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Corporate Restructuring and Employment Protection:
Towards a New Territorial Social Dialogue?

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**EUROPEAN UNIVERSITY INSTITUTE
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Abstract

The aim of this study is to discuss the involvement of the social partners at territorial level in the event of business restructuring processes. In the first part, the phenomenon is framed, its relevance is explained, and the issue of the anticipation and management of change is analysed, with specific reference to EU interventions. In the second part, the role of the social dialogue is linked to the ongoing decentralisation trend of collective bargaining, in order to show that there is a significant interdependence between the level of collective bargaining and the new relevance that the territory has gained during the last twenty some years. Reference is then made to a number of organisational patterns that firms have developed, going from the Italian industrial districts to the French *pôles de compétitivité*, as they represent a model of successful – formal or informal – relations of mutual trust and confidence at local level among many different social, economic and political subjects. They serve as a ground for suggesting the establishment of an enlarged, multi-actor, social dialogue on the territory, which could turn out to be very useful in anticipating and managing business restructuring. Finally, examples from a selection of case studies – prepared by the partners of the ESF funded AgirE research project – are taken as a background for testing the actual feasibility of such a proposal, highlighting the main features of those which could provide “best practices” for future reference, when trying to elaborate adequate responses to corporate restructuring.

Keywords

Business Restructuring, Territorial Social Dialogue, European Law, Social Policy, Industrial Districts, Territorial Social Pacts, Anticipation and Management of Change, Decentralisation of Collective Bargaining.

*Corporate Restructuring and Employment Protection:
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Introduction¹

The focus of this paper is on the territorial social dialogue and on the legal instruments that explicitly link activities to protect and create employment and measures to improve competitiveness in case of business restructuring. More precisely, it concentrates on the possibility of creating anticipatory mechanisms in order to prevent the negative impact of restructuring at territorial level, through extensive use of social dialogue. The innovative aspect of this paper lies therefore in two connected aspects: on the one hand it analyses the tools which can be used to act in response to restructuring, but focusing mainly on the territorial level instead of the national one, and on the other hand, following the most recent EU orientations, it focuses on the measures that social partners and local authorities can establish in order to anticipate the negative impacts on workers due to business restructuring. Therefore, the emphasis is both on the territorial level and on the anticipation strategies that could be usefully implemented at that level in order to effectively counteract the decisions of firms, which nowadays are in a constant stream of restructuring.

¹ This paper has been presented at the Economic and Social Council of Spain, in Madrid, April 19th and 20th 2007, as a contribution to the ESF funded AgirE research project. I am grateful for all the insights, encouragement and support received from Professor Marie-Ange Moreau, EUI, during its development. The usual disclaimer applies.

This study is part of a research programme, AgirE² - funded under Art. 6, European Social Fund – and based both on case studies, which constitute the very basis of the research, and on theoretical studies which, following these case studies try to shed light on the identification of new policies for the anticipation of restructurings and of innovative practices, at national and European level³.

As far as the case studies are concerned, at issue here are a variety of companies, operating in different sectors, across many European countries. Case studies are very useful as they shed light on the “good practices” which have been put in place within a specific institutional, juridical and sociological context, though of course varying from one country to another. They can be of great help in advancing proposals for harmonising actions and reactions which should be set up in case and/or in view of a restructuring. Within AgirE, the present study explores the diffusion, the significance, the effects and the prospects of the social dialogue and other actions which could be usefully carried out by workers’ and firms’ representatives, as well as by local institutions, mainly at territorial level, to offset permanent corporate restructuring. The aim that should be pursued is that of bringing together the three elements at the heart of EU economic and social policy – competitiveness, employment, and partnership or social dialogue – at the territorial and company/workplace levels⁴. As we shall see, mainly in the conclusion, not all the case studies prepared for the research program are relevant to this specific topic. Therefore, only a selection of them will form the basis for the subsequent analysis.

It is not easy to give a clear and unequivocal definition of the concept of “corporate restructuring”, not only from a legal point of view, but also from a socio-economic one. The present paper will not even try to propose a tentative solution to this nominalistic, but nonetheless very relevant problem. The objective here is simply to reflect, from a labour law point of view, on those measures that can be activated at the level of the territory in order to safeguard employment – or even to achieve an increase in jobs – along with the maintenance of production sites, and the inclusion of measures designed to boost competitiveness in the case of a reorganisation of the firm.

More precisely, the innovative feature of this paper – and of the AgirE research project in general – is that it focuses not only on the management of change, but above all on its anticipation, thus differing from traditional studies carried out in this sector. Therefore, attention will not be drawn to those cases which were limited to negotiating changes in pay or working time, but to those in which the decision about how the reorganisation should be tackled was left open to a decision taken collaboratively by the entrepreneurs, the workers’ representatives (mainly) at firm’s level, and the local authorities. However, even more interesting are those few cases in which measures were taken well in advance in order to foresee possible and future change. These cases constitute a minority, since, in general, anticipation strategies represent only an

² AgirE, Anticiper pour une Gestion Innovante des Restructurations en Europe, is a project involving 10 European partners, all practitioners and researchers in the field of restructuring: Alpha (promoter and therefore leader of the project), Sodie, EUI (European University Institute in Florence, ITALY), OSE (BELGIUM), Labour Asociados (SPAIN), Fondazione Seveso (ITALY), Alphametrics (UNITED KINGDOM), GITP (THE NETHERLANDS), PCG (GERMANY), NIWL (SWEDEN). Prof. Marie-Ange Moreau, EUI, is the scientific coordinator of the project.

³ For more information, see the website of the research program: <http://www.fse-agire.com/>, where all the case studies and the theoretical contributions are published and available for downloading.

⁴ For a general overview of the problem at issue, see: Sisson-Martín Artiles, 2000.

exception, even if – as the successful cases clearly show⁵ - concerted ways of handling restructuring turn out to be satisfactory for both parties, as they reduce the uncertainty *vis-à-vis* change felt by the actors concerned, while fostering acceptance of restructuring decisions, and producing agreements in which the parties seek to integrate their objectives to some degree.

As we shall see, radical restructuring, with considerable consequences for employment levels, carried out in order to increase productive efficiency in a manner which obtains the acceptance and consent of the actors involved – mainly the workers – is very difficult to achieve. However, the alternative of leaving matters to the automatic adjustment of the market seems to also be largely impracticable. On these grounds, as restructuring processes rise in number and importance across Europe, it is not an unrealistic research starting assumption to attach great importance to a considerable diffusion of agreements and actions taken by the parties at territorial level in order to provide for concerted solutions to restructuring problems.

Before analysing the concrete actions taken, as they emerge from the literature and the researches on the subject-matter, as well as from the case studies, information will be provided concerning the initiatives developed at EU level in order to address the problem of business restructuring from a labour and social law point of view. The focus will then shift from the European level to the territorial one – leaving aside the national level, since restructuring of entire economic sectors is not only an issue affecting the national economy, but also – and perhaps mainly, this being the basic assumption here – a local problem. Indeed, the impact of enterprises closing down, of changes in ownership, and of reshaping of the business activity profile fall heavily on the local job market and on the overall economic situation of the region in question. The validity of a similar approach is confirmed by a number of researches which are increasingly focussing on the role of the local productive systems, seen as a crucial resource for providing both economic development and successful counterbalancing of the globalisation processes⁶.

Intimately connected to this new view of the territory, are the innovative organisational paths that firms have put in place during the last 20 years, which, although differing greatly from one country to another, nonetheless share the need to foster their action at the territorial level through a variety of complex synergies with the various actors of the territory. Typical examples of the latter are, among others, the so-called industrial districts, the *pôles de compétitivité*, the *milieux innovateurs*, the clusters, the networks of firms, but also the widespread recourse to subcontracting, as a reaction to the old, vertically integrated and autonomous Fordist firm.

⁵ See: F. Lecomte, Le rôle de l'obligation d'information dans les processus de restructuration, paper presented at AgirE meeting in Amsterdam, 8-9 March 2007, <http://www.fse-agire.com/>: « *Les cas UGINE, DEXIA, Thomson, ou STMicroelectronics en sont des exemples. Les restructurations évoquées ont fait l'objet d'une véritable anticipation, permettant ainsi d'informer tous les acteurs impliqués par un tel processus* ».

⁶ Without entering here into the vast debate on the effects of globalisation, we do not mean to refer to globalisation as an intrinsically negative phenomenon from the point of view of workers and labour rights. However, its effects can be devastating on local economies and on jobs, and therefore there is a need to develop instruments to govern this phenomenon and ensure it is a positive one. For a recent reflection on the implications of globalisation on restructuring, see Pochet, 2006, Introduction and § 1. For a defence of globalisation conceived as a possible means to reduce inequality and poverty, see Bhagwati, 2004, but also Hepple, 2005; and recently, Moreau, 2006a.

Despite these new organisational patterns and this new interest in the territory, there is a lack of well-coordinated, organised, and therefore effective territorial social dialogue among the different actors⁷. The complexity of the present framework is the main reason for the difficulty in expressing adequate answers to the many problems of restructuring. Therefore, the necessity for the establishment of permanent structures of representatives at territorial level will be emphasized, as a necessary reaction to the permanent process of restructuring which nowadays most firms undergo.

The study concludes that the role currently played by social dialogue at local and regional levels in case of restructuring is weak and its potential needs to be developed. The inclusion of restructuring issues in planning and implementing activities at regional level remains for the moment a theoretical proposition, with less bearing on reality than one could expect. However, this should not rule out intervention, since it is at local level that the restructuring effects are most deeply felt by the local communities, particularly when large enterprises of critical importance are concerned, with a subsequent impact on the entire economy. It is essential, therefore, for social actors at regional and local level to become involved in a dialogue with both enterprises and local actors when restructuring is taking place. Since voluntary cooperation should be enhanced, in a framework of mutual trust, as a conceptual point of reference, soft law instruments developed within the EU should also be considered as useful tools to be promoted for cooperation among the various local actors at territorial level⁸. However, it is also stated that there is the need to move towards better collective control of restructuring, which should be achieved through a deeper institutionalisation of the procedures of the social dialogue, even if this will be much more difficult. Indeed, even if strong binding legal devices are to be avoided, since they would meet opposition from the unions, negotiation and tripartite agreements, as well as commonly agreed guidelines and codes of conducts should nonetheless be promoted, within a minimum legal framework⁹.

1. Business Restructuring and the Problem of Management and Anticipation of Change

Europe, along with the rest of the industrialised world, is currently in an era of rapid industrial change and restructuring. Indeed, business restructuring is intimately connected with capitalism, but, until recently, it used to be an occasional occurrence, an immediate response to urgent necessities brought about by an unexpected change in circumstances. In the contemporary context of „economic globalisation” though – which in Wolf’s words can be described as „the integration of economic activities

⁷ See Moreau, 2007: «*Cette complexité résulte tout d’abord de l’extraordinaire diversité des cas de restructurations qui résiste à la construction d’une typologie et de la pluralité des acteurs dans les différents pays, régions, sites qui ne se réduisent pas à des catégories communes aisément.*»

⁸ It is not easy nowadays to avoid entering the muddy discourse on the hard law-soft law opposition. First and foremost it is necessary to have a clear understanding of the true meaning of this opposition, and in doing this it is crucial to keep in mind, thanks to Moreau, 2007, that „*L’opposition « hard law, soft law » cache non seulement un débat normatif sur l’impact réel des normes sur le plan communautaire et leur effectivité sur le court et le long terme, mais aussi des orientations politiques qui opposent les gouvernements des Etats de l’Union, en relation avec les intérêts divergents des acteurs sociaux.*”..

⁹ On the need for legal intervention, see Moreau, 2006c, 69, here 84 : «*The area of codes of conduct urgently needs a minimum legal framework.*»

across borders through markets”¹⁰ –, restructuring follows as a natural consequence of the growing interconnections between markets at international level. Therefore, continuous and pervasive company restructuring is a fact of life in today's economy¹¹. Its effects are also a cause for increasing concern for trade unions and many public authorities – as evinced by recent European Union initiatives aimed at improving the management of industrial change¹².

It has been defined as “the adjustment or conversion of production and services to cope with non-transitory, primarily qualitative changes in capital, goods and labour markets. It refers, in other words, to the adaptation of an economic unit to its environment”¹³. Nonetheless, there is not a commonly agreed definition of restructuring¹⁴. There are multifarious economic and social forces that induce change: the development of new technologies, globalisation, modifications in corporate ownership, mergers and acquisitions, replacement of the industrial society by the information society, growth of foreign direct investment, changing consumer demand, new expectations from workers. All this creates challenges and, of course, opportunities.

Company restructuring is a contemporary, and often inevitable, solution to managing this continuous process of change. It tackles issues of economic, social and environmental significance simultaneously, often in a transnational context. This, of course, poses many difficulties when public institutions, governors, and civil society in

¹⁰ Wolf, 2004, at 14. For a general introduction to the topic of globalisation and comprehensive reference to the voluminous literature on the subject, see the essays edited by Michie, 2004. For an overview of the effects of globalisation on the world of work, see ILO, 1999, and, most recently, Moreau, 2007.

¹¹ See European Commission Directorate-General for Employment and Social Affairs, *Industrial Relations in Europe* 2004, 81-82.

¹² For an overview of the most current problems concerning restructuring, see Storrie, 2006. More generally, on the ongoing debate on restructuring in Europe, see Vasqu ez, 2006 ; Pochet, 2006 ; Moreau, 2006c, spec. 80 ff.) Auer *et al* (eds.), 2005; Sachs-Durand, 2004; IRES, 2004; for a synthesis of the seminar on restructuring organised by IRES from 2003 to 2005, see Fayolle, 2002.

¹³ See Sengenberger, 1990.

