The present work intends to present the aims, perspectives, examples and concrete cases on how information and consultation can interact with new realities and as such can play a significant role in anticipating scenarios of companies' restructuring.

The challenges that are putted, actually, are many, for such reason it urges to bring them to light so that they are not unnoticed and they can be used properly to face the successive changes that are present in the life of a company and, consequently, for its' workers and, in a last analysis, for the society in general.

The work here presented intends to be an impartial appreciation, carried out by the authors, once taken into consideration the different realities and perspectives of the several points that will be approached.

Information and Consultation and the Flexibility / Mobility

The present work leans over with larger emphasis in the articulation of the mechanisms of information and consultation with the flexibility once mobility has been target of a more thorough work on the occasion of project "SEEDS 2."

The flexibility, and even the model of the flexicurity, analysed this model, now in its more practical side, and no so much as the model, globally considered, once it cannot, while a model applied in Denmark, be extrapolated to other countries, because there are certain characteristics and aspects that are intrinsic to the society and structure of that country, that cannot be copied.

The authors of this work think that flexibility can be, without a doubt, an anticipation factor. Nevertheless, this will only be able to work in fullness through the information and consultation, and in this extent, granting primacy to the information and consultation developed at national level.

Only this way and through an involvement and commitment, in other words, through "cooperation", it is possible to reach the goals of productivity and anticipating a fast answer.

It is in this case, without a doubt, that should be mentioned the Danish model which presents information and consultation as essential factors for the mobility/flexibility, trying to join interests: competitiveness and productivity of the company and in the well-being and a healthy atmosphere of work on the part of the workers.

That's the reason why, and according with the model in analysis, are constituted the so called «cooperation committees». Of noticing that Directive 2002/14/CE leaves room for the information and consultation procedures to be developed and regulated in an own way.

In what concerns the target matters, that Directive refers these in an imperative way, but others than the ones referred can be added to the procedure, and in that sense, the introduction of any of these mechanisms is foreseen in the context of the Directive. And it can be, indeed, an anticipation factor and a way of overcoming companies' restructuring situations.

The fact of those situations is target of a process of information and consultation is, without a doubt, essential, because otherwise, it can lead to an inverse effect. There are punctual cases, and of such is an example the company AutoEuropa, from the Volkswagen's Group - PORTUGAL, where it has been associated information and consultation in a situation of restructuring of the company and where was possible to overcoming it. This because the worker will better understand the process if he/she is part of such process and, in a certain way, it will lead to a better adaptation of the measures to take.

This can be translated in what surprisingly was entitled, by Dr. Martin Steen Kabongo, in one of the presentations that took place within this project, as the satisfaction "***Six Grains of Gold***": the Influence (the possibility, individual, to influence the work conditions); Meaning (to make the difference); Social Support (to receive support when necessary); Reward (the compensation should be equal to the effort); Predictability (to avoid uncertainty); Demands (the demands should correspond to the workers' competences and resources).

This because there is a focus of the attentions on the workers conditions, on the safeguard of the well-being, because more motivated workers, they will be more loyal and healthier. What will have echo on the increase of the productivity, quality, service and creativity, resulting in an increase of sales and in the improvement of the reputation of the company.

We think that the lack of these elements and an application of pure flexibility without the conjugation of the appropriate information and consultation, will drive, indeed, to the inverse effect or, at least, it won't be reached the proposed objectives (some recent cases exist of such and where are not glimpsed the effects, at least, in the immediate).

We also think that, in fact, concrete cases of use and development of the mobility exist, namely geographical mobility, through the European Works Councils and possibly through the SE. If we take into attention the cases of GM and the one of Johnson Controls (both in Portugal), such elements played a very relevant role in the geographical mobility, unhappily, such only happened during the final phase, on the occasion of the company's closure. Better results would have been obtained, if the resource to such mechanisms had happened in a previous phase and within a negotial process.

The Information and Consultation and Collective Bargaining at national level

The collective bargaining translates itself in a negotiation process between trade union structures and the employers' structures and it can cover the terms and conditions of the workers' employment and the rights and duties of the trade unions. It is, indeed, a process that leads to the regulation of that relationship.

We think that, within this articulation frame and development, the collective bargaining can be of an extreme importance, and it could be the privileged mean for the development of the information and consultation, and such was the understanding of most of the partners that participated in this work.

Nevertheless, it has to be mentioned that some difficulties are raised concerning this development, namely regarding the use of collective

bargaining as a way to promote the information and consultation, we can even refer some examples:

- There are countries where the development of the sectorial collective bargaining is weak or even is inexistent, in these conditions are some of the new members of the EU and still some candidate countries, as it was expressly referred by the representatives of Macedonia, already in the course of this project.

- The development of the information and consultation, or a better regulation at this level, and in this case we are referring to the information and consultation at national level, and in what it concerns Portugal, this matter presents difficulties, mainly in its sectorial side and even in other official instruments of collective regulation.

- That information and consultation, even if from a sectorial point of view, has to be developed and accompanied by a direct practice in the companies and in that case we can refer that several cases of good practices, what should be underlined, therefore this is the basis of the Danish's model.

- We think, still, that is convenient the connection of the information and consultation with punctual aspects of matters that can be included in the information and consultation in broad terms (in the terms described in the extent of Directive 2002/14/CE), as the concrete aspects linked to schedules, mobility, among others.

- These aspects have been more developed and focussed at collective bargaining table, but intimately interlinked with some of the foreseen aspects, within the information and consultation.

If we take into attention the Danish case, the touchstone of the Danish's system , certainly, is the collective bargaining and the social dialogue. The level of social dialogue it is quite high, and it works on a daily basis and it acts within what is stipulated in the collective agreements that are negotiated having as a basis the reality of the country, because these allow the dialogue within the companies, which consequently, allows to find out solutions based in a consensus.

The reached success, in this example, not only regarding the labour relations, as well as the economic relations, is due to the fact of existing, on a daily basis, within the companies, individually considered, an adequate environment where the information and the consultation happens daily. The information and consultation doesn't have room just when exceptional circumstances appear, but, regularly.

The social happens at local level, regularly, on the base of what has been agreed at national level. The collective agreements themselves, at national level, make possible and provide such information and consultation to happen on a daily basis.

That is so more important as if we attempt to the fact that the flexicurity system, often mentioned as an example to follow by the other countries of the European Union, cannot work without social dialogue, otherwise it won't be applied.

To this assumption it has to be, also, added another one that rules, on an equal way, the whole Danish system, which is linked to the TRUST among the parts. This is the fundamental principle of the whole system.

