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Doc. Dr. Barbara Kresal



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Executive Summary

Slovenia experienced a double transition (political and economic) when in 1991 it became an independent State and subsequently went through a process of transition from its former socialist system to one based on private ownership and a market economy. Although the formal privatisation process has been concluded, further transformation of the ownership structure and economic restructuring is still in progress in Slovenia. Moreover the worldwide financial and economic crisis at the time of writing has caused Slovenia once again to be faced with a difficult economic situation, an increased number of redundancies and a continuing need to press ahead with the restructuring processes in different fields of economic activity.

In Slovenia GDP has been growing since the third quarter of 1993. GDP *per capita* was 5,450 in 1993, 10,858 in 2000 and 18,367 in 2008. As a result of the crisis, GDP growth noticeably decreased in the third quarter of 2008 and ended with a negative result in the fourth quarter of 2008; these negative trends continued in 2009.

In the early 1990s Slovenia was faced with a fall in the employment rate and a sharp growth in unemployment; but from the mid-1990s positive trends on the labour market could be observed (until the end of 2008).

In 2008 the employment rate was 68,8%. The main sector of employment in Slovenia is the services sector and the smallest sector is agriculture. The self-employed represent around 17% of the workforce. Slovenia has one of the highest employment rates for women in the EU and it has already reached the Lisbon target (over 60%). The employment rate for older people is very low (around 33%), one of the lowest in the EU (far below the Lisbon target), but it has slowly increased in recent years, partly due to pension reform.

Since the mid-1990s the unemployment rate has also been decreasing (until the end of 2008). Among the EU Member States Slovenia is one of the countries with a relatively low unemployment rate measured on the basis of the labour force survey (4.4% in 2008; the registered unemployment rate was 6.7% in 2008).

Since October 2008 the negative effects of the global financial and economic crisis on the Slovenian labour market can be observed. The number of persons in paid employment decreased. The registered unemployment rate reached 10.1% in November 2009 (9.3% for men and 11.2% for women). The change in economic activity during the current crisis was obviously reflected in the increase of unemployment. Among the reasons for becoming unemployed, bankruptcies and redundancy procedures have become more and more prominent while, especially at the beginning of the crisis, non-renewal of fixed-term contracts of employment was also a very important factor.

In 2009 there were 114,496 newly registered unemployed persons in Slovenia (61.7% more than in 2008). In 45,146 cases the expiry of fixed-term employment contracts was the reason for this increase (53.3% in comparison to 2008), whereas permanent redundancy or bankruptcy procedures were responsible in 31,620 cases (a 194.5% increase in comparison to 2008).

In restructuring, the question of how termination of employment is regulated is of central importance. Other issues related to employment relationships are also relevant, for instance,

employees' education and training, working time, the pay system, and so on. Many restructuring processes are continuing within the framework or as a result of insolvency proceedings. Restructuring can be connected with the transfer of undertakings or businesses or a part of it. Chapter 2 presents the legal framework in that regard and the actors involved in the restructuring process.

In Chapter 3 different measures and tools for anticipating and managing restructuring are analysed. Among those focusing on anticipation (Chapter 3.1.) are different sources of relevant statistical data, the early warning system - especially the central position of the Employment Service of Slovenia - and specific instruments applicable at company level.

There are many institutions in Slovenia which gather statistical data relevant for restructuring and prepare analyses and forecasts on the development of the economic situation, different sectors of activity, and employment and unemployment trends. Examples are the Statistical Office, the Institute of Macroeconomic Analysis and Development, and the Employment Service of Slovenia (Chapter 3.1.1.).

All employers in Slovenia are obliged to inform the public Employment Service of important employment decisions such as job vacancies, redundancies due to economic factors, and other key issues. Employers are obliged annually to inform the Employment Service of future prospects for new employment and redundancies during the current year. They have also to inform the Employment Service in writing of planned collective dismissals and send the relevant information well in advance. This early warning system ensures that there is additional time to support redundant workers prior to their unemployment or even prevent their unemployment through *inter alia* finding them new jobs and offering retraining programmes, and also ensures that the Employment Service can adjust its activities accordingly. (Chapter 3.1.2.)

At company level it can be observed that strategic planning and change management are already characteristics of many Slovenian companies. Human resource management is becoming more and more important. Many companies also put special attention within their strategic planning on longer-term planning of their employment and skills needs. They develop future jobs plans. In addition, fruitful social dialogue at enterprise level is one of the key factors in a successful continuous restructuring of the company. In Slovenia there is a dual-channel system of representation of workers' interests at enterprise level: besides trade unions there are elected workers' representatives (for example on works councils). The system of worker participation through works councils, as well as the information and consultation procedures with trade unions in cases of collective dismissals, can play an important role in anticipating the restructuring of companies. This makes it possible for the employees' side to have access to the relevant information and to actively participate *at an early stage* in resolving the problems, proposing alternative solutions, and taking account of the social consequences of the restructuring and the interests of the employees. (Chapter 3.1.3.)

In Chapter 3.2 various measures and instruments used in Slovenia for managing restructuring are analysed: they include the obligation to check whether there are alternatives to dismissal, paid time-off to search for new jobs, severance payments, follow-up of dismissed employees, transfer as a restructuring tool, protection of employees' claims in case of insolvency, unemployment benefit, active labour market policy measures, economic and regional development policy measures, and temporary employment measures as a response to the current crisis.

If restructuring is properly anticipated then companies use many different measures as an alternative to dismissal of redundant workers or at least minimise the number dismissed or the negative social consequences of dismissals. Examples are education, training and requalification of employees whose jobs will no longer be needed after restructuring; long-term career planning for employees; flexible working arrangements; negotiations on modernisation of the payment system within the company; new methods of work organisation (geographical flexibility, home- and tele-work, redeployment, etc.; assistance to employees in finding other suitable jobs or starting their own businesses); and long-term retirement planning. (Chapter 3.2.1.)

Prior to dismissal for economic reasons, the employer has to check whether there are alternatives: whether it is possible for the employees concerned to work under changed conditions or in other posts, or whether it is possible to further train or retrain the employee for the work she or he carries out. If such a possibility exists, the employer has to offer the employee a new (changed) contract of employment. The employer can also offer a dismissed employee a new employment contract with another employer during the notice period. These are two instruments aimed at encouraging and facilitating mobility of workers within and between companies, which can be important in management of restructuring. (Chapter 3.2.2.)

In Slovenia there is a legal obligation for the employer to offer dismissed employees time off (minimum two hours per week) to search for a new job during the period of notice (Chapter 3.2.3.). An employee dismissed for economic reasons is entitled to a severance payment; the minimum amounts are prescribed by the Employment Relationships Act and depend on the length of the worker's employment (Chapter 3.2.4.). In cases of collective dismissal, the dismissed employees have a special preferential right to re-employment if the employer needs new employees within one year of the dismissals (Chapter 3.2.5.).

One of the measures used by companies for managing restructuring is transfer of a part or parts of the undertaking or business that are not considered to have a productive or strategic role in the future development of the business. Companies sometimes offer to workers due for redundancy the opportunity of a buy-out of a part of the company's business as an alternative to dismissal. (Chapter 3.2.6.)

In case of insolvency, employees' claims are additionally protected by a privilege and by a guarantee through the Guarantee Fund. The dismissed employee can receive a maximum of four-and-a-half minimum wages out of the Fund. (Chapter 3.2.7.)

Employees dismissed for economic reasons have the right to unemployment benefit if they meet prescribed criteria (Chapter 3.2.8.). The unemployed person has the right to participate in different active employment policy programmes (Chapter 3.2.9.). In addition there are different measures within economic and regional development policies which influence directly or indirectly the management of restructuring within the company; for example, a company in difficulty can receive State aid (a loan, grant, interest rate subsidy, financial investment, among others) if it prepares an appropriate restructuring strategy (Chapter 3.2.10.).

Slovenia introduced different measures to limit the negative effects of the current crisis. Some special anti-crisis measures were explicitly focused on the labour market and employment-related issues. Among others, two temporary measures aimed at preserving existing jobs were introduced: partial subsidy for shorter working hours (Chapter 3.2.11.) and partial reimbursement of payment compensation during temporary lay-offs (Chapter 3.2.12.).

Restructuring that is not properly anticipated can have painful effects, especially on employment, working conditions and regional economies. Poorly managed restructuring may result in a loss of image for the company or the entire sector, and create a general mood of resistance to change, while well-managed restructuring can bring about new challenges and opportunities. The success of the operation can be measured, on the one hand, by enhanced competitiveness and the ability to innovate on the part of the companies or within the sector concerned and, on the other, by the number of jobs safeguarded or created and the successful management of adverse social repercussions (European Commission 2009a, p. 8).

The most important future challenges for socially sensitive and effective restructuring in Slovenia are the following:

- *To find an adequate equilibrium between employers' and employees' interests in the Slovenian legal regulation governing dismissal for economic reasons and, within that, collective dismissals.* This regulation has to follow the “flexicurity” principles.
- *To strengthen the importance of education and training for the employees.* The lifelong learning concept as an element of flexicurity policies is a necessary precondition for achieving better employability of the workers on the one hand and greater competitiveness of companies on the other.
- *To further develop active labour market policy in Slovenia.* Slovenia's expenditure on active labour market policy programmes has been relatively low in recent years and below the EU average. Even so there was an active labour market policy response to the crisis, as the number of participants in programmes increased more than the number of the unemployed in 2009, although their share is still low (IMAD 2009b, p. 16-18).
- *To develop further and strengthen social dialogue at enterprise level,* especially during, or when anticipating and preparing for, restructuring.

Socially sensitive restructuring, which in the long run is the only workable approach to successful restructuring, can only be realised if it is based on fruitful social dialogue and flexicurity principles.

Introduction

The European Commission defines the term 'restructuring' as "a modification of a company's workforce that affects both the qualitative (skills and qualifications required) and quantitative features (number of jobs)" (European Commission 2009a, p. 8). Often the term 'restructuring' is used as another word for downsizing and collective dismissals; or it is understood as an economic necessity which will necessarily cause termination of employment for many workers or worsening of their working conditions. This paper addresses the social and employment aspects of restructuring.

Slovenia experienced two major changes when in 1991 it became an independent State and subsequently went through a process of transition from a socialist system to one based on private ownership and a market economy.

Although the formal privatisation process has been concluded, further transformation of the ownership structure and economic restructuring is still in progress in Slovenia.

Globalisation and changing markets, technological development, aging of the population and the challenge of climate change are forcing companies into continuous restructuring and adjustment. The current financial and economic crisis has further amplified the need for such a flexible approach.

As a consequence of the current crisis, Slovenia is once again faced with a difficult economic situation, an increased number of redundancies and a constant need to address and monitor the restructuring processes going on in different fields of economic activity.

1.1. Economic background and current trends

Slovenia experienced a double transition (political and economic) when in 1991 it became an independent State and subsequently went through a process of transition from a socialist system to one based on private ownership and a market economy, a process which had started already in the former Yugoslavia at the end of the 1980s..

The main features of the transition were the privatisation process; restructuring of the economic sector; technological and organisational rationalisation; and introduction of measures to reduce production costs and increase the competitiveness of the Slovenian economy, among them reduction of labour costs, reduction in the number of employees, restrictive wage policy, and others.

This double transition in Slovenia led in the short term to falls in gross domestic product (GDP), employment and investment, mass unemployment and high inflation which however were followed by a pick-up in economic activity as early as 1993 (Han ek (ed.) 2000, p. 73), from the third quarter of which year GDP has been growing. *Per capita* GDP was €5,450 in 1993, €8,101 in 1995, €10,858 in 2000, €14,369 in 2005 and €18,367 in 2008. Annual real growth rates of GDP were 2.8% in 2003, 4.3% in 2004, 4.5% in 2005, 5.,8% in 2006, 6.8% in 2007 and 3.5% in 2008.

Table 1: GDP in €m and GDP *per capita* (€) in Slovenia, 1993-2008

	1993	1994	1995	1996	1997	1998	1999	2000
GDP per capita (€)	5,450	6,115	8,101	8,431	9,034	9,715	10,486	10,858
GDP €m	5,989	7,732	10,294	11,866	13,508	14,969	16,807	18,481
	2001	2002	2003	2004	2005	2006	2007	2008
GDP per capita (€)	11,441	12,281	12,900	13,599	14,369	15,467	17,123	18,367
GDP €m	20,654	23,128	25,114	27,073	28,750	31,050	34,568	37,135

Source: Statistical Office of the Republic of Slovenia (Statistical Yearbook 2009, p. 445); www.stat.si.

In 2008, as a result of the financial and economic crisis annual growth in GDP, which at 5.6% was strong in the first half of the year: 5.6%), noticeably decreased in the third quarter to 3.9 % and then became negative in the fourth quarter at -0.8%. This was the first decrease in GDP since the end of 1993. In 2009 the negative trend in GDP real growth continued: -8.2% in the first quarter of 2009, -9.2% in the second quarter, and -8.3% in the third quarter.

Table 2: GDP real growth in Slovenia (in %), 1993 – 2009

	1993/II.Q	1993/III.Q	1996	1997	1998	1999	2000	
GDP real growth	-0.1	4.7	3.6	4.9	3.6	5.4	4.4	
	2001	2002	2003	2004	2005	2006	2007	2008
GDP real growth	2.8	4.0	2.8	4.3	4.5	5.8	6.8	3.5
	2008/I.Q	2008/II.Q	2008/III.Q	2008/IV.Q	2009/I.Q	2009/II.Q	2009/III.Q	
GDP real growth	6.8	5.4	3.6	-0.8	-8.2	-9.2	-8.3	

(legend: Q – quarter of the year)

Source: Statistical Office of the Republic of Slovenia (Statistical Yearbook 2009, p. 446); www.stat.si.

The autumn 2009 projections from the Slovenian Institute of Macroeconomic Analysis and Development (IMAD) predicted that in 2010 and 2011 economic growth was set to recover gradually to 0.9% and 2.5% respectively.

Table 3: Forecast of the main macroeconomic aggregates (IMAD, Autumn 2009)

	2008	2009	2010	2011
GDP real growth rates in %	+3.5%	-7.3%	+0.9%	+2.5%
GDP €m, current prices	37,135	35,870	36,386	38,058

Source: Institute of Macroeconomic Analysis and Development – IMAD (Autumn forecast of economic trends 2009, p. 5); <http://www.umar.gov.si>.