¹⁴ For a more detailed discussion of the term restructuring, see the recent Petrovski-Gazier 2006; Fayolle, 2005; see also Moreau 2007, § 2.2, who proposes this definition: «*la restructuration est un processus complexe multifactoriel comprenant des modifications de l'organisation de l'entreprise, de sa forme, de son p rim tre, de ses activit s, ob issant   des causes   la fois externe   l'entreprise et interne   celle-ci et se concr tisant par des op rations d'arr t d'activit s, de flexibilisation, de rationalisation de l'activit , d'externalisation tant nationale qu'internationale, mais aussi d'extension et de diversification structurelle et fonctionnelle*»; Raveyre, 2005; even if not so up-to-date, for a general discussion see Camerson-Freeman-Mishra, 1993.

According to the European Restructuring Monitor, European Foundation for the Improvement of Living and Working Conditions (see below, § 2), restructuring can be characterised by a number of actions taken by firms according to the following table:

Relocation: When the activity stays within the same company, but is relocated to another location within the same country.

Outsourcing: When the activity is subcontracted to another company within the same country.

Offshoring/delocalisation: When the activity is relocated or outsourced outside the country's borders.

Bankruptcy/Closure: When an industrial site is closed or a company goes bankrupt for economic reasons not directly connected to relocation or outsourcing.

Merger/Acquisition: When two companies merge or during an acquisition which then involves an internal restructuring programme aimed at rationalising the organisation by downsizing personnel.

Internal restructuring: When the company undertakes a job-cutting plan, which is not linked to another type of restructuring defined above.

Business Expansion: Where a company extends its business activities, hiring new workers.

Other: When a company undergoes a type of restructuring that is none of the above.

general, ask for restructuring to be carried out in a socially sensitive manner. It is clear that, in addition to aiding a firm's search for the maximization of profits, it should also encompass a real attempt to minimize the social costs associated with restructuring. However, for a number of reasons, socially sensitive restructuring does not always occur in practice, while downsizing appears to be the first action taken by companies in case of a worsening economic situation¹⁵. Indeed, employees' interests during the downsizing process very often come second to those of the firm. To use the lapidary words of a study conducted by the European Industrial Relations Observatory (EIRO) – part of the Dublin based European Foundation for the Improvement of Living and Working Conditions the “real influence of employees and their organisations in relation to continuous company restructuring is very limited”¹⁶.

Effective social dialogue occurs rarely, and when it does, it is mostly unproductive¹⁷. Nevertheless, good examples of socially sensitive corporate restructurings do exist, as the AgirE case studies show. Generally speaking, however, the usual approach to restructuring is not led by the will to prevent it; it is mainly characterised, in all the Member States, by a mixture of public aid and measures to support the workers who lose their jobs. Proposals for a rethinking of the effects of restructuring on workers, and on instruments to anticipate the change, should therefore be considered in order to elaborate on innovative approaches to the subject matter.

A crucial innovation area in this respect is securing the professional transition of employees. The demands for additional redundancy payments whenever a restructuring project is announced are often a symptom of the insufficient credibility of professional mobility policies that have been pursued for years. Despite constraining legal obligations regarding redeployment, a great number of companies and employees seem inclined to think that damage compensation following dismissals is simpler and surer than measures of prevention and accompaniment. In addition to this, another typical instrument favoured by workers and unions, but apparently also by the Member States¹⁸,

¹⁵ On this general issues, see Rogovsky *et al.*, 2005.

¹⁶ EIRO, *Industrial Relations Aspects of Mergers and Takeovers*, 2002: <http://www.eiro.eurofound.eu.int/2001/02/study/tn0102401s.html>.

¹⁷ We do not deny the core importance of social dialogue for the development of the social dimension of Europe, but the emphasis is on the fact that in the field of corporate restructuring it has not yet managed to be successful, and therefore there is an obvious necessity to provide it with as much support as possible. For a general overview on the development and achievements of the social dialogue, see *European Industrial Relations in Europe 2006*, chapter 5: http://ec.europa.eu/employment_social/social_dialogue/docs/ir_report2006_en.pdf.

¹⁸ See Moreau (2007) : «*Une très grande partie des restructurations se résolvent encore par des mesures d'âge, statistiquement les plus importantes*». For empirical evidence, see the cases analysed by the Agire project: www.fse-agire.com: In ARCELOR Cockerill–Sambre, this kind of „last-minute” solution is extensively used through recourse to a special royal act: “*compte tenu des échéances de fermeture de Cockerill – Sambre et de la nécessité de continuer à recourir aux pré pensions pour atteindre l'objectif de « zéro licenciement », un arrêté royal du 6 décembre 2005 modifie l'art 9 §2 de l'AR du 7 décembre 1992 concernant l'octroi d'allocations de chômage en cas de pré pension conventionnelle et permet à ARCELOR de continuer à recourir aux pré pensions jusqu'en 2010* ». But see also AZUCACERA «*In practice, the use of anticipated retirement schemes as Social Plan measures, results in dismissals of employees near retirement age*”; FIAT: “*the famous agreement between Fiat and the government signed at Palazzo Chigi, without any involvement of Trade Unions [...] establishes some tools aimed at managing redundancies (primarily some form of early retirement) and early retirement schemes*”. BELDEN: “*The instrument of early retirement is often used*”. Quite exceptional is the case of IBM: “*IBM a mis en place depuis des années des systèmes de cessation anticipée d'activité pour les salariés les plus âgés qui sont intégralement à la charge de la Compagnie à la différence des préretraites utilisées par de*

is that of early retirement. They represented a widespread solution pursued on a large scale across Europe during the crisis faced by the metallurgical industry during the 1980's which was characterised by huge job losses. This was seen as an inevitable solution to the difficulty of retraining aged workers whose skills were hard to transfer to other sectors¹⁹.

Active employment policies calling into cause public authorities as well as national and local actors were the subsequent step which the Member States put forward to achieve a more effective management of the restructuring impact on workers. Nevertheless, they often ended up with poor results, due to a lack of coordination and coherent strategies. Therefore early retirement – although fallen substantially in recent years –, along with other ways of withdrawing individuals from the labour market, remains a popular solution. In view of a longer life expectancy in Europe nowadays, a very negative aspect of early retirement is that, even if it provides a satisfactory solution for all the actors involved – workers, unions and firms – it becomes extremely expensive for the States in the long term, whereas managing to keep people working would contribute to financing pension systems.

The challenge which the States have to accept nowadays, is that of shifting resources from passive expenditure in income replacement benefits to active labour market policies, prioritising the job seekers' own initiative. This means that the States should invest in employment agencies, advice, placement and training, together with more traditional income support measures, and that there should also be penalties in case of lack of active seeking for a job. All the countries of the European Union are nowadays searching for a social model that would allow them to keep generous welfare policies while dealing with an aging population and fierce competition from Asian markets. In this field, reference is increasingly made to the Danish "Flexicurity" model²⁰, which enjoys strong support from the present EU Employment Commissioner Vladimir Špidla. However, comparative research shows how different European legal

nombreuses entreprises ». But see also the findings of the case studies of the research program "Monitoring Innovative Restructuring in Europe – MIRE" on <http://www.mire-restructuring.eu/>.

¹⁹ Besides concrete difficulties, there were also cultural and ideological reasons, especially in countries such as Italy, France, Germany and Belgium owing to their tradition of promoting security for workers in protected careers within large enterprises. For further on this, see reflections in Gazier 2006, 150-151.

²⁰ The Danish model protects the worker, not the job, and envisages re-training and high levels of benefits during periods of unemployment. It is financed through one of the highest tax levels in Europe. Similar models exist in Sweden and Finland, which are also high-tax countries. The debate on flexicurity is probably going to become the key debate on the future of labour law. This has become clear after the European Commission issued, on November 22nd, 2006, a Green Paper entitled "**Modernising Labour Law to meet the challenges of the 21st century**". The paper began with a four-month public consultation, which is supposed to finish at the end of March. It will be followed by a Commission Communication on flexicurity in June 2007, in which the Commission hopes "to develop the arguments in favour of the "flexicurity" approach and to outline a set of common principles to help Member States steer the reform efforts". For an explanation of the main features of the Danish model, see Frederiksen, 2006, 124; for an evaluation of its main characteristics, see Opinion of the European Economic and Social Committee on Flexicurity: the case of Denmark,

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/c_195/c_19520060818en00480053.pdf. On the Commission's Green Paper, for some critical comments and recommendation, see the opinions put forward by some prominent Italian labour law judges, academics and lawyers, http://www.lex.unict.it/eurolabor/news/doc_libroverde.pdf.

systems are and there are doubts about the possibility of implementing the Danish model across the whole Union²¹.

If it is then true that, at least to date, the wide diffusion of restructuring among firms does not find a correspondingly adequate development of measures to counterbalance the negative impacts for the workers involved. In addition, from the point of view of firms, restructuring is should not be conceived as a panacea. Recent researches carried out with reference to restructuring events which took place in the US showed that neither profitability nor productivity necessarily follow as a direct consequence of downsizing²². In Europe too “there is often a sharp contrast [...] between the scale and complexity of restructuring arrangements and the meagre results they achieve”²³.

In order to make restructuring useful, it is therefore important to manage the allegedly needed change properly from the very beginning. Accordingly, restructuring processes proceed smoothly if they are based on a planned action, negotiated well in advance, via joint agreements between employers, workers, and, possibly, the (either central or, often preferred, local) government. However, very often this is not enough: as research shows, restructuring can be both successful for firms and less painful for workers if the change is not only well managed, but also effectively and duly anticipated.

The need for anticipation of business restructuring is at the very forefront of discussion among EU institutions. Indeed, as far as early warning and anticipation are concerned, restructuring is not an issue for the majority of stakeholders until fairly late in the proceedings, most often when layoffs are already decided. As most of the case studies show, hardly ever have anticipatory measures been taken²⁴. This is mainly due to

²¹ On the vexed debate over whether the Nordic model is exportable, see Algon-Cahuc, 2006; see also Moreau (2007): „*La recherche de flexicurité semble susciter au niveau européen un consensus tant que l'on en reste au discours et que l'on ne cherche pas à définir le concept et les moyens d'une combinaison harmonieuse entre la flexibilité et la sécurité. [...] Peu d'Etats membres sont prêts à s'inspirer directement du modèle danois*”.

²² Cascio, 2002; Cravotta-Kleiner, 2001.

²³ Gazier, 2006, 138.

²⁴ See eg. ABN AMRO « *On ne peut parler, à propos du processus de restructuration étudié ici, de véritable anticipation stratégique partagée entre les acteurs* »; ALCATEL: « *La culture de la direction du groupe est donc de très forte réactivité et pas d'anticipation* »; ARCELOR Liège: « *La restructuration a été anticipée de deux ans mais son annonce a surpris les organisations syndicales et les pouvoirs publics concernés* »; AZUCACERA: « *No anticipation mechanisms exists; this is one of the weaknesses of the process, perceived more intensely by employee representatives who consider monitoring centres and expert analyst groups as a condition for stability and anticipation* »; LEJABY: « *Aucune anticipation stratégique ne fut conçue par la société. A l'évidence l'anticipation stratégique et l'anticipation sociale n'ont pas été envisagées lors de la restructuration de Lejaby* »; BELDEN: « *In itself Belden's strategy is well communicated within the organization. Formally, this strategy is the subject of discussions between the Works Council and local management. However, since the decisions on strategy are taken in the US, neither of the players have much influence* »; CELESTICA: « *Cela supposait une anticipation et un diagnostic stratégique spécifique de la situation de l'établissement et de ses perspectives d'évolution, indépendamment de celles du groupe. L'inscription dans la stratégie du groupe ne le permettait pas. C'est ce qui a manqué à l'établissement de Guérande pour se donner les moyens de se repositionner en temps utile* ». FIAT: “According to referees and observers, major management responsibility consists not merely in inability to anticipate the change, but mostly in an inadequate vision of company's and market's evolution”; IBM: « *la direction d'IBM n'a pas créé les conditions d'une négociation pleinement réussie sur l'anticipation (surtout dans sa partie opérationnelle)* »; DINOSOL: “No formally constituted or acknowledged anticipation mechanism exists or existed at the time”. However, even if they represent the exception, there are also cases where anticipation plays a decisive role, and they constitute a guideline, or

the fact that reorganisations which do not have an immediate and perceptible impact upon employment do not attract a great deal of attention. Moreover, for a variety of reasons, anticipation and early warnings are very difficult: in the first place, companies are unwilling to share information with trade-unions²⁵, whereas the latter do not feel inclined to deal with unpopular subjects until they really have to. Finally, local authorities tend not to invest resources unless it is unavoidable, and, of course, anticipation of a restructuring, which, at the moment at which action should be taken in order to be successful, is merely hypothetical, does not inspire the enthusiasm of political actors. It emerges from the cases that, in general, public powers tend to play a minor role, as both the management and the anticipation of the restructuring is mainly left to the firms²⁶. If the lack of anticipation is understandable, and not easy to implement, what is striking, is the fact that in most cases there is a lack of cooperation among the actors who will have to be involved in some of the aspects of the restructuring process, even if at different moments.

This logically brings us to the very crucial issue: that of creating a collective subject in charge of implementing actions aimed at anticipating the consequences of future restructuring. All the different actors that at a later stage necessarily be involved if a reorganisation takes place should constitute it. Recognising the diversity of stakeholders is an important first step, but the main question is how to make use of this multi-actor complexity in order to encourage collective, efficient, and anticipatory actions in favour of employment. As it emerges from some of the case studies, innovative solutions tend to be found in situations where one or several stakeholders refuse to play their habitual roles, take the initiative and find uncommon solutions, sometimes performing the functions that others are supposed to perform²⁷.

Finally, the issue of local economic development in areas hit by massive redundancies is very important, and “revitalisation” actions initially emerged “on the ground” in an empirical way, without specific legal intervention.. However, they are far

at least a point of reference for future development, see e.g. Thomson VG: « *Dans le cas de TVG, le processus d'anticipation stratégique peut être défini comme celui qui a permis l'issue « heureuse » de la restructuration. L'anticipation de la fin programmée du site a été déterminante et a permis une reconversion industrielle du site préservant ainsi le savoir faire verrier de la région* »; ARCELOR UGINE: « *Appartenant à un groupe où la culture sociale est développée UGINE raisonne tout au long de ces années en intégrant l'anticipation des conséquences de ses décisions* ».