Strictly related with the trust factor, is the cooperation environment among the parts, and this is visible when, for instance, in the companies the workers are organized by teams and they are the ones that organize the work, frequently are the workers themselves that define how to carry out the stipulated work. This because the incentive is linked with finding solutions and this passes, necessarily, through the collaboration of all the interveners.

This way it was possible to increase the productivity, through the active participation of all in the work.

One thing is sure, such is possible due to the strong assumption of these concepts and principles. Everything is linked to cultural issued, for that the system cannot "be exported" if doesn't exist the due adaptation of it to the different realities.

Flexicurity promotes the restructuring, and one of the examples where better such tendency is verified is the textile sector, where in the eighties there was a dislocation of the companies to Spain and even to Portugal and where big number of people worked and where, actually, the existent companies, produce more than in the eighties.

Of noticing that, based on the Danish system, the restructurings should happen, but not in way that the workers' rights are questioned. The decrease of the workers' rights won't be applied, certainly, just to avoid the displacement of the company.

They don't support, for such, the so-called "race for the bottom", which means that it is not desirable the transformation of the existent conditions into others that implicate less or inferior conditions, less retribution, etc. If such happens it is, indeed, quite irresponsible. They defend, for that, the bet on the innovation, creativity and quality of the products.

If such is not possible, the important is not to assure the work, but to assure employability.

Besides the Danish case, where the collective bargaining emerges as a pillar of a system, we think, and after the research and the work developed within the scope of this initiative, that it is important to refer the example of the textile sector in Portugal. And also, despite the fact of not mentioned in this project, the example of the Portuguese shoe's sector.

The case of the adaptation of the collective agreement of the textile sector (SIMA subscribes the referred collective agreement), besides other changes, the collective bargaining can be an essential piece in a wider framework, these measures pass through, essentially, the increase of flexibility.

There is, however, a difficulty, in some cases, because in Portugal, despite trying to develop some matters, but the level of information and consultation is extremely low, just as it happens in other countries, as it is of that example the case of Macedonia.
In this country the experiences on the workers information consultation are not still many and the related are not too.

This because companies exist where there is, indeed, information and consultation in practice, and some of those cases can meet the expectations, and for that reason it is tried to extend these good examples to other companies.

On the other hand, there are also situations where companies do not even want to speak about information and consultation.

There are, therefore, cases where companies declare that the workers are there to work and all the rest do not concern them.

In most of the cases of conflicts, within the companies, are based on the lack of information and consultation. On their turn, the employers, more and more, notice that these conflicts would be solved if the information and consultation was not involved.

Both the described situations occur at the national companies, and at the multinationals' companies.

Of noticing that, in spite of nor all of the examples be positive, the situation, although slowly, it is to change positively. Such, partly, is due to the legislation and also to the practical needs, but they are still very on this side of what is aimed, namely of the so-called "developed countries."

The legislation is not yet adapted to the Directives of the European Union, for that reason the information and consultation is restricted what is foreseen in the internal law, namely in cases of dismissals. For all the other matters it is not compulsory to proceed to the information and consultation.

It is in the metal industry metal that the biggest foreign investment is verified, and is this sector that employs the largest number of workers and, consequently, the restructurings took place also in this sector.

There has been an evolution in the relations. In the beginning, the relations were not very good, but an improvement was verified, this in what concerns to the procedures of information and consultation, more concretely, in the use of such procedures.

This sector is a good example for the others, although it is not in an ideal position.

If we take into attention that this sector is the one with larger number of workers and the most important in the wealth creation, this will be, also and without a doubt, the privileged place to implement the information and consultation.

As it is not compulsory to use the information and consultation, the partners try to include in the collective agreements terms regarding the information and consultation. Information on everything that can influence the worker and that concerns him; in what concerns to the consultation, this one is linked with the reduction of the number of workers, which criteria for the workers' choice.

In practical terms the consultation means direct meetings of negotiation between the workers' representatives and of the employers. Such also happens when the employer intends to restructure, especially in what concerns to the reduction of the number of workers that can happened due to the low productivity, old equipment or even due to privatisation of the company.

The initiative depends on the subject in the event of a structural change, because the trade unions don't have means to what such information in advance. The initiative belongs to the trade unions when the motive is the workers' interests. When the rumors appear they are cause of tension and then the trade union takes the initiative.

For the time being, it is not felt, in the country, the phenomenon that is felt all over western Europe, the so called displacement of companies and or production, because there are companies «getting in» and not «getting out». There are restructuring situations but motivated by other factors, such as, the reduction of the workers number and/or production.

In the opposite end we can point out the case of Finland. Here, the social dialogue, the information and consultation is already part of the tradition of the Finnish labour relations.

There are several negotiation levels, and a long tradition exists in the tripartite negotiation among employers, unions and government. At another level there is, also, the sectorial national dialogue that, per times, is tripartite. Result of this tripartite sectorial dialogue is the national program for the industry between 2004 and 2009. This is a way of trying to find tools to survive to the globalisation, because if the companies are healthy it will also help the workers.

This program aimed the creation of a net of companies working together to find twenty new Finnish supplying companies operating not only in the country as well as in the rest of the world, for instance, Nokia, Elcotec that have several suppliers in the world.

The aim was to strengthen the structure and the business of the companies, while the goal was have eight hundred companies involved in the program. It is not known if they have been having success and they are not also very convinced of the success of the same, but they can, at least, try.

In this program, leaning for CITRA (that supports programs to benefit the country) all were involved from trade unions and employers.

On the other hand, it also exists, the social dialogue at company level and that happens on a daily basis, mainly with the trade union officers, because they are the ones that, in the company, first, lead with the problems. The trade union officers are the ones that, on a first hand, intervene in the process of information and consultation. They are the actors in the process. They are the ones that negotiate with the company.

The initiative is divided between the company and the workers' representatives, because it depends on the cases and on the situations.

One thing is sure, if a problem exists, the workers and/or their representatives are involved since the beginning, although the opinions issued by them not always are considered.
The Finnish system differs from the Danish system essentially in what concerns the level of bargaining, because the last ones negotiate at company level. While in Finland there is a sectorial national collective agreement that

allows the possibility to agree, locally, on other matters, but if such do not happen the matters are always negotiated in the agreement sectorial.

The Finnish system is quite flexible, because, the collective agreements allow the existence of local agreements.
There are cases where the problem is presented still in an initial phase, while in other situations the case is already presented once the decision is already taken, for that reason, the situations will have to be analysed individually.

One of the bad examples is linked with the company Salcorp (chargers for mobile telephones) that thought to be the main supplier of NOKIA, but NOKIA moved to China and the company in question was forced to move, also, to China, because it was there that were the suppliers and the client and the costs were also cheaper. Due to this displacement the company initiated a negotiation process that lasted close to two months, but it was not possible to make the difference, because such process was just accompanied with artifices. It was, without a doubt, a very dramatic situation for the Finnish workers.

