



ILO Programme on Socially Sensitive Enterprise Restructuring (ILO/SSER)

Nikolai Rogovsky

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Economic and social dimensions of restructuring – what are we calling for?

To RESTRUCTURE in a sensitive way, taking into account as much as possible all stakeholders' concerns, in particular those by the **workers** and the **management**, without forgetting the final aim of restructuring, which is =

Improved enterprise competitiveness
and even enterprise survival.



Our message is based on the ILS concerning restructuring – not compliance, but rather a signal from the social actors on what is right and what is wrong

- ✓ Termination of Employment convention and recommendation, 1982 (No. 158 and No. 166)
- ✓ ILS on Non-Discrimination, etc.



Note: Restructuring is not always downsizing (3 “levels” of restructuring)

- Without cutting labour costs (portfolio restructuring, capital mobility, etc.)
- Cutting labour costs, but no layoffs (management accepting pay cuts, etc.)
- Downsizing, but in a **socially sensitive way** (i.e. using a number of suggested tools aimed at helping displaced workers and “survivors”)



If downsizing is necessary, it could be carried out in a socially sensitive way, including re-employment options

Suggested tools

1. Voluntary redundancies
2. Internal job search help
3. External job search help
4. SME creation help
5. Mobility
6. Early retirement
7. Vocational training
8. Part time job and other AWS
9. Sub-contracted workers
10. Flexible leave
11. Psychological help
12. Severance packages



Research findings: downsizing often leads to

- Lower profits, productivity and quality
- Higher absenteeism and turnover
- Industrial disputes and even social unrest



Examples of the SSER activities:

- Training
- Action research
- Promotion and Policy Guidelines



Some of our major findings

- SSER costs are known, benefits are not
- Anticipation- still rare, most companies:
 - simply comply with the law (social plan, etc.)
 - think short-term (follow state of economy/sector/market)
- Social dialogue –a reality (but almost only in Western Europe)
- All “good” cases: Early retirement – 99,9%, severance packages and voluntary redundancies – 90%, other tools (psycho help, training, AWS, SME development, job search help, etc.) – only from time to time...
- Not much attention paid to « survivors »
- In many cases downsizing is not the best option not only from social, but also from economic point of view (see above)



However: companies do not operate in vacuum – re-employment policies!

- Success of any restructuring effort depends on the support from the government, local authorities, social partners
- Re-employment policies – roles of governments, employers and workers



The main « intervention » areas:

- Policies aimed at anticipation of restructuring (including policies related to long-term workforce planning and training; giving “priorities” to certain industries, etc.)
- Social dialogue
- Legislation and regulations
- Crisis response policies



Main message of the ILO/SSER programme:

We are all in the same boat: we will swim together or sink separately



Instruments for restructuring process management

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- **Characteristics of the restructuring process in Poland**
- **Instruments for restructuring process management used in Poland**



■ Characteristics of the first restructuring process in Poland

- ⌘ Started after 1989
- ⌘ Were linked to privatization process or change of enterprise ownership
- ⌘ Were aimed at production process and employment level rationalisation
 - ◆ Outsourcing of some activities
 - ◆ Sales of assets not-linked to core activity of enterprise
- ⌘ Took place mainly in public sectors
 - ◆ Were regulated by law in detail
- ⌘ Were managed at the branch level, eliminating enterprise level
- ⌘ Were identified with collective dismissals
- ⌘ Made use of individual compensation packages



■ **New character of restructuring processes**

- ⌘ Started at the end of 1990s
- ⌘ Restructuring = a process of „on-going economic change”
- ⌘ Still perceived as source of social unrest and employment reductions, but also as a sign of company development
- ⌘ New tools appear: besides financial compensation packages there are outplacement services (training programs, requalification programs, job broking services, assistance in setting up businesses etc.)