25 Hopefully, the enactment in all member States of Directive 2002/14, providing for information and consultation rights to employees, should — “strengthen dialogue and promote mutual trust within undertakings in order to improve risk anticipation”, providing for a set of precise rights and duties, and of effective sanctions in case of violation.

26 See eg. ABN-AMRO: « *Il n'y a pas d'implication particulière des pouvoirs publics (en particulier des autorités locales) dans le processus de restructuration en cours* »; « *ARCELOR n'a pas directement eu recours aux dispositifs publics d'aide* ». BELDEN : « *As is usual in The Netherlands public authorities are not involved in the restructurings in Venlo* »; CELESTICA: “*On peut donc pointer 3 déficiences: [...] un appui insuffisant des pouvoirs publics, des outils et des capacités d'action territoriales, qui ne correspondent pas à ces enjeux* ». GE: « *In the end, the dismissals could not be prevented despite the wide public interest* »; IBM: « *In the absence d'engagement sous une forme ou une autre des autorités locales dans le processus. Les pouvoirs publics pour leur part veillant simplement au respect du cadre légal auquel sont soumis l'ensemble des entreprises* ». ALCATEL: « *La participation d'autres parties prenantes n'a pas été recherchée* ».

²⁷ On the role of territory, according to the case studies delivered by the AgirE program, it can be said that it was relevant in Sabaf and Zwichau, low in Kristall, or absent, but sometimes even in the latter case, the parties expressly agreed on wanting more involvement of the territorial actors (e.g. Arcelor UGINE, Arcelor Liège). For further discussion on this crucial aspect, see § 6 below.

from being generalised and display a great deal of variation from one community to another.

In order to adequately reflect on these structural changes and to rethink the role that the social dialogue can play in similar situations at territorial level, reference should initially be made to the EU framework, where social dialogue is gaining in importance, although slowly, influencing the existing legislation and, therefore, the practices of the Member States. Reference will then be made to some of the most relevant initiatives that have been taken by the policy-makers and the social actors at the level of the European Union. Once a clearer framework for these aspects is set up, the analysis will move to the territorial level, and influence from the above-mentioned level will be subsequently highlighted.

2. EU Interventions in the Field of Business Restructuring

Industrial restructuring has been a key feature of all the European economies over the past decades. Only very recently has it been pushed to the forefront of debate, due to the increasingly large number of restructurings across the EU.

One of the main forms of restructuring has been mergers and acquisitions (M&As). They grew rapidly during the 1990s in every country, with company restructurings turning into something highly cyclical, and becoming a feature of the European economic landscape. Recently they have been falling back slightly, even though firms must continually adapt to market trends and pressures in order to maintain a competitive advantage.

Restructuring is, therefore, nothing new, but the fact that it is almost structural has caused a rising awareness, becoming a protagonist in EU initiatives²⁸. The Union has been developing policies and instruments in this area for a long time, but comparative studies conducted by EIRO have demonstrated “significant national variations in the rights of employees in M&As and in the nature of industrial restructuring more generally”²⁹. This despite the fact that EU legislation and other initiatives have addressed the issue of employees’ involvement in restructuring for some thirty years. Indeed, going back to the 70s – the so-called “golden years for European labour law”³⁰ – a trilogy of Directives, intended both to encourage a greater degree of industrial democracy and to provide an element of social protection, were adopted: the 1975 Directive on the approximation of the laws of the Member States relating to collective redundancies (revised and consolidated in Directive 98/59/EC), providing for information and consultation rights for employees and their representatives; two years later EU Directive 1977/187/EC 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 businesses (revised in 1998 and recently

²⁸ See the fundamental communication of the **EU Commission**, *Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring*

[http://europa.eu.int/comm/employment_social/news/2002/jan/corporate_restructuring_en.pdf], and the more recent EU Commission, *Restructuring and employment. Anticipating and accompanying restructuring in order to develop employment: The role of the European Union*, Communication, COM(2005)120 final, 2005a

[http://europa.eu.int/comm/employment_social/news/2005/apr/com_restruct_en.pdf].

²⁹ EIRO, *Industrial Relations Aspects of Mergers and Takeovers* See:

<http://www.eiro.eurofound.eu.int/2001/02/study/tn0102401s.html>.

³⁰ Blainpain, 1999, 334.

consolidated in Directive 2001/23/EC; a review of this directive is underway, with a report and proposed amendments presented by the Commission to the Council in July 2006); and, last but not least, Council Directive 80/987/EC of 20 October 1980 (amended by Directive 87/164/EC and Directive 2002/74/EC), on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.

One of the key aims of the more recent Council Directive 94/45/EC on the establishment of a European Works Council (EWC) or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, is to provide for European-level information and consultation of employee representatives by multinationals on restructuring aspects. These issues are largely reflected in the provisions of the over 700 EWC agreements signed by multinational companies so far.

It is not the intention of this paper to analyse these pieces of legislation, but within the present research, it is important to notice that these Directives refer to specific events linked to restructuring, rather than to *ongoing* restructuring processes. Despite the heavy economic and social consequences of restructuring, EU intervention in this field remains fragmented and there is an increasing demand for the Union to approach this phenomenon taking into account its many facets³¹. In fact, it was only recently that debate in the EU focused more specifically on the possibilities of preventing restructuring, and on how to ensure that it has as limited a negative impact as possible, not only on the firm's shareholders, but also on the stakeholders and the surrounding geographical area. Therefore, the approach to restructuring has become more sophisticated, in order to encompass in its spectrum the problem of job loss and that of the employees who survive the layoff, the subcontractors and the suppliers affected, but also the industrial district and, more generally, the whole region where the firm operates. This "new vision" has allowed the instigation of a whole new set of instruments which will hopefully help to manage crises in a more effective way. Probably it is too early even to talk of the result of similar actions; nonetheless, it is useful to at least mention them.

EU-level concern in the wake of the major plant closure at Renault Vilvorde in 1997³², prompted the European Commission to establish a high-level group, chaired by Pehr Gyllenhammar, Volvo's former C.E.O. on the economic and social implications of industrial change in 1998: the *High Level Group on the Economic and Social Implications of Industrial Change* (so called "Gyllenhammar group")³³. It presented its interim report in May 1998, prior to submitting it to the European Council meeting in Cardiff in June. The final report, "*Managing Change*", was issued in November 1998³⁴. It attributes a key role to the social dialogue at all levels across the EU, and spells out clearly that change can be positive if properly anticipated. To this aim, it contains a range of recommendations to the EU institutions, national governments and social

³¹ See Moreau, 2006,b, 151-152: «Cette fragmentation montre clairement que la volonté politique de construire une Europe social sur un droit de travail réellement harmonisé fait défaut»; see also Fayolle, 2006, 12: «Le marché unique européen est, entre autres facteurs, source de restructurations mais les conséquences sur l'emploi relèvent prioritairement de la responsabilité nationale».

³² See Moreau, 1997; and most recently, Didry, 2005.

³³ For more information see e.g. Gill-Gold-Cressey, 2000, at 76.

³⁴ High level group on economic and social implications of industrial change, *Managing Change*, Final report, http://europa.eu.int/comm/employment_social/soc-dial/gyllenhamer/gyllen_en.pdf

partners concerning restructuring, off-shoring, outsourcing, and even de-industrialisations, as they are gaining in importance.

Industrial change begins, therefore, to be seen as an opportunity and social dialogue as an activity to foster. Moreover, the experts invited companies of more than 1000 employees to voluntarily publish a Managing Change Report, an annual report on employment and working conditions. This social reporting and accounting should enhance the awareness of both the management and the workers to the situation of the firm, thus favouring early anticipation of a possible crisis. Finally, strong emphasis was put on the need for coordination with local authorities and territorial social partners. To date, the Gyllenhammar Report probably represents the most advanced and sophisticated proposal made to manage industrial change in a socially sensitive manner. Concrete achievements will hopefully follow in the future. However, some important steps have already been taken, following the suggestions made by the experts.

First of all, the Group's proposal to create a permanent observatory on industrial change, supported by the social partners, was taken up in the Commission's June 2000 five-year Social Policy Agenda³⁵ and confirmed in the December 2000 Nice European Council conclusions³⁶. The observatory, now named the European Monitoring Centre on Change (EMCC)³⁷, has been entrusted to the European Foundation for the Improvement of Living and Working Conditions, in Dublin³⁸. It probably represents one of the main measures proposed in this area in the Commission's June 2000 Social Policy Agenda in response to calls by the Commission's High Level Expert Group on Industrial Change. The EMCC's objective is to provide the tools for key actors in European social policy to make more informed decisions about managing the processes of change³⁹.

According to the European Restructuring Monitor Quarterly (ERMQ) (issued on-line by the EMCC) during the fourth quarter of 2006 – and referring to the previous 3 months – 455 restructuring cases were recorded. These cases caused 95,661 job losses and 141,069 job gains. This compares favourably with the third quarter, which reported 400 cases causing 91,185 job losses and 117,115 job gains⁴⁰. The quantitative relevance of the subject matter is therefore self-evident. As for the qualitative impact, reading through the various reports issued during the period 2002-2006, it is interesting to note that the countries which faced the most cases of restructuring were Germany and Great Britain, while restructuring played a minor role in Italy and France.⁴¹

³⁵ See http://europa.eu.int/comm/employment_social/general/com00-379/com379_en.pdf

³⁶ http://europa.eu.int/council/off/conclu/dec2000/dec2000_en.pdf

³⁷ See the recent study published by ERMCC, Restructuring and Employment in the EU: Concepts, measurement and Evidence, 2006: <http://www.eurofound.eu.int/publications/htmlfiles/ef0638.htm>

³⁸ <http://www.eurofound.ie/about/emcc.htm>

³⁹ For more information about the Centre and its activities, see the EMCC website: <http://www.eurofound.europa.eu/emcc/>.

⁴⁰ <http://eurofound.europa.eu/emcc/erm/templates/displaydoc.php?docID=34>, p. 2.

⁴¹ It must, however, be pointed out that the database of the ERMQ is built upon the cases of restructuring which are reported in the financial newspapers. The main weakness of this system is newspapers do not deal with minor cases – which can however result in large numbers if data is aggregated across the 27 countries of Europe – and the relevance which is attributed to restructuring cases varies from one country to another. Moreover, newspapers are not necessarily impartial. Since the ERMQ has proved to be a very useful tool to give politicians a clear view of the relevance of the program, it should be reformed and efforts made to improve its data collection system in order to make it a more refined and, therefore more reliable source.

Its significance is also confirmed by the very recent EU Social Agenda 2005-2010⁴², where it is clearly stated that the Commission intends to revise the Directive on European Work Councils⁴³, as a way to stress the need to “anticipate and manage the change in the field of corporate restructuring”⁴⁴. There is, therefore, no doubt that corporate restructuring is a crucial issue nowadays, principally in view of the likely consequences of EU enlargement which will probably bring an increase in the relocation of businesses (including production and manufacturing) to lower cost areas.

Consequently, the transnational dimension of restructuring has resulted in both a diversification of the regulatory techniques and in a reduction of the traditional hard law instruments. In such a context of increasing economic integration and global competition, the EU must find a way to trigger and manage economic change more effectively. Company restructuring, therefore, is of great interest for every Member State at every level, as it often entails costs that can be very high, not only for the workers concerned, but also for the local or regional economy. As Caruso recently put it:

“A company's decision to relocate, for example, not only affects the actual place of production, leading to collective dismissals and processes of reorganisation (including that of trade union representation), but also the local or regional labour market, at least in terms of its effects on employment and other social effects such as town planning, the architectural features of a territory, and the organisation of social life”.⁴⁵

3. The Role of Social Dialogue and the Process of Decentralisation of Collective Bargaining

The process of restructuring most often comes to public attention in crises, when there are major collective redundancies, and/or plant closures. This is due to the tools that are normally used by firms facing restructuring, as part of the traditional response to the fragile economic climate and connected uncertainties: downsizing, outsourcing and layoffs are some of the possible consequences, whose impact often tends to have a dramatic effect on workers' lives. Consequently, it follows, as a preliminary assumption, that, in order to control and manage the change and to protect workers effectively when dealing with restructuring issues, on the one hand, it is necessary to achieve a great(er) involvement of the social partners through effective and well developed social dialogue, in order to enhance synergy between policies and financial levers, and on the other hand to adapt the framework of legislation and collective agreements. Indeed, there is no doubt, that, in this field, ‘law is shaped more by the

⁴² EU Commission, *The Social Agenda 2005-2010*,

http://europa.eu.int/comm/employment_social/publications/2005/ke6605062_en.pdf.

⁴³ On the links between corporate restructuring and the role played by the EWCs. see MOREAU (M.-A.), *Restructurations et comité d'entreprise européen*, *Dr. soc.* 2006. 308-318 - Special Issue, March 2006 dedicated to Restructuring in France and Europe. However, the present political framework does not leave much hope of an imminent revision.

⁴⁴ EU Commission, *Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring*, see:

http://europa.eu.int/comm/employment_social/news/2002/jan/corporate_restructuring_en.pdf

⁴⁵ Caruso, 2007, 30.

interplay of social forces than by great declarations of principle, whether domestic or international⁴⁶.

As the social partners themselves put it, “the existence of a good social dialogue and a positive attitude to change are important factors to prevent or limit the negative social consequences.”⁴⁷ More recently, following the 2005 Commission’s Communication on Restructuring, ETUC highlighted very firmly that efforts must be made, also at legislative level, to put trade unions in the best position to influence restructuring processes, as they do not want only to be left with the management of the negative consequences of a restructuring. In fact, they appear willing to play a decisive role in the anticipation of it, through a real and effective involvement in the “daily life of their companies”, so that they can be in a position to influence any decision being taken, until being allowed to deal with “all areas of the company’s activity, its strategic choices and decisions and anticipate their effects on employment”⁴⁸.