Especially during the period 1995–2008, economic growth in Slovenia was stable, with an average of slightly over 4%. The Slovenian economy is open, and levels of internationalisation, measured by the average share of exports and imports in gross domestic product (GDP), increased from 52% to 70% between 1995 and 2008. Economic growth higher than the EU average has made possible a gradual decrease in Slovenia's development lag. Thus in 2007 Slovenia's *per capita* GDP reached 89.2% of the average of the EU-27, expressed in terms of purchasing power. This placed Slovenia in 16th place in the EU. (Pavliè Mo ina, Prešeren (eds.) 2009, p. 41)

Slovenia is increasingly becoming a service economy. In the period 1995-2008 the structure of the Slovenian economy was marked by the growing importance of the service sector, which in 2008 accounted for 63.7% of added value, an increase of 3.3 percentage points compared to 1995. A relatively high rate of added value has also been created by the industrial sector (25.1% in 2008), the most important being manufacturing (22.1%). Agriculture, which has declined considerably as an element in the economic structure, accounted for a mere 2.3% of added value (compared with 4.4% in 1995). (*Ibid.*, p. 44)

In the manufacturing sector technology-intensive production activities are becoming more and more important. The combined shares of the chemical, electrical equipment, machinery and transport industries, which, according to OECD classifications qualify as highly and moderately technology-intensive activities, have risen from 33.7% in 1995 to 42.2% of added value in the manufacturing sector. (*Ibid.*, p. 44-46)

The structural shifts in services indicate an increase in the importance of knowledge-based services (telecommunications, business and financial services), which were the fastest growing market services during the past decade. In 2008 they represented around 17% of the added value of the Slovenian economy. Furthermore, tourism presents an important development and business opportunity for Slovenia and could become one of the leading sectors of the Slovenian economy in the next few years. (*Ibid.*, p. 44-47)

In Slovenia small- and medium-sized enterprises (SMEs) play a key role in creating new jobs, contributing to a more competitive environment and generating considerable income and added value for the whole economy. They account for the largest share of the service sector, where they provide the most jobs.

Prior to Slovenia's independence the driving power of the country's economic development lay in large companies. However, the developments after 1991 brought about an increase in the number of companies and a shift in their size structure in favour of small businesses. In the period 2003-2008 the number of companies increased by 20% to 112,026, that is by 4% per year on average. Most new companies were created in the manufacturing and business services sectors. In 2008 the share of SMEs in employment was 66.4%. (*Ibid.*, p. 49-50)

Table 4: Number of employees per sector in 2008

	'000	%
Farming, hunting, forestry, fisheries	86	8.6
Mining, manufacturing, energy	252	25.5
Construction	90	9.1
Trade and repair services, tourism, traffic and communications	219	22.1
Financial intermediation, real estate, business services	141	14.2
Other service activities	203	20.5

Source: Statistical office of the Republic of Slovenia; www.stat.si.

During the period of favourable economic conditions, Slovenia achieved considerable results in terms of economic and social development, yet did not take sufficient advantage of that period to implement the structural changes needed to attain the strategic development goals as defined in Slovenia's Development Strategy (Government of the Republic of Slovenia, 23. 6. 2005). During the period of favourable economic trends (2005–2007) the negative structural drawbacks - for example the unfavourable structure and consequently inadequate competitiveness of the economy and the outdated systems of social protection - were not clearly evident. Under the conditions of global economic recession, however, given the structural weakness of its economy, Slovenia is expected to experience major difficulties in revitalising the economy and preserving the population's welfare. In addition to the measures necessary for immediate mitigation of the negative impacts of the economic crisis, it is therefore crucial that *more radical structural adjustments be made* to allow the process of real convergence to continue. Moreover these adjustments need to be designed so as to facilitate a response to future challenges, particularly in terms of population ageing, energy-related issues and environmental protection. (Development report 2009, p. 9)

1.2. Characteristics of the Slovenian labour market

In the early 1990s, following the transition Slovenia was faced by a fall in the employment rate and a strong increase in unemployment: in 1989 the registered unemployment rate was still 2.9% but then it increased, first slowly to 4.7% in 1990, then sharply in 1991 to 8.2% and thereafter to 11.5% in 1992 and 14.4% in 1993.

From the mid-1990s the employment rate increased and the unemployment rate decreased (right up until the end of 2008). In 2000 the employment rate was 62.9% and in 2008 68.8%. Slovenia has one of the highest employment rates for women in the EU and has already reached the Lisbon target (over 60%). On the other hand the employment rate for older people is very low (around 33%), one of the lowest in the EU (far below the Lisbon target), although lately it has slowly increased, partly due to pension reform.

Table 6: Employment rates in Slovenia (%), 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Employment rate All (% population aged 15-64)	62.9	62.2	62.8	63.8	63.4	62.6	65.3	66.0	66.6	67.8	68.6
Men	67.2	66.5	67.2	68.6	68.2	67.4	70	70.4	71.1	72.7	72.7
Women	58.6	57.7	58.4	58.8	58.6	57.6	60.5	61.3	61.8	62.6	64.2
Employment rate All (% population aged 15-24)	37.5	34.0	32.8	30.5	30.6	29.1	33.8	34.1	35.0	37.6	38.4
Employment rate All (% population aged 25-54)	81.6	81.7	82.6	83.6	83.4	82.5	83.8	83.8	84.2	85.3	86.8
Employment rate All (% population aged 55-64)	23.9	22.0	22.7	25.5	24.5	23.5	29.0	30.7	32.6	33.5	32.8

Source: Eurostat; European Commission 2009: *Employment in Europe 2009*, p. 179.

The main sector of employment is the services sector and the smallest part represents the agriculture sector. The self-employed represent around 17% of the work force.

Table 7: Employment in services, industry and agriculture (% of total employment), 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Employment in Services (all)	48.9	49.9	50.6	51.1	52.8	53.6	54.5	54.9	55.8	56.3	56.8
men			42.4					45.1	45.8	46.2	
women			60.5					66.6	68.3	68.9	
Employment in Industry (all)	38.1	37.8	37.6	37.5	36.3	35.8	35.3	35.1	34.7	34.7	34.6
men			46.1					44.9	44.1	45.1	
women			27.4					23.3	22.4	21.6	
Employment in Agriculture (all)	13.0	12.3	11.8	11.3	10.9	10.5	10.2	10.0	9.5	9.0	8.6
men			11.5					9.9	9.7	8.7	
women			12.1					10.1	9.4	9.5	

Source: Eurostat; European Commission 2009: *Employment in Europe 2009*, p. 179.

Among the EU Member States Slovenia has one of the highest proportions of workers employed on fixed-term contracts (17.4% in 2008); the share of part-time workers is also increasing steadily (9% in 2008).

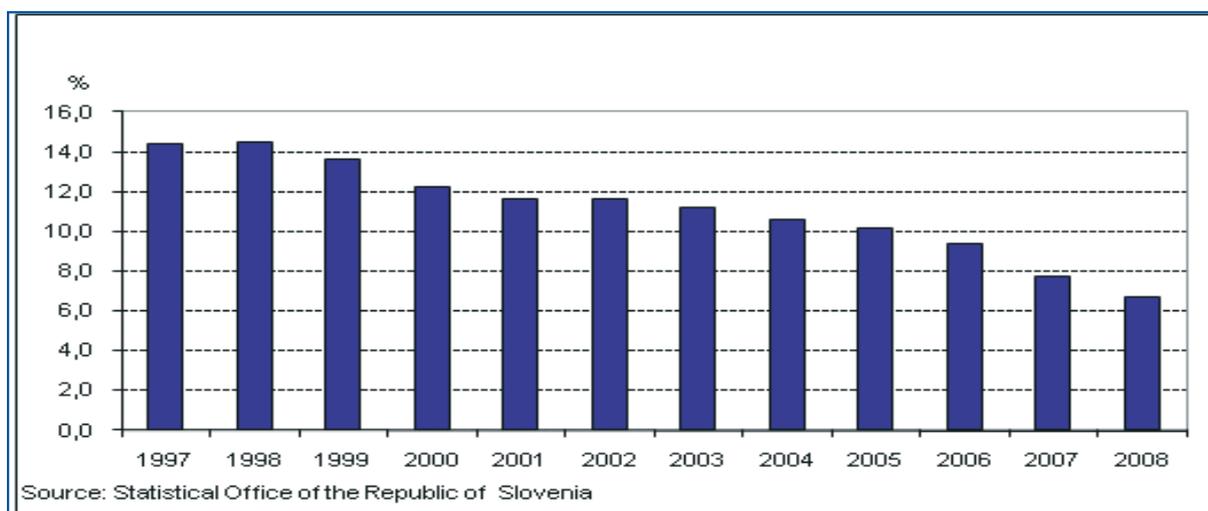
Table 8: Share of part-time and fixed-term contracts in total employment (%), 2000-2008

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Part-time employment	6.5	6.1	6.1	6.2	9.3	9.0	9.2	9.3	9.0
Part-time (Men)	5.3	5.0	4.9	5.2	7.9	7.2	7.2	7.7	7.1
Part-time (Women)	7.8	7.4	7.5	7.5	11	11.1	11.6	11.3	11.4
Fixed-term contracts	13.7	13.0	14.3	13.7	17.8	17.4	17.3	18.5	17.4
Fixed-term (Men)	12.7	12.1	12.6	12.6	16.7	15.7	15.5	16.5	15.3
Fixed-term (Women)	14.8	14	16.1	14.9	19.1	19.3	19.3	20.8	19.7

Source: Eurostat; European Commission 2009: *Employment in Europe 2009*, p. 179.

The highest registered unemployment rate was between 1993 and 1998 (around 14.5%). It has been steadily decreasing since then: 12.2% in 2000, 10.2% in 2005, 6.7% in 2008. (Employment Service of Slovenia, www.ess.gov.si).

Chart 1: Average registered unemployment rate (%), 1997-2008



The unemployment rate measured on the basis of the labour force survey (according to the ILO and EU standards) was 9.1% in 1993 and around 5-6% during the period 2000-2008 (Employment Service of Slovenia, www.ess.gov.si). Among the EU Member States, Slovenia is one of the countries with a relatively low unemployment rate measured on the basis of the labour force survey. In 2008 the unemployment rate stood at 4.4% in Slovenia; only Denmark (3.3%), the Netherlands (2.8%) and Austria (3.8%) had lower unemployment rates.

Table 9: Unemployment rates (total, youth, long-term) – Comparison between Slovenia (SI) and EU, 2000-2008

	2000	2005	2006	2007	2008
Unempl. rate (% labour force 15+) SI	6.7	6.5	6.0	4.9	4.4
Unempl. rate (% labour force 15+) EU-27	8.6	8.9	8.1	7.1	7.0
Youth unempl. rate (% labour force 15+) SI	16.3	15.9	13.9	10.1	10.4
Youth unempl. rate (% labour force 15+) EU-27	17.3	18.3	17.0	15.3	15.4
Long-term unempl. rate (% labour force 15+) SI	4.1	3.1	2.9	2.2	1.9
Long-term unempl. rate (% labour force 15+) EU-27	4.0	4.1	3.7	3.0	2.6

Source: Eurostat; European Commission 2009: *Employment in Europe 2009*, p. 155-183.

The main problems are: high unemployment rates among older people, people with disabilities and other vulnerable groups; a quite high unemployment rate among young people; a high percentage of long-term unemployed; the high unemployment rate for less educated people; and the fact that the share of unemployed women has also grown steadily since the 1990s (Cvetko/Kavar Vidmar/Kresal 2007, p. 13-14).

Table 10: Composition of long-term unemployment (1 year and over) - average values 2005–07 (%)

	Males	Females	Youth (16-24)	Prime age (25-54)	Older workers (55-64)
AT	27.3	25.6	14.1	28.9	58.2
DK	20.1	20.1	na	20.9	45.4
FI	27.6	21.2	5.6	28.1	49.3
SE	16.2	12.4	4.7	18.4	30.8
SI	47.8	47.1	34.4	51.0	64.8
EU	44.5	44.5	28.8	48.0	63.0

Source: DG EMPL calculations based on EU LFS (Employment in Europe 2009, p. 77).

Table 11: Registered unemployment – characteristic groups, 1998-2008

	Structure in %							
	Registered unemployment rate (all)	Under 26 years of age	First job seekers	Women	Unemployed for more than 1 year	Without any vocational qualifications	Over 50 years of age	Disabled
1998	14.5	26.3	18.1	49.9	61.7	46.9	21.8	9.9
1999	13.6	25.8	18.7	50.6	63.7	47.5	18.2	12.5
2000	12.2	23.4	17.9	50.7	62.9	47.2	27.5	16.1
2001	11.6	24.1	18.8	50.8	58.9	47.0	27.0	18.3
2002	11.6	24.0	19.6	51.2	54.4	47.0	25.4	18.3
2003	11.2	26.1	23.2	52.8	48.6	44.2	21.4	10.7
2004	10.6	26.2	25.2	53.1	46.2	41.6	21.0	9.2
2005	10.2	24.2	24.3	53.8	47.3	40.8	22.7	9.9
2006	9.4	21.2	22.3	54.8	48.8	39.3	25.4	10.9
2007	7.7	16.7	19.4	54.9	51.2	39.3	31.1	13.8
2008	6.7	14.4	16.9	52.8	51.1	40.1	30.6	16.8

Source: Employment Service of Slovenia (www.ess.gov.si).

During the 1990s it was mostly those industries employing male labour (e.g. heavy industry and construction) that were failing or restructuring. In the last decade the industries employing a mostly female labour force (e.g. textiles and other light labour-intensive industries) have been experiencing problems. This is why in the present decade the registered unemployment rate for women has been decreasing more slowly than the rate for men. (Han ek, et al. (eds.) 2009, p. 22).

Since October 2008 the negative effects of the global financial and economic crisis on the Slovenian labour market can be observed. The number of persons in paid employment in Slovenia decreased in the summer months, at the end of 2008 and during 2009. In November 2009 the registered unemployment rate reached 10.1% (9.3% for men and 11.2% for women) (www.stat.si).

The second half of 2008 saw a reduction in overtime work in the autumn months, some enterprises introducing shorter working hours following a drop in orders, while the end of the year was already marked by increased layoffs and non-extension of fixed-term employment contracts. The number of people in employment was declining in most private sector activities, except in the supply of electricity, gas, steam and water. The largest decline in the number of people in

employment and overtime work was recorded in manufacturing and construction. The decline in the number of employed persons in manufacturing accounted for nearly two-thirds of the total decline in employment from October 2008 to March 2009. (IMAD: impact of the Economic Crisis on the Labour Market in Slovenia, p. 3-4, 7-8).

Table 12: Changes in the number of persons in employment in 2007 and 2008 and in the first quarter of 2009, by activity

	Growth rates, in %					Difference in No. (1,000)	
	2007/2006	2008/2007	X08/X07	XII08/ XII07	III09/ III08	X08-XII 07	III 09-X 08
PERSONS IN FORMAL EMPLOYMENT, TOTAL	3.5	3.0	2.7	1.8	-0.9	20.8	-22.1
A. Agriculture, forestry and fishing	7.1	-1.8	-0.9	-1.0	-7.4	-1.8	-1.1
B. Mining	-5.0	-5.2	-7.0	-8.0	-8.1	-0.2	-0.1
C. Manufacturing	0.9	-0.5	-1.4	-3.2	-7.7	-2.4	-14.3
D. Electricity, gas, steam and air conditioning supply	0.7	-1.1	-0.8	0.0	2.6	0.1	0.1
E. Water supply, sewerage, waste management and remediation activities	4.7	4.7	4.4	4.5	2.7	0.4	0.0
F. Construction	12.9	12.2	11.7	9.5	3.9	10.0	-4.7
G. Wholesale and retail trade, repair of motor vehicles and motorcycles	3.4	3.5	2.8	2.0	0.5	2.5	-1.2
H. Transportation and storage	5.3	5.4	4.6	3.2	-0.7	1.7	-1.4
I. Accommodation and food service activities	3.7	1.7	2.6	2.3	1.2	1.0	-0.4
J. Information and communication	6.3	4.8	4.7	4.9	4.1	1.0	0.2
K. Financial and insurance activities	3.4	4.2	4.7	4.0	2.9	0.8	0.1
L. Real estate activities	8.6	9.6	12.8	11.3	7.3	0.5	0.0
M. Professional, scientific and technical activities	6.4	7.1	7.1	7.7	5.7	2.6	0.2
N. Administrative and support service activities	8.7	5.2	6.6	5.0	-2.0	1.7	-1.4
O. Public administration	-0.3	1.3	1.1	0.3	1.1	0.2	0.2
P. Education	0.7	1.5	2.1	2.4	2.6	1.1	0.9
Q. Human health and social work activities	0.8	2.7	2.1	3.0	2.3	0.7	0.8
R. Arts, entertainment and recreation	4.1	6.5	5.5	5.1	1.9	0.3	0.1
S. Other service activities	1.8	1.3	2.2	2.3	4.9	0.6	0.1
T. Activities of households	0.8	6.4	9.2	10.4	10.3	0.1	0.0

Source: Institute for Macroeconomic Analysis and Development (IMAD) - Economic Issues 2009: Impact of the Economic Crisis on the Labour Market in Slovenia, p. 8.