■ **At present the two types of restructuring processes are parallel**

- ⌘ Smaller number of restructuring processes due to change of ownership
- ⌘ Increasing number of cases of on-going, „silent” restructuring



- Retirement schemes
- Allowances for the unemployed
- Severance payment
- Individual compensation packages
- Outplacement services
 - ⌘ Training and retraining programs



■ **Early retirement (till the end of 2008)**

⌘ Most often used tool

⌘ The first restructuring processes: number of retired people and those entitled to disability pension increased by 2 million (by 30%)

■ **„Bridging” retirement (since 2009)**

⌘ Solution enabling early retirement

⌘ Less favourable than early retirement

■ **Disability pension**

⌘ „Alternative” solution to early retirement and more advantageous than unemployment benefit



■ Unemployment benefit

⌘ Entitlement to unemployment benefit

⌘ Amount of unemployment benefit

- ◆ Depends on the length of employment and other criteria important for gaining the right for unemployment benefit (5 years; 5-20 years and over 20 years)

⌘ Length of unemployment benefit

- ◆ Depends on unemployment rate in the poviast and related to the length of periods entitling to unemployment benefit (6 and 12 months)

■ Other allowances for the unemployed

⌘ Grant: from 100% to 120% of unemployment benefit

⌘ Training allowance: 20% of unemployment benefit

⌘ Activization allowance: 50% of unemployment benefit



■ Regulated by law of 13 March 2003 on special rules of termination of employment contracts for the reasons not related to employees

⌘ Condition for receiving severance payment

- ◆ Dismissing employee within a framework of collective dismissal for the reasons not related to employees
- ◆ Change of working and/or pay conditions

■ Severance payment

- ⌘ 1-month salary (employment shorter than 2 years)
- ⌘ 2-month salary (employment between 2 and 8 years)
- ⌘ 3-month salary (employment longer than 8 years)

■ Other allowances, i.e. stipulated by the enterprise collective agreement



■ Lack of sectoral agreements related to restructuring

- ⌘ Compensation packages are negotiated at the enterprise level
- ⌘ Voluntary Leave Programs (*Programy Dobrowolnych Odejść* , *PDO*)
 - ◆ Employment has to be finished on the mutual agreement basis

■ Structure of the compensation package

- ⌘ One-time financial allowance if a dismissed employee enrolls Voluntary Leave Programme
 - ◆ In years 2001-2004: this allowance ranged between 35 000 and 100 000 PLN (from 8 500 to 24 400 EUR)
 - ◆ Since 2005: a multiple of monthly salary (from 12 to 31 salaries)
- ⌘ Additional financial allowance linked to employment duration
 - ◆ I.e. 4000 PLN (approx. 1000 EUR) for each year of employment



■ Structure of the compensation package (cntd.)

⌘ Additional allowance for retiring employees

- ◆ One-time retirement allowance

- ◆ „Bridging” pension: compensation paid till the moment of reaching full retirement rights

⌘ Training and requalification programs

⌘ Since 2005/2006: assistance in setting up and running business

⌘ Professional Mobility Programs

- ◆ Since 2006/2007: one-time financial allocation for those changing the job, transport allowance, moving out allowance etc.

■ Compensation packages have changed...

- ⌘ Financial compensation as the key element
- ⌘ Gradually growing importance of additional services/assistance programs
- ⌘ Recently growing importance of outplacement services, training and requalification programs, professional mobility programs (internal or external mobility)



- **Key element of negotiated compensation packages**
- **Addressed to the dismissed employees and usually financed by employer**
 - ⌘ Co-financing from the ESF
- **Most often provided by external consultants**
 - ⌘ Private consulting agencies
 - ⌘ NGOs
- **Outplacement is a.o...**
 - ⌘ ... professional counseling and individual guidance
 - ⌘ ... training programs as well as counseling and coaching for those setting up their own businesses





Thank you for your attention!

