross-sectoral and sectoral levels, since the first EC consultation in 2003, rather than starting from scratch as a Green Paper implies.

Accordingly, EPSU calls upon the Commission to prioritise the responses to the Green Paper by EU social partners, weigh all responses according to transparent representativity criteria and deliver the appropriate policy proposals as quickly as possible.

A history of restructuring that is now accelerating, imposed and EU-coordinated

While it is welcome that the Green Paper acknowledges the need to consider the impact of restructuring on the public sector as an employer and service provider, we wish to underline that restructuring in the public sector is not a new phenomenon. Indeed, the OECD's latest edition of

¹ EC employment and social situation quarterly reviews, Dec. 2011

*"Government at a glance"*² rightly points out the "*plethora of reforms implemented by countries over the past decade*".

What is new is that the EU policy response to the financial crisis has accelerated and deepened the scale of restructuring in public services by making the latter central to the new EU economic governance through the European semester and annual growth survey. It also challenges job security in the public sector, allegedly a key feature of this sector and central to its attractiveness as an employer. The EU response also dismisses or undermines trade union rights including collective bargaining on pay at national level, and leaves out the role of EU social partners in the anticipation of policy measures to the crisis affecting most EU countries.

To understand the nature of restructuring in the public sector it is therefore essential to put it in the broader context of the EU-coordinated fiscal consolidation measures including the EC annual growth survey, one of the 5 priorities of which for 2012 is reforming public administrations.

This implies that responses to management of changes and restructuring in the public sector must include both the EU and national levels.

Further, by focusing on overall employment trends (page 6), the Green Paper suggests that it is only in the first half of 2011 that any major restructuring is taking place. The reality is that in countries like Ireland, Latvia and Hungary, the economic and financial crisis had an almost immediate effect on the public sector right from the end of 2008, early 2009. While Ireland initially looked to national solutions, the restructuring of the public sector in Latvia and Hungary was part of EU-backed loan packages negotiated with the IMF.

Since then, a majority of EU countries have resorted to serial programmes of cuts or freezes in pay (in 15 EU countries³) including pensions, in jobs⁴, reforms of working conditions (longer working hours for instance) coupled with cuts in trade union and social dialogue rights as in Estonia, Spain, Romania, Greece and Hungary.

A major feature of these restructuring programmes is that the social dialogue has been sidelined. This was recently confirmed by Eurofound⁵ that finds that pay and jobs freezes and/or cuts and other changes to working conditions, employment protection and trade union rights, have been imposed rather than negotiated, and led to major protests and/or strikes in almost all Member States.

There have been, however, some examples where agreements have been reached with the social partners, following initial disputes including strikes, as in Ireland (Croke Park agreement, 2010); Lithuania (2009); Slovenia (2011). Although these remain the exceptions, they show that it is possible for social dialogue to deliver results in tense national contexts and that trade union rights, including the right to strike, are essential to an effective social dialogue.

² See http://www.oecd.org/document/33/0,3746,en_2649_33735_43714657_1_1_1_1,00.html

³ Czech Rep, Estonia, Greece, Hungary, Ireland, Latvia, Lithuania, Portugal, Romania and Spain, as well as pay freezes in these countries along with Bulgaria, France, Italy, Slovenia and the UK.

⁴ Job reductions can be as massive as up to 490,000 job cuts as in the UK (by 2015) and pay cuts up to almost 30% as in Romania, Greece.

⁵ Erika Mezger, Deputy Director, Eurofound, CEEP Conference: Change in Public Services 17 February 2012

At the same time, the financial crisis has highlighted the important role the public sector plays in regulating the market, providing employment and social protection and jobs. The ILO report of 2010 on the economic downturn and public administrations⁶ finds a number, although too rare, of significant innovations in public employment schemes in response to the crisis. Countries that have invested in work in social sectors, environmental services and community-driven programmes in addition to more traditional infrastructure projects have created jobs, notably for women. In addition, when public employment programmes are framed within a long-term development approach, they have the potential to mitigate the impact of a crisis on employment, as well as ensure more inclusive growth.

Green Paper's Question A:

How can anticipative and strategic long-term approaches to the management of change and restructuring be applied to the public sector, in the framework of the current consolidation measures and taking into account the specific characteristics of this sector? (optional, words count: below 2000 words' limit)

Learning from the mistakes: it is easier to blow out a match than putting out a forest fire

We strongly support an anticipative and strategic long-term approach to not only the management but also the shaping of change and restructuring. This must rest upon a social dialogue culture based on trade union rights and trust between social partners. It is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop. But for this, it is equally essential that the views of employees and their trade unions be taken into account *before* decisions are taken.