In the first half of 2009 enterprises still mostly responded to the economic slowdown by reducing overtime work and shortening working hours rather than cutting jobs. The average drop in the number of persons in employment was thus relatively small (--1.2%) in the first half of 2009 compared with the first half of the previous year. The largest drop was recorded in manufacturing (8.3%). The majority of job losses were in the manufacture of metal products, other machinery and equipment, in wood processing, and in the manufacture of electrical appliances, clothing and textiles. The number of employed persons was also much lower in agriculture (by 6%) and mining (by 7.5%) than in the previous period, restructuring in those sectors having already been under way for several years. (IMAD 2009a, p. 26-28)

During the period October 2008 – January 2010 a total number of 58 cases of restructuring in Slovenia was recorded by the European Restructuring Monitor (ERM). Job reductions were announced in 54 cases, affecting 12,811 workers, and in the four remaining cases (6.9% of all cases in that period) job creation was announced, 384 new jobs being created. The majority of cases (63.8%) involved internal restructuring under which 6,625 workers were expected to be dismissed. The rest involved bankruptcy or closure (25.9% of all cases in that period) under which 5,701 jobs were expected to be cut; and offshoring or other physical moves (3.4%) under which 485 jobs were expected to be cut. These are only limited data, since not all restructuring cases in Slovenia were registered by the ERM, but only the more important ones that attracted received media attention. Nevertheless the data show that bankruptcies and closures of enterprises represent now, during the crisis, a much higher and significant share of restructuring processes than before and that they affect a significant number of workers, totalling 44.5% of all planned job reductions in the restructuring cases reported by the ERM. (European Restructuring Monitor – www.eurofound.europa.eu/emcc/erm)

Table 13: Planned job reductions and planned job creations due to restructuring in Slovenia, 2006-2009

	2006 (no. of cases)	2007	2008	2009
Planned job reductions (total)	4165	1388	6324	9623
Due to internal restructuring	2956 (9)	984 (6)	3612 (15)	4515 (28)
Due to bankruptcy/closure	1115 (6)	404 (2)	2342 (9)	4993 (13)
Other reasons	94 (2)	0	370 (1)	115 (1)
Planned job creation (total)	1110 (5)	6288 (14)	2867 (13)	384 (4)

Source: European Restructuring Monitor – ERM (www.eurofound.europa.eu/emcc/erm)

The change in economic activity during the current financial and economic crisis was obviously reflected in the *increase in the number of registered unemployed*. Among the reasons for becoming unemployed, bankruptcies and redundancy procedures have become more and more prominent; at the beginning of the crisis non-renewal of fixed-term contracts of employment was also a very important factor.

In 2008 70,786 unemployed people newly registered with the Employment Service of Slovenia. The largest category of new registrations in 2008 was that of people whose fixed-term employment had come to an end (29,444, or 41.6%). Permanently redundant workers and those unemployed as a result of bankruptcy represented 15.2% (10,737). In comparison with 2007, there was an

increased influx of permanently redundant workers and of those unemployed as the result both of bankruptcy (up by 3.7 %), and of the end of fixed-term employment (up by 4.2 %). (Employment Service of Slovenia, www.ess.gov.si)

These trends continued in 2009, during which year there were 114,496 newly registered unemployed persons in Slovenia (61,7% more than in 2008). The expiry of fixed-term employment contracts was the reason in 45,146 cases (+53,3% in relation to 2008), *vis-à-vis* permanent redundancy or bankruptcy procedures in 31,620 cases (+194,5% compared with 2008).

Table 14: Newly registered unemployed persons, 2008-2009

	2008 (2008/2007)	2009 (2009/2008)	Sept 2008	Dec 2008	Oct 2009	Nov 2009	Dec 2009
Newly registered unemployed	70786	114496 (+61.7%)	6050	7796	15055	9845	8434
Due to bankruptcy or redundancy	10737 (+3.7%)	31620 (+194.5%)	866	1353	3553	3276	2045
Due to expiry of a fixed-term contract	29444 (+4.2%)	45146 (+53.3%)	2394	4154	3740	3460	3735

	2002	2003	2004	2005	2006	2007
Newly registered unemployed	87380	94249	95565	94404	90217	73544
Due to bankruptcy or redundancy	10887	14443	13659	14948	13886	10354

Source: Employment Service of Slovenia (www.ess.gov.si)

The number of recipients of unemployment benefits also started to increase, almost doubling in the period from September 2008 to April 2009; and it is expected to increase further. (IMAD 2009b, p. 3-4, 7-8)

Since the beginning of the current crisis, the gender gap in unemployment has been declining, given that a higher inflow into unemployment has been recorded for men than for women since November 2008. From September 2008 to May 2009, the number of unemployed men rose by 52.5% and the number of unemployed women by 33.5%. The share of women among the unemployed, which had climbed close to 55% in 2007, is therefore declining rapidly under the influence of the recession, and is already below 50%. (*Ibid.*, p. 9-10)

Table 15: Unemployment rates (%) in Slovenia, 2005-2011

	2005	2006	2007	2008	2009 (forecast)	2010 (forecast)	2011 (forecast)
Registered unempl. rate (%)	10.2	9.4	7.7	6.7	9.1	10.6	10.9
Labour force survey unempl. rate (%)	6.5	6.0	4.9	4.4	5.7	6.7	7.3

Source: Institute for Macroeconomic Analysis and Development (IMAD) – Autumn forecast of economic trends 2009, p. 39.

Employment is expected to drop further in 2010 and 2011. With value added dropping much more steeply than employment at the time of writing, the labour market is expected to experience further adjustment in the next two years, with a reduction in the number of persons in employment. IMAD estimates that employment will decline most notably in activities which announced large falls in value added in 2009 and which have not yet been followed by job cuts, and in activities where the number of employed persons has already been declining for several years (agriculture, mining and certain manufacturing sectors). (IMAD 2009a, p. 26-28)

Unemployment is expected to increase further, but much less than in 2009. The average numbers of the registered unemployed is expected to rise to around 102,000 in 2010 (around 10.6%). In 2011 special labour market measures enacted as a response to the crisis will expire and unemployment can again be expected to rise. (*Ibidem*)

2.1. Legal framework

Restructuring is a very broad notion and can be defined in many ways. There is no precise legal definition of the term 'restructuring' in Slovenia, although many legal texts use it (although not in the area regulating employment relationships). It is inevitably connected with change, adaptation and adjustment. It can be defined as "a profound change in the way in which a company operates, involving changes in its strategy, in its structure, and so on. Very often the objective of restructuring is not only a financial and economic improvement in the company's performance, but its very survival" (Rogovsky et al. 2005, p. 6). This paper addresses the social aspects of restructuring, and therefore company restructuring which affects employees and their legal, economic and social situation

Often the term 'restructuring' is used as another word for downsizing and collective dismissals; or it is understood as an economic necessity which will necessarily cause termination of employment for many workers or worsening of their working conditions. The European Commission defines the term as "a modification of a company's workforce that affects both the qualitative (skills and qualifications required) and quantitative features (number of jobs)" (European Commission 2009a, p. 8).

In restructuring the question of how termination of employment – and within it dismissal for economic reasons – is regulated is of central importance. But, at the same time other issues relating to employment relationships and regulated by employment legislation are also relevant, especially for instance employees' education and training; working time and different possibilities for flexible working arrangements; the pay system and the question of the minimum rights of the employees regarding their remuneration; and employees' rights to different types of leave (with and without remuneration) during their employment. Many restructuring processes are going on within the framework of or resulting from company insolvency proceedings. Restructuring can be connected with the transfer of an undertaking or business or of a part of it.

2.1.1. LEGAL REGULATION OF DISMISSALS FOR ECONOMIC REASONS

In 2002 Slovenia introduced new labour legislation and within it a new regulation governing termination of employment; it was amended in 2007. The Ministry of Labour, Family and Social Affairs is preparing – under the influence of the current crisis – new amendments to the employment legislation shortly to be enacted.

According to the Employment Relationships Act (Official Journal of the Republic of Slovenia – OJ RS, Nos. 42/02, 79/06-ZZZPB-F, 46/07-OdlUS, 103/07, 45/08-ZArbit, 83/09-OdlUS) an employer may dismiss an employee only if there is a valid reason justifying such dismissal: for example an economic (business) reason which is defined as follows: "...cessation of the needs to carry out certain work, under the conditions pursuant to the contract of employment, due to economic, organisational, technological, structural or similar reasons on the employer's side". An employer may dismiss an employee only if for that reason continuation of work under the conditions set out in the contract of employment becomes impossible (the '*ultima ratio*' rule). An

employer has to check whether there are alternatives to the dismissal: that is whether it is possible to find another post for the employee. An employer must also observe the time limits for a dismissal (six months from the occurrence of the reason justifying a dismissal). The employer has to fulfil different procedural requirements; for example, prior to a dismissal a trade union has to be informed if an employee so requests. The letter of dismissal has to be in writing, giving the reason for the dismissal and some supporting explanation, and it has to be delivered to the employee personally. There are some *special rules for collective dismissals* (information and consultation with trade unions and employees' representatives and an obligation to prepare a social plan, that is to say a programme for redundancies {see section 3.1.3}, submission of information to the Employment Service {see section 3.1.2}, criteria to be observed for determining which employees are to be made redundant, etc.). (Kresal, p. 96-103)

The Employment Relationships Act provides special legal protection against dismissal for certain categories of workers, including workers' representatives, older workers, pregnant workers, workers with family responsibilities, those with disabilities and those absent due to illness or injury (Klampfer, p. 217-240).

An employee who is dismissed for economic reasons has a right to a notice period (length depending on the length of his or her service with the employer) and a severance payment.

Table 16: Minimum notice periods in case of dismissal for economic reasons

Minimum period of notice	Length of service with the employer (and the employer's predecessors)
30 days	less than 5 years
45 days	5-15 years
75 days (60 days)*	15-25 years
150 days (120 days)*	at least 25 years

* Amendments from 2007 prescribed shorter minimum periods of notice (in brackets), but they are not yet in force (postponed until the regulation on unemployment benefits is suitably amended).

In cases of insolvency (bankruptcy or compulsory composition) proceedings, the rules on economic dismissals must in general also be followed. There are just a few special rules. The period of notice is shorter and amounts to 15 days in cases of bankruptcy or 30 days in case of compulsory composition, and is the same for all employees irrespective of their length of service with the organisation. The special legal protection against dismissal for protected categories of worker does not apply in cases of bankruptcy proceedings, whereas this special protection does apply in case of compulsory composition proceedings.

2.1.2. RESTRUCTURING IN INSOLVENCY PROCEEDINGS

Insolvency proceedings (*compulsory composition* and *bankruptcy*) are regulated by Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (OJ RS, Nos. 126/07, 40/09, 59/09), which also regulates compulsory dissolution proceedings (deletion from the court register without liquidation and compulsory liquidation).

Bankruptcy proceedings are initiated against a debtor who has been insolvent for a long period of time or is in too much debt. The purpose of these proceedings is to repay the claims of the creditors and liquidate the legal entity. The court appoints an administrator who takes on the task of managing the assets of the company and therefore also takes on the employer's duties, including decisions regarding dismissal of employees.

In bankruptcy proceedings, under prescribed conditions the entire undertaking or a part or parts of undertaking can be sold as an operating entity. The outcomes of the bankruptcy proceedings can vary greatly in terms of safeguarding employment and the numbers of employees dismissed. *In Slovenia bankruptcy proceedings are very often used as a framework for restructuring.*

The above-mentioned Act lays great emphasis on different possibilities for rescuing the insolvent company and facilitating its restructuring; therefore the Act provides for various measures to avoid bankruptcy. The fundamental obligation of the management of each company is that the company is able to make payments in the short and longer terms. The Act requires the management of each company which has found itself in trouble due to insolvency to submit a report within one month to the supervisory authority on the *financial restructuring measures*, along with an assessment of whether there is at least a 50% chance that the company will be able to make payments in the short and longer terms.

Financial restructuring is a combination of different measures which has as its goal that the debtor should again become solvent. It is the reorganisation of the financial assets and liabilities of a corporation so as to create the most beneficial financial environment for the company. But the process of financial restructuring is usually associated with corporate restructuring, and in that restructuring the general function and composition of the company is likely to impact on the financial health of the company. Therefore in practice financial restructuring usually also means measures such as dismissals and other decisions affecting the employees of the company concerned.

2.1.3. PUBLIC GUARANTEE AND MAINTENANCE FUND OF THE REPUBLIC OF SLOVENIA ACT

In cases of insolvency, besides the question of how termination of employment is regulated, the issue of protection of employees' claims is also very important. In Slovenia protection of employees' claims in cases of insolvency is guaranteed as follows:

- by a privilege under which certain employees' claims are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share (regulated by the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act);
- by a guarantee through an institution known as the Guarantee Fund, when payment cannot be made by the employer because of insolvency (regulated by the Public Guarantee and Maintenance Fund of the Republic of Slovenia Act, OJ RS, Nos. 78/2006 – consolidated text, 47/09 – OdlUS (48/09 – corr.)).

The dismissed employee can receive a maximum of four-and-a-half minimum wages out of the Guarantee Fund.

2.1.4. WORKERS' PARTICIPATION IN MANAGEMENT ACT

Works councils, the elected body representing the employees of a particular company, can play very important role within the framework of restructuring. They have different participation rights which enable them to be involved in the processes of restructuring (information and consultation) according to the Workers' Participation in Management Act (OJ RS, Nos. 42/07 – consolidated text, 23/09 – OdlUS).

There are other legislative acts in the area of worker participation which have in general been enacted as a consequence of the relevant EU directives. The Workers' Participation in Management Act remains the central law in the field of workers' involvement, with primarily nationwide provisions, while particular fields with supranational application are regulated in specific laws (Hojnik 2006, p. 10). These special laws are:

- the European Works Councils Act (OJ RS, Nos. 59/02, 103/07) applicable to companies with their seat in Slovenia and which conduct their business in the European Union, and also to groups of companies which conduct their business in the European Union and whose 'controlling undertaking' has its seat in Slovenia;
- the Participation of Workers in Management of the European Public Limited-Liability Company Act (SE) (OJ RS, No. 28/06);
- the Worker participation in Management of European Cooperative Society Act (OJ RS, No. 79/06);
- the Act Regulating Employees Participation in Decision-Making in Cross-Border Mergers of Limited Liability Companies (OJ RS, No. 56/08).