As impractical as this proposal may seem, it requires consideration, since most of the case studies indicate very clearly that early involvement of trade unions in the management of change is utterly lacking⁴⁹; and indeed the model of industrial relations does affect the way in which restructuring is carried out at every step. However, across European countries, progress of transnational social dialogue in the “managing of change” remain timorous. The most relevant steps made in this field so far are the agreements or joint texts signed by EWCs, and International Framework Agreements (IFA) concluded between transnational companies and international union federations. Most of these deal with the fundamental rights of workers and unions, even if the number of those dealing specifically with the handling of company restructuring is constantly rising. Although these instruments are not used frequently (42 IFA, and some 20 joint texts signed by EWCs to date)⁵⁰ they represent a very interesting development: a set of devices which can be used, together with the more traditional *hard law*, to provide multifarious, binding or voluntary, regulations of restructuring. Such a result however should not cause too much surprise, as research shows that, in the case of restructuring with massive job suppressions, the capacity of mobilisation and the manifestation of solidarity tend to be concentrated at the territorial level, rather than at the international one.

As Vladimír Špidla, EU Commissioner for Employment, Social Affairs and Equal Opportunities, put it very recently at the European Restructuring Forum in Brussels on 4-5 December 2006, “corporate restructuring has serious impacts in economic, social and human terms. But with the right policies, anticipation and support, regions can manage economic change and turn it to their advantage”.

At this moment therefore, there is great awareness at EU level of the importance of the role which can be played by the unions and the local actors in the management of the consequences of restructuring processes. In order to do this, it is important to consider carefully the national systems of collective bargaining and trade unions’

⁴⁶ Arthurs, 2006, 51

⁴⁷ ‘Orientations for reference in managing change and its social consequences’, Joint text of the European-level social partners, 16 October 2003, quoted in www.eurofound.eu.int/pubdocs/2004/56/en/1/ef0456en.pdf

⁴⁸ See ETUC, Comment Adopted by the ETUC Executive Committee in their meeting held in Brussels on 14-15 June 2005, <http://www.etuc.org/a/1530>.

⁴⁹ On the need for trade unions to rethink their objectives and means of action in the current changing scenario, see: Hyman, 2005.

⁵⁰ See, Ales *et al.* 2006.

organisation, to fully understand the means of action that can be put in place. Indeed, according to the model of collective bargaining to which reference is made, a more voluntaristic, typically Anglo-Saxon approach, will prefer a plant level bargaining, while those countries having a more normative approach to collective bargaining will possibly encourage interprofessional or sectoral bargaining. However, reality is much more complex than theoretical conceptualisations. Without going into details here⁵¹, it can nonetheless be noted, that despite a worldwide observed trend towards the decentralisation of bargaining, most EU countries still have a mainly centralised system – with the very notable exception of France⁵² and the United Kingdom, where the lower bargaining levels are more frequently used. It is however unquestionable that in most countries a wide debate is ongoing⁵³, as a result of increasing decentralisation trends in collective bargaining.

Indeed, in the traditional structure of labour law sources, state law or collective agreements with *erga omnes* effect, as functional equivalent of the former, were considered the main vehicles of social regulation, the space left to the decentralisation of collective agreements being very limited. However, since the end of the 1970s, there has been a mounting tendency towards decentralisation and enterprise-level collective bargaining⁵⁴. Thus, a question of growing importance nowadays is who has the right to bargain a collective agreement at company level. As a rule, local trade union branches or sections have this authority on the employees' side. In many Member States, this rule is accompanied by a number of differing rules to decide which union or how the unions have to work together at company-level to reach a collective agreement⁵⁵.

Bearing in mind this very general framework, it becomes important to examine the extent to which firm managements, employees, collective bargaining dynamics and public/private local actors are involved in managing and responding to the restructuring process. Therefore, the main issue concerns the possibility to give a new legitimacy to the territory as a place of *soft* regulation, as its relevance has grown in the last decades⁵⁶.

⁵¹ For detailed information, see the report completed by the Commission in June 2006, Industrial Relations in Europe 2006:

http://ec.europa.eu/employment_social/social_dialogue/docs/ir_report2006_en.pdf

⁵² See the French Law of 4 July 2004, so called *loi Fillon*, introducing the majority principle, i.e. the need for consensus of the organisations representing the majority of workers in order to allow plant level bargaining to derogate from the *branche* or from a higher level. See, e.g. Jobert-Saglio, 2005; Germany is also facing an increase in plant level bargaining, see Santagata, 2005.

⁵³ For Italy, see the Forum hosted on Riv. it. dir. lav., issues 3 and 4, 2006, dedicated to, La struttura della contrattazione collettiva: quale riforma? Un dibattito fra giuslavoristi”.

⁵⁴ For some useful comparative figures on this and related issues, see Organising for Social Justice, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, ILO, Geneva, 2004, pp. 64 to 74, and references within.

⁵⁵ For specific information on the 25 countries of the European Union, see the recent EC Directorate-General for Employment and Social Affairs, *Industrial Relations in Europe*, 2006,

http://ec.europa.eu/employment_social/social_dialogue/docs/ir_report2006_en.pdf.

For a more theoretically based approach, with particular emphasis on the legal dimension, see the comparative research project on current trends in the evolution of collective bargaining within the European Union, directed by S. Sciarra, *The Evolving Structure of Collective Bargaining in Europe. A Comparative Analysis Based on National Reports in the Countries of the European Union*, http://www.unifi.it/polo-universitario-europeo/ricerche/collective_bargaining.html

⁵⁶ For an overview of the new challenges faced by the social dialogue at territorial level, see Jobert, 2005.

4. The New Relevance of the Territory and the Process of Administrative Decentralisation

Integral to this shifting emphasis on the decentralisation process has been a fundamental reconsideration of the changing relations between the restructuring of industries and territorial development. In fact the territory has, for a long time, not been considered a direct actor in these processes which involved, above all, company actors⁵⁷. Efforts to understand how the reshaping of this interface must be conducted are of paramount importance nowadays. Indeed, in the context of an increasingly liberalised and allegedly “globalising” economy, the territorial development dilemma has become progressively more problematic. Its solution requires great awareness of the ongoing emergent interdependency of industrial and territorial development within the European landscape. It remains then, integral to the European project, a significant concern for the impact of economic integration upon the distribution of economic activity and employment at the regional level. The recent emphasis on the interplay of “localisation” and “globalisation” in influencing the nature and form of economic development has focused on the role and ability of territories to build the capability to facilitate growth and prosperity from combinations of diverse factors. The tension between these two concepts imply that the destinies of restructuring industries and territories are increasingly bound together in subtle and complex ways and is at the very centre of the regional economic development dilemma.

It is not easy to find a definitive solution, but some proposals have been put forward. Agreement was reached at the previously mentioned third European Restructuring Forum that the importance of well-managed partnerships for regional restructuring cannot be underestimated. However – as clearly spelled out on that occasion – “partnerships differ in scope, size and management, depending on the needs and objectives of the regions concerned”, making it very difficult to generalise solutions. Moreover, pro-active and preventive approaches do not appear to be on the rise as trans-nationalisation tends to shift information and decision-making out of the reach of local actors⁵⁸. Far-sighted plans for local revitalisation, which were present in the eighties and early nineties, have since been undermined by employers’ reluctance to assume such responsibility, but also by employers’ failure to meet agreed commitments, or simply by the actual failure of the concepts despite good will and effort. Nonetheless, research shows a return of interest in the territory as a necessary way to counterbalance the globalisation process. Local realities and regions are growing in importance across Europe, as organisational unities of social, political and economical life, in parallel with a decrease in importance of national States and national legislations. The erosion, or at least the decline, of the intensity of the regulative power of the central State, allows the regions to develop new opportunities for the territories⁵⁹.

Firm reorganisations nowadays involve the strategies of social actors both at regional and at national level, and have repercussions on the institutional and political

⁵⁷ With reference to the role of the regions in the managing of change, see the findings of the research program “Monitoring Innovative Restructuring in Europe – MIRE” under the heading „region” on <http://www.mire-restructuring.eu/> e.g. the case study “A new Dortmund? Coping with restructuring on the territorial level. The approach of the Dortmund-project, Germany”.

⁵⁸ On these aspects, see the website of the MIRE research program: <http://www.mire-restructuring.eu.>

⁵⁹ A number of studies have insisted during recent years on this aspect; among others e.g. Anderson, 1992; Le Galès, 2002.

strategies of local administrations too. However because of the multifarious features of social regulation., the twofold opposition between the central national level of social regulation and the territorial level is increasingly questioned In reality, the national and sub-national levels (together with a supranational level, which is mounting in importance) are not mutually exclusive but they interact with each other. Such a conclusion should not puzzle the traditionalist, being the natural result of regulatory interferences by an ever-increasing number of concurring (or sometimes competing) actors such as national States, supranational institutions e.g. the EU and the ILO, regional and local authorities, corporations, and a number of regulatory agencies at various levels, which are gaining in importance.

The involvement of the workforce – through employees’ representatives – in the firm’s plans for restructuring from the very outset, and if at all possible before a final decision is taken, should relieve the negative consequences in terms of number of job losses, mitigating the impact on employment security. Similar approaches to the issue can benefit from a number of proposals which can be found in a variety of EU and international guidelines⁶⁰.

In almost all of the Member States, there have always been some – more or less developed – practices of territorial regulation. Even though they have always been rather precarious, and are dependent on occasional and disarticulated intervention. They prove the existence of some sort of dynamic reactions to the failure of the traditional centralised approaches to the social dialogue. This is due to the autonomy, which, even if at varying extents, local actors have in the preparation and in the implementation of actions at territorial level. The territory as a place of social and economic regulation has favoured the intervention of a number of actors, both private and public, providing important support to projects aimed at improving local development. The increase in territorial regulation follows a decentralisation process which, in some countries, is more advanced, while in others it is slower, but growing in importance.

Consequently, there is a need to implement an efficient system of coordination among the different levels of public action: European, national, regional, territorial; a need to promote a system where the barycentre of the decision-making process is located at the level closest to the worker, the firm, the union, the citizen, according to a subsidiarity principle based on an organised decentralisation in which the method of concertation is shifted from the centre to the periphery, in terms of both territory and

⁶⁰ See **OECD**, *Guidelines for Multinational Enterprises*, Paris, 2000, where, under the heading *Employment and Industrial Relations*, it is stated that firms should: „in considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective layoffs or dismissals, provide reasonable notice of such changes to representatives of the employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken”. ILO has also been active in this field for many years, and in February 2002 established a World Commission on the Social Dimension of Globalisation. Among many recommendations and guidelines, it, too, has stated that in order to react to the negative effects of globalisation on employment, commitment to social dialogue must be pursued, to “take the high road of business-labour collaboration to achieve efficiency gains, and to eschew the low road of cost-cutting and downsizing”, ILO, 2004, 65. In response, the EU issued a Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *The social dimension of globalisation - the EU's policy contribution on extending the benefits to all*, Brussels, 18th May 2004, http://trade.ec.europa.eu/doclib/docs/2004/may/tradoc_117580.pdf

enterprise⁶¹. Since the 80s Italy and, even if to a minor extent, France – traditionally referred to as “*la République indivisible*” – are following a path of increasing decentralisation, which leads to a transfer of competencies in a variety of matters to the territorial entities⁶². Simultaneously, countries such as Germany and Spain – traditionally organised according to a federal structure – have continuously increased the competencies of both the *Länder* and the *Comunidades Autónomas* during the last 25 years.

In such a context, trade unions have to rethink the priorities for their action, taking into due consideration the fact that the national level is losing in importance. Therefore, they are compelled to create appropriate strategies in order to be effectively present also in the territorial spaces whose importance is constantly accruing, thus causing incisive action at that level too. Meanwhile, public actors, too, must become aware of this shift in competencies, and also recognise that public action is undergoing deep change due to the interface of different factors, such as the accrued role of the private sector in the shaping of the policies to be pursued at local level, the progressive territorialisation of the employment policies, the increasing attention of the EU to the territories through specific means of intervention, and financial sustainment of those actions which are part of the European employment strategy.

Similar initiatives must be welcomed. For example after the 2005 Hampton Court Summit, under the Presidency of Mr Tony Blair, following the dramatic restructuring and closure of Rover in the United Kingdom the Commission launched, in March 2006, a Globalisation Adjustment Fund. The Fund was allocated some 500 million Euros in order to allow compensation and redeployment of the victims of relocations, even if only in some particular cases⁶³. It was to contribute to retraining workers, adapting their abilities to the changing demands of the European economy. Of course, it constitutes only a basis for action, which must be established by countries and regions through a network of opportunities which must be implemented via negotiation at territorial level. Such an anti-shock fund, if generalised, could contribute largely to amortising restructuring at local and regional level⁶⁴, thus also linking the global and the local dimensions. If adequately implemented and wisely used, it could constitute the first important step towards the implementation of the increasingly popular “transitional labour market” policies⁶⁵.

Similarly, Structural Funds should be mentioned, as they have had considerable success in some of the most disadvantaged European countries: Portugal, Greece,

⁶¹ For further reflection on this, see Traxler, 1995.

⁶² For Italy, mention should be made to the Constitutional Law on Federalism, n. 3 of 2001, which defined the topics reserved to the State and those on which concurrent regional legislation was sovereign. Although the State remains competent on the fundamental issues, Regions may become a leading actor, at least in principle. Due to this reversal of perspective, it could then occur that differences among Regions will appear on a number of relevant issues. See eg. Caruso, 2001; for a comparative perspective, see Runggaldier, 2002.