Another bad example is linked with the lack of information, and it is related to the company Fujitsu/Siemens when it closed the computers plant located in the country. The decision was taken in Japan and who took knowledge in first hand was a German journalist, for the Journal "Focus". On that occasion the German journalist alerted the Finnish friend and for that occasion very little there was to do.
The lack of information was evident in this example and this is an illustrative one on how, frequently, the processes elapse: with a disrespect for the workers' rights, lack of information, intentional, that leads to the situation when the fact is known there is anything more to do.

Another example - Elcoteq - often shown as an example to follow, it came to demonstrate that such did not correspond to the truth, because the company, for order to maintain itself in the country, tried to reduce the wages, but it didn't get to reach its objective, for the that it moved the production to Hungary, country where the costs are lower.

It happens that, even with participation right that implicates more information and eventually more negotiation, the final word continues to be

of the company itself. Even with participation right the result would be the same, because the company would have to be close of his/her customer.

However, not only bad examples are included in the business environment and the Finnish labour relations. This because one of the good examples refers to the company SISU AUTO, where the workers' involvement began earlier. This truck plant was a state owned company, but actually is already a private company. This company intended to change their production locations and, having in view such goal, it informed the workers and began to negotiate with the trade union officers on how they should do it. The obtained results resulted from the dialogue between both parts - company and the workers' representatives.

Another example, placed in between the good and bad examples, is related to the company VERESTILA that manufactures diesel engines for ships. In one occasion, they decided to expand the Italian plant, opting to close the Finnish plant. Despite the workers' involvement, understood as the workers' representatives, it was not possible to maintain the factory in the country. They lost close to five hundred workers. However, they've managed to negotiate the compensations for the workers (monetary compensations, training, the creation of a fund to open their own business - constituted by some millions of euros). To what was added, also, the possibility of the Finnish workers to go and work for the Italian factory, but the workers refused such proposal, in its generality.

This was a sad example, not only for the number of involved workers and that have lost their job, as well as for the fact of the company, soon, have recognized that the measure taken was not the most suitable because the Italian company doesn't have capacity.

Another sector quite affected with restructurings, with the representative companies of the sector trying to reduce their capacity, is the paper sector, of the machinery. This because, arguing that the price of the paper is very high, the companies intend to reduce the price of the wood and they try to reduce the capacity with view to reach their aim. The companies remain in the country because their intention is to reduce capacity to influence the market.

Information and consultation within the EWCs

In Finland, the workers' representatives face their participation in these bodies as a plus to the national system of information and consultation. This because, in most of the cases, the information obtained within the European Works Councils is somehow not up-to-date and with little practical usefulness.

However, if the involvement of the EWC is a reality, in due time, such could be a benefit, therefore the information is transmitted in opportune time and true negotiation exists with the workers' representatives.

The Information and Consultation and the Collective Bargaining at European level

The concept of Collective Bargaining at European Level is, in practice, quite wide and it covers different realities. As it is of general knowledge, the collective negotiation is not more than the implementation of the EU directives, in the area of the labour and industrial relations.

The Union itself, allows the partners to negotiate important labour European models. Such as the example of the European works Councils and the European Company. The Union delegates in the social partners such competence.

In both situations the parts should negotiate within a cooperation spirit with view to reach an agreement on those same matters.

Of noticing that, in some cases those same bodiess to which such competence was delegated, have already extrapolated the competences that have been attributed to enlarge, to extend it to other matters different of the ones initially foreseen. This, for they support the idea that they are the appropriate instrument to do so.

Once again, and as it has been stated, also in these cases it assumes special role the information and consultation. This because, in spite of being in another level than the national, the information and consultation, beside

such collaboration, they should be present in order to make possible the real involvement of both parts.

Either through the mechanisms already existent (because the community instruments already foresee the information and consultation - EEC, SE), or through norms even more specific that regulates the agreements to be reached.

It is no longer recent the concern of the Union itself to establish criteria and limits for the promotion and establishment of information and consultation, in the promotion of the social dialogue.

It has to be added, also, and to the similarity of what happens inside of each Member - State, the Union it self foresees that, in case of any agreement is not reached, will go into force the standards rules. In other words, freedom is granted to negotiate such matters, but if it is not possible to reach an agreement on them, those will not be empty of content and will be applied the standard rules.

The reality of the European collective bargaining more and more is felt, especially due to the predominance of multinational companies and the phases of restructuring that they face.

There are, even, cases that the European federations of industry themselves negotiate collective agreements.

Before this scenery, it is more and more natural and common the emergence of collective agreements European level, assuming different forms.

It is urgent, however, the establishment of rules in order to regulate these situations, and the European Union itself should regulate what it has allowed, not only by defining which actors can intervene, as well as the way and the content of such agreements, and very important, the legal effects of those agreements and which is their relations with the agreements that have been celebrated to European and sectorial level.

The Information and Consultation and the International Framework Agreements

According the authors' understanding, and facing the development of the International Framework Agreements, these can, without a doubt, play an important role in the development of matters go beyond the mere principles and freedoms included in the first documents elaborated on these theme. There are, even, clear cases where the progress, in this sense and exactly in the domain of the information and consultation and of the possibility to foresee situations, and after, to reach ways of overcoming them, is clear.

Within the sectors included in the present work, there are two cases - AREVA and Schneider Electric - that are two land marks that cover / include other areas and not only the basic principles such as, and in the case of the first example, equality, not so directly included by the present work, while that in the second example, it is also patent the concern in keeping/promoting the employability of the workers, the development of the competences, the evolution of the wages and their adaptation to the new economies and strategies as a form of assuring the professional courses.

In that sense were defined as priority areas, the information on the priorities and the main groups' orientation's previsions, identification and anticipation of the needs on competences and qualifications for each activity domain and in all of the entities and the development of a training policy, active and accessible to all of the professional categories.

For the signatories of this agreement, the administration in advance of the employment and of the competences should be based on the following priorities:

- Identification and anticipation of the needs on competences and qualifications for each activity domain and

- The accomplishment of individual contracts of competence with each worker for the period of three years, which allows to identify the actions to develop.

- To develop an active training policy.

Training is the privileged way to advance the evolution of the professions, and it passes through the elaboration of an annual training plan seeking objectives identified in the local debates on provisional administration of the job and of the competences; and still:

- ✓ For the access to the training for all of the professional categories;
- ✓ For a state of connections on forecast administration and job competences in the entity;
- ✓ For recognition of modalities and validation of acquired competences;
- ✓ For the census of the existent ways.

This in order to develop the social dialogue having in mind to manage with anticipation and change.