2.1.5. THE COLLECTIVE AGREEMENTS ACT

The Collective Agreements Act (OJ RS, Nos. 43/06, 45/08-ZArbit, 83/09-OdlUS) regulates the parties, content and procedure for the signing of a collective agreement, including its form, validity and termination, peaceful settlement of collective labour disputes, and so forth.

Collective agreements, in their normative part, may contain provisions which regulate the rights and commitments of employees and employers during employment relationships, for example in respect of concluding employment contracts, termination of employment contracts, pay, and other aspects of employment relationships.

Collective agreements may only contain provisions which are more favourable for the employees than those provided for by legislation. For instance collective agreements may provide for higher severance payments (very rare in Slovenian practice), for longer periods of notice and other more beneficial or additional rights for employees (Kresal Šoltes 2006, p. 253-269). On the other hand the collective agreement may exceptionally have less favourable provisions for employees. For instance, according to the Employment Relationships Act, shorter periods of notice than prescribed by the legislation may be agreed under the branch collective agreement for smaller employers (employing ten or fewer employees).

2.1.6. EMPLOYMENT AND INSURANCE AGAINST UNEMPLOYMENT ACT

Employees dismissed for economic reasons have the right to unemployment benefit regulated by the Employment and Insurance against Unemployment Act (OJ RS, Nos. 107/06-consolidated text, 114/06-ZUTPG, 59/07-ZŠtip [63/07-corr.]; further cited as Unemployment Act).

In addition the Unemployment Act regulates the placement service and active labour market policy measures. The active labour market policy measures are directed towards employers and towards the unemployed persons themselves.

The adopted programme of active labour market policy for 2007–2013 set out new requirements consisting of four main programme groups: (i) counselling and assistance in job searching, (ii) training and education, (iii) promotion of employment and self-employment, and (iv) programmes to boost social inclusion.

2.1.7. ACT GOVERNING THE RESCUE AND RESTRUCTURING AID FOR COMPANIES IN DIFFICULTY AND SOME OTHERS

The Act Governing the Rescue and Restructuring Aid for Companies in Difficulty (OJ RS, No. 44/07 – consolidated text) determines the framework for various forms of State aid to companies facing difficulties in their operation.

There are also different legislative acts concerned with regional development, which contain provisions relating to restructuring. The Promotion of Balanced Regional Development Act (OJ RS, Nos. 93/05, 127/06-ZJZP) is the main one. In November 2009, the Parliament adopted the Development Support to the Pomurje Region in the Period 2010–2015 Act (OJ RS, No. 87/09) which entered into force on 1 January 2010. The Pomurje Region is the region with the highest unemployment rate in Slovenia and was also very badly hit by the current crisis.

2.1.8. DIFFERENT LEGISLATIVE MEASURES AS A RESPONSE TO THE CURRENT FINANCIAL AND ECONOMIC CRISIS

There are some special anti-crisis measures which explicitly focus on the labour market and employment issues. The Government reacted to labour market developments through labour market policy measures. It boosted the implementation of active employment policy measures, which comprise counselling and assistance with employment; training and education; encouraging employment and self-employment; and social inclusion programmes. Two temporary acts were also adopted, aimed mainly at preserving existing jobs. (IMAD 2009b, p.3)

In January 2009 the Partially Subsidising of Full-time Work Act (OJ RS, Nos. 5/09, 40/09, 57/09) was adopted. This Act grants subsidies to companies that introduce a shorter working week in order to safeguard existing jobs. It is a temporary legislative measure: at first, 30 September 2009 was set as the latest date for applying for the subsidy and, after the amendments to the Act, the date was moved to 31 March 2010.

In May 2009 the Partial Reimbursement of Payment Compensation Act (OJ RS, No. 42/09) was adopted. Employers may claim partial wage compensation for employees that have been temporarily laid off. Employees remain in an employment relationship, although there is not enough work for them and the compensation which the employer has to pay during that time is partially co-financed by the State. The Act is also temporary in its nature : its validity is limited until 31 March 2011 (certain provisions until 30 September 2012); employers could apply for this measure not later than until 31 March 2010.

2.2. Actors involved

In the event of a threat of major redundancies, a coalition of the main actors – the Employment Service of Slovenia with its local or regional offices, work funds, trade unions, local authorities, development agencies, and central government departments or agencies – is formed to participate in all phases of the restructuring process in order to help reduce the negative consequences of restructuring and create new employment. Co-ordination of activities is typically taken by those most directly involved, that is employers (management) and workers via trade unions and works councils. They try to involve other actors – employment offices, authorities, development agencies – as much as possible. (Rajgelj/Rojec, p. 48)

2.2.1. THE EMPLOYMENT SERVICE OF SLOVENIA (ESS)

The Employment Service of Slovenia carries out professional tasks in the field of employment and insurance against unemployment. Being a public institution, the Employment Service has a uniform organisation across the whole country. It operates at three levels: the main office, where the management and the head office are located (Ljubljana), and in regional and local offices throughout Slovenia. It has 12 regional offices which operate directly or indirectly through the local offices. At the moment there are 60 local offices in Slovenia.

There are also several private employment agencies and temporary work agencies in Slovenia; they operate on the basis of concessions granted by the Ministry of Labour, Family and Social Affairs if they meet with the prescribed criteria for carrying out these activities.

The local and regional employment offices of the ESS would normally be consulted prior to public announcements of planned restructurings. They take an active part in the process of providing support measures for workers losing their jobs. As a rule, redundant workers are entitled to unemployment benefits managed and paid out by local employment offices. Local employment offices also offer advice and guidance on workers' individual career and training options and on financial and technical assistance available to those becoming self-employed. Additionally, in some instances they may organise job interviews with potential employers and training programmes that extend workers' skills. The involvement of local and central authorities depends on the magnitude of the problem. The way in which support is organised and the form that it takes depends on the type and scale of the redundancies and the level of employability of

the redundant workers. The ESS also takes account in its activities of the burden that redundancies impose on the local environment. In some instances public support is provided 'on site', that is where the redundancies are due to take place, with various agencies participating in a 'one-stop shop'. One option for this 'on site' public support is work funds. Another option is the activity of the ESS in cases of (planned) larger-scale redundancies, when 'on site' support in the form of consultations, lectures and workshops may be organised. Another factor influencing the involvement of ESS is the sector of activity in which the restructuring occurs. Owing to the lower employability of redundant workers in certain sectors, the attention of the public bodies is focused on redundancies in the textile, leather, shoemaking, timber and paper industries. (Rajgelj/Rojec, p. 46-49)

2.2.2. EMPLOYERS

All employers in Slovenia are obliged to inform the Employment Service of the following: job vacancies, redundancies due to economic reasons, need for contract work, or overtime work performed. The employers are further obliged to inform the ESS of planned job vacancies, as well as the number and the structure of redundant workers envisaged during the current year. This has to be done by 15 January every year.

In cases of redundancy the employer has to follow the procedure and fulfil the conditions prescribed by the employment legislation. In cases of collective dismissals, the employer's most important obligations are:

- to inform the works council and trade unions at enterprise level and to consult with them, *and*
- to inform the employment service of the intended dismissals.

The employer has to prepare a social plan (programme for redundancies) in a spirit of true social dialogue with the cooperation of the trade unions, and determine the criteria for the selection of workers to be made redundant.

Employers have to try to find alternative employment for workers due to be dismissed for economic reasons. They can do it in close cooperation with other employers in the region, in cooperation with the trade unions and the employment service, as well as with regional development offices, work funds and other interested bodies.

2.2.3. TRADE UNIONS AND WORKS COUNCILS

Trade unions and works councils have to be informed and consulted if, within the restructuring of the company, collective dismissals are envisaged. Trade unions have an important role in trying to negotiate as good conditions for redundant employees as possible. They help their members acquire their rights as redundant workers and usually also offer free legal aid to their members. Works councils are not obligatory, but are established in the company on a voluntary basis; that means that in companies where the employees have not decided to establish a works council they cannot exercise participation rights in the event of restructuring of the company. In

practice trade unions have a major role within restructuring processes as the relevant representatives of the interests of the employees.

2.2.4. EMPLOYERS' ASSOCIATIONS

Employers' associations offer support and assistance to their members, including on restructuring issues. But, in general they do not participate directly in individual restructuring processes. Employers' associations offer relevant general information as regards the economic situation and current developments in particular areas of activity; they prepare different analyses which help their members make decisions as regards their economic activity, on whether to start restructuring and how to plan it, and so forth. Their role at macroeconomic level is more important. They function as one of the social partners, preparing and articulating proposals from the employer's side as regards the legal framework for restructuring, including proposals to amend employment legislation, and so on.

3.1 Measures and tools for anticipating restructuring

3.1.1. STATISTICAL DATA, ANALYSES AND FORECASTS

There are many institutions in Slovenia which gather statistical data relevant to restructuring and prepare analyses and forecasts on economic trends, sectoral trends, employment and unemployment trends, the social consequences of dismissals, and different programmes including active employment policy measures which try to respond to the restructuring needs and outcomes in terms of redundant workers, new jobs, prequalification and (re)training needs, and so on.

The Statistical Office of the Republic of Slovenia – SORS (www.stat.si) is the central institution which follows developments in economic activity, employment and unemployment, regional development, and related issues. It publishes an annual Statistical Yearbook which is the most comprehensive regular publication with data for the previous year and longer data series. Some Important Statistics on Slovenia is issued monthly and contains a selection of data published in the current month. Publication series First Release, Rapid Reports and Results of Surveys are presented by the fields of statistics. First Release is a web series presenting the latest data.

The Rapid Reports series have been published since 1957. Today, individual issues within the same title are published monthly, quarterly, half-yearly, yearly or less frequently, depending on the periodicity of statistical surveys. Among subjects covered by the Rapid Reports series are different areas of activity (construction, crafts, energy, etc.), 'Business entities', 'Business tendency', 'Labour market', 'National accounts', 'Research & development, and science & technology'. Among recent publications in these series there are, for example, the following titles: Enterprises; Factors of business success; Business demography; Business trends; Labour force survey; Earnings; Job vacancies; Gross domestic product, main aggregates of national accounts and employment; Compensation of employees by regions and by areas of activity; and others. About 360 issues are published each year. They include the latest statistical data; in addition to data and charts, each issue contains comment, short methodological explanations, basic statistical definitions and a description of the survey. (http://www.stat.si/eng/pub_statinf.asp)

The reports on the labour market combine two data sets: on the labour force, including persons in paid employment, self-employed persons and unemployed persons; and on wages and labour costs.

The reports on business trends combine the results of surveys on business trends in manufacturing, retail trade, construction and services. The purpose is to present data on the current economic indicators and an assessment of their trends in future.

The Institute of Macroeconomic Analysis and Development – IMAD (www.umar.gov.si) is an independent government office. IMAD's main tasks include:

- monitoring, analysing and evaluating current trends, as well as the economic, social and environmental dimensions of development;
- preparing short- and medium-term forecasts of macroeconomic aggregates (twice a year, by 31 March and 31 September);

- preparing analyses that serve as a basis for strategic decision-making and economic and development policy measures; *and*
- research work.

IMAD publishes many different series and occasional publications, among which are the following: Slovenian Economic Mirror, Economic Issues, Forecast of Economic Trends, Development Report, Social Overview, Working Papers, and others.

The Slovenian Economic Mirror presents and comments on current macroeconomic developments, as well as selected economic, social and environmental issues. It consists of a series of articles which present the main economic indicators, assess the degree of fulfilment of spring and autumn forecasts, and monitor the implementation of economic policies (earnings, public finance, prices, competitiveness, etc.). The periodical is published monthly, and also in English.

(http://www.umar.gov.si/en/publications/slovenian_economic_mirror/?no_cache=1) .

Economic Issues is an annual publication that monitors economic trends and analyses Slovenia's fiscal position and policy. In addition it regularly includes detailed analyses of selected topics regarded as critical for the economy and economic policy in a given year. In 2009 the selected topic was 'Impact of the Economic Crisis on the Labour market in Slovenia'.

(http://www.umar.gov.si/fileadmin/user_upload/publikacije/izsvivi/2009/lm09.pdf).

The Forecasts of Economic Trends are published twice a year (spring and autumn) and provide a basis for economic policy planning and the preparation of national budgets. Forecasts of the main macroeconomic aggregates are made for the current year and the following two years, including a medium-term scenario with a forecast span of at least four years. The accuracy of the forecasts is regularly tested. IMAD also prepares alternative forecasts assuming materialisation of the main internal and external risks to the baseline scenario.

(http://www.umar.gov.si/en/publications/forecast_of_economic_trends/?no_cache=1)

Social Overview offers social analyses which are intended as a necessary complement (rather than an alternative) to economic analyses, by looking at the same phenomena from different viewpoints.

(http://www.umar.gov.si/en/publications/social_overview/?no_cache=1)

The Employment Service of Slovenia (ESS: www.ess.gov.si) is an independent legal entity with public institute status: it is a central public institution on the Slovenian labour market. Besides other tasks, the ESS has an important role in relation to statistics; its task is also monitoring, analysing and evaluating current trends in employment and unemployment, active employment policy measures, employment of foreigners, and other related issues.

The ESS publishes 'Annual Report' each year, showing the main data and trends on the labour market (<http://www.ess.gov.si/eng/AnnualReport/AnnualReport.htm>). A special series of reports, published on the web, are 'Unemployment trends', which analyse the main characteristics on the basis of the labour force survey data as well as on the basis of the registered unemployment data.

(<http://www.ess.gov.si/eng/UnemplTrends/UnemplTrends.htm>).

The ESS has a special Analysis Division. It prepares different analyses, notably the 'Employment Forecast' (<http://www.ess.gov.si/slo/Dejavnost/Analise/Analise1.htm>), which is published every spring on the basis both of the data on employment and its trends in the previous year, and of the data collected by the 15 January each year from business entities operating in Slovenia (see section 3.1.2.).

As well as the foregoing public institutions, trade unions and the employers' association have their own sources of information; they prepare their own analyses and forecasts, mainly on the basis of public statistical data supplied by the above institutions.

Besides the *national* sources of relevant statistical data and trends, **European sources** are becoming more and more important and used (especially Eurostat; Eurofound with its European Industrial Relations Observatory – EIRO, European Monitoring Centre on Change – EMCC, European Restructuring Monitor – ERM, and European Working Conditions Observatory – EWCO)

3.1.2. EARLY WARNING SYSTEM: THE ROLE OF THE EMPLOYMENT SERVICE OF SLOVENIA

As already presented (see section 2.2.2.) all employers in Slovenia are obliged to inform the ESS of key facts regarding their employment and dismissal decisions, such as job vacancies, redundancies due to economic factors, and so on. They are further obliged to inform the ESS annually of the future prospects for employment in the current year. They have to produce information on job vacancies, as well as on the number and structure of redundancies expected during the current year. This has to be done by 15 January each year. On the basis of the collected data, the ESS prepares the forecasts and consequently adjusts its employment policy. Different active employment policy measures are prepared according to the data collected; the focus is on the characteristics of the unemployed persons, especially vulnerable groups. As regards planned restructuring, on the basis of its annual forecasts the ESS can prepare and modify its activities, supporting workers who are due to become unemployed from an early stage.