⁶³ See http://ec.europa.eu/employment_social/news/2006/mar/com06091_final_en.pdf: “the EGF will intervene in cases where major structural changes in world trade patterns lead to a serious economic disruption such as an economic delocalisation to third countries, or to a massive increase of imports, or to a progressive decline of the EU market share in a given sector. Assistance from the EGF is aimed at the re-integration of the individuals concerned into employment, taking advantage of existing and new employment opportunities while limiting the adjustment costs for the workers, regions and localities concerned”, p. 4.

⁶⁴ See Moreau 2006c, 86-87.

⁶⁵ See Schmid-Schömann, 2004, and website: <http://www.siswo.uva.nl/tlm/>.

Southern Italy, etc⁶⁶. Moreover, consultations among the twenty-seven Member States began on 1st February 2007 to program the main areas of intervention of the 2007- 2013 European Social Fund, which, through its four key areas for action, will provide for “specific support for anticipating and managing economic and social change”⁶⁷. In preparation for this, a completely new set of regulations governing the operation of the Structural Funds is currently being debated. The new regulations, among many other aspects, highlight the importance of the role that can and should be played by the social partners within the new ESF programmes, explaining the benefit to be gained from fostering partnership at all levels⁶⁸.

In such a context, policies should be developed in order to support social concertation for local development, since the focus of industrial relations and growth is increasingly shifting at the local level, due to the present progressive relevance of the territory for firms’ activities⁶⁹.

5. The Changing Pattern of Firms Organisation: Which Opportunities for Local Development?

The reason why the territory is repeatedly presented as a relevant area for socio-economic regulation is the fact that firms have developed new production and organisational models, which reshape the boundaries of the companies. Much of the recent work in economic geography and regional studies has therefore focused on the importance of strong economic and social networking for the success of regional and local economies.

Geographical proximity is indeed the key element of this process and it has been the object of a vast number of studies which have created a new terminology to refer to these changes, going from the “clusters” and the well-known “industrial districts” described by Piore and Sabel⁷⁰, to the “new industrial spaces” of Scott and Storper⁷¹ and the so-called “*milieux innovateurs*” proposed by Aydalot⁷². Many other terminologies have been used with reference to a variety of other possible articulations of the firm on the territory. It is not the intention of this paper to analyse them, but only to highlight that, beyond the very sophisticated conceptualisation which scholars have proposed during the last twenty years, the local territory is more and more conceived as a strategic resource of development, also by multinational firms. Next to competition among firms, competition among territories is also developing⁷³. At the same time, the

⁶⁶ See European Commission, A New Partnership for Cohesion. Convergence, competitiveness, cooperation, 3rd report on economic and social cohesion, 2004, http://ec.europa.eu/regional_policy/sources/docoffic/official/reports/cohesion3/cohesion3_en.htm.

⁶⁷ See: http://ec.europa.eu/employment_social/esf2000/2007-2013_en.html.

⁶⁸ See: http://ec.europa.eu/employment_social/esf2000/pdf/partnership_en.pdf.

⁶⁹ The core relevance of the territory for the development of employment and economy was already being made the object of the Commission Communication "Strengthening the local dimension of the European Employment Strategy" COM (2001) 629 final of 6 November 2001. Most recently, as a follow-up to that communication and under the auspices of the Lisbon strategy, a European Forum was organised on Local Development and Employment, Rhodes, 16-17 May 2003, Local Employment Development in the European Union - Acting Together at Local Level: More and Better Jobs, Better Governance, http://ec.europa.eu/employment_social/local_employment/docs/fincon_en.pdf.

⁷⁰ Piore-Sabel, 1984; Sabel, 1989.

⁷¹ Scott, 1988; Scott-Storper, 1992.

⁷² Aydalot, 1986, and very recently Camagni-Maillat, 2006.

⁷³ See eg. Veltz, 2004.

territory is increasingly becoming a space for new initiatives and for the mobilisation of actors and resources, both public and private, sometimes jointly. As it has been pointed out⁷⁴:

“Les transformations de l’action publique s’accompagnent d’une intrusion explicite et significative des acteurs privés, tant au niveau de la formulation que de la mise en œuvre des politiques publiques, remettant fortement en question la distinction public/privé qui conditionne encore très largement la définition des nos sociétés politiques”

Local productive economies as integrated productive systems have enjoyed a number of advantages: larger flexibility, a more highly motivated and qualified workforce, stronger collaboration with other firms in the area, and a number of others which have been described as “local collective competition goods”⁷⁵. The creation of these goods by local SMEs allows them to remain competitive, without bearing the burden of the very high cost of producing these goods in-house as big firms do. In order to do this they *cluster* geographically, thus “finding means whereby these facilitative goods and services can be made available on a more or less non-market basis within the locality. [...] Within such a network, internal cooperation secures firms’ external competitiveness”⁷⁶. A “cluster” is basically an agglomeration of firms connected by horizontal and vertical links of various natures, and geographically localised. This concept highlights the importance of the quantitative concentration of firms in order to create the competitive advantage of a territory, but it does not say much more than this, since it leaves aside the qualitative aspects which represent the very core of the renowned Italian industrial districts⁷⁷. In Italy more than 200 industrial districts, mainly in textile, fashion and furniture industries have been classified⁷⁸. Many scholars both

⁷⁴ Duran, 1999.

⁷⁵ See Crouch *et al.*, 2001, Introduction; Crouch *et al.*, 2004.

⁷⁶ Crouch *et al.*, 2004, 2.

⁷⁷ Industrial districts are not exclusively Italian, they are also developed abroad; probably the most well-known North-American examples are the regions of Hollywood, Silicon Valley and Orange County (Hall, Makusen, 1985) In the UK, scholars have identified the area between London and Bristol; in France, Grenoble, Montpellier and Sophia-Antipolis; in Sweden the Gnösjo district; in Germany, Baden-Württemberg; and this is also the case in some areas of Spain and Denmark. However, it seems correct to argue that industrial districts are mainly an Italian phenomenon., Italy has found in this organisational model a peculiar trait of its economy and a relevant source of socio-economic development and growth.

⁷⁸ Italy legally recognised industrial districts in 1991, with Law n. 317, defining them as “territorial local areas with a high level of concentration of small firms, taking into specific reference the proportion between the presence of the firms, the resident population and the productive specialisation of all the firms operating in the area”. This law was followed two years later by the Ministerial Decree of 21 April 1993. It provided for precise parameters according to which a certain organisational structure of firms can be defined as an industrial district. They rely on five indicators: 1. manufacturing industries; 2. entrepreneurial density in the manufacturing industry; 3. productive specialisation; 4. occupational level in the manufacturing activity; 5. rate of employment in small enterprises. Law n. 266 of 1997 provided for specific financial interventions for the industrial districts. Subsequent Legislative Decree of 31 March 1998 devolves to Regions the funds necessary to implement the intervention in industrial districts. Law n. 140 of 1999 modifies previous Law n. 317 of 1991 and redefines the notion of industrial districts as “homogeneous local productive systems with a high concentration of industrial firms and with a productive specialisation of the firms of the system. This law also provides Regions with the duty to divide the territory in so-called local systems of work and, among this, in economic-productive systems. Financial Law (legge finanziaria) for 2006, Art. 53, brings substantial innovations and redefines, for the third time in 15 years, industrial districts as “free aggregations of firms articulated at territorial and functional level, with the objective to enhance the development of the areas and sectors concerned, to

from Italy and abroad have contributed largely to frame the phenomenon and have permitted an in-depth understanding, stimulating at the same time a large debate⁷⁹. In their original formulation, industrial district were described by Alfred Marshall as a “concentration of specialised industries in particular localities”⁸⁰. He mainly highlighted the fact that, to understand this concept, not only business relations were to be taken into account for but also (and here lies the distinctive feature, differing in this from clusters) many other social and cultural aspects.

Academic reflection concerning industrial districts gained new energy after the recession that struck the world during the 70s and developed in the 80s. One of the most prominent Italian scholars, who in the mid 80s re-approached this phenomenon, was Becattini⁸¹. At the very foundation of an industrial district there is a structure governed by trust and co-operation. Indeed, the success of the industrial districts as a socio-economic phenomenon relies primarily on the good interrelationship among enterprises, industrial associations, trade unions, banks and economic institutions. Moreover, in order to foster development, at least in the most ideal industrial district, the firms must benefit from technical, commercial and administrative services, together with programs, regulations, social and economic support provided by the regional and provincial governs, and also by partnership of private and/or public actors, constituted by the entrepreneurial associations the local public administration. All these factors have strongly contributed to the success of the industrial districts, and it is very important to understand to which extent their achievements can be exported and diffused in territories which do not enjoy the peculiar features of the districts.

Indeed, the territory, especially when similar informal, but strong, systems of mutual and reciprocal relations are in place, can constitute a privileged place for the development of permanent circuits of interaction based on cultural and professional solidarity. More specifically, with their background of shared experience, the model of industrial districts should be used to increase and quicken the learning process, which is indispensable for the firms to adapt to change and to innovate, thus allowing that operational flexibility of work and production which is needed to react to the incertitude of technical, economic and environmental change. Moreover, the success of industrial districts has encouraged the idea that territorial development is a multidimensional process, of economic and institutional but first of all, social nature,. It follows that it cannot be promoted through a straightforward combination of some economic elements, since it requires the involvement of the actors and the exploitation of the local resources typical to the specific region⁸². In this context, partnerships between public and socio-economic actors in the area represent the best way to sustain and promote projects of

ameliorate the efficiency of organisation and production, according to the principles of vertical and horizontal subsidiarity”.

⁷⁹ It is not possible to mention here the vast amount of literature which has been produced during the years, but see eg. Belussi, 1999, and ample references within it.

⁸⁰ See Marshall, 1890 and continuously republished until today. A free downloadable version is available at <http://www.econlib.org/library/Marshall/marPContents.html>.

⁸¹ He argued that the development of the industrial district was intimately linked to the need for firms operating in the area to merge with the people who live in the same territory, and who, in turn, possess the social and cultural features (social values and institutions) appropriate for a bottom-up industrialisation process. Behind the term “industrial district”, there are many different forms of organisation of labour and many different socio-cultural features. See in particular Becattini, 1987; *Id.*, 1989; *Id.*, 1989b, and most recently *Id.*, 2000.

⁸² See Garofali, 1991.

territorial development, as they form a tool for enacting and managing open and comprehensive programs capable of mobilising effectively the social and economic actors towards a shared vision of the improvement of the territory⁸³.

Another very important contribution to the understanding of the changing roles of local economies was that of Aydalot – economist at the Sorbonne University –, who during the early 1980s proposed, and then successfully developed during the following two decades a very convincing theory to explain the links between the territory and the firms operating within it, with specific reference to the French experience, triggering a vast debate. The starting point of his analysis is a very simple observation: he realises that until the 70s all the researchers focussed on the impact of firms on the territory, while, following a period of change in the pattern of industrial production, big Fordist firms began to disappear and territory played an endogenous role in fostering the development of new activities in areas formerly de-industrialised or depressed. He then highlights that there is a reciprocal interaction between the firms and the territory. The point is to understand why some territories develop while others do not. He advances the hypothesis that the innovative firm does not pre-exist the local territory, but is a product of the latter. Therefore, the innovative behaviours depend on a number of factors defined at local or regional level. At the very basis of innovation, there is the capacity to manage a common project, the existence of consensus among the actors, the access to technology, and the presence of a *savoir-faire* specific to an area. The idea is that a determinant role is played by the local environment, which can produce innovation, and is therefore defined as a “*milieu innovateur*”⁸⁴. The stress is on the *milieu* as an environment, a context which preserves the traces of the past of a society, of its way of living, of its system of values and of its culture more generally and which, because of these added values, is capable of bringing entrepreneurial dynamics, while being at the same time an active subject of this innovation⁸⁵. Consequently, it is different from the industrial district, which is specialised in the production of certain goods: the *milieu* does not have this as a prerequisite, since the idea is that the combination of different networks of firms in the same area can favour innovation in different sectors.

Next to these possible articulations of firms on a territory, there are of course other possibilities, since many other forms of connections among firms play a decisive role in boosting their competitiveness and profitability. They encompass subcontracting – which should be referred to in a broad way, as including several ways of interaction between the main firm and the subcontractor, either in an outsourcing relationship, or in a real subcontracting framework, or through providing a specific service – as well as networks of firms. The latter represent another very stimulating opportunity⁸⁶. They can be defined as a framework of relatively stable relations among a number of firms, formally and legally distinct, but having some sort of reciprocal interdependence even in competition. Reciprocal interdependence is the condition according to which the decisional process of one single firm depends, at least for some aspects, on that of other

⁸³ See De Rita-Bonomi, 1998, where the added value of bottom-up approach to local development is emphasised.

⁸⁴ As Aydalot (1986) puts it: «*Les milieux sont le prisme à travers lequel passeront les incitations innovatrices* » and «*chaque type de milieu est considéré comme un modèle de pénétration de la technologie*».

⁸⁵ See Peyrache-Gadeau, 2006, 42 ff.

⁸⁶ See eg. the recent Cafaggi, 2004.

firms. If there is such interdependence, the network becomes an instrument of self-governance and performs a coordinating function. This happens when there are complementarities both among the material and among the immaterial resources which firms use in their productive cycle, and/or the intertwining between firms' property assets.

Next to these spontaneous articulations of firms across the territory, there are also examples of experimental agglomerations encouraged and supported by the States, such as the French *pôles de compétitivité*, introduced in 2004⁸⁷. The aim of these "competitiveness clusters" is to concentrate at the same location the talent present in public and private research units, teaching facilities and the expertise of business enterprises, in order to establish working relationships which develop a cooperative environment and promote partnerships within innovative projects. Researchers and enterprises are mobilised, in a public/private partnership, to work on new projects, resulting in innovative advances, economic efficiency and job creation, which should enable those players involved to attain leading positions in their field.