The parts agree that the anticipation of changes of the company presupposes that the definition of the priorities and of the big great orientations of the group should be explained to the personnel's representatives the sooner the best.

In that such sense such should be explained to the members of the European Works Councils (EWC), but each local management should organize the information to their workers' representatives on Schneider's strategy and on the eventual larger and previsible consequences in what concerns to the place. This organ is the privileged place to take to cable a social dialogue.

The local information comprehends the tendencies of employment's evolution, the state of the places of the involved functions and the evolution of the included competences. An action plan that seeks to advance this evolution should be instituted.

The plans of transnational action depart from this strategy and they assume an effective consultation of the EWC in order to take into consideration the positions of the workers' representatives.

Great part of the what is expressed here is, in equal way, consubstantiated in two Directives (94/45/CE and 2002/14/CE), nevertheless it is our understanding that this statement, on the part of a multinational company is, without a doubt, very important having in mind the assumed commitment as well the facto of, frequently, the decisions emanate from outside the country.

If we take into attention the case of "Brunel", that besides having the added value of being an agreement involving all of the countries where this company is present, with a concern of social responsibility, it establishes, in a very cleat way, that the company recognizes that the workers' representatives are entitled to be informed and consulted on the decisions that concern the life of the company.

Without a doubt, the international framework agreements gain more and more importance, and there are several the cases where they assume a role of great prominence in the increment of the information and consultation and in the concertation of wider strategies.

We think also that the search for involving all of the actors within the social dialogue involved in the information and consultation, from the representatives of the European Works Councils to the national structures themselves, is really important, and it should be privileged this form, because this is a commitment directly assumed by each one of the parts in the development of the information and consultation, but where equally are prepared measures aiming an anticipation of situations and scenarios.

However, these mechanisms also have problems that reside, essentially, in the coordination and in its implementation, because assisting to the diversity of the involved elements and the several interests also involved, it may cause some difficulty or conflicts in its coordination, in a first stage, and later in its implementation.
We still think to be essential to distinguish between International Framework Agreements and the Codes of Conduct. The first ones are instruments resulting from a bilateral negotiation, and that establish an agreement between the social partners covering certain matters (and these are varied); on its turn if the pointed out conditions are verified, but confined to the European space, these agreements are, frequently,

denominated of European Framework Agreements. Usually these figures are used in the space of the multinational companies and, also frequently, count on the involvement of the European Federations or International trade unions and they can, or cannot, have a more or less direct involvement of the national trade unions as well as of the European Works Councils.

On the other hand, the Codes of Conduct are one-sided-fixed by one of the parts and consusbtantiate a the declaration on certain principles.

The importance of any of these instruments can be reinforced because some of these instruments establish requisites/models to which their suppliers should obey. In Portugal, for instance, such subject was already raised in two cases, more concretely regarding the suppliers of companies such Volkswagen and Nike.

Of noticing that, according a recent study, 30% of the actual International Framework Agreements cover the issue of restructuring.

For that reason this can be an essential factor within an anticipation picture, articulated with the companies' performance and the satisfaction of the shareholders, as well it can be a relevant instrument in the promotion of the social dialogue, with faster and more effective answers within a wider picture.

To what adds the possibility involving, in some cases, the European Works Councils and even of the national trade union structures.

It should not be neglected the relevant role that these can play in the promotion and development of the information and consultation, being such foreseen, for instance, in examples such as the International Framework Agreement of IKEA and of Securitas.

Information and Consultation and the Sector Social Dialogue Committees

The Sector Social Dialogue Committees assume, more and more, larger relevance, according what was expressed by the partners of the present initiative, and going, without a doubt, towards what was mentioned by the

Vice President of the European Commission, Mr. Günter Verheugen, during the Conference organised on the occasion of the II Shipyard Week (organized and developed in partnership between the EMF and CESA), and in which has been important the work developed by the Sector Social Dialogue Committee of the sector.

A role that it plays and that it is very important because it institutes adaptation instruments, of development and training promotion and even of mobility, aspects that are, no doubt, essential and with visible results. From where stands out the promotion of the sector, what already led this sector to be more competitive, with better products, with workers more qualified. In what it concerns this last aspect it has to be referred an aspect of the biggest importance - Training - just as it is referred in the Directive 2002/14/CE, although with long term concerns, because the production excess may return and for that reason it urges to be attentive.

And it is necessary to produce more complex and innovative products; such is only possible by working together and promoting the information and consultation.

This type of committee is the privileged mean for promoting and developing the information and consultation, although at another level, though at another level, but essential for the development of the sector, of the companies that are part of it and of the workers that work in it.

The Social Dialogue at European level and the implementation of the agreements

The article 139 of the Treaty of the E.U. foresees two ways of implementing the agreements reached through the social dialogue at European level:

a. Through a Directive of the Council, or

b. On a voluntary basis, that is, according with the specific procedures and practices for the administration, labour and member states.

In terms of functionality they are both equivalent: while the first case uses constitutional mechanisms of the legislation of the E.U. to request to the

member states to implement the agreements, the second case turns to the mechanisms of the industrial relations to articulate the social dialogue social at E.U. level with the collective bargaining mechanisms to obtain a *erga omnes* effect. Actually, both are, essentially, mechanisms of extension of the agreements of the social dialogue at the E.U. level.

a. *Directives*

The implementation of resulting agreements of the European social dialogue is based on article 139 (2) EC, according which the agreements conclude at community level should be implemented according the procedures and practices specify for the administration and labour and member states, or according with the matters included by article 137, up on request of both signatory parts, for decision of the Council under proposal of the Commission. In this last case it leads to its implementation via a Directive of the Council.

The social partners at European level, signatories of the agreement, will request to the Commission to propose to the Council the implementation of the agreement. The Commission will provide an explanatory memo on each proposal presenting comments and conclusions on the agreement reached by the social partners. In this base Council, by a qualified majority or unanimously, will decide if it will incorporate the collective agreement into a Directive. Council can even decide not to include the agreement by a Directive. However, it cannot change its content. With view to respect the social partners' autonomy, the Commission declared that it would withdraw the proposal if the Council intends to change its content.

If a Directive of the Council implements the collective agreement, its effects will be *erga omnes* and the member states will have to guarantee the application of the Directive.