In relation to a particular restructuring process and dismissals within the framework of that particular restructuring in the company concerned, the role of the ESS is also very important. An early warning system is established according to which the employer has to inform the ESS in writing well in advance of planned collective dismissals for economic reasons. The employer may not dismiss redundant employees prior to the end of the expiry period of 30 days from the date of informing the ESS. In exceptional cases this period may be prolonged to 60 days, at the request of the ESS.

Employers wishing to dismiss employees have to give the EES details of the consultation procedure with trade unions, of the reasons for redundancies, of the numbers and categories of all employees and of those selected for redundancy, and of the date on which their need for the employees is expected to cease.

This early warning system provides additional time to support the redundant workers prior to their unemployment or even to prevent their unemployment by finding new jobs, offering retraining programmes, and so on. The ESS can adjust its activity to the burden that redundancies are expected to impose.

3.1.3. ANTICIPATING RESTRUCTURING AT THE COMPANY LEVEL

Faced with globalisation, technological progress and demographic developments, companies operate in a world of permanent change, as do the employees working in them: they all have to adjust to these changes. Therefore an important precondition for successful anticipation of restructuring is that the company accepts the policy of permanent and continuous monitoring and planning and the policy of continuous adaptation to change.

Strategic planning and change management are already characteristics of many Slovenian companies. They monitor the economic and financial situation and forecasts for the company within the sector, as well as and global economic and financial developments. Human resource management is becoming more and more important. Many companies give special attention within their strategic planning to the long-term planning of their employment and skills needs. They develop their future jobs plans in terms of the number of employees needed and the quality and qualifications the employees need.

Since restructuring also has a major impact on employees, it is necessary that they are included in and not excluded from any important procedures and phases of the restructuring and that they have access to all relevant information in this regard well in advance.

Fruitful social dialogue at enterprise level is one of the necessary prerequisites for successful anticipation and continuous restructuring of the company. Both sides of the industrial relations system, employers and employees, must have access to the relevant information and the possibility of participating in the decision-making processes at enterprise level, thus strengthening the positive effects of anticipation of restructuring processes within the company.

During crises restructurings are more frequent and management has to apply different measures according to the law and in such a way that the negative consequences for employees are minimal. One successful means of achieving this is to promote participation of workers' representatives. (Franca 2009, p. 204)

In Slovenia there is a dual-channel system of representation of workers' interests at enterprise level (Konèar 1998, p. 145). Besides trade unions there are the elected workers' representatives. Although trade union representation and the system of worker participation through the elected workers' representatives are two separate channels through which workers' interests are articulated and represented, in practice the functioning of the institutionalised system of worker participation depends heavily on trade unions (they may initiate the procedure for setting up the works council and may nominate candidates for the election of works council members; in any case many members of works councils are trade union representatives or members).

3.1.3.1. Continuous information and consultation procedures: the role of works councils

If a works council is established in a company, the employer has to respect a variety of participation rights ascribed to the works council. In general, information on economic and financial questions has to be provided, decisions on the status of the company and personnel questions are subject to joint consultation with the works council. Social questions, precisely enumerated by the law, are subject to the right to co-determination (effectively joint decision-making).

The employer has to *inform* the works council on a regular basis on issues relating to the economic situation of the company; the development objectives of the company; the state of production and sales; the overall economic situation of the industry; changes in the activities of the company; any reduction in economic activity; changes in the organisation of production; technological changes; the annual accounts and annual report; and other questions agreed upon by mutual agreement between the employer and the works council. On issues related to change (of business activity etc.), the employer has to inform the works council before a final decision is made.

Joint consultation between the employer and the works council is necessary if issues concerning changes in the company's organisation, personnel issues, or issues concerning health and safety at work are at stake. Many different questions relating to anticipation of restructuring have to be discussed jointly in advance between the employer and the works council, for instance:

- changes in the legal status of the company;
- sale of the company or a substantial part of it;
- closure of the company or a substantial part of it;
- significant changes in the ownership of the company;
- changes of the system of corporate governance;
- important personnel issues (such as intended new jobs, reduction in the workforce, the jobs classification act, relocation or movement of a larger number of workers outside the company or to another place of work, etc.)

The employer must provide the necessary information to the works council at least 30 days prior to the relevant decision, the deadline for the joint consultation being at least 15 days before any decisions are taken.

The employer also has to obtain the consent of the works council (*co-determination right*) on certain decisions which are otherwise subject to the right to information or joint consultation (changes in company activities, a reduction in economic activity, changes in the organisation of production, technological changes, changes in the legal status of the company, sale of the company or a substantial part of it), if as a result of such a decision by the employer *the number of employees will be increased or decreased*. The works council may refuse its consent only if a proposal to reduce the number of employees does not include a proposal for a redundancy programme (social plan) according to the Employment Relationships Act or if no valid, substantiated reasons are given for reducing the workforce.

The system of worker participation in Slovenia is entirely voluntary: the setting-up of the works council depends on the free will of the workers employed within the company. Works councils may be set up in companies with more than 20 employees and the number of works council members depends on the total number of employees within the company (managerial and senior staff and their family members are excluded); in companies with 20 or fewer employees, the workers' representative is elected instead, and has the same rights and competences as the works council. If a works council or a workers' representative is not elected, the employees cannot exercise their participation rights and the employer has no obligations in this regard, as already mentioned.

The system of worker participation through the works councils could be one measure contributing to efficient anticipation of restructuring processes within companies. It ensures

that the employees' side has access to relevant information on the restructuring early enough to be able to react and participate in the restructuring process with productive proposals at an early stage, taking account also of the social consequences of the restructuring and the interests of the affected employees.

3.1.3.2. Information and consultation procedures in cases of collective dismissals: the role of trade unions

Restructuring often also entails dismissal of larger number of workers, that is collective dismissals. It is very important that employees are informed well in advance of such a development. They need prompt and relevant information in order to plan their career and prepare for the negative impacts of restructuring. And they need to be able to influence the employer's decisions as regards employment prospects and be able to negotiate as favourable conditions for potential dismissals and loss of employment as possible.

According to the Employment Relationships Act, the employer has to inform trade unions and consult with them prior to the collective dismissals¹. Prior to the collective dismissals, the employer has to *inform* the trade unions of the reasons for the redundancies, the number and the categories of all workers employed with the company, the envisaged categories of redundant employees, the envisaged date by when the need for the employees is expected to cease, and the proposed criteria for the selection of redundant employees.

To work out an agreement the employer has to *consult* with the trade unions on the proposed criteria for the selection of redundant workers, and on the content of the social plan (measures for avoiding and limiting the number of dismissed workers and for the prevention and mitigation of harmful consequences).

The social plan (programme for redundancies) which has to be prepared in each case of collective dismissals comprises the following:

- the reasons for the redundancies;
- measures for preventing or limiting to the highest possible degree the termination of employment relationships, under which the employer must check the possibility of maintaining the employment under modified conditions;
- the list of redundant employees;
- measures (and criteria for their selection) to mitigate harmful consequences of the termination of the employment relationship, such as employment with another employer, payment of benefits, assistance in starting a business, or purchase of an insurance period.

The foregoing information and consultation procedure makes it possible for trade unions to actively participate *at an early stage* in resolving the problems, make proposals for alternative measures aimed at avoiding or limiting the number of dismissed employees, and preventing and mitigating the harmful consequences of the dismissals: that is to say, to actively participate in the design of the social plan (programme for redundancies).

¹ Trade unions have this special role only in cases of collective dismissals, that is if **(a)** within the period of 30 days (i) at least 10 employees become redundant, where the employer employs more than 20 and less than 100 employees, (ii) at least 10 % of employees become redundant, where the employer employs at least 100 and less than 300 employees, (iii) at least 30 employees become redundant, where the employer employs 300 or more employees; **or (b)** within the period of three months, 20 or more employees become redundant.

3.2. Measures and instruments of managing restructuring

3.2.1. MEASURES OTHER THAN DISMISSALS

If restructuring is well anticipated then companies use many different measures as an alternative to dismissals of redundant workers or at least to minimise the number of dismissed workers and the negative social consequences of dismissals. Some of them are the following:

- education, training and requalification of the employees whose jobs will no longer be needed after restructuring;
- long-term career planning for the employees;
- introduction of flexible working arrangements (part-time, job sharing, annual working time accounts, different types of leave, even and uneven working hours, etc.) and possibility to shorten full-time working hours;
- negotiations concerning modernisation of the payment system within the company, introduction of profit-sharing schemes for the employees and different flexible forms of employee's remuneration;
- introduction of new methods of work organisation, geographical flexibility, home- and tele-work, redeployment (within the framework of employment contract), etc.;
- transfer of parts of the businesses which are no longer considered as a productive part of the company according to its strategy;
- assistance to the employees to find another suitable job or to start its own business,
- long-term retirement planning with possible early retirement schemes (although early retirement schemes should be treated with great caution since they also have many negative consequences and should not be encouraged as such; aging of the workforce demands measures which would enable older workers to stay as long as possible in employment).

Slovenian labour legislation offers many different possibilities for flexible organisation of working time (Senèur Peèek, p. 491-530), for flexible payment systems and for other measures of internal flexibility. Companies are becoming increasingly aware of these possibilities and they use them more and more often, and in particular flexible working-time arrangements are very widespread in Slovenia. Some of these measures can also be supported by public active employment policy programmes or regional development programmes and can be co-financed from public funds. On the other hand, the general impression is that companies do not give enough emphasis to continuous education and training of their employees (although this should be one of the central features of anticipating and managing restructuring, thereby ensuring greater employability of the workers on the one hand and raising company competitiveness on the other).

3.2.2. DUTY TO CHECK WHETHER THERE ARE ALTERNATIVES TO DISMISSAL

The '*ultima ratio*' rule means that dismissal should be a last resort. Therefore, according to the labour legislation an employer must, prior to the dismissal, check whether there are alternatives, that is whether it is possible to find another post for the employee. The employer has this obligation in every case of a dismissal for economic reasons.²

The employer has to check whether it is possible for the employee to work under changed conditions or on another post, or whether it is possible to provide additional training for the employee for the work she or he carries out, or to completely retrain the worker. If such a possibility exists, the employer has to offer the employee a new (changed) contract of employment. If in such a case the employer does not offer a new (changed) contract although this would be possible, a valid reason for a dismissal is considered not to exist and consequently a dismissal is not justified.

If the employer offers an employee another adequate job under an open-ended contract (if he was employed under such a contract before),³ then the employer does not have to pay any severance payment, irrespective of whether the employee accepts or refuses the offer (if the employee refuses such an offer, then she or he loses the right to a severance payment and is also not entitled to unemployment benefit, so such a decision by an employee is very rare).

There is another possibility under which the employer can be released from the duty to pay a severance payment: he or she can offer the dismissed employee a new employment contract *with another employer* during the notice period; if it fulfils certain conditions (an adequate job for an indefinite period, the employee concluding an employment contract, etc.) the employer is not bound to pay a severance payment. This is an additional instrument which promotes continuation of employment of redundant workers and aims as far as possible to avoid them becoming unemployed.

The foregoing are two instruments aimed at encouraging and facilitating mobility of workers within and between companies, which can be important aspects of managing restructuring and mitigating its possible negative social consequences. It is important that they are designed in such a way that they really motivate and encourage the employer to search for alternatives to dismissals, and hopefully to find another adequate job for redundant workers, whether within the company or elsewhere.

² There are two exemptions when the employer does not have to check whether there are any alternatives to the dismissal:

- if the employee has been employed by the employer only for up to six months,
- if the employer is so-called 'smaller employer', i.e. employing ten or less workers.

³ Another job offered by the employer has to fulfil certain conditions to be treated as adequate: the required type and level of education for the new job has to be the same as for the previous one, the duration of working time should not be changed, the location of work should not be at a distance of more than three hours' travel in both directions by public or employer's transport from the worker's place of residence.

3.2.3. PAID TIME-OFF TO SEARCH FOR NEW JOB

It is very important to promote measures which make it easier for dismissed employees to find another job during the period of notice and thus avoid becoming unemployed. There are many measures aimed at helping employees find other jobs, for example counselling, additional training, special workshops on methods of searching for a job, information on possible vacancies, and others. One such measure is time off during the period of notice. In Slovenia, there is a legal obligation on the employer to offer dismissed employees time off to search for a new job. If an employee is dismissed for economic reasons she or he is entitled to paid absence from work during the period of notice for a minimum of two hours per week. Some collective agreements may provide for longer periods of paid time-off during the period of notice.

3.2.4. SEVERANCE PAYMENT

An employee dismissed for economic reasons is entitled to a severance payment. A minimum severance payment is determined by the Employment Relationships Act. Higher severance payments can be provided under collective agreements and in certain cases (more or less only for managerial and senior staff) also by individual contracts of employment.

The minimum amounts of severance payment prescribed by the law depend on the length of the worker’s employment in the organisation. The law limits severance payment to ten monthly wages of the employee, unless otherwise stipulated by the branch collective agreement.

Table 17: Minimum amounts of the severance payment prescribed by the law

Minimum amount of severance payment	Length of service with the employer (and the employer’s predecessors)
1/5 of the monthly wage for each year of service	1-5 years
1/4 of the monthly wage for each year of service	5-15 years
1/3 of the monthly wage for each year of service, but not more than 10 monthly wages	more than 15 years

In case of compulsory composition proceedings, there is a possibility of special arrangements for severance payment. The employee and the employer may agree in writing on the mode of payment, the form and reduction of the severance payment, if the employer’s obligation to pay the severance payment would jeopardise the existence of a larger number of posts in the organisation.

3.2.5. FOLLOW-UP OF THE DISMISSED EMPLOYEES

As a rule the employer does not have any obligation to follow up dismissed employees. According to the labour legislation, there is one exception to this rule: in cases of collective dismissals the dismissed employees have special preferential right to re-employment if the employer takes on

new employees within a period of one year following the dismissals. The dismissed redundant employees have priority if they fulfil the conditions for carrying out the work.

3.2.6. TRANSFER AS A RESTRUCTURING MEASURE

Another measure used by companies for managing restructuring is the transfer of part of an undertaking or business. Certain company activities which are not considered productive or as strategically necessary for the future development of the company are sold by the company to another business entity. Companies sometimes offer to workers due to be made redundant the opportunity of a buy-out of a part of the company's business as an alternative to dismissal. Instead of closing down the business, it is sold and transferred to the transferee. Sometimes the employers offer support to the new owner if he or she is the former employee. According to the labour legislation, in cases of transfer of an undertaking or part thereof the rights and obligations of the employment contract as well as the employment relationship are transferred to the new owner. The employment status of the 'transferred' employees is therefore safeguarded.

3.2.7. PROTECTION OF EMPLOYEES' CLAIMS IN CASE OF INSOLVENCY

In case of insolvency employees' claims are in danger of not being paid. Therefore there are special measures aimed at mitigating such negative consequences of insolvency: protection by a privilege and guarantee through the Guarantee Fund. The following employees' claims are protected by privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors are paid. The privilege covers:

- wages and wage compensations relating to a period of three months, prior to the onset of the insolvency proceedings;
- compensations for work injuries and occupational diseases directly related to the work;
- unpaid severance payments related to termination of employment before the onset of the bankruptcy proceedings (up to the prescribed amount of severance payment for economic dismissal);
- wages and wage compensation of workers who are dismissed as redundant because of bankruptcy proceedings, relating to a period from the onset of the proceedings until the expiry of the notice period;
- severance payments for workers who are dismissed as redundant workers within the bankruptcy proceedings;
- taxes and social security contributions which the employer has to pay in relation to the above described workers' claims;
- taxes and social security contributions due by the employer according to the law, relating to a period of one year prior to the onset of the bankruptcy proceedings.