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RESTRUCTURING IN POLAND - PROCESS CHARACTERISTICS AND CONCLUSIONS

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- **Economic situation and labour market in Poland**
- **Restructuring and the legal regulations**
- **Tools used for restructuring anticipation**
- **Conclusions**



Poland and the EU - economic reality

⌘ GDP growth 2008: 4,8%

⌘ Budget deficit

2009: 22,5 billion PLN

2010: 52,2 billion PLN

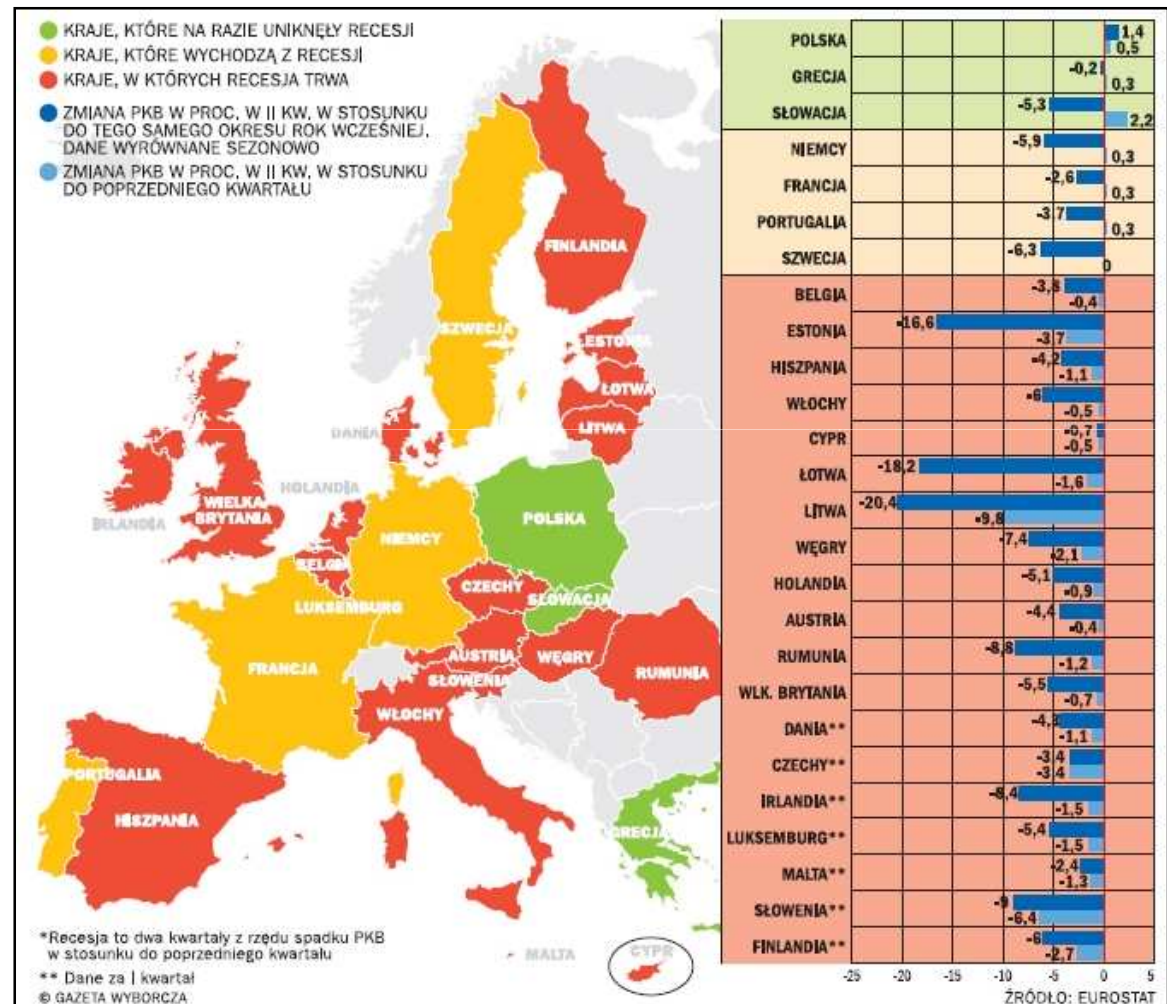
⌘ Inflation 2008: 4,2%

2009: 3%

⌘ Unemployment : 9,5% in 2008; even up to 12% in 2009

◆ The only country in the EU with a positive economic growth

◆ Growth: 1,1% in 2Q2009



■ Structure of the Polish economy

	Agriculture (% GDP)		Industry (% GDP)		Industrial production (% GDP)		Services (% GDP)	
	1990	2004	1990	2004	1990	2004	1990	2004
France	4	3	27	22	..	14	70	76
Poland	8	3	50	33	„	20	42	64
Bulgaria	17	11	49	31	„	19	34	58