All these new production configurations have drawn new boundaries for the firms and set up new relationships between firms and local actors. Similar situations pose new opportunities for collective actors who should develop effective means of intervention at plant level, bargaining compromises adequate to the decentralisation process. Nonetheless, they have not fully accepted the challenge of bearing the burden of the consequences of these more recent developments. In such a context, restructuring processes have, sadly, shown how drastic the consequences on a territory can be when most of the economic resources and of the employment is dependent on one predominant firm⁸⁸.

However, these examples, although not always (yet) fully successful, and not easy to transplant automatically to other areas which do not benefit from the same characteristics, provide evidence of the mounting importance of the territorial level. This brings about a need to reconfigure industrial action and bargaining activity, following the new articulation of the levels of action, and avoid the risk of an ideological and symbolic defence of the national collective agreement, as it is the case in some countries. Even though industrial districts or *milieux innovateurs* cannot be created *ex nihilo*, they provide local actors, no matter where they are, with some good practices, which can constitute a valuable source from which knowledge could be attained. Firms continuously reconfigure themselves to adapt to the challenges of an international economy, reshaping their patterns of action and their interrelations with the territory. As they do so, one of the biggest difficulties today is to orchestrate, both at

87 For more information see: <http://www.competitivite.gouv.fr/>: "Un pôle de compétitivité est, sur un territoire donné : l'association d'entreprises, de centres de recherche et d'organismes de formation, engagés dans une démarche partenariale (stratégie commune de développement), destinée à dégager des synergies autour de projets innovants conduits en commun en direction d'un (ou de) marché(s) donné(s). Cette politique vise à susciter puis soutenir les initiatives émanant des acteurs économiques et académiques présents sur un territoire".

⁸⁸ It is however interesting to point out, as an unusual example of an attempt to counteract similar situations, the one which is mentioned in the FIAT Mirafiore case, where, even if it resulted in failure, concrete efforts were made to prevent subcontracting firms from being too dependent on only one big firm: "Agency for Automotive represents a first tentative to answer to the crisis projected by public and private actors in order to sustain territorial competitiveness, to make small and medium subcontractors free from the first producer fortune, and therefore in order to supply to sector's companies the possibility to react autonomously to Fiat Auto crisis".

spatial and temporal level, harmony between the actions or the decisions taken by transnational firms and the actions of workers' representatives, which up to today are limited in their action to the territory where the firm they work for have one of its (many) branches. Leaving aside here the role that EWCs can play to react to this situation⁸⁹, there is a need to provide adequate answers to the fast rhythm of change. As we have seen from the cases, there is a constant lack of anticipation, due also to the reluctance of firms to share information with workers.

In this context, the use of space and time becomes extremely important at territorial level. The initiative must be taken by trade unions, with the effective support of the local actors, through a wise use of social dialogue. The proposal which we advance here is therefore to build an "enlarged social dialogue" which should go beyond the traditional subjects, and involve a significant number of actors, since some innovative case studies have shown this to be extremely useful in anticipating and managing the constant change which firms undergo nowadays. The examples of spontaneous cooperation built upon a long-lasting tradition of trustful relations represent a good starting point for reflection, but it is also important here to advance new proposals which, partly benefiting from them, can be implemented in different contexts, where collaboration among the parties is much less developed. Moreover, it is important to decide which is the appropriate level of intervention: company level, or sectoral level.

6. Social Pacts and The Need For An Enlarged Social Dialogue

During recent years, the high intensity of business restructuring has laid emphasis on the power of firms to take decisions which are beyond the national regulations and the capacity of trade unions to influence managerial decisions effectively. As explained in the previous paragraphs, the erosion of the national level, in favour of both the international and the regional ones, has posed a twofold threat to the usual pattern of trade union action. Consequently, they have been obliged to elaborate simultaneous answers to two different problems: the process of internationalisation on one side, and that of decentralisation on the other. To add insult to injury, one would be tempted to say, they have had to articulate their responses in an era of constant decrease in unionisation rates, therefore with limited resources.

The increasing weakness of trade unions in representing workers requires some compromises and the possibility of conceiving a social dialogue enlarged to more actors than the traditional two. In addition to workers and employers, the territorial social dialogue should include the political players, together with the most relevant actors from civil society in the territory, since reaction to restructuring must be organised collaboratively, and well in advance, and include all the subjects which could be involved in its consequence: banks, ONGs, and more generally the various administrative bodies which normally deal with the consequences of structural adjustment of the economy and therefore of firms' organisation⁹⁰. This "enlarged social dialogue" could be developed not only at the national level – where it has already happened in some countries - but should be usefully extended to the territorial level in cases of corporate restructuring, in order to smooth the impact for the workers involved, but also to provide, well ahead, firms with all the assistance possible,.

⁸⁹ See e.g. Moreau, 2006b.

⁹⁰ For the concept of „enlarged tripartite dialogue”, see Moreau 2006c, here at 390 ff., and further references within it.

A promising reaction for trade unions in such a context is to resort to social pacts and bi-tripartite agreements as a way to restore, or to strengthen, relations with employers and public powers, at the same time trying to increase the number of institutional and non-institutional subjects which could have an interest in avoiding the negative effect of a restructuring of the territory. The history of social pacts has already shown that they allow for substantial involvement and sharing of responsibility by social partners and (sometimes) governments in negotiation and decision-making processes⁹¹. These agreements are linked to the decentralisation process emerging, or in some cases re-emerging, in several European countries such as Italy, Germany, Finland, The Netherlands, Spain and Portugal⁹². They have been used to regulate a variety of issues, being in some countries an intrinsic traditional feature of the regulation of social matters, in others either an evolution of the European Employment Strategy⁹³, or a response to specific problems. They present a bipartite, a tripartite or a mixed structure.

Bipartite means that the agreements are negotiated by workers and employees only, with very little involvement of the government, which intervenes only after agreement has been reached to provide the necessary support. The Netherlands are a good example, having had a durable tradition of social dialogue and negotiated economy – so called *overlegeconomie* – since the post-war period. The Netherlands increased its recourse to this form of negotiation during the 1990s as a reaction to international recession, which depressed the local economy. Following a tradition of non-intervention of the State, Dutch social partners agreed to a bipartite social pact called “A New Course”, characterised by a commitment to strong participation and to decentralisation of collective bargaining. One of the main achievements in this field was the Flexibility and Security Act inspired by a vanguard “Flexicurity” model *avant la lettre*, which allowed for flexibilisation of the employment contract and decentralised wage-setting procedures, together with a set of proposals to increase protection for workers involved⁹⁴. In 2002, in a very successful job growth context – much higher than the EU average – the social partners agreed on more coordinated decentralisation in collective bargaining, laying emphasis on the need for continuous investment in the capacity of the economy to adapt to rapid change (Collective Bargaining Agenda for the Years Ahead⁹⁵).

A peculiar feature of the Dutch system is the existence, since the post-war era, of a bipartite consultative body – the Labour Foundation (*Stichting van de Arbeid*⁹⁶) – which provides all the necessary support and expertise to the social partners in the preparation and signature of a social pact. Besides, there is also an important tripartite permanent advisory body – the Social and Economic Committee – *Sociaal-*

⁹¹ For a general overview, see Negrelli, 2001.

⁹² For a comprehensive reconstruction of the evolutions and achievements of tripartite pacts in a number of European and non-European countries, see Katz-Lee, *The New Structure of Labor Relations*, Cornell University Press, Ithaca and London, 2004.

⁹³ See De Schutter-Deakin, 2005.

⁹⁴ The Government took large inspiration from this document when it issued the 1999 Flexicurity Act; see: <http://eurofound.europa.eu/eiro/1999/01/feature/n19901117f.html>.

⁹⁵ The main aim was to face some still unresolved problems such as an insufficient rate of labour market participation and inadequate measures to help long-term unemployed, disabled and older workers to benefit from the general employment growth. For more information, see <http://www.ilo.org/public/english/dialogue/ifpdial/info/pacts/netherlands2.htm>.

⁹⁶ <http://eurofound.europa.eu/emire/NETHERLANDS/LABOURFOUNDATION-NL.html>.

*Economische Raad*⁹⁷ – that gives advice to the government on matters including social and economic policy⁹⁸. They are both very useful in the negotiation of social pacts.

As far as tripartite structures are concerned, Italy is one of the most renowned examples, with the government being greatly involved in the negotiation, the signing, the launching and sometimes the follow-up of social pacts⁹⁹. Even if tripartitism was developed already in the 1980s, it was during the 1990s that it reached its peak¹⁰⁰. Basically it is a method of shaping public policy and labour and social reforms through cooperation between the government and the social partners. In spite of the wide use of social pacts during the last twenty years, there is no formal provision regulating this activity: it relies on agreements negotiated by the parties each time. Social partners aside, actors involved in negotiations are normally the Prime Minister and the Ministers of Labour and of Economy. In addition, a tripartite representative body, the CNEL (National Committee Economy and Labour) is also involved with advice-giving and monitoring functions. Social Pacts were used mostly to react to both a critical economic situation characterised by high inflation, high public deficits and debt, high unemployment and labour market rigidities, and to the pressures arising from EU membership, urging Italy to reduce its budget deficit. Such very difficult choices could not be taken by the government alone, which then sought the social partners' support to implement measures painful for both firms and workers.

In Italy, parallel to this cooperation at national level, another very interesting practice, supported by the law, developed at territorial level. It has particular relevance in the context of this study, as it represents a usual, and to a certain extent effective, way of promoting that enlarged social dialogue of which mention has been made. In Italy, in spite of a long-lasting tradition of centralised social and economic policies, local social pacts developed at territorial levels and were explicitly sanctioned by the 1996 “Pact for Employment”, and then implemented by Law 662 of 1996. Localism and territorial autonomy were at the centre of this reform in which, under the heading “negotiated planning” (*programmazione negoziata*), a number of measures can be found¹⁰¹. Their targets are manifold: to enhance local entrepreneurship, to valorise local resources and capabilities, to create employment. The most noteworthy are the “territorial pacts” and the “area contracts”, aimed at promoting investment and employability in economically underdeveloped and depressed regions. They represent an important example of the trend of localisation of development policies – a phenomenon shared by other European

⁹⁷ It is composed of 33 members nominated by the employers, the employees and the Crown; see: <http://eurofound.europa.eu/emire/NETHERLANDS/SOCIALANDECONOMICCOUNCILSER-NL.html>.

⁹⁸ For more information in English, see Verhulp, 2005; Slomp, 2004.

⁹⁹ See Regalia-Regini, 2004; Caruso, 2001; *Id.*, 2005.

¹⁰⁰ One of the most important pacts is the 1993 social pact (so called *Protocollo Ciampi*) which focused on income policy, but most importantly included a new structure of collective bargaining on two levels, the national and company or territorial level and which is still in practice to date. This was followed by 1995 Agreement on Pension Reform, which was preceded by extensive consultation with the social partners. The 1996 “Pact for Labour” was signed against the background of two-digit unemployment rates and rigid labour market legislation identified as the main cause of unemployment. It raised consensus about the need to augment labour market flexibility with all the parties agreeing on the introduction of a new set of labour market legislation. It is also important as it sanctioned the “territorial pacts”, then introduced by Law n. 662 of 1996 (see below). Other achievements of this process of concertation are the 1998 Christmas Pact and the 2001 Pact for Italy. For more information see Caruso, 2001 and Regalia-Regini, 2004.

¹⁰¹ It is not possible to quote here the vast literature which has been developed on the subject matter during the last ten years, but for further references see Albi, 200; D’Arcangelo, 2003; Costantini, 2005.

countries – conceived against a background of decentralisation of collective bargaining, an accrued strategic view of the territory as a key element of competition, and the need for more labour flexibility. They cannot be considered simple labour policies as they represent a totally new approach to socio-economic problems – mainly of the South of Italy – characterised by a mixture of labour market initiatives, investments to foster local, urban and industrial development, and revitalisation of the concerned territory as a whole¹⁰².

Territorial pacts are very interesting experiences in the framework of the present research, as they are designed to foster development through co-operative actions carried out by a large number of social actors, thus giving rise to something similar to that “enlarged social dialogue” which has been proposed to react locally to restructuring processes. In fact, in the case of these pacts, concertation goes beyond the conventional triangle which characterises the traditional tripartite approach, as it encompasses a wider network of private and public local subjects: banks, chambers of commerce, non-profit organisations, etc. They jointly approach and discuss common problems of development of the territory and jointly fund the various measures on which agreement is reached. Most of these pacts, after being submitted to the CNEL – which is competent to recommend public funding – benefit from a financial contribution from the government¹⁰³. Even if they share some features of the industrial districts, they do not have the ambition to replicate their success, being mainly concerned with other possible forms of local development which can involve large firms as well as the development of policies apt to foster local traditions in the fields of agriculture, artistic heritage, environment, etc.¹⁰⁴

As far as area contracts are concerned, even if they share similar conceptual premises, they do not specifically aim to foster development in depressed areas, but to provide adequate means of reaction in areas where firms already exist but are facing a crisis situation. Therefore they are agreements signed mainly with the unions in order to limit collective redundancy through derogation to legal and collective provisions (especially wage reduction and more flexibility in the administration of the employment contracts). Unfortunately, despite - too¹⁰⁵?- high expectations, these contracts have not been effective in promoting local employment and revitalisation of depressed areas. According to recent studies, they ended up in an irreversible crisis¹⁰⁶. Failure was mainly due to an excessively centralised and *dirigiste* approach which has always characterised traditional State intervention in Italy, where the role played by the central government taking part in the political exchange with its own resources and thus somehow conditioning the results at local level, has been of primary significance. The

¹⁰² More specifically, „territorial pacts” consist of operative procedures and bargaining tools designed to promote the development of businesses, co-operatives and employment measures in a given area, through the use of productive and natural resources that characterise that area.

¹⁰³ In 2000, more than one hundred territorial pacts had been submitted to the National Committee for the Economy and Work (*Comitato Nazionale per l'Economia e il Lavoro* – the body competent to recommend public funding: CNEL), 71 for the South and 38 for the Centre-North. Ten of these pacts are “European pacts”, that is financed by special European funds. For some updated information on their diffusion and perspectives, see the website of the „Associazione Nazionale per il Coordinamento dei Patti Territoriali e dei Contratti d'area per lo Sviluppo Locale”, www.anpaca.it.