In addition, certain employees' claims up to a prescribed maximum amount are guaranteed through the Guarantee Fund:

- unpaid wages and wage compensations for the last three months prior to the termination of their employment (the amount cannot be higher than three minimum wages as prescribed by the law);
- compensation for unused annual leave to which the employee was entitled in the current calendar year (the amount cannot exceed one-half of a minimum wage);
- a severance payment in accordance with the employment legislation (the amount cannot exceed one minimum wage).

The dismissed employee can receive a maximum of four-and-a-half minimum wages out of the Guarantee Fund.

Between 1 January and 31 December 2008 the Guarantee Fund received 609 claims filed by dismissed employees within the insolvency proceedings of 76 companies. Average net compensation per beneficiary was around €1,100. Since 1997, when the Guarantee Fund started to operate, and up until the end of 2008, the Fund paid 57,297 claims to a total amount of €43,584,004. In 2008, most funds (74.1%) were paid to dismissed employees in compensation for unpaid wages and wage compensations, while 15.4% of all payments covered unpaid severance payments, the remaining 10.5% of payments being made to compensate for unused annual leave. (Public Guarantee and Maintenance Fund of the Republic of Slovenia 2008: Annual Report 2008, p. 46-51)

Between 2004 and 2008 the number of new bankruptcy proceedings decreased in Slovenia. The number of companies in bankruptcy proceedings during which employees applied for their rights at the Guarantee Fund also decreased up until 2007, at about the same rate. In recent years, the share of such companies was around 16-17% of all bankruptcies in Slovenia, while in 2000 it was 34.8%; however in 2008 this share rose again to 22.8%. (*Ibid.*, p. 50)

3.2.8. UNEMPLOYMENT BENEFIT

Employees dismissed for economic reasons have the right to unemployment benefit out of unemployment insurance if they meet prescribed criteria. One is the minimum period of insurance before the dismissal: that is, the employment relationship with one or more employers should have lasted at least 12 months within the period of 8 months prior to the onset of unemployment. In order to keep the benefit he or she also has to meet certain criteria, for example that he or she is able to work, is available for employment, is actively seeking employment, and that there is no suitable employment available.

In the first three months the unemployment benefit amounts to 70%, and in the following months to 60%, of the average monthly salary of a person during the last 12 months prior to the unemployment. The minimum and maximum amounts of unemployment benefit are also prescribed by law (not less than 45.56% of the minimum salary, reduced by taxes and contributions paid on minimum salary, and not more than triple the amount of the minimum benefit).

Duration of unemployment benefit depends on the length of insurance period:

- 3 months if the duration of the insurance period prior to unemployment was between 1 and 5 years;

- 6 months for an insurance period of 5 - 15 years;
- 9 months for an insurance period of 15 - 25 years;
- 12 months for an insurance period of more than 25 years;
- 18 months for an insurance period of more than 25 years if the insured person is over 50 years of age;
- 24 months for an insurance period of more than 25 years if the insured person is over 55 years of age.

A person who, after the expiry of the entire period of entitlement to unemployment benefit, has less than three years before fulfilling the conditions for retirement, is entitled to payment of contributions for pension and disability insurance (on the basis of the amount of the last unemployment benefit received by that person) until the date of fulfilment of such retirement conditions.

3.2.9. ACTIVE LABOUR MARKET POLICY MEASURES

Whenever workers losing their job decide to register as an unemployed person at the Employment Service, they have access to advice and guidance on career and training options: the Employment Service offers them consultations at which they receive first-hand information on the content and enforcement of their rights, on the needs of the labour market and on the possibilities for education and training options. In cases of planned larger-scale redundancies, workers have access to this information even before the termination of their employment contract (Rajgelj/Rojec 2007, p. 46).

The Unemployment Act strongly supports active employment policy (active labour market policy). The unemployed person has the right to participate in the active employment policy programmes with the aim of building up his or her vocational capacities; an unemployed person enters the active employment policy programme on the basis of an individual employment plan drawn up by the Employment Service or other authorised organisation not later than two months after the registration of the unemployed person at the Employment Service Office.

The Employment Service has a certain discretionary right when deciding upon measures of active employment policy. In practice this means that measures of active employment policy envisaged by the legislation depend on the needs and available funds in the given year.

The measures of active labour market policy are directed to employers and the unemployed persons themselves. Within the limits of the funding, *employers* are provided with different measures, for instance co-financing for the creation of new productive jobs; compensation of a share of the costs for the preservation of productive jobs; loans for investment in new production capacity; co-financing of promotion of full-year employment of workers involved in seasonal activities (construction, for example); assistance in training of new workers; co-financing of education and training; co-financing of labour costs for the workers whose work has become redundant; and others. There is also the possibility of partial refunding of social security contributions if the employer takes on unemployed persons who lack opportunities for finding employment in the labour market.

Unemployed persons who take part in the active labour market policy programmes are eligible for the following, for example: refund of the cost of various educational, training and retraining programmes for the unemployed; partial refund of the salary of workers during the probationary period; first job seekers, as well as for persons with disabilities, long-term unemployed persons and other persons with poor job opportunities; a loan for purchasing the required equipment in the event of self-employment; refund of expenses for professional training of unemployed persons in order to prepare them for technical and technological developments; refund of the cost of professional re-training which could offer new possibilities of employment; or co-financing of the expenses for setting up a business.

Work funds are an important preventive measure designed to improve the employability of workers. They are private institutions co-financed out of the central government budget and dispersed across different regions. They are concerned with redeploying or improving the employability of workers who are in the process of losing their jobs. Their aim is to prevent workers becoming unemployed. In co-operation with the local and regional environment, they establish and strengthen connections between the social partners and integrate existing and potentially redundant workers into the labour market. (Rajgelj/Rojec, p. 46)

Public works are local or national employment programmes aimed at boosting creation of new jobs, and the development of the work abilities of unemployed persons. Public works may not be organised for activities aimed at generating profit or which would create unfair competition on the market. Inclusion in public works may last no longer than one year. Extension is only possible if the unemployed person cannot be provided with an adequate job. An employment contract for public work is one of the special forms of employment contract regulated by the Employment Relationship Act.

3.2.10. ECONOMIC POLICY MEASURES AND REGIONAL DEVELOPMENT POLICY MEASURES

There are many different measures within economic policy and regional development policy which directly or indirectly influence the management of restructuring within a company. They may have positive impact on employment.

One example is the group of measures provided for by the Act Governing the Rescue and Restructuring Aid for Companies in Difficulty. In general, a company in difficulty seeking State aid has to prepare a restructuring strategy containing a provision for accommodating redundant employees and providing an appropriate programme of training and education. State aid can be provided in different ways, for example in the form of a loan, a grant, an interest rate subsidy, a guarantee, a financial investment or as a deferral of taxes or contribution payments. (Rajgelj/Rojec, p. 52)

State aid may be granted as assistance:

- during the preparation of the restructuring programme (rescue aid), **or**
- in implementing the restructuring programme for the restoration of long-term company viability (the restructuring aid).

The restructuring programme of the company must include, among other things, an analysis of the causes of the existing difficulties through an evaluation of the economic and social consequences in the event of bankruptcy, presentation of objectives and strategies for achieving the company's objectives in particular areas, restructuring measures (market, technological, financial, human resources, ecological); and projections of business for the next five years (optimistic, realistic, pessimistic).

Within the regional development policy which promotes development in the more remote areas of Slovenia, many different programmes and measures are provided, which can be also used by companies undergoing restructuring. Some of these programmes are focused specially on support for companies undergoing restructuring or on safeguarding jobs, promoting new employment, and similar. This is a common method of granting State assistance to the economy during the restructuring process. (www.svlr.gov.si)

3.2.11. PARTIAL SUBSIDY FOR SHORTER WORKING HOURS

This is an example of a special anti-crisis measure aimed at safeguarding existing jobs. The Partially Subsidising of Full-time Work Act of January 2009 grants subsidies to companies that introduce a shorter working week instead of laying off workers following a drop in demand for products or services.

Companies that reduce the working week from 40 to 36 hours per week can receive a subsidy of €60 for each worker. In order to shorten the working week, a company has to conclude a collective agreement on a shorter working week with the relevant trade union. This rule strengthens the social dialogue as a basis for company restructuring.

Companies are also eligible to receive additional €60 for each worker if they reduce the working week to 32 hours. In such instances the company has to conclude an agreement with the representative trade unions providing for a shorter working week; the employer is obliged to pay the worker compensation covering the difference between the 32 hours and the full working time. The employee's employment status is not changed; she or he is still employed on a full-time basis and has all the rights associated with full-time employment.

The period over which subsidies for a reduced working week can be awarded is six months, but it can be prolonged for another six months. During this time, the recipient companies:

- must pay wages and social security contributions for the workers for whom they are receiving subsidies;
- may not dismiss employees for economic reasons;
- are prohibited from introducing overtime work during the period of receiving the subsidy, *and*
- are prohibited from paying executive bonuses for a whole financial year.

However, this Act does not protect the level of wages of the employees covered by the scheme; it is still possible to decrease remuneration during the period covered by the subsidies for shorter working hours.

The deadline for submitting an application for the subsidy is 31 March 2010.

Subsidies for full working time have been sought mainly by enterprises in manufacturing. In the manufacturing sector the largest proportion of employees covered by the subsidy scheme are in the clothing, electrical appliances, metals and furniture industries. According to an analysis of the subsidies, all these industries had been substantial recipients of different kinds of subsidy in previous years, particularly in the manufacture of clothing which also received State aid for employment. (IMAD 2009b, p. 14-15)

3.2.12. PARTIAL REIMBURSEMENT OF PAYMENT COMPENSATION DURING TEMPORARY LAY-OFF

This is another anti-crisis measure aimed at protecting workplaces during the crisis. Employers may claim partial wage compensation for employees that have been temporarily laid off. Rather than dismiss workers as redundant, an employer may temporarily lay off workers while the government pays the employer partial wage compensation. The employment is not terminated; following the period of temporary lay-off, the employee returns to active work. (Government Office for Development and European Affairs 2009, p. 8)

The employer may put a maximum of 50% of its employees on temporary lay-off. In this case an employee is entitled to wage compensation to a total of 85% of his or her average wage over the previous three months: 50% is refunded to the employer by the State, 35% has to be borne by the employer himself or herself. In addition, there are certain minimum and maximum limits to the amount of the compensation and its refunding.

The Act also prescribes the time limits. An employer may apply for this measure for at least three months, which may be prolonged for an additional three months at a time, but not for more than a maximum duration of one year. Moreover, an individual employee may be laid off within this measure for a maximum period of six months, which can be prolonged in exceptional cases for a further six months only.

Workers on temporary layoff have the right and obligation to spend one fifth (20%) of their time on training. Training programmes have to be provided by the employer, but are co-financed by the State to the extent of €500 per employee. (IMAD 2009b, p. 15-16)

An employer has to prepare a programme for jobs temporarily or permanently lost, as well as indicating the expected structure of new jobs after the crisis or the expiry of the measure (e.g. complexity, required knowledge, etc.).

The employer applying for the subsidy has to submit:

- a description of the company's business situation during the economic crisis;
- a statement declaring that, for business reasons, the company cannot temporarily provide work for up to 50% of the employees and has therefore decided to put them on a temporary laid-off scheme;
- a programme on maintaining and increasing the quality of workplaces and developing human resources in the company.

Before taking a decision on temporary lay-offs, the employer has to consult the trade unions at enterprise level. If no trade union is present, the employer must then consult the works council or workers directly in a workers' assembly.

An employer cannot submit an application for the subsidy (i) if the loss of business in the previous 12 months amounts to more than half of the basic capital, (ii) if the value of the company's assets is less than the sum of its liabilities, or (iii) if insolvency proceedings have been launched against the company. (Skledar 2009)

During the period when employers are receiving the subsidy, they:

- have to pay the workers who are temporarily laid-off the pay compensation and they have to pay social security contributions;
- are not allowed to dismiss workers for business reasons;
- are not allowed to assign overtime work if this work can be done by the temporarily laid-off workers;
- are not allowed to pay bonuses to the management or to the members of the supervisory board during the business year in which they received the subsidy;
- must provide training for the workers on the scheme.

It is possible that both measures for maintaining existing jobs will to a large extent only postpone a more permanent adjustment of the labour market. Even though both are primarily focused on preserving existing jobs, they also need to be somewhat more long-term-oriented, encouraging structural shifts towards more technology-intensive industries with high productivity and returns, which in previous years created jobs and did not reduce the number of employees. In certain sectors the preservation of existing jobs may have long-term negative implications for development and competitiveness. (IMAD 2009b, p. 16)



Example 1: Activities of the Chamber of Commerce and Industry of Slovenia to promote early anticipating and adequate managing of restructuring

The Chamber of Commerce and Industry of Slovenia (Gospodarska zbornica Slovenije) is the largest voluntary association of Slovenian companies, bringing together more than 13,000 members. It has existed for more than 150 years and is part of an extensive international network of more than 50 international sector organisations and other institutions. It represents the interests of businesses in relation to the State and to the trade unions, in determining conditions of work and business, and in providing conditions for economic development.

Especially during the recent period the Chamber has paid constant attention to issues of restructuring, as it recognises the importance of adequate anticipating and managing of restructuring processes, as well as the need for appropriate support to its members during such processes. The activities of the Chamber in this regard can be summarised as follows:

- Professional support and advice to its members in the areas of corporate, labour and tax law, when planning the restructuring process and during its course, as regards different measures and instruments that the company can use within the process; and provision of information on legal aspects and requirements which have to be fulfilled in that context.
- Organising seminars and conferences; in November 2009 a special thematic conference on “Restructuring of companies in crisis” (in the context of insolvency proceedings and outside such proceedings) was organised in cooperation with ‘Manager’, the managers’ association of Slovenia;
- Publishing: *inter alia*, in February 2010 a special thematic issue of the Chamber’s newsletter ‘Glas gospodarstva’ on restructuring was prepared.

In order to support business planning in enterprises, the Chamber prepares independent analyses, evaluations and forecasts of macroeconomic aggregates and indicators on an annual basis (GDP by components of demand, prices, wages, world prices of raw materials, etc). The Chamber carries out various surveys on a continuous basis in various thematic areas in order to improve measurement of business trends among Slovenian companies.

In the context of a specific project ‘Business indicators’ (Kazalci poslovanja – Kapos), the Chamber maintains and develops a database for users, based on the annual reports of companies and entrepreneurs. The project offers possibilities for detailed analyses of the economy by region and by business activity, as well as of the Slovenian economy as a whole. On this foundation the Chamber prepares a number of comparisons, analyses and reports which aid business planning and decision-making by companies.

Particularly important is the support which the Chamber offers to its members in the form of advice, especially nowadays as regards issues of restructuring and solving of problems related to the current global financial-economic crisis.

The Chamber puts great emphasis on the organisation of various seminars, conferences and consultations. Thus, for example, in November 2009 it organised the conference and round-table on “Restructuring of companies in crisis” (in cooperation with the Association

Manager). The main objective of this conference was to spread information and raise awareness among Slovenian managers of the importance of early anticipation and planning of corporate restructuring, and the importance of various possible measures that companies can use in managing restructuring processes. Special emphasis was placed on the presentation of good practice in the restructuring of companies, as well as on networking and exchange of experience and practice in restructuring by Slovenian companies.