■ „Mixed economy”: private and public sector

■ Unfinished privatization processes

⌘ Shipyards or energy sector

■ Traditional industrial production

■ On-going public sector reforms



■ Foreign direct investment (FDI)

⌘ 2000-2007: Poland is the main FDI recipient from among the CEE countries

⌘ Poland is popular among foreign investors

- ◆ Big population
- ◆ Promising market
- ◆ Relatively low production cost and relatively high productivity
- ◆ Geographical location
- ◆ Economic culture, appropriate level of know-how

⌘ Sectors with a significant FDI share

- ◆ Financial services sector, industry – mainly food processing and automotive industry – and retail sector



■ Employment rate

- ⌘ After a period of decreasing employment (2000-2003), employment started to grow in 2004 reaching the level of over 8,2 million in 2008...
- ⌘ ... despite this fact Poland is still a country with one of the lowest employment rates in the EU (59,2%, while UE-27 average is 65,9%)

■ Employment structure

- ⌘ Different than employment structure in more advanced economies
 - ◆ Relatively low share of employment in services sector: approx. 56%
 - ◆ Employment in the agriculture sector gradually decreases, however its share in the total employment remains still high: over 15,5%



■ Unemployment in Poland

- ⌘ High unemployment rate during restructuring processes linked to privatization
 - ◆ In 2002 the highest level: 20%
- ⌘ July 2009: the unemployment rate reached the level of 10,8% in comparison to 9,1% in July 2008
- ⌘ Structural unemployment
 - ◆ Long-term unemployment
 - ◆ High unemployment rate of young people, often university graduates
 - ◆ Significant regional diversity: i.e. 8,1% in Wielkopolska region and 18,6% in the Warmia and Mazury region (data as of April 2009)

■ Alternative forms of employment relations

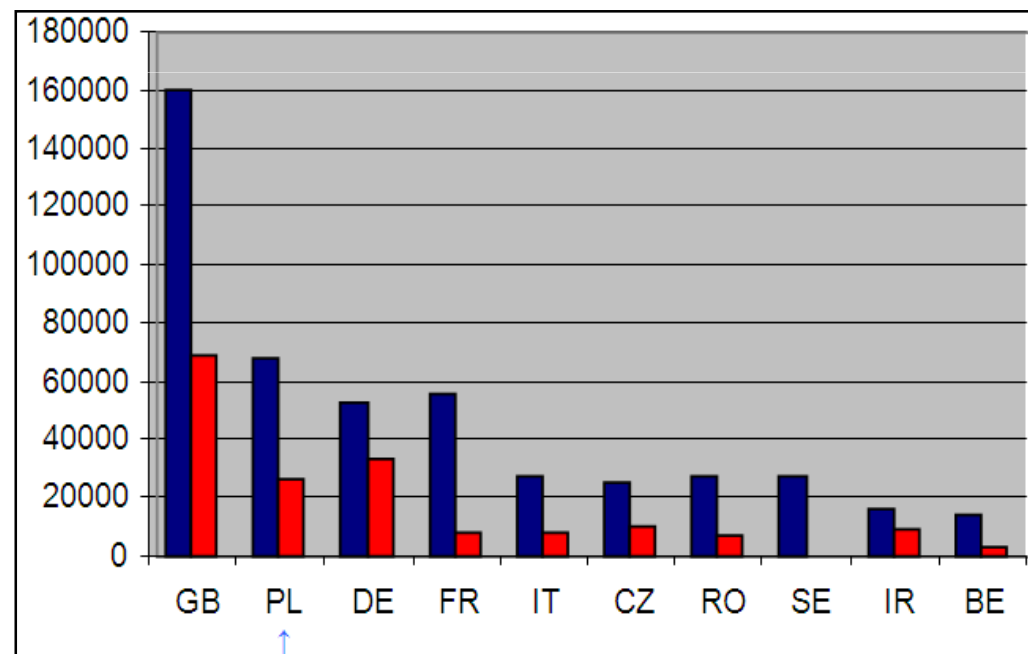
- ⌘ Increase of the number of fixed-term contracts: from 5% in 1997 to 28% (sic!) in 2007
- ⌘ Self-employment