Of noticing that the Court of First Instance compares the implementation of the frameworks agreements via a Directive of the Council to the normal legislative process. This vision has important constitutional implications. According with this Court, the democracy principle on which is based the foundation of the European Union requests, in the lack of participation of the European Parliament in the legislative process, that the people's

participation is assured, in this case, through representatives of the signatory parts.

b. Voluntary Basis

The Commission established its vision on this voluntary via in its first communication on the social dialogue at European level. The Commission seemed to face this obligation of implementation of the social dialogue agreements, requested by article 137(2), as constituting in the fact of only "the terms of this agreement are obligatory for their members and only will affect them, according with the practices and specific procedures in their member states"

Different level of Agreement:

- Interconfederal / intersectorial among the social partners at European level (Agreements on maternity leave, telework);

- Multisectorial agreements negotiated by social partners, at European level, representing several sectors (Agreement on the protection at the workplace through the good use of the silica and other products containing it);
- Sectorial Agreements, at industrial level, among the organized social partners on an industrial / sectorial basis at European level. Examples include agreements on the work time in several sectors;

- Agreements in multinational companies with establishments in more than one member state (more than 700 agreements at European Works Councils' level);

- Agreement covering areas in more than one member state. These assume the form of agreements between employers and inter-regional council and in different inter-regional areas;

- Among others...

And one of those examples...

Almost to be concluded, once it is being negotiated, we can present the example of an International Framework Agreement of the company ARCELOR on health and safety at the workplace.

This International Framework Agreement will include some very relevant dispositions because this agreement cannot replace any national or local legislation, or regional or at company level legislation, if these are more favourable.
Where already legal or contractual obligations exist, it will be up to the local social partners to decide where those are exceeding this agreement, which complement them and, consequently, they should be adopted.

The health and safety committees to be instituted cannot, in any way, to replace the local health and safety committees, legal or contractual, already existent, but these will be able to adopt points of the agreement where this exceeds what already exists.

This future agreement recognizes the essential role that the trade unions can play regarding issues of health and safety matters and it encourages partnerships between trade unions and Administrations in order to improve the standards and the participation with view to improve the health and safety patterns, because they understand that the people are the most important element in the success of any health and safety program and the workers and the Administrations, together, are in the best position to identify the health and safety problems and to develop and to present solutions for a fast answer, never neglecting training and the active involvement of the workers. Assuming, no doubt, a preventive attitude.

These are the motivations that led to the negotiation of this agreement and possibly to its adoption in a near future.

If until the present moment we have leaned over on the mechanism of the information and the workers' consultation when facing new realities and how it can interact with those, we think that it is opportune to refer another way of the workers' involvement - Right of Participation of the Workers - and how it can play an important part in the anticipation of scenarios, associated to different realities.

Workers' Participation Right

The participation right constitutes a form of the workers' involvement, framed in the trilogy: Information, Consultation and Participation, that is translated into the possibility to elect, and be represented, representatives for the Management board or at the Supervisory Board (depending on the applicable system - Monist or Dualist).

Among the most common systems, (the systems are classified according with the number of the workers' representatives in the board of directors of a company) stands out the paritary system because and due to its importance, it can lead to a true Co-determination. The paritary system means that there are an equal number of workers' and employers' representatives in the board of directors of a company. With this system the workers' representatives can decide, in principle, between equals, being able to, like this, influence the decision to take.

On the other systems, namely in the one third system of a third, or other, such possibility is excluded once such is linked with the attainment of information, change of opinions, etc.

The workers' representatives are chosen directly by the workers, or nominated for any other way and can be workers of the company or trade union officers from organizations that represent those workers or still individuals considered that represent the workers' interests.

"Workers' Representatives", this expression involves the expression of the collective interest and not the individual, for that reason that differs of the direct participation because, as it has been stressed, it emphasizes the collective interest and not the individual one, the objective is to reach the democratic investment in the decisions of the company and, usually, this participation is regulated by Law or by collective bargaining, such is not a mere unilateral decision on the part of the company in subject.

The objective of the Participation Right is linked to the aim that the workers should have information on the decisions and the decision taken on the

strategic action of the company. This right differs from the mechanism of information and consultation on the daily operational matters.

The content and impact vary according the applicable system. If the workers' representatives are in minority, what happens in the majority of the cases, they will only get information, exchange of opinions and point of view and arguments on the strategy of the company, while if the representatives are in equal number such leads to true Co-determination because they control, they veto and they have real influence on the strategy of the company.

The differences are linked with, for instance, cultural issues and also with the objective to be reached. Because if a real involvement of the workers' representatives is intended, allowing them not only the access to the information as well as the power to influence the decisions to be taken, it will be opted for the parity system, while if the objective is linked just with the exchange of information it will have opt by the one third system, or other.

The workers' participation right is not foreseen in all of the national legislation of the different member States. Just some of them foresee it and the applied systems also vary. On the other hand, and as it was already stressed, there are also cases where the participation right is applied/agreed via collective bargaining, by social partners' decision.

What are the challenges that are raised...

The participation right raises, for the interveners, several challenges, although different, for the workers' representatives and for the representatives of the company.

For the worker, or workers, that represent the colleagues near de Board of Directors of his company, it is raised, since the very first moment, an interior conflict, this because, daily he is a worker of the company, but because he has been appointed or elected by the workforce, or by the trade union structures with representation in the company (depending on the case), he has presence and participation at the Board of Directors of the

company, which allows him to have access to privileged information or, even, to influence the decision.

This conflict leads us to another one, necessarily interlinked, concerning the duality of interests and which one should prevail: the collective interest and the individual interest. The first one should prevail, however, it is not less right than the lived experience that reports us that is frequent the individual interest to put upon to the collective interest.
This situation will be able to, also, to originate conflicts within the represented workers.

What to do with the obtained information? This is one of the doubts that more frequently is putted. This because, frequently, the information transmitted is classified, i.e., arguing that such is confidential.

The workers' representative feels like "imprisoned" in his quality, because he was named, or elected, for the position to defend the workers' interests and to guarantee that their proposals are heard and taken in consideration, but it cannot report back the information. How should he act? What to do?

This is one more example of a conflict that adds to the already mentioned and that can raise reasons for concern.

On the other hand, and in what respects to the companies themselves, the fact of having workers' representatives at the Board such can also be a reason to raise some noise. It can cause some discomfort, on the part of the company, and it might generate a social conflict.

However, and before the workers' representatives' presence at the Board, the other representatives of the company may press them in order to driving them to accept the company's position. That is, they can "arrest" the workers' representatives, falling back upon its superiority number (if this is the case) and also press, intimidate the representatives present.
As it can be verified the workers' representatives' participation in the Board may cause, in both parts, some scepticism. This will be, without a doubt, one of the challenges that are putted to the participation right.

And the participation right within the European Company...

First of all, we think that it is opportune to weave some brief notes on the constitution of an European Company...

The Council Regulation (EC) No 2157/2001 foresees the possibility to constitute a "Societas Europea", European Companies.

An European Company (SE) is an European limited responsibility company ruled by the legislation of the member state where it has its headquarters and where it is registered.