The Chamber also has a strong publishing role . As regards restructuring issues, a special thematic issue of the magazine 'Glas gospodarstva' on the restructuring was issued in February 2010. The Chamber issued many other publications, books and CDs, for example a recent thematic CD "100 responses to the crisis", a thematic publication on legal regulation of labour relations, and others.

The Chamber, together with other employers' associations, actively participates in the tripartite social dialogue and in collective bargaining, representing the employers' interests. Activities within the Economic and Social Council and other tripartite bodies, in which the Government and other employers' associations and trade union confederations and federations meet at national level, is intertwined with the process of cross-sectoral and sectoral collective bargaining.

(Source: Interview with Marko Djinovič, Deputy Head of the Legal Department of the Chamber of Commerce and Industry of Slovenia; www.gzs.si)



Example 2: Continuous Restructuring in Peko d.d.

Peko is the leading Slovenian company in the footwear industry with a long tradition (est. 1903). The Peko Group comprises the controlling parent public limited company Peko d.d., with headquarters in Slovenia and subsidiaries in Slovenia and abroad.

The business activity of the Peko Group is manufacturing of footwear; it has its own retail network. Today 300 workers are employed in Peko d.d., whereas of the entire Peko Group's complement of nearly 1,000 workers, around one-half work in stores within the retail network of the Peko Group.

At the end of 2000 the company registered a €13m loss and total annual revenue of around €26.5m. Half of the total annual revenue from sales was produced in Slovenia, and most of the other half, mainly from export, came from 'loan' business operations, involving finishing operations on footwear made by other companies. Most of these activities were carried out at a loss, that is the revenue from sales of these products did not cover the basic production cost of their manufacture. The company became insolvent, unable to pay off all its debts.

In the year 2001 new management was appointed, which carried out (and is still carrying out) a successful restructuring of the company. At the start, when preparing and planning the restructuring process in 2001, a new company strategy was defined and adopted, which emphasised the need for the adequate development and redefinition of the company's own trademark and the need to develop the company's own retail network. A complete restructuring of the company was necessary.

On the basis of a detailed analysis of the company's situation and of relevant economic indicators - taking into account the global situation of the shoemaking sector - the restructuring plan was prepared as a long-term project and process.

The following key elements of successful restructuring were highlighted as essential preconditions for managing the company's needs:

- high professional qualifications, and specialised knowledge and experience;
- clear strategy; *and*
- involvement of employees in the restructuring processes, with their knowledge, ideas and loyalty to the company.

Under the new company strategy, manufacture of two new types of footwear, important for the future, was envisaged (special models for the aging population under the trademark Peko Orthos, and models for demanding customers, associating the designer value-added element under the Peko trademark with the name of the designer). At the same time, the company invested considerably in its existing retail stores and in the opening of new ones. The whole business, and all aspects of the company's operation, had to be restructured. The objectives were lower production costs, increased productivity, motivation of employees to become involved in restructuring processes, changes to existing procedures, and introduction of new technological solutions and modern materials. Right from the start the company also initiated substantial renovation of the premises. Certain departments were relocated, links between different parts were established according to the needs of the production processes which have consequently been shortened and made more efficient. Unnecessary company assets

have been sold, thus enabling the company to invest in the renovation process, in development of the retail network, and in essential production machinery.

In 2001 a compulsory composition proceeding was opened and the financial restructuring plan was prepared. All creditors agreed with the proposed solutions. The role of the State in this regard was very important: it converted its claims into shares in the company; the State, which was previously a 50% shareholder in the company, acquired an 82% share (all State operations in that regard were carried out through the State-owned company SRD {Slovenske razvojne družbe, d.d.}, aimed at supporting the privatisation and restructuring processes in Slovenian companies). All claims from other creditors were paid off within one year.

Before restructuring, the company had three subsidiary production companies in Slovenia and two abroad. One of the Slovenian subsidiaries (in Trbovlje) carried out sewing of the upper parts of footwear for the controlling company. In 2002, on the basis of a detailed analysis and evaluation, the company decided to close it down, since because of the constant increase in Slovenian labour costs the sewing operation was no longer profitable. The bankruptcy of that company caused 100 employees to lose their jobs. The other two subsidiary companies in Slovenia still exist (one is Slovenia's biggest producer of shoe components and a leading European company in the production of high-quality polyurethane and rubber soles, another is a disability enterprise which provides work to almost 60 persons with disabilities by ensuring a suitable working environment for the largely production-oriented task of sewing the upper parts of footwear). Today Peko has four subsidiary companies abroad, which are trading companies with widespread retail networks.

Peko d.d. also prepared a detailed analysis of the question of how many and what kind of workers it needed and would need in the future, taking into account the new strategy and goals of the company and the opportunities anticipated for the company on the global and local footwear markets. Since 2001 the number of the employees has been halved.

One of the objectives of the restructuring was to offer to employees better conditions of work and more stable prospects for their future employment. Peko gave special attention to the social aspects of restructuring; when preparing the personnel restructuring plan, priority was given to measures with less negative social consequences and to those that would reduce the number of workers to be dismissed. For example a retirement plan for 10-15 years ahead was prepared. Although such a decision was more costly for the company, the company followed its retirement plan (natural decreasing workforce numbers over a longer period of time), thus reducing the number of redundant workers who would otherwise have been dismissed for economic reasons. Despite these measures, 20% of the employees had to be dismissed as redundant due to the restructuring of the company. Workers' representatives participated in all dismissal procedures in accordance with the employment legislation. The prescribed periods of notice were respected, its length depending on the length of the employee's service with the company. The dismissed employees received severance payment if they had been employed in Peko for more than one year, its amount depending on the employee's length of service with the company.

One group of employees was not dismissed by the company even though they were technically redundant and there was not enough work for them all; the reason for this decision was the company's view that these workers were very important for the preservation of specific knowledge and its transfer to other workers within the company. In general Peko gives special

attention to the sharing of knowledge among employees, continuous education and training of employees, and especially to the internal development and internal transfer of knowledge between sections, units and generations. This was not just a measure during the intense restructuring, but still characterises the company today. In addition, when certain companies in the footwear, leather and textile industry closed down due to bankruptcy (in the period 2005-2008), Peko invited some of their employees, dismissed on grounds of bankruptcy, to join the Peko company, even though Peko did not need new production employees; the objective was again to preserve specific knowledge and to prevent this knowledge from disappearing; they were mainly higher qualified employees, and Peko anticipated the need for their specific knowledge for future development of the company's activities in production and services.

As already mentioned, Peko considered - and still considers - the role of the employees within the restructuring processes in the company as highly important and a necessary precondition for successful restructuring. They have to be properly informed and they have to have the opportunity to participate actively in decision-making process and in the company's strategic planning. In the first years of restructuring, the management organised regular monthly meetings with the works council and both trade unions represented in the company. For all important, planned measures, the management informed workers' representatives well in advance, organised meetings with them for joint consultation, and aimed at finding best solutions to the problems (brainstorming). Later the number of meetings was reduced, as such frequency was no longer appropriate; today a system of regular meetings 4-5 times per year is well established.

Management also introduced workshops for employees, in which members of different departments and sections participate and cooperate. In 2003 such workshops were devoted to elaboration of the long-term strategic plan produced by the employees themselves using the BSC method (balanced scorecard), under the guidance of the moderator. The employees were given relevant information (financial data, and specific problems such as for example poor quality products, etc.), and then, under guidance set out in the BSC method, they elaborated the strategic plan which states, among other things, that employees undertake to exchange their knowledge with other employees.

Some workshops were devoted to teambuilding; the objective was to raise the motivation of the employees and activate them, as their pessimism and scepticism as regards the future prospects of the company were at the start (before restructuring started) very strong.

Special workshops were organised for the personnel in retail stores. For instance the employees themselves (under guidance and mentoring) have elaborated their code of conduct. Retail stores have also been renovated considerably during the restructuring of the company.

Employees' participation in the decision-making processes within the company, the importance given to providing information, to the continuous education of the employees and to the internal transfer of knowledge between them, are the characteristics of the restructuring process in Peko, which has already been ongoing for nearly ten years. The company already has plans for further change, since in its view the restructuring is not a single act but a permanent and continuous process.

Measures which could prevent dismissals for economic reasons in the future (for example the constant increase in Slovenian labour costs combined with, the reduced competitiveness of footwear in the medium price range could bring about new redundancies in the footwear industry) could include changing the company from a manufacturer into a service provider. This would make it possible for the company to preserve existing jobs and avoid dismissals. Peko is developing a competitive service based on its own know-how: it entails selling the service on the Asian market (design of footwear, preparation of technical documentation - everything needed to produce a shoe) instead of producing the footwear itself. But this will only be possible because, in the past, the company invested in preservation on its payroll of people with specific knowledge in the field of footwear design and manufacture.

(Source: Interview with Marta Gorjup Brejc, MBA, the President of the Management Board in Peko, d.d., Tr iè; www.peko.si.)



Example 3: Restructuring of the retail network in Mercator d.d.

Mercator Group is the largest retail network in Slovenia and one of the largest and the most successful retail networks in the South-Eastern European region. The controlling company 'Poslovni sistem Mercator, d.d.' has dependent companies in Croatia, Serbia, Bosnia and Hercegovina and other countries of SE Europe.

Since 2002 – and indeed even earlier, although to a lesser extent – the company Mercator d.d. has been forced, with a view to raising its business effectiveness in a more and more competitive business environment in Slovenia, to take different measures for the restructuring of its retail network. One very important measure in this regard was a decision that retail stores with less than 200 m² would no longer be a part of Mercator's own retail network and would gradually, over a longer period of time, be transferred to the new owner. This decision was based on a detailed analysis of relevant economic indicators and on a comparison of the Mercator Group, in terms of effectiveness and success, with similar retail chains in Slovenia and the rest of Europe. The starting points were the vision of the company, according to which Mercator should become a leading retail chain for fast-moving consumer goods in SE Europe (the market programme), and the strategic policies, one being profitable operation of the company. Analysis of different types of retail units in the context of store format showed that in smaller retail units revenue from sales and productivity are not high enough and that revenue from sales and productivity (per m² per employee) are higher in larger stores. Important company commitments were:

- restructuring of the retail chain will go on slowly, over a longer period of time;
- each single transfer of a retail unit will be planned well in advance;
- the principle of social dialogue will be respected, that is workers' representatives will be included in the process of transfer;
- when selecting possible ways of achieving the goal (no more smaller stores in Mercator's own retail chain), preference will be given to measures more favourable to employees, whereby the objective is to sustain the activity of the store and consequently sustain jobs, rather than closing the unit and dismissing the employees.

Mercator has a long tradition of fruitful collective bargaining at company level; they have had a company collective agreement for more than ten years. In the company a tradition of regular meetings between the management and trade unions is well established; trade unions are informed of the business situation of the company, of future plans and of all other important issues as regards development of the company and the situation of the employees. Within this framework the trade unions are also informed well in advance about the future plans as regards the transfer of smaller retail units out of Mercator's retail network. In addition, trade unions very actively participate and express their interest in each individual instance of transfer of a retail unit to a new owner-transferee.

From 2002 to the present day the company has transferred more than 80 retail units smaller than 200 m² to the new owners, affecting around 300 employees.

Annually, in its economic plan for the following year, the company determines the retail units to be transferred during the year. In each case the company carefully selects a future transferee who will maintain the activity of the retail store. First a buy-out by its employees is

offered, especially to the trade manager of the unit and within a franchising framework. In this case the retail unit operates in the same way as before in line with the Mercator Group's business model. A franchising contract is concluded between Mercato, d.d. and the new owner, including an obligation that 70% of trading goods in the retail store should be supplied by Mercator, and at the same time offering the franchisee strong support (know-how, training, an established business model, marketing activities, information technology support, etc.). However employees do not often select this option.

If employees are not interested in the above option, the management starts searching for other business partners who would be prepared to take over the retail unit. The key criterion for the selection of potential buyers is that the future owner guarantees that in future the same business activity will continue at the same location with the same employees, that is the same type of retail outlet for fast-moving consumer goods. Priority is given to a potential new business partner who would accept the franchising system. If such a partner cannot be found, Mercator is willing to accept different options, such as transfer of the business with purchase of the premises, or merely lease of the premises. Under such an arrangement Mercator and the transferee conclude a contract regulating the transfer of the retail unit concerned with all its employees. Trade unions participate actively in the selection of the transferee, since it is in their interests that the person appointed will run the business seriously and successfully and also be a fair employer.

Although trade unions participate in the whole process, in both formal and informal ways, the management fulfils the formal obligation to inform and to consult with trade unions prior to the transfer in accordance with the employment legislation, that is informing them at least 30 days before the transfer, and holding joint consultations at least 15 days in advance. At this meeting representatives of the company, trade unions and representatives of the transferee take part, quite often along with the trade union currently operating with the new owner. Trade unions give close attention to various aspects of the situation of employees after the transfer, and they demand clear and concise commitments as regards, for example, maintaining wage levels, various additional payments, use of annual leave, and related issues. Sometimes Mercator commits itself in the transfer contract to fulfilling certain employer's obligations during the first year after the transfer (for instance, solidarity payments, or special support to employees returning to work after long periods of absence due to parental leave, sickness etc.). To avoid any suspicion of unfair personnel practice prior to the transfer, there is an unwritten agreement between the management and trade unions under which no changes in personnel can be made by the management during the final six months before the transfer (for instance, some employees might be redeployed to other units while 'unwanted' employees were redeployed to the unit to be transferred).

Following the transfer (especially in the first year), Mercator stays in contact with the transferred unit, its employees and the transferee, especially if certain obligations derive from the contract regulating the transfer, for example if a return to work by certain employees after long periods of absence is foreseen. Contacts are more exacting where a franchising arrangement has been concluded. From 2002 to the present day there has been only one case of an employee working in the transferred retail unit opting for constructive dismissal (summary resignation) on grounds of deteriorating working conditions under the new owner.

This is an example of well-anticipated and carefully planned restructuring, based on fruitful social dialogue and adequate consideration of employees' interests and the social consequences of a particular business decision. These are all elements of socially sensitive restructuring.

(Source: Interview with mag. Vera Aljanèè Fale , Member of the Management Board of Mercator, d.d., Ljubljana; www.mercator.si.)



Example 4: Redundancies in Talum, d.d.

Talum is an aluminium products company with a long history in the Eastern part of Slovenia. At the end of 2007 the company employed 1,019 workers and at the end of 2008 988. In 2008 the company was adversely affected by the current crisis, concluded the (planned) closure of an important part of its production, and introduced a new job classification system. The crisis had reduced demand and selling prices, which no longer covered production costs. The company responded by reducing output, limiting costs and providing the financial liquidity needed for the balance of production.

In the third quarter of 2008 employment needs also changed, and the company had to make redundancies. Reduced demand for labour was resolved by different means:

- redeployment within the company when a need for new employment arose elsewhere in the company;
- discontinued use of temporary agency workers.

Nevertheless 23 employees had to be dismissed for economic reasons. The company could not find alternative suitable jobs for any of the redundant employees. It is interesting to compare the years 2008 and 2007: in 2007 only seven of 34 redundant employees lost their jobs and were dismissed for economic reasons, 25 being employed on another job within the company or the company's group, and two being retired.