■ Employment reductions in Poland

⌘ Most popular reasons for restructuring in Poland

- ◆ Internal restructuring (over 18,5%) and bankruptcies/closures (over 4%)
- ◆ Most affected sectors: industrial production and transport and communication (ERM data)
- ◆ Poland, alike the UK, is the country in which there was the biggest number of collective dismissals caused by restructuring processes (period 2004-2009)
- ◆ Dismissing in „emptiness”: relatively small number of new jobs and mismatch of qualifications



■ Collective dismissals

⌘ Legal basis: law of 13 March 2003 on special rules of termination of employment contracts for the reasons not related to employees

- ◆ Regulations are binding for enterprises employing at least 20 people
- ◆ In enterprises employing up to 19 people the Labour Code is the basic legal base

⌘ Definition: dismissing within 30 days...

- ◆ ... 10 employees, while employer employs fewer than 100 employees
- ◆ ... 10% employees, while employer employs at least 100 employees, but not more than 300 employees
- ◆ ... 30 employees, while employer employs at least 300 or more employees



■ Monitored dismissals

- ⌘ Legal basis: amended law of 20 April 2004 on employment promotion and labour market institutions
 - ◆ New duty of an employer: ensuring support programme for employees who are to be dismissed or have been given the notice or are in a 6-month period after the employment contract was finished
- ⌘ Definition: employer planning to dismiss at least 50 employees within 3 months
 - ◆ Employer is obliged to agree with a poviatt labour office on the scope and form of an assistance programme for the dismissed employees

■ Reporting on collective and monitored dismissals



■ Bankruptcy

⌘ Labour Code

- ◆ It is possible to shorten a 3-month notice period, max. to one month

⌘ Law of 13 July 2006 on the protection of workers' claims in the event of insolvency of an employer

- ◆ Defines the order of settling employees' claims

⌘ Law of 28 February 2003: law on insolvency and rehabilitation

- ◆ Defines the principles of joint vindication by creditors of claims against insolvent entrepreneur debtors
- ◆ Defines the principles of rehabilitation proceedings in respect of debtors facing the threat of insolvency

✓ Bankruptcy as a method of escaping the costs of collective dismissals?



■ Public administration

⌘ State as law-maker and employer-owner

⌘ Public employment services (PES)

◆ Tasks: realisation of labour market policy at the regional level

◆ Role in the restructuring period: public employment services initiate and realise initiatives aiming at eliminating or mitigating challenges linked to planned collective dismissals due to reasons not related to employees

☞ Reduced role of the public employment services in case of collective dismissals caused by restructuring – in practice their role is reduced to gathering information on planned dismissals

☞ There is a chance that they are allocated more responsibility due to amendments to the law on employment promotion and labour market institutions



■ Employers

- ⌘ Design restructuring process and are responsible for its implementation
- ⌘ Are obliged to informing and consulting restructuring plans with employee representatives
- ⌘ Are obliged to informing the poviast labour office on planned collective dismissals

■ Employee representatives

- ⌘ Negotiate with employer compensation packages and other type of protective initiatives
 - ◆ Evolution from employment and financial compensation guarantees to ensuring effective outplacement programs, support for professional mobility and/or setting up businesses



■ Regional actors

⌘ Marshall Offices (*Urzędy Marszałkowskie*)

- ◆ Role of the European Social Fund

⌘ Voivodeship Labour Offices (*Wojewódzkie Urzędy Pracy*)

- ◆ Together with the povial labour offices (*Powiatowe Urzędy Pracy*) they realise regional labour market policy

⌘ Voivodeship Commissions of Social Dialogue (*Wojewódzkie Komisje Dialogu Społecznego*)