The SE is an European joint stock company, as a corporate entity.

The aim is the standardisation of the applicable legislation to the SE, avoiding the existent disparities until that moment.

The workers' involvement is assured by the Directive 2001/86/CE, of October 8.

In what concerns the challenges that are raised regarding the participation right, within the European Company, it can be stressed that, in they are related to what has already been described for the participation right, in general.

These, however, assume a different dimension, because the workers' representatives can be originating from different countries and different systems. To that it should be added the fact of the workers' representatives no longer represent just their fellow workers in their country, for also the workers of different nationalities and different realities.

All this scenery leads, certainly, to added difficulties assisting to the possibility of having some difficulty in conciliating interests.

On the other hand, the constitution of an SE might lead, theoretically, to the expansion of the participation right.

There are several examples of SEs which agreements consecrate the workers' participation right, as it is of the case of the SE of Mandiesel or even of BASF. Such doesn't necessarily mean that the workers there present can change the decisions to be taken by the company. In both cases the workers have access to the information in a very initial stage and they can influence the decision to be taken.

According the authors' opinion that is corroborated by the European Metalworkers' Federation itself, this is the most important. This because they obtain information very early, they can discuss it and even influence the decision taken, because information is power. However, this is not an easy task for who is representing the workers, for that the representative(s) should have competence for it. On this respect, training given to the workers' representatives is very relevant and the care that should be present on the occasion of the workers' representatives' nomination/election for the Board of Directors of the company.

Not always the issue is linked to the possibility of existing Co-determination, but with the possibility to obtain information as soon as possible.

A note in what concerns to this participation right and the workers' representation at the Board of Directors, this because, frequently, those representatives are originating from different countries, representing different realities, and for that reason it is required an extra effort in conjugating acting and interests.
On the other hand, there examples of SEs that don't foresee the participation right, but only mechanisms of information and consultation, as it is the case of the SE Hager, where there was an agreement with Management in order to exclude the participation right.

Which is the role of the participation right in the anticipation of companies' restructuring scenarios?

If until now we have been focussing on the role that information and consultation can play in cases of companies' restructuring, we will look now to the role played by the Participation right before such identical scenery.

If we take into consideration the characteristics and the content of the participation right this implicates an involvement (that can, as it was already said, assume different forms) of the workers in the decisions of the company.

Is this indeed a true participation?

We think that, aside of the cases in that the participation right means the possibility/ power of influencing the decision to be taken, fundamentally, when assuming a place at the Board of Directors, the workers' representatives are in a privileged position to take notice of the information simultaneously with the other members.

This privileged access to the information, allows them, also in advance, to take knowledge of the intentions of the company and of the alterations that it intends to implement and they can like that, in equal way, to prepare and to present proposals, solutions on how to overcome the situation, trying to influence the decision.

In the cases where there is the possibility to veto the decision, the power of influencing the taking of the decision is even greater.

By involving the workers, more concretely through their representatives, in the bodies, the company assures, like that, that the workers are a part of the company and that they should participate, although in a not so interventive way, in the performance of the company, both for the good as for the bad. This because if we take into attention a restructuring, this doesn't mean, necessarily, that from there it will result harmful consequences, because it can be the case that a restructuring means a positive evolution.

The participation right, as it has been already mentioned, assumes different relevance depending on the structure that welcomes it. This is, if we take into attention the Danish case, the workers are part of the administration, but they cannot block any decision and, taking as example the German Right, the Danish system cannot be compared to it. This because the workers' participation is verified more at the level of the Cooperation Committees, where can be discussed several policies such as canteens, etc. At this level it is discussed more the politic to adopt on the different aspects of the life of the company.

In another aspect, this participation right is linked, essentially, to the attainment of information on the company, what contributes to the understanding of the future and it allows acting according with the situation. The workers' participation in these bodies, and in other, is useful yes, as a way of increasing the knowledge of the economic situation of the company, linked to the possibility to obtain more information.

On the other hand, in Finland, the fact of having the participation right is always seen as an added value, this because such means that they will be able to receive information as soon as possible. The fact of having an or two people in the Board of Directors means that these will have a lot of information. However, this information is, frequently, considered as confidential. What to do then? Anything! In such cases, the benefit is null.

On the other hand, they try to, whenever possible, to place a member in the Board of Directors so that he can influence, from within, the decisions to be taken by the company.

In the opposite, in Macedonia the participation right doesn't exist, for that reason they do not have that "privileged" access the information.

How the participation right, associate to the general right of information and consultation, can be a tool in anticipating scenarios?

As we already saw, up to now, both the participation right as the right of information and consultation, despite being different mechanisms, will be able, no doubt, to mean an important instrument in the anticipation of scenarios of companies' restructuring. So, if separately they already had such capacity, if they join together, such capacity will come out, certainly, reinforced, and the objectives will be reached.

With an information and consultation carried out systematically (and not occasionally), in other words, what we call as an «accompaniment» information and consultation that allows the workers, together with the company, to follow the evolution closely, the needs of the company and to take active part in the designation of the best way of reaching the proposed

objectives, allied to the existence of a participation right, although that right doesn't mean a Co-decision or a Co-determination right, but only an access the information about the evolution of the company and of the decisions to take, they will become powerful instruments to face restructuring situations, and they allow to advance, to prevent, too.

Enphasizing prevention will mean that both the company and the workers will, together, be able to act in a way to reach common objectives.

The company will find, like that, a dialogue via and will involve its collaborators so that, together, can delineate objectives and reach an agreement on the means to use. This because it is stressed a lot, by all, that everything has to do with the approach, in other words, how the information is diffused and explained, to the workers, so that these they can accept it and present their proposals.

We can conclude that, to obtain well succeeded results, namely on issue that we focused - anticipation of scenarios of companies' restructuring and how to overcome them and also as the different realities are interconnected - everything comes down to the involvement of the more direct interested ones (company and workers), to the dialogue (that can assume different forms) and to the cooperation.

Concrete Cases

BULGARIA
(in BCM; in Metalicy)

The functioning of the metal sector, in Bulgaria, and the commitments related with the candidature to the E.U. led to a change of the industrial politics of the sector, appealing to its restructuring. This includes a set of action at technical, technological and organizational level that guaranteed the competitiveness of the metal products in the local and international market. The big metal companies were privatized.

Presently, 90% of the active of those metal companies owned by private investors. The new owners continue to fill out their investment programs aiming the renewal of their technological and technical capacities.

Despite the continuation of the restructuring process and modernisation of the Bulgarian metallurgy, all of the companies, to the exception of "Eliseina", became viable in the European and global market. There aren't cases where the restructuring of private owned companies include their dislocation to another place, within the country or abroad, mergers with other companies, or total or partial liquidation of the production. What prevailed was the separation/end of private activities keeping the metal production as main production in the company and transferring those activities to other legal entities.