¹⁰⁴ See Guarriello, 2005.

¹⁰⁵ See D'arcangelo, 2003, §5 and 6.

¹⁰⁶ According to Costantini, 2005, 44: „Il contratto d'area appare in crisi irreversibile”, and further evidence and references within.

heavy bureaucratisation, which the process of being granted funds requires, resulted in too slow a reaction (let alone anticipation) to crisis situations, which demand a prompt response in order to be successful¹⁰⁷. In addition, research has shown that area contracts are too expensive: each new job would cost something between 100,000 and 150,000 Euros¹⁰⁸.

Territorial pacts on the other hand, even if they deserve some criticism, have been more successful¹⁰⁹. First of all, they are cheaper for public finances (an estimated cost of 69,000 Euros per each new job created¹¹⁰); secondly, the competence given to regions makes it possible to react more promptly to a crisis. However, a lot of scepticism about their future remains, since a clear indication of the subjects involved in this “negotiated planning”, and of the topics which can be dealt with, have not been provided, therefore creating great uncertainty among the parties. Without going into details here, reference can be made to recent studies, which emphasised the fact that the era of the “*programmazione negoziata*” as a whole is over, and that new instruments are coming after the federalisation of the country and the achievements and learning brought about by such practice. In this context great expectations are placed on the decentralisation of development policies and in the expansion of territorial welfare policies. As Regini put it¹¹¹, the future for decentralised collective bargaining could be in a “competitive solidarity”, in a system of agreements which should be laid down at local level to design the possible pattern of evolution of the territory, taking into consideration both social (interracial integration, training and education linked to the needs of the territory) and economic policies (facilitating access to credit, investing in infrastructures, simplifying administrative procedures, etc.).

What must be stressed in the interest of this paper is that in almost all of the Member States there have been some – more or less developed – practices of territorial regulation¹¹². Despite a flourishing period during the 90s which has been highlighted

¹⁰⁷ See Pichierri, 2001, 237 ff., here § 4.3.

¹⁰⁸ See Costantini, 2005, 44.

¹⁰⁹ For an accurate analysis of the impact of the territorial pacts in Southern Italy, where the majority of pacts concentrate (162 out of 230 pacts signed in Italy from 1996 to 2003 referred to Southern Italy), see Ministero delle Finanze, *La lezione dei Patti territoriali per la progettazione integrata territoriale nel Mezzogiorno*,

http://www.dps.mef.gov.it/documentazione/docs/patti/RICERCA_PATTI_TERRITORIALI.pdf, where it is stated that an evaluation of the impact of the territorial pacts is extremely difficult, and further analysis conducted on case studies is necessary: „*I risultati qui richiamati relativi all'efficienza e all'efficacia indicano chiaramente che lo strumento dei patti territoriali non ha dato risultati univoci riassumibili in un giudizio sintetico di successo o di insuccesso*”, p. 72.

¹¹⁰ Sales, 2003, 181 ff., here at 185.

¹¹¹ Regini, 2003, 83 ff., here at 103; for a similar vision, see also Regalia, 2003.

¹¹² Beyond the examples of bi-, and tripartite agreements just illustrated, reference should also be made to Spain, which can be referred to as a „mixed model” where social pacts are normally agreed between workers’ and employers’ organisations through interconfederal agreements. Their origins date back to the post-Franco era, in the 1970s, but they developed innovative features during the 90s, when a new kind of social dialogue was introduced. It dealt firstly with pension reform (In 1996 the *Agreement on the Rationalisation of the System of Social Security* was signed by the Government and the two largest workers’ organisations (the Confederation of Workers’ Commissions (CC.OO) and the General Workers’ Confederation (UGT)). Although the major principles of the pension system remained intact, the pact agreed on a change in the calculation of pension formula towards the reduction of both pension contributions and payments. Secondly, it also dealt with the wider issues of collective bargaining and labour market reform (Three pacts were signed in 1997 (*Interconfederal Agreement for Stability in Employment* (AIEE), *Interconfederal Agreement on the Coverage of Gaps “Vacíos”*, and *Interconfederal Agreement on Collective Bargaining* (AINC)). The latter represents a landmark for the future of bipartite

with reference to some countries – and even though practices of territorial regulation have always been rather precarious nowadays they seem to be dependent on occasional and unstructured intervention. Nonetheless, they prove the existence of some sort of dynamic reaction to the failure of the traditional centralised approaches to the social dialogue. This is due to the autonomy that, even if to different extents, local actors enjoy in the preparation and in the implementation of actions at territorial level. The territory as a place of social and economic regulation has then become a facilitating factor for the intervention of a number of actors, both private and public, providing for important support to projects aimed at improving local development.

The various instruments which have been developed across Europe show that the possibility of achieving the goals of local development is intimately linked both to the involvement of the local actors with their baggage of precious information, and to the attainment of their indispensable consensus. Indeed, as Casarosa stated:

“the local context, where work and social life overlap, is the place where the collective identity is produced and reproduced, mutual trust is reinforced, and a flexible and effective network of economic and cognitive relations, that supports the knowledge creation and diffusion processes, is strengthened”¹¹³.

When we look at the different practices and legal tools developed in the countries which are the object of our research, a number of instruments can be found, even if they rarely play a decisive role in the majority of the case studies; it seems that the interaction between the different actors varies on a case by case basis. If we then look at trade unions, their main interest appears to be that of creating the maximum degree of mobilisation among not only the workers, but also the local actors. Nonetheless, when the time comes to participate in joint meetings in order to find a shared solution to restructuring issues, there often seems to be a lack of real will to do so. On the other hand, local actors, even if the majority of cases show that they react quickly to the request for involvement from the unions, seem to lack initiative, and any pro-active, long-term, strategy to anticipate a crisis, or at least to set up programs and measures to prepare workers to face the risk of change, which is much more common nowadays than in the old Fordist economy¹¹⁴.

Nonetheless, as the experience of tri- and bi-partite agreements - for example of Italian “negotiated planning”- shows, there is ample margin for a search for commonly agreed solutions. Moreover, despite the majority of cases showing a lack of initiative from the parties, there are some very good practices of social partnership which indicate that significant progress can be accomplished.

collective bargaining by setting out a clear structure and the scope of collective bargaining. It clarified the roles of different levels of collective bargaining by addressing the problem of how to coordinate the different levels of collective bargaining. Moreover, the agreement expanded the issues to be dealt with through collective bargaining, which enhanced the influence of the social partners in the policy debate on labour market reforms.

¹¹³ Casarosa, 2007.

¹¹⁴ As for STMicroelectronic for example, it is stated that: „It’s an opinion shared both by trade unions and management that in Italy, particularly in Lombardia, public authorities take an interest only when a company goes bankrupt. [...] For this reason public intervention has never been formally requested, even if such a necessity has been considered in some Trade Unions’ bulletin [...] and also by the union representatives interviewed”.

7. The Role of Trade Unions in the Construction of an Enlarged Territorial Social Dialogue for the Anticipation and Management of Change: Main Lessons from the Case Studies.

As stated, cases show that social actors at territorial level do not have a real understanding and/or a real will, and/or a real strength to develop common strategies of intervention at local level. Local trade unions seem to be reluctant to abandon the usual conflictual scheme of action and, as said, consider it more important to involve local actors in the protest than really to cooperate with them¹¹⁵, or with the management, in order to find shared solutions to the problems created by restructuring. At the same time, local actors often appear to be fragmented in a myriad of different entities, frequently expressing dissimilar interests.

If we then move to the third actor - the enterprise - cases tend to show that often, even when good and cooperative relationships are part of the culture of the firm¹¹⁶, restructuring processes are likely to be presented to the workers and their representatives as something both inevitable and unforeseeable, something which is not the responsibility of the firm but that is caused by a variety of reasons independent from the management's will. In those firms where the attitude is traditionally more cooperative, dialogues open up at that point, and all the actors are involved in the management of the crisis; in cases where the conflict is more acute, trade unions use a variety of tools to try and force the firm to withdraw its decision of restructuring: the mobilisation of the workers and of all the social actors (in some cases even local churches¹¹⁷), and also with strikes and legal actions.

In any case, whatever the real reason behind the restructuring (shareholders' profits, management mistakes, economic change), whatever kind of industrial relation (conflictual or cooperative) is in place, the solution tends to always be the same; plant closures, collective dismissals, delocalisation, forced early retirements, etc., precisely what the firm originally wanted. Therefore, the role of the social dialogue seems to be diminished to a mere "*cachet*" for alleviating the original decision: essentially to try and convince the firm to reduce the originally declared number of dismissals.

However, there are also cases in which very positive results of this cooperative attitude are highlighted. In STMicroelectronic, for example, where workers and

¹¹⁵ See e.g. FIAT Mirafiori, where a tradition of conflictual industrial relations prevented an effective involvement of trade unions in the restructuring process: „both national and local trade unions could not significantly influence the way the crisis was managed. [...]A long phase of internal union division took place in 2002. All unions rejected an Industrial Restructuring Plan presented by FIAT. While Fim and Uilm signed a special agreement at factory level to manage workforce redundancies, Fiom refused to negotiate at factory level only. The local Metalworkers' Union divergence coincides with a period of friction among National Unions when Cgil refuse to sign the CCNL (Collective National Contract of Labour) renewal”.

See also the pitiless criticism of how Italian trade unions participated in the closure of the Alfa Romeo site of Arese, proposed by Ichino, 2005, ch. 2.

¹¹⁶ See e.g. STMicroelectronics, where there is “a cooperative system of industrial relations, even if not participatory in a strict sense. The management considers the involvement of Trade Unions as mediators between the firm and the employees important”.

¹¹⁷ See eg. Alcan Singen: „Via the activities of the union members and their public relations, it was possible to accomplish the biggest demonstration (3500 participants) in the history of the region. Furthermore, representatives of the local authorities, politicians and representatives of the two churches could be integrated into the process”.

employer, thanks to a long-lasting spontaneous tradition of cooperation, managed to face the crisis without any involvement of local authorities: “StMicroelectronics restructuring is a clear case of local governance of global dynamics, essentially based on a direct consultation and negotiation between management and unions without any intervention of local or public authorities”. Doubts were, however, raised and the main question is whether the result could have been better with direct and supportive public intervention. As admitted by union representatives: “*the Regione Lombardia is absent, without a tragedy there is no interest*”. Another positive feature of the case lies in the anticipation, which was also possible thanks to the “*union sensors*” (“*antenne sindacali*”) activated in the local “Strategic Committee”(“*Comitato Strategico*”) and by the information supplied by the European Work Council”. Similar Committees represent an innovative feature of the case, which should constitute good “food for thought” for future development of similar entities in all firms, as they have proved to be very useful. Nonetheless, to operate at their best, similar entities require, at least to a certain degree, the goodwill of the management to share information in good time with workers, and this can only be possible in a peculiar context, such as that of STMicronic, which also happened to be part of an industrial district, thus benefiting from all the added-values typical of a similar structure of firm organisation. To sum up, in the case of STM, strategic anticipation together with direct trade union involvement and the local process of governance managed “to transform the same nature of the restructuring from the initial request of downsizing to a reorganisation, with a new shift of work and reducing aged workforce in favour of younger people with updated skills and behaviours”.

Therefore, all was due only to social local concertation and nothing else. If it is important to highlight this very important role played by a trade union, the impression is nonetheless, as in other cases that the positive achievements were more the result of an interaction between a variety of factors which – luckily? – turned out to be an adequate response to a crisis. So, what is lacking even in those cases which can be regarded as successful for both the unions and the firms, is a well-planned system able to help face the increasingly common challenges of the present economic situation which forces firms to undergo continuous and persistent reorganisations¹¹⁸.

It thus follows that even STM, and other similar cases, do not really contradict the main findings of this paper, since from an attentive reading of the cases it emerges that there is a need for clearer paths of action for all the three main actors involved: firms, workers’ representatives at territorial/plant level, and local actors. The second impression is that there is a huge need for anticipation strategies. Firms should share information, trade unions should modify their often outdated pattern of action, while local actors should develop administrative procedures and a series of means of

¹¹⁸ There are other cases which present some features of cooperative attitude between the management and the unions, as further confirmation of the fact that the less the restructuring is left to the management only, the more the possibilities are to find valuable solutions which go beyond a mere reduction of jobs and/or a relocation. RKL for example shares a similar pattern with STM, as restructuring (although at the very end unsuccessful, as the firm was sold to an investment fund) was mainly carried on with great involvement of both the workers and the unions: „The major innovative feature of the process was the extraordinary commitment of the works council and of numerous employees. The establishment of a task force (experts from different divisions) and the support of external consultants were important measures to convince the shareholders of a continuation of the company. The local management has also supported this process as well as politicians and the economic development agency”.

intervention in order to both anticipate and manage a crisis. But the latter should plan this well in advance in a framework of strategic anticipation of change, while the unions should evolve to a more cooperative attitude, accepting to the risk of being more involved in the management from an early stage, therefore being made to a certain extent responsible in front of the workers for the eventual negative consequences of the actions taken by the firm. Of course, this requires the capacity for the collective actors to find their positions within the territory, and to structure themselves. A possible way of doing this is shown in the very instructive example provided by Zwickau, where early anticipation measures for future restructuring events have been put in place.

In 2002, following the adoption in Germany of EC-Directive on end-of-life vehicles (2000/53/EC), “the regional actors (IG Metall, Economic Development Agency, ARGE, politicians, VW Educational Institute in Zwickau) recognised the Directive as a chance to create new jobs and to improve the efficiency of the region Zwickau”. This was done through the creation of an *ad-hoc* “End-of-Life Vehicle Competence Centre Zwickau”. Analysis conducted in the Region, where the automotive industry is extremely strong (e.g., VW has large production sites), show that in the near future there will be an increase in the demand for firms recycling vehicle components. As employment in the car manufacturing industry is declining in the region and the spectre of delocalisation is there, unions, together with local authorities, developed the idea of setting up an entity which would allow, following this Directive, the creation of a model firm for recycling. Since the region has plenty of workers active in car manufacturing, the idea is ingenious: as they are able to build cars, they will quickly learn how to dismantle them, thus easily finding a new job, should the production of new cars decrease as foreseen.