The Green Paper rightly states: "*More than ever, social dialogue and collective bargaining have played a crucial role in adapting production, work organisation and working conditions to fast-changing and demanding circumstances during the crisis.*" It highlights the importance of working with employee representatives on the forward planning of employment and skills and of building mutual trust. The fact that cuts in public services can have a disproportionate effect on women is also underlined.

Sadly, there are very few examples from across Europe of how this has been taken on board. Indeed, arbitrary recruitment freezes and job cuts in several countries are the exact opposite of social dialogue over the planning of employment and skills, smoothing the way for changes in work organisation and working conditions. Regarding gender equality, very few governments have carried out a gender equality impact assessment of the austerity measures⁷.

There is now ample evidence that modernisation of public administrations must be based on an effective social dialogue, quality and effectiveness of which relies on trade union rights to information, consultation and negotiations.

⁶ http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_146247.pdf

⁷ EPSU/LRD report *Widening the gender gap: the impact of public sector pay and job cuts on the employment and working conditions of women in four countries* June 2011 <http://www.epsu.org/a/7891>

The ILO recommends governments to engage in social dialogue in public administrations as it has been instrumental in the development of some of the few national positive measures to respond to the financial crisis, and that in others where social dialogue has been side-lined, it has caused extended social unrest. It also warns against the harmful effects of premature exit strategies and cutbacks in public sector employment. This implies that both national and EU policy makers should take much better account of alternatives to job and pay cuts. The ILO makes also the point that social dialogue including collective bargaining in the public services are crucial to a decent work response to any crisis, whether economic, political or other.

Likewise, the OECD recommends "*involving workers or their representatives in developing restructuring plans that can build buy in and reduce the reforms' negative effects on morale*" (Government at a glance, 2011), and emphasises better planning of the workforce.

In its statement on the crisis last December⁸, the SDC CGA reaffirms that what constitutes the administrations are the employees who should be involved at every stage of the changes, that the promotion of social dialogue is essential, as well as the need to uphold public sector values of universal access, accountability, transparency, integrity and equal treatment. The SDC LRG has identified key challenges to growth and alternatives to the severe cuts in funding of local and regional government e.g. fair taxation, greater use of technology, inter-municipal cooperation.

The question is not whether or not social dialogue has a role to play in restructuring but hoit should be done, which rights, in which fora and at which levels. In our view, there are 2 immediate challenges:

- how to repair the damage done to social dialogue including collective bargaining and regain trust between social partners at national level?
- Given the impact of EU policies in the public sector, what should be the role of EU social partners and at which stages of the restructuring?

Given the severity of the situation and the European nature of the ongoing restructuring affecting the public sector, a collection of good practices as suggested by the Commission will be useful but certainly not sufficient. **Like the ETUC, EPSU calls for a stronger EU framework on anticipating change and restructuring that includes the public sector and encompasses both national and EU levels.** Such as framework should include the following:

Before restructuring, anticipating changes

1. The foundations and strength of the European social dialogue rest on an effective and regular social dialogue at national level. It is therefore essential to enforce or strengthen national social dialogue rights and procedures to avoid further imposed restructuring and social unrest. The Commission should support governments through the promotion of the role of trade unions, in compliance with the EU Charter of fundamental rights, and as recognised by the ILO. It is reminded that ILO Convention No 151 on labour relations in the

⁸ <http://www.epsu.org/a/8344>

public sector is yet to be ratified by all EU governments i.e. France, Estonia, Germany, Ireland, Lithuania and Malta. To note, four countries have ratified the Convention since the start of the financial crisis in 2008 (Slovakia, Slovenia, Brazil and Gabon).

2. In those countries where collective bargaining on pay at national level was allowed but is currently being dismantled, this right should be reinstated as a matter of urgency. In countries where this right exists, it should be maintained. It is also recalled that any changes to trade union rights should be negotiated and agreed with the trade unions concerned in compliance with relevant ILO and EU provisions.
3. At EU level, the new EU economic governance strongly impacts the functioning, funding, employment levels and working conditions of the public sector. The EU sectoral social dialogue committees, notably the CGA and LRG, should *be* involved, before the EC takes makes recommendations to governments, to examine the restructuring implications of the proposed measures for:
 - Jobs levels and workforce planning
 - pay and other working conditions,
 - work organisation,
 - health and safety,
 - trade union rights,
 - Gender equality - the Green Paper rightly states that cuts in public services can have a disproportionate effect on women.
 - Civil servants and contractual staff (where this distinction applies)
 - Outsourcing
 - Long term public administrations' operational capacity and attractivity⁹
 - Long term sustainability of the overall economy and social cohesion
4. The views of sectoral social partners should be taken into account, on the basis of a report, before the Commission makes final recommendations to governments. The Commission should finance the modalities for social partner involvement including the support of external expertise where necessary. It should also ensure that social partners at national level are also consulted over the national reform programmes, i.e. the rather bewildering mix of often overlapping targets and guidelines arising from the EU2020 strategy, the Annual Growth Strategy and the Euro-Plus Pact .
5. It is established good practice when the need to restructure occurs redundancies must always be last resort measures and only after having considered all possible alternative options and/or identifying and implementing supporting measures and taking into account the demographic situation of the workforce in the public sector.
6. When redundancies cannot be avoided employers, public authorities and the European Commission, through the European Social Fund, should make available to the employees concerned measures aimed at re-enforcing their employability and helping them to re-enter the labour market as quickly as possible. It is also important to take due account of the ageing workforce in central, regional and local governments and the fact that many