■ External consultants

⌘ Provide outplacement services stipulated by compensation packages

⌘ Financed from employers' own sources

- ◆ Possibility of co-financing from ESF



■ Anticipation tools

- ⌘ Early warning systems
 - ◆ *De facto* information transfer systems

- ⌘ Training and requalification programs for employees threatened with dismissals
 - ◆ For the first time ever initiatives addressed to those still employed

- ⌘ Initiatives for those aged „50+”

- ⌘ Support of the European Social Fund

■ Early warning systems

⌘ Law of 13 March 2003 on special rules of termination of employment contracts for the reasons not related to employees stipulates that:

- ◆ Employers are obliged to inform appropriate poviát labour office on planned collective and monitored dismissals related to enterprise restructuring or in case of its bankruptcy
- ◆ Information submitted to poviát labour offices shall contain only number of the planned dismissals, but does not have to contain information on professional qualifications of the dismissed employees or other information that can be used by the potential future employer

■ Training and requalification programs for employees threatened by unemployment

⌘ Law of 20 April 2004 on employment promotion and labour market institutions

- ◆ Defines tools for strengthening professional competences – majority addressed exclusively to the unemployed
- ◆ Recent amendments enable providing support to employees before they lose their job
 - ☞ Employer planning to dismiss at least 50 employees within 3 months is obliged to agree on scope and form of the assistance programs with the poviats labour office
 - ☞ This support includes job broking services, professional counseling, training programs and assistance in job search



■ Initiatives for those aged „50+”

- ⌘ Government program „Solidarity of generations. Initiatives aiming at improving professional activity of people aged 50+” (*Solidarność pokoleń. Działania dla zwiększenia aktywności zawodowej osób w wieku 50+*)
 - ◆ Reduction of labour cost linked to employment of people aged 50+ - exemption from contribution to Labour Fund and the Employees' Guaranteed Benefits Fund
 - ◆ Change of the professional training system for those aged 50+
- ⌘ None of these initiatives is directly linked to restructuring processes

■ Role of the European Social Fund

⌘ Programming period 2004-2006

- ◆ Integrated Regional Operational Programme (*Zintegrowany Program Operacyjny Rozwoju Regionalnego, ZPORR*)
- ◆ Sectoral Operational Program Human Resources Development (*Sektorowy Program Operacyjny Rozwój Zasobów Ludzkich, SPO RZL*)

⌘ Programming period 2007-2013

- ◆ Operational Programme Human Capital (*Program Operacyjny Kapitał Ludzki, PO KL*)
 - ☞ Priority 2 (national level) – development of human resources and adaptation potential of enterprises and improvement in the health condition of working persons
 - ☞ Priority 8 (regional level) – regional human resources development



■ „Polish model” of restructuring process management?

⌘ Lack of anticipation

- ◆ In Poland there is a lack of culture of early warning and/or informing on restructuring processes

⌘ Centralization of the available tools at the national level

- ◆ Lack of tools at the regional and local levels

⌘ Weakness of the social dialogue in Poland

- ◆ Rare cases of autonomous and sector-level social dialogue

⌘ Lack of necessary legal regulations and system solutions



■ In order to improve „Polish” model of restructuring process management it is necessary to...

- ⌘ ... implement tools addressed to enterprises undergoing restructuring processes, especially implementation of anticipation tools
- ⌘ ... promote early warning system and system for effective information and employee involvement in restructuring processes
- ⌘ design support tools to all categories of employees affected by restructuring processes
- ⌘ ... promote socially and economically responsible restructuring and setting up an institution/indicating persons who could play the role of the leader of these processes („the friendly restructuring leader”)

■ In order to improve „Polish” model of restructuring process management it is necessary to...

- ⌘ ... popularise results of the completed restructuring processes
 - ◆ Best and good practices, conclusions, success/failure key factors
- ⌘ ... strengthen of the bilateral social dialogue and stimulating multistakeholder partnerships at the local and branch levels
 - ◆ Potential partners are public administration, representatives of employees, employers, regional authorities, NGOs active on the labour market as well as external consultants
- ⌘ ... monitor effectiveness of the existing instruments for management of the restructuring process
 - ◆ I.e. long-term effectiveness of the outplacement services





Thank you for your attention!

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