The idea was originally conceived by the local trade union and then discussed with local public authorities, banks and private investment funds, as well as the VW Training Centre. The two main innovative aspects of the case are the “early identification of a key industry and the engagement of key persons as a constructive approach for a regional development”. Indeed, if there is something structured at the territory level, there is the possibility for the workers to have more chances of continuity of employment in the territory.

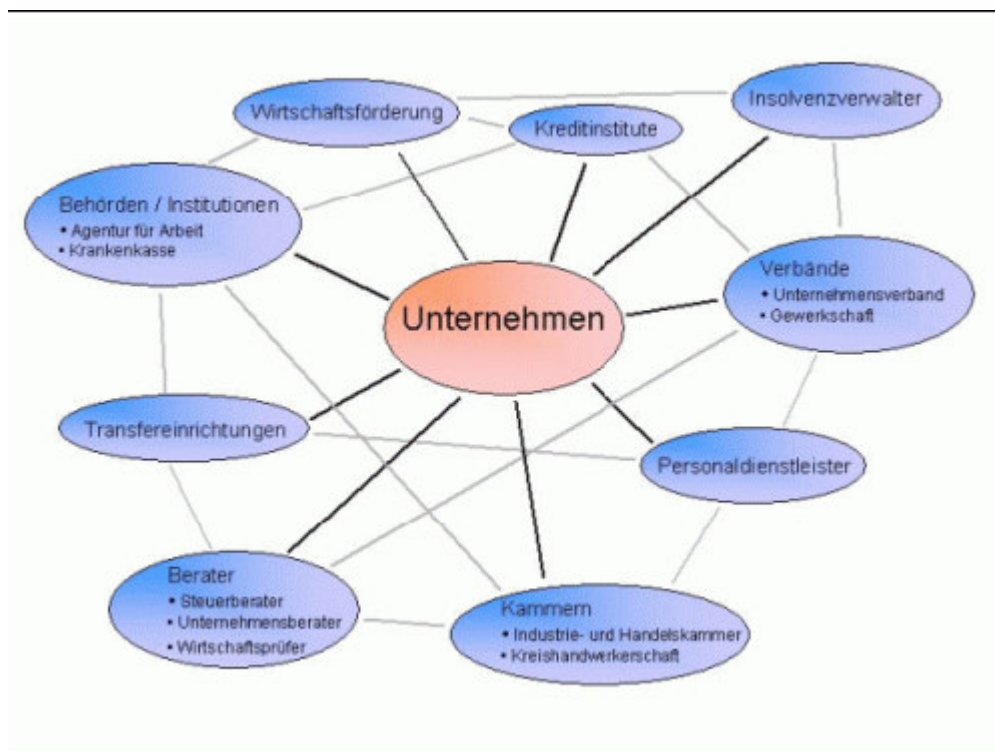
Another very interesting example comes from Ruhr Kristall Glas, a firm located in the region of Essen, in Germany. This case, in comparison to most of the others, is quite striking as it is characterised by a very effective social dialogue with a strong integration of the local and regional authorities which, together with other facilitating factors, allowed the originally planned dismissal of 300 workers to be avoided. However, the most innovative feature is the establishment in Essen of the “KomNet” (*Kompetenznetzwerk Unternehmenssicherung Essen*)¹¹⁹, (A Network of competence and safety policy for companies in Essen), composed of a number of experts “from various institutions such as public authorities, chambers of commerce and consultancies, as well as business development agencies, associations and credit institutions, which have cooperated for years on the sector of security policy for companies”. The firms of the area can ask for assistance and a pool of experts is at their disposal to effectively help them by providing support in cases of crisis. Moreover, it works as a “communicative alert system as soon as one of the members is informed about changes in the business”. Work councils and the local employment agency also cooperate

¹¹⁹ The KomNet has also a website providing a lot of information, in German only, concerning its composition and means of action: <http://www.unternehmenssicherung-essen.de/>.

directly with KomNet in order to find alternative solutions in crisis situations. This system, which is a peculiarity of the Essen region, puts the firm at the centre with all the local institutions around to give it support¹²⁰. This joint system of support for firms, which functions as an early alert system, represents probably the most adequate tool for the anticipation and management of change, and it is paradigmatic of the idea, advanced here, of the need for an institutionalised enlarged social dialogue. Although the case studies lack more specific details concerning the exact functioning and funding of this entity, it really seems to be the most effective solution developed to date.

What clearly emerges from the cases mentioned is, primarily, the need for an institutionalisation of a minimal framework for social dialogue at territorial level, with the trade unions active and propulsive in its construction, development and sustainment. Bi- and tripartite agreements, and, primarily, territorial social pacts – to which reference has been made in the previous paragraph – also constitute a relatively pioneering pattern of action, calling into cause a number of actors to set up an enlarged social dialogue, which nowadays seems to be the better instrument for reacting to the challenges posed by business restructuring. Cases show that whenever good social dialogue, conducted in good faith, with the counterpart not necessarily seen as an opponent but as a facilitating factor for the success of the restructuring, is achieved, solutions tend to be found more easily and are more satisfactory for all the parties. The Alcatel case, for example, even if in the end the results were rather modest, nonetheless highlights that the most innovative feature is the change of attitude of the management towards the trade unions, which during the period 2001-2005 was characterised by the

¹²⁰ A graphic to visualise this concept is provided:



“reconnaissance des partenaires sociaux, respect des prérogatives d’information consultation, développement progressif de pratiques de négociations collectives encadrées ou débouchant sur des accords”.

As a consequence, the restructuring was based on collective bargaining, as the parties got to know each other at regular meetings, and a collaborative climate developed. In particular, as key innovative features, mention should be made of the presence of recognised interacting actors in the firm, of a procedure constituting a set of steps and timed consultations, and of a certain degree of flexibility in combining the various favourable aspects¹²¹. In comparison with other firms, e.g. Sabaf, where industrial relations were from the beginning much more efficient, the main lesson of Alcatel is rather trivial. Even so, it is interesting, because it raises awareness concerning the crucial relevance of a good social dialogue at the firm level. Of course, Sabaf was a much more dramatic success, as far as cooperation among the various actors is concerned:

“Sabaf is a clear case of restructuring involving all the three represented interests of management, trade unions and local authorities”.

The success relies on Sabaf keeping its identity “based on social cohesion and employees’ participation”. At the same time, the firm managed to take advantage of the good relations with local authorities, something which turned out to be helpful when support was needed:

“the pro-active participation of local authorities was also stimulated by the behaviour of the firm, committing itself to urban re-qualification, transport and housing plans, and employees’ facilities”.

Moreover, Sabaf is also one of a few examples of effective anticipation strategy built upon transparent external communication policies adopted by the firm. Indeed, making workers and local authorities aware of the will to move to another nearby industrial district, explaining correctly and precisely the reasons for doing so well in advance – together with environmental commitment – also contributed to creating a good “social reputation” for the firm, whose decision to restructure the organisation when moving away from its original site allowed for maximising support and collaboration from both the unions and the local authorities. Of course, being in a very advantaged area of Italy (the rich and well developed North-East) and amongst industrial districts constituted key facilitating factors, but the strong social cohesion around the restructuring that the management was able to achieve represented the turning point for this very successful case.

¹²¹ My translation. Alcatel case reads as follows: « *L’on voit ici que les pratiques innovantes, pour se déployer, supposent réunies quelques conditions:*
o Des acteurs reconnus dans l’entreprise, qui se connaissent et peuvent entrer en interaction ;
o Du temps, ou du moins un certain déroulé d’étapes indispensables, permettant à une logique d’apprentissage de se déployer ;
o De la flexibilité, l’innovation étant plutôt la combinaison d’un certain nombre de facteurs favorables que l’invention de méthodes révolutionnaires ».

Conclusions

After this first step - which we have referred to as the development of an enlarged social dialogue at the level of the territory - a second and more demanding step should be taken to achieve effective social management of the consequences of restructuring events. This consists of putting the local actors and the territory at the centre of the employment policies in order for negotiations concerning employment to become more credible and successful. This implies enlarging the negotiation on employment, and focusing on the competences of the workers and their professional trajectories. Taking care of this need should become the primary concern of the local actors, giving raise to what could be defined as a “local responsibility” in the medium to long term. In some areas, as we have briefly indicated above (see § 5), such a pattern of action represents a traditional feature of the industrial districts, where farsighted policies aimed at investing in the employability of the workers of the area are implemented, so that firms always have at their disposal the workforce necessary to perform the more specialised activities carried out in the districts. In such a case, firms have a substantial interest in investing in training, since workers tend to remain attached to the territory and rarely move to other areas (which would otherwise constitute a waste of money from the companies’ point of view).

Nonetheless, similar initiatives in general enjoy the support of local administrations, constituting a typical investment in social policies. When these are made jointly with the companies active on the territory, the results can obviously be much greater. In order to extend similar initiatives in areas other than districts, clusters, *milieux innovantes*, and similar “special” regions, a realistic, even if difficult, proposal would be that of enhancing the specialisation of the firms, incorporating a number of measures which should be further discussed and developed. For example, by means of something like a “Permanent Regional Conference On Change” – thus somehow trying to partly replicate the positive ideas at the very basis of the EMCC – composed of representatives of the local unions and employers, together with a number of selected local actors. This regional conference should meet on fixed dates to discuss the feasibility of common actions for the territory, going beyond the coordination of training activities, and instead trying to develop a common vision with reference to all the multiple aspects which arise in the case of restructuring. As the management, and possibly the anticipation of such a complex event is extremely difficult, this will require identifying, equipping and legitimising the subjects of this structure and giving them the instruments to effectively coordinate the various actions.

The example of KomNet is very valuable. Such a proposal requires conferring more power and resources to the local level, but it does not mean only replicating the experience of the traditional “providential State”. Instead, it calls for a transfer to the local level of a series of reciprocally integrated competencies that allow for elaborating and implementing solutions adequate to the peculiarity of a specific territory. This implies the need to identify, also through the proposed Regional Permanent Conference on Change, those regional “productive profiles” which are more coherent with the given territory in order to facilitate the building of virtuous synergies, thus enhancing the construction of agglomerations of various kinds and intensity.

According to these ideas, which should of course be analysed much more deeply and made the object of further research, the territory could develop to become a pertinent level of social regulation in the context of business restructuring. Many issues

remain to be solved. Here I list some of them, not necessarily in order of importance. First, the heterogeneity of the actors, each one with different powers, visions and attitudes, a problem aggravated by the fact that they do not all have the same strength and visibility. Secondly, the lack of a tradition of strong territorial social dialogue in many countries puts doubts on whether it is a good idea to transplant the usual instruments of collective bargaining or if new forms should be developed, creating, at least in the beginning, more flexible structures of social dialogue. Thirdly, there is the urgency to find adequate economic resources to support similar initiatives. Last but not least, persuasive means to convince firms to accept this idea of an enlarged territorial social dialogue must be found, together with ways of binding them to the commitments undertaken.

Another challenging issue which requires consideration, is how this pattern of action should be organised, it is essential to determine if this duty should be given to the law (and then the level for intervention must be decided, either national or local) with its binding devices and legally enforceable sanctions, or to softer tools left to the agreement of the social partners together with some sort of institutionalised involvement of the public administration, mainly at territorial level.

Furthermore, should the model of Corporate Social Responsibility develop in this field, it would be the place to expect firms to spell out clearly their responsibilities and their role in the proposed enlarged social dialogue, committing them to act in good faith when engaging in a debate concerning the anticipation and management of change. At the same time, the CSR is too weak in this field and should be flanked by a set of minimal rules agreed at collective level with both trade unions and the local actors, since they could provide resources and expertise – as in the KomNet case – in exchange for their firm commitment to the duties agreed. Failure to comply with them could, for example, allow banks and public actors to break their engagements too, refraining from giving further economic support, or reclaiming that already given.

The first conclusions and proposals advanced here remain necessarily open and in need of much further analysis and testing on the ground¹²². They could be summarised as follows:

- As far as participation and representation are concerned, all the relevant territorial actors must be present in the process of restructuring. If certain actors are not represented during the restructuring process, their interests will not be taken into account and this may pose obstacles to the restructuring process and its perceived success.
- Both trade unions and local actors have to be flexible and willing to take up new roles in the anticipation and management of restructuring.
- Real and effective concertation, and not mere consultation, must be pursued within permanent and institutionalised structures where a successful and actual dialogue can be developed. Whatever the device created to manage the restructuring process, if it triggers negotiation, then it is a useful one.
- As for anticipation, territorial measures and instruments must be built up and used; development strategies, observatories, employment centres, etc. Once established, they will help not only to better manage each following

¹²² They are however consistent with some of the main findings of the MIRE project, which shares many common features with AgirE <http://www.mire-restructuring.eu/>.

restructuring case, but also to effectively anticipate them. On the individual level, although it is not possible to expressly train people for restructuring, focusing on the competences of the workers and their professional trajectories should become the primary concern of the local actors, giving raise to what could be defined as a “local responsibility”.

The many challenges still posed by business restructuring can be summarised with the words of Marie-Ange Moreau, the scientific coordinator of the AgirE project. In a recent essay, she explained that¹²³:

« C'est important de souligner la complexité des challenges en mettant l'accent sur la complexité des questions et interactions posées par les restructurations qui conduisent nécessairement à des réponses à de multi-niveaux et sur de multiples facettes, nécessitant des développements très construits de partenariats, ce qui suppose leur financement sur un temps long. »

¹²³ Moreau, 2007.

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