(Source: www.talum.si – Summary Annual Report for the year 2008)



Example 5: Collective redundancies at Iskra Avtoelektrika, d.d.

Iskra Avtoelektrika is a controlling company in a group comprised of 17 subsidiary and affiliated companies. It is a global manufacturer of starter motors, generators, electric drive systems, mechatronic systems and parts for automotive, material handling and other industries, which develops, manufactures and sells products on a global basis through its own manufacturing and distribution network. It is one of the largest Slovenian industrial companies and among the leading exporters in Slovenia.

At the end of 2008 there were over 2,700 employees within the Group. After the rapid sales growth in the first three quarters of 2008 the company recorded a severe fall in sales as a consequence of the global recession. Since the last quarter of 2008 Iskra Avtoelektrika has been adjusting operations to the lower volume of sales. The measures adopted are aimed mostly at reduction of all kinds of fixed and variable costs, liquidity control and key innovation projects to promote rapid sales growth. The company also reduced labour costs, compared with the previous year, by 7-8% per employee.

In 2009 the company withdrew contracts with persons in temporary employment. In consequence the number of employees was reduced by 17% (to around 300 employees on fixed-term employment contracts). The company also introduced a 36-hour working week in February 2009 and reduced remuneration accordingly (by some 10%). In September 2009 they re-introduced the 40-hour working week.

At the beginning of 2009 the company had also announced collective dismissals of redundant workers with open-ended employment contracts. In the first half of 2009 the number of employees in the controlling company was reduced to around 1,600 (from 1,900 in September 2008). In August 2009 the company dismissed an additional number of employees in accordance with the prepared programme of redundancies (around 250 employees). By September 2009, through retirement and other modes of termination of employment, the controlling company was employing only around 1,450 workers.

The works council and trade unions were involved in the process of restructuring through information and consultation procedures.

(Source: www.iskra-ae.com)

 **Example 6: Bankruptcy at Mura d.d.**

Mura d.d. was a leading Slovenian clothing company with a long history. For quite some time the company had financial as well as structural problems, and had received substantial State aid in the past for restructuring, but the company could not survive the current crisis. In February 2009 the company introduced a scheme for shorter working hours (36-hour working week); of 3,450 workers employed at the company around 3,100 were included in the scheme.

Mura was reorganised into several smaller companies which operated within the Group Mura. In October 2009 the management announced insolvency in four of the companies in the Group, while five others continued production. The majority of workers (2,624) were made redundant and dismissed for economic reasons under bankruptcy proceedings with the usual 15-day period of notice. Within the remaining companies of the Group, around 650 workers kept their jobs (around 470 of them at 'Mura in partnerji',).

The majority of the dismissed workers registered with the Regional Employment Office Murska Sobota (2,446 unemployed persons from Mura up until 5 November 2009). At the end of 2009 'Mura in partnerji' reemployed around 640 workers, so around 1,100 workers now work there.

The Regional Employment Office prepared efficiently for very large numbers of redundancies at Mura and offered the dismissed workers effective assistance. The Ministry of Labour, Family and Social Affairs also participated in this project, as did the regional work funds and trade unions.

The Employment Office prepared a basic information leaflet for workers about to become unemployed. They organised the registration and first interviews with the unemployed immediately after the expiry of the notice period. The majority of the dismissed workers received unemployment benefit, which on average they were entitled to receive for 12 months. The dismissed workers also applied to the Guarantee Fund for unpaid claims from their previous employment. In addition they were entitled to exceptional social assistance.

The Employment Office prepared a selection of active labour market policy measures. First, all dismissed workers have been taken in by the *work funds* and have entered the programme 'Counselling and assistance at searching new jobs'.

After three months of activities within the work funds, the unemployed persons will be offered different active labour market policy programmes according to individual employment plans prepared for each of them. Examples of such programmes are as follows:

- assistance with self-employment;
- training and education;
- training at the workplace (within the employment relationship);
- subsidies for the employment;
- public works.

Strongly influenced by the bankruptcy of Mura, the biggest company in Pomurje, in November 2009, the Parliament adopted the Development Support to the Pomurje Region in the Period

2010–2015 Act. The Pomurje Region has the highest unemployment rate in Slovenia and was very badly hit by the current crisis. The Act regulates various additional measures for promoting the development of the Pomurje Region. Such measures aim at creating new and retaining existing jobs, establishing development infrastructure and eliminating the consequences of the economic and financial crisis in the Region. They include:

- a programme to foster the competitiveness of the Pomurje Region in the period 2010–2015;
- employment incentives;
- tax relief for investments;
- priority treatment of programmes and projects in the Pomurje Region competing for funds from national programmes, and for European cohesion policy and rural development policy measures, in the following areas:
 - setting up an inter-company educational centre;
 - setting up a regional economic centre;
 - investment in restructuring and increasing the competitiveness of agriculture and forestry and the food-processing industry, and diversification into non-agricultural activities; *and*
 - investment in drinking-water supply infrastructure.

(Source: Regional Employment Office; Ministry of Labour, Family and Social Affairs; public media)

EVALUATION OF THE EXISTING MEASURES AND TOOLS FOR ANTICIPATING AND MANAGING RESTRUCTURING

This chapter, which is concerned with evaluation of measures and tools for anticipating and managing restructuring in Slovenia, is a synthesis of the output of the Slovenian National Restructuring Seminar which was held in Ljubljana on 16 March 2010. The participants in the seminar discussed the strengths and weaknesses of different measures and tools for anticipating and managing structural changes in Slovenia and focused especially on the problems and challenges which emerged or intensified during the current financial and economic crisis. The seminar participants reflected the tripartite structure of industrial relations in Slovenia, and included representatives of (i) employers' organisations and individual employers, (ii) the employees (trade unions) and (iii) of the Government and public institutions in the field of labour market and employment.

As regards measures and tools for anticipating restructuring, the discussion focused on the importance of quality statistical data, analyses and forecasts, and participants judged the existing sources of such data in Slovenia to be competent, useful and reliable. Nevertheless, although the public institutions offer quality data, the employers' organisations themselves, for example the Chamber of Commerce and Industry of Slovenia (see chapter 4.1.), prepare their own analyses and forecasts, which focus on their own needs and those of their members (individual employers), and are quite often issued before those prepared by the public institutions.

It is difficult to achieve consensus between the employers' and the trade unions' sides as regards the procedures for collective dismissals and the conditions that have to be met for valid dismissal for economic reasons. During the discussion different views were presented as regards the question of whether or not the Slovenian system of information and consultation with workers' representatives on collective dismissals is effective and adequate. Certain participants considered it too complicated and that the procedures for collective dismissals make the whole process of restructuring, including the social plan for redundancies, too long and therefore less effective. But on the other hand many participants thought that if the management had identified the need for restructuring - and indeed if the management had started the process - early enough, then the procedures would have been seen less as a barrier to a more efficient restructuring process than as an efficient framework for preparing for the process. It was stressed that early identification of the need for restructuring, and expeditious preparation of the process, is very important and that social dialogue in particular is a crucial success factor. In the preparation of the restructuring process the Employment Service of Slovenia also has a very important role as regards mitigating negative social costs. The discussion revealed that many employers contact the Employment Service even earlier than obliged by law (well in advance if restructuring is foreseen). That means that they consider the role of the Employment Service and their early warning system as very useful and important for the success of restructuring.

As regards the various passive and active labour market measures in Slovenia (as measures for managing restructuring) and their relationship with each other, the discussion showed that there has to be an adequate combination of both passive and active measures. The most important question is how to divide the responsibility for passive measures between individual employers (for severance payments) and the public systems (unemployment benefit, guarantee fund); it was suggested that unemployment benefits have to be strengthened. In Slovenia there are many active labour market measures and the Employment Service has a very important role in this regard; nevertheless, the education and training programmes also have to be strengthened. Education and training and the life-long learning concept are seen as the most important factors

in raising the employability of workers and for mitigating the negative social consequences of the restructuring processes.

Participants also paid special attention to the short-term measures introduced in response to the current crisis. The discussion highlighted that these measures had positive effects on employment and that they have prevented even higher unemployment as a result of the crisis, but also that they might to a certain extent only postpone the negative effect of the crisis on employment. In this regard special focus was again placed on the role of education and training programmes and on what they should cover. It is possible that labour market anti-crisis measures were not linked sufficiently to the education and training needs of the redundant workers, which could be crucial to the employability and employment opportunities for workers who became redundant during the crisis.

The most important emphases in the discussion, group work and brainstorming at the seminar were the following:

- restructuring is an ongoing, continuous process - companies operate on a market where risks are present all the time and not just during a crisis;
- management has to act preventively, be prepared for all the risks on the market, and be in a position to respond to them early enough; lowering labour costs is not necessarily the only measure that would make the company's operation successful in the long run;
- in good management and successful responses to crises, social dialogue is a crucial factor;
- government measures have to be designed so as to be effective on the long run;
- knowledge and training of employees is another crucial element of good management; education and training programmes have positive effects on employability of the workers and competitiveness of the companies, and therefore all education and training programmes, irrespective of whether they are financed by the employer or the employee himself or herself, should be subsidised by the State;
- the crisis can also be a stimulus to improved working methods;
- communication and cooperation between management and employees - and not only through the institutionalised information, consultation and participatory procedures with trade unions or works councils - is the most important factor for success in company restructuring in Slovenia; every employee is important and has to be informed about his or her work and its importance for the company (case studies presented at the seminar also emphasised that point);
- internal mobility of workers has to be strengthened;
- continuous education and training of employees has to be a necessary element in the strategy of every company; instead of searching for solutions when crises strike and then focusing mainly on dismissals and reducing labour costs, companies should take advantage of, and build on, all the knowledge and opportunities that employees possess and can offer the company in times of difficulty, and to that end should stimulate innovation and the ability to adjust quickly to changes, find and develop new market opportunities, and so on;

transferability of the Slovenian experience to other countries has not yet been convincingly demonstrated, but the discussion suggested that certain experiences and examples of good practice could usefully be transferred, especially those which emphasise the importance for effective and successful restructuring of good communication between management and the

employees (not just *during* the restructuring process itself, but also in its *anticipation* and *preparation*), and of social dialogue.

FUTURE PROSPECTS

Globalisation and changing markets, technological development, aging of the population and the challenge of climate change are forcing companies into continuous adjustment, restructuring and change. The current financial and economic crisis has further amplified the need for adjustments and restructuring.

The Government reacted to the crisis and labour market developments through labour market policy measures. It boosted implementation of active employment *policy measures*, which comprise counselling and assistance with employment, training and education, encouraging employment and self-employment, and social inclusion programmes. Two temporary acts were also adopted, aimed mainly at preserving existing jobs; the first offered the possibility of partially subsidising full-time work and the other the possibility of partially reimbursing wage compensation for workers on temporary layoff.

Significantly more funds have been allocated to active labour market policy in 2009 than in previous years. But labour market policy is still not activation-oriented enough; the programmes are insufficiently coordinated and the contribution of the unemployed to active labour market policy programmes is low, which holds particularly true for education and training programmes. The latter is especially problematic given the economic downturn, as the crisis could be used for building up new skills for both unemployed and employed to increase their employability and support restructuring of production in enterprises. (IMAD 2009b, p. 3-4)

Analysis of full-time work subsidies shows that certain manufacturing sectors participate in the scheme much more than others. They were also recipients of various subsidies in previous years. However, clothing and furniture are industries where maintaining present conditions may postpone urgently-needed restructuring. Analysis shows that the volume of subsidies only accounts for a small portion of labour costs within industries. The scheme of partial reimbursement of payment compensation for workers on temporary layoff is a measure that is expected to help enterprises facing greater difficulties. But in certain sectors, maintaining existing jobs may have long-term negative implications for development and competitiveness. (*Ibid.*, p. 7-8)

Shortening of working hours should to a greater extent be combined with education and training of employees. The Partial Reimbursement of Payment Compensation Act leaves the responsibility for education and training of employees entirely to the employer, which may not be entirely satisfactory. (*Ibidem*)

The European Commission emphasises that short-term measures aimed at preventing job losses should not impede structural changes or the transfer of the workforce from declining to growing economic sectors, which are what is needed to ensure sustainable economic growth in the long term. Therefore, such measures must be well-targeted. (Skledar 2009)

Restructuring that is not properly anticipated can have painful effects, especially on employment, working conditions and regional economies. Poorly managed restructuring may result in a loss of image for the company or the entire sector, and create a general mood of resistance to change, while well-managed restructuring can bring new challenges and opportunities. The success of the operation can be measured, on the one hand, by enhanced competitiveness and ability to innovate of the companies or sector concerned and, on the other,

by the number of the jobs safeguarded or created and the successful social management of adverse repercussions. (European Commission 2009a, p. 8)

The most important challenges in Slovenia for the future, as regards restructuring and the labour market, and the social consequences for employees, are as follows:

- **To achieve an adequate balance in the Slovenian legal regulation governing dismissal for economic reasons and, within it, collective dismissals.** The question is whether this regulation needs to be changed. What amendments to the Employment Relationships Act are necessary in this regard? The employers' associations demand more flexibility in the regulation of employment relationships. Trade unions oppose such demands. The Government has already expressed its intention to prepare amendments to the Employment Relationships Act, for instance to shorten the prescribed minimum periods of notice and to lower the amount of the severance payment. The outcome of this process and of the social dialogue in this respect is at the moment still uncertain.
- **To strengthen the importance of education and training for the employees.** It seems that in Slovenia employees during their career do not have enough opportunities, motivation and commitments in respect of **continuous education and training**. Employers have to take seriously their responsibility to provide employees with adequate education and training opportunities during their entire career, taking into account the specific needs of particular employees and their jobs. Education and training has to be offered to all workers according to the principle of equal treatment and equal opportunities, irrespective of age, sex, nationality, and so forth. The lifelong learning concept as an element of flexicurity policies is a necessary precondition for achieving better employability of workers on the one hand and greater company competitiveness on the other. Slovenian employment legislation and labour market regulation do not sufficiently encourage employers to invest in the education and training of their employees; not least, education and training possibilities are not promoted enough within the active employment policy measures.
- **To further develop active labour market policy in Slovenia.** Slovenia's expenditure on active labour market policy programmes has been relatively low in recent years. Expenditure on the main labour market policy programmes totalled 0.18% of GDP in 2006, while the EU average for this expenditure was 0.51% of GDP. There was an active labour market policy response to the crisis, as in 2009 the number of participants in programmes increased more than the number of the unemployed, but their share is still low (IMAD 2009b, p. 16-18).
- **To develop further the social dialogue at enterprise level**, especially during restructuring, and to make it more productive. A full evaluation should be carried out on whether the information and consultation procedures are regulated and conducted in an appropriate manner. Restructuring can be successful in the long run only if it is based on effective social dialogue at enterprise level. Therefore, the framework for information and consultation procedures within companies has to be strengthened and further developed. Information has to be prompt and relevant, workers' representatives have to have continuous access to all relevant information from an early stage. Consultation must not be just a formal obligation on employers, but it has to be seen as an important and necessary tool to make restructuring successful for both sides.

Socially sensitive restructuring, which in the long run is indispensable for successful restructuring, can only be realised if it is based on fruitful social dialogue and flexicurity principles.

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