Over the last two years the metal sector has assisted to very few cases of transition of activities from one company to another and, consequently, to the transference of groups of workers from an employer to another. These changes were made according with the legislation and they didn't have great effects on the workers. There are just a few cases where some hundreds of workers were illegally dismissed by the employers. The last cases of these are: «Cumerio Med /" JSC / Belgian investor and "Kremikovtsi" JSC and "Global Steel Holding Limited" / JSC.

According with the Labour Code whenever the employer intends to carry through a collective dismissal it has the obligation to develop consultations with the trade unions and the workers' representatives.

In what concerns the involvement at the European Works Councils there are just two cases to refer: "Cumerio Med" JSC and "Energia" JSC.

The information and consultation always took place in Bulgaria, but a new legal form was adopted in 2006. There is the election of a General Assembly of workers' representatives for a period from 1 to 3 years. The representatives' General Assembly can decide that the functions relating to the information and consultation are exercised by people of the trade unions, employers and the workers' representatives. The General Assembly defines the procedure to take for the election and the voting way, as well as the number of representatives. According with the Law:

- For the companies between 50 and 250 workers - 3 to 5 people;
- Companies with more than 250 workers - 5 to 9 people;
- For organizational sectors and branches - 1 to 3 people
- Singular workers can be candidates, as well as workers' groups and also trade unions.

The people chosen point out the way of working. The employer is compelled to cooperate with the workers' representatives having in mind the creation of conditions for the accomplishment of its activity.

The topics of information and consultation are the following ones:

- ✓ The most recent changes, and those that are about to happen, in the activity and the financial conditions of the company;
- ✓ Employment, dimension, structure and foreseen changes;
- ✓ Anticipation of measures, especially good practices where there is the threat of a personal cut exist.
- ✓ Possible alterations in the work organization.

The employer and the workers' representatives can agree on the following, concerning the information and consultation:

- ✎ Content of the information and terms in which it is presented;
- ✎ Terms according what the workers and employers will prepare their position, to give their position and to transmit information;
- ✎ Terms and conditions of the consultation;

✎ The nominated workers' representatives to carry out information and consultation.

If both parts do not reach an agreement, the Law determines that the information requested has to be given or that the consultations must take place. There are specifications in the Law for the information and consultation for cases where there the employer changes or measures that might result in foreseen dismissals.

When the information contains data, and its diffusion may prejudice the interests of the employers, they can ask for confidentiality of such information.

According with the Law the workers' representatives for the information and consultation are elected at:

1- Companies with 50 or more workers;
2- In organisational units, or establishments, with 20 or more workers.

At 23 of March of 2008, the regulation will be applied to companies with 100 and more workers and organisational units and establishments with 50 and more workers.

The representatives for the information and consultation are entitled to:

- Be informed, by the employer, in a way to allow them to evaluate the possible effects of the measures advanced by the competent bodies;
- Requests the necessary information, from the employer, if they do not agree on certain terms;
- Participate in the consultation procedures with the employer and to determine their position on the measures advanced on the composition of the bodies of the company that should be taken into consideration on the occasion of the decision taken;
- Request meetings with the employers when necessary to inform him on the workers' issues;
- Access to the work places of the company, or its units;
- Take part in training programs concerning to the fulfilment of its functions;

- Inform the competent control bodies, Court and arbitration institutions according with the Law.

  - 🕮 According the Labour Code, or other agreement, the employer can provide the reduction of the work time, additional vacations, etc., to the workers' representatives.
  - 🕮 The worker chosen to be a representative of information and consultation is entitled to special protection in case of dismissal on the cases foreseen by the law. They can only be dismissed after a preliminary decision of the Labour Inspection in each case.

In practice, and in most of the cases, the workers' representatives are trade union leaders.

Actually, the process is being developed. The concrete procedures, at the companies, are not ready yet. In the interlocutors' opinion, these procedures will be useful once it is expected that the information, received from the employer, be constant.

One of the problems that is not clearly defined by Law, or in practice, concerns a group of subjects, such as the matter of confidentiality or the lack of will of the employers in giving the requested information.

Participation Right

According with the Bulgarian legislation, in the cases where a company has more than 50 workers, its representative can participate in the shareholders' General Assembly, without right to vote. It is not so much a way of participation, but the possibility to take knowledge of additional information.

CROATIA
(in SMH)

In the country, the restructuring felt, in the companies and in the last 2 years, took place, mainly, in four sectors:

- Ferrous metallurgy - two companies already conclude the process;
- Non ferrous metallurgy - two companies, the process is still taking place;
- Shipbuilding Sector - five companies and the process still takes place;
- Work in industrial metal - five companies, in two of which the process is not yet concluded while in the others, the process already ended.

In Croatia, there are two restructuring models this because all of the companies were state owned companies. There is a first model, according which the restructuring is carried out by the State, and after the privatisation takes place.
The second model is linked to the opposite situation: first occur the privatisation and later the restructuring.

As for the companies that opt for the first model (restructuring and after privatisation) the process is stopped because there is a lot that has to be done, namely it is necessary to define the basic activity, the technological reconstruction, the number of necessary workers, the ways to solve the dismissals as well the definition of marine products - that cannot be privatised. Such is linked with the shipbuilding sector, where the five biggest shipyards are included, with near 15000 workers and 5000 to 6000 sub contractors, that are be restructured.
The best obtained results were felt in the shipyard of "Uljanik", Pula (more than 90% of the process is concluded). There is already a new organisation, the number of workers has been already reduced for the necessary number. The businesses are positive, to the dismissed workers were given a job in other companies founded during the restructuring process, and the company is ready to be privatized.

The success of this company was reached due to the personnel's expertise and the Administration, and serious consequences are not felt.

The most critic situation is for who have chosen the second model, as it was the case of the shipyard of "Kraljevica", due to the outdated technology, to the constant flotation of the specialized personnel and administration, the serious financial and organizational problems and big losses in each product. This is one of the smallest shipyards facing a restructuring process with near 500 workers. It is being developed a special program with the objective of recovering it, on time of saving it.

Among the companies that have chosen the second model, if, and when the company is sold with certain restructuring conditions, it is, later, monitored to check if the buyer respects the established conditions in the contract (investment, number of workers, and respect for the collective bargaining). Of the best examples it has to be pointed out the combination of the company "Đuro Đakoviæ", Slavonski Brod, sold to the old investor and that now is called "SAME DEUTZ-FAHR", with Italian capital.

If in one of the companies the contract doesn't specify the consequences of the non accomplishment, then the cancellation can take place.