⁹ The image and attractivity of the civil service is currently the subject of an EU-funded project in the SDC CGA.

- employees are to retire in the short term. A collection of good practices on how this can be done will be useful.
7. The above should be combined with regular sectoral skills needs evaluation in the framework of broader debates on the anticipation of change. Skills needs evaluations allow appropriate recruitments, training or reconversion of staff and can prevent radical measures and sustain the efficiency of the public service.
 8. Given that the directive on employees' information and consultation rights is not implemented in all EU central administrations, a discussion on how to ensure these employees enjoy similar rights to those in the private sector should be launched, as called for by the European Parliament in 2009¹⁰. An assessment of the application of the Directive on transfers of undertakings when this is between two public entities would also be welcome.
 9. Restructuring of public services can often include outsourcing/privatisation. EPSU strongly rejects arguments that outsourcing public services to the private sector is intrinsically cheaper and better than 'in-house' delivery. Research shows that the efficiency of the private sector over the public sector is not supported by evidence. Most recently, a Danish research screening the findings of almost 4000 Western European and American studies carried out since 2000 on the impact of contracting out finds that in terms of cost savings, impact on quality of services, outcomes for the employees affected, and differences in results in relation to technical services and social services, the benefits of resorting to the private sector to deliver public services are not proven¹¹. Furthermore, transferring responsibility to private actors for meeting fundamental human needs carries with it substantial risks on social, ethical and environmental grounds¹².
 10. These experiences partly explain why there are trends in Europe to re-municipalise local services, for example in the energy and water sectors, as in Germany¹³. Finally, arguments that outsourcing and privatising public services can be a tool to reduce public debt also need to be rejected. The experience of the UK, which has one of the longest history of privatisation, is a salient reminder of this.

During restructuring

11. Maintaining a social dialogue on the managing of change is crucial to avoid low morale and degrading working conditions.
12. Developing regular comparative analyses on the situation at national level provide a key means of generating and focusing this dialogue. In this regard, Eurofound provides useful

¹⁰ European Parliament's resolution 2009 on the implementation of the directive on information and consultation rights of employees

¹¹ See <http://www.epsu.org/a/8011>.

¹² See for instance an analysis by a UK-based consumers' organisation <http://www.ethicalconsumer.org/CommentAnalysis/Features/IsThatWhatYouCallGoodService.aspx>

¹³ For instance in Germany, since 2007, 44 new local public utilities have been set up and more than 100 private concession contracts for energy distribution networks and service delivery have returned to public hands, please see <http://www.epsu.org/a/8011>.

information regarding restructuring cases in public sector/services, working conditions and collective bargaining.

13. Carrying out regular psycho-social impacts of restructuring on both the workers made redundant and on those staying and developing tools and procedures to address health risks triggered or aggravated by restructuring is also essential. A recent research project led by HIREs on the impact on health of restructuring in the public sector shows that very few countries are equipped, with the exception of Finland, to carry out such an impact, yet restructuring entails serious health hazards.
14. Defining a tool to determine the workload so that the necessary number of civil servants and employees can be objectively quantified to fulfil the mission of general interest is also useful and could be the subject of good practices collection and comparison.
15. In many cases those who are best trained are those that continue receiving training at work. It is essential that training be available during working time to all, regardless of gender, ethnic origin, disability, nationality, employment status, age, and during working time. The observed shift to competence-based training should be encouraged. Expenditure per employee for initial and continuing vocational training should be closely monitored also in terms of gender, age, and employment status

After restructuring

16. Four years of public services cutbacks is enough time to assess the long term impact for the overall economy, climate change challenges and social/territorial cohesion and long term operational capacity, working conditions and quality and availability of public services.

To conclude, a successful restructuring of Europe's economy demands:

- A long-term approach including investment in public services and infrastructure; green jobs towards sustainable development
- reduce poverty and social exclusion, address precarious work and low wages, equal pay for work of equal value
- respect for collective agreements, collective bargaining and social dialogue both at all levels
- focus on fair, progressive and efficient taxation systems (FTT, common consolidated corporate tax base and common corporate tax rate, tax on the rich, tax evasion/fraud/corruption)
- democratic debate.