The trade unions, in Croatia, gained the right to participate at the processes of restructuring in the following way:

In the case of the first restructuring model (first restructuring, then privatisation) the Government designates a restructuring Commission for each company. The Commission is composed by representatives of the Government (sectorial ministers, presidents of government institutions - privatisation Fund) and representatives of the trade unions. The representatives of the trade unions participate, actively, in each work presentation carried out by the experts' teams and gives its' opinion.

As for the basic matters, monitored by the trade unions, these refer to the number of necessary workers for each production's restructuring, ways of solving the dismissals, investment in environment protection, and technological level of restructuring. For such effect a monthly meeting takes place and if necessary, other will happen.

Presently, the restructuring of the shipbuilding sector is under development and the last phase lasted two complete years. Now, the process is being evaluated in Brussels.

Once defined the process in the Commission, each company is informed at the workers' meetings.

However, there are, too, cases where it is tried to exceed the trade unions. The solution, often, is solved through threats and seeking help of the media. Such has demonstrated to be very efficient, especially prior to the elections.

In the case of the second model of restructuring (first privatization and after restructuring), the trade unions were able to get the following: before inviting the shareholders to buy the company, some conditions, the so-called "social conditions", must be defined:

- to maintain a certain number of workers, at least three years;
- which is the investment's level;
- the respect of the actual rights of the collective agreements.

The trade unions support the buyer that signs a social agreement with them that contains the elements referred and other elements considered important for the trade unions.

ESTONIA
(in EMAF)

In the last two years there has been three companies' restructuring, in the country, of which clearly "Veolia Environment" is a good example while the companies "Tallink" and the "Krenholm" reflect the worst examples.

Veolia - Veolia operates, presently, in 21 member states of the European Union, and is constituted by Veolia Environment Lta and four sub unities: Transport (Connex), energy (Dalkia), recycling (Onyx) and water (Veolia Water). The European works council of the company of Veolia Environment was established on October 10, 2006, in Paris. Locally, Veolia Dalkia, in Estonia, is that the one present at the EWC. The EWC of Veolia has 24 elements: Germany (1), Belgium (1), Denmark (1), Spain (1), Estonia (1) Finland (1), France (4), Hungary (1), Italy (1), Ireland (1), Lithuania (1), Norway (1), Holland (1), Portugal (1), Poland (1), Czech Republic (1), United Kingdom (1), Romania (1), Slovak Republic (2) and Sweden (1). The EWC is constituted by Veolia Environment Ltd., and their branches located within the European Union and in the economic area of Europe. Each member state of the European Union (considering Veolia Environment's EWC, 21 countries are involved) where the company has between 500-5000 workers, has a representative. There is a place for an additional representative when there are 5001-50000 workers. Three additional representatives are foreseen per member state when there are more than 50000 workers. Like this,

according with this EWC should consist in a group of 29 members representing Veolia Environment's workers.

Veolia Environment's EWC is an information and consultation body for discussion and dialogue with the workers' representatives on transnational matters. The purpose of establishing Veolia Environment's EWC was to adapt the structures of the personnel's representation to the organisation of the group, to inform the workers sincerely and exchange points of view on general matters of the bargaining politics of all the workers' of the group.
It should, also, be considered the fact of the workers' of Ony, Veolia Water, have presented their report near the EWC, the reports were discussed. Veolia Environment's EWC works well, the exchange of information among the members of the EWC is working.

According the Estonian legislation (Law of the Workers' Representatives) the workers' representative, is exempt of the daily activities, and is working as main trade union officer at Veolia Dalkia.
The number of workers that she represents at Veolia Dalkia acts allows her to be a full time shopsteward. As a shopsteward it has facilitated the development of action within the EWC. She can have access to all the workers' information, and being member of the EWC, she has possibility to forward the information for the workers to European level and vice versa.
She had the possibility, also, to exchange opinion and to consult with the Administration of the company, in Estonia.
She collects a lot of information and it she has been receiving answers. The biggest differences / difficulties consubstantiate themselves in the differences between countries and their experiences to social and cultural level.
The negotiations for the establishment of Veolia Environment's EWC were calm, there were no big difficulties. The Administration of the company decided to establish the EWC with the agreement of the workers' representatives, for that reason the negotiations were essentially on technical and organisational matters and not on the principles. Nevertheless, there were difficult moments during the negotiations.
According with Mrs. ILVES, the EWC reached its objective because as a result of the negotiations the EWC was established.
The result on the effectiveness of the EWC in the promotion of the information and consultation and the representatives' participation in the mergers, Mrs. ILves thinks that it works very well because it works

appropriately. The Administration, in the person of Proglio, works appropriately in the subjects of the EWC, he informs the EWC and she has regular meetings with the EWC.
The biggest challenge for the representative in the future economy will be the companies' lack of interest.

Having as basis the Social Agreement of Partnership for the engineering sector, "information" is a mere transmission of you announcements and plans of the company, while "consultation" is the set of opinions to have a real effect and are considered to prevent that the workers are neglected on matters of their interest. This Agreement is applied in the Estonian engineering industry, metallurgy and instrumental industry according the Labour National Law.

Actually, the Estonian law stipulates the possibility of existing two types of workers' representatives (Agreement of the workers' representation): the representatives of the unionised workers and the elect representatives for the non unionised workers. Both representatives are entitled to collective bargaining, for that reason a collective agreement may be concluded by a trade union, federation or by a workers' representative. Once both parts can conclude a collective agreement, they can also lead the workers to go on strike in case of misunderstandings within the collective industrial relations. However, if there is a trade union at the company this has to be signed by the trade union. The representatives of the non unionised can sign only if the trade union doesn't exist.

In what concerns the rights of information and consultation, the representatives of the non unionised workers are in worse situation, because the Law of the Trade Unions guarantees a wider information and consultation rights to the trade union officers.

The rights of the non unionised workers are specified in the Law of the Representatives of the Workers and they are more general. In what concerns the representation (warranties against dismissals, paid hours in representation, etc.) both have the same rights.

In practice, if two representatives exist, the trade unions have the prerogative to conclude the collective agreement.

To inform and to consult the workers through their representatives is not usual in Estonia, due to the fact of existing a low rate of representatives, and this because a high rate of representatives at small and medium companies never emerged. Appropriate information doesn't exist to describe and distinguish the representatives from the non unionised, but it can be concluded that such is even lower than in the cases of the trade unions.

The Estonian system doesn't have a single channel system once there are two types of representatives, once both representatives have the same competence at the companies.

This raises, also, more one issue - the issue of the replacement of the non unionised workers. This problem is deeper in those countries where the role of the negotiation, to sectorial level, is little.

GREECE
(in POEM)

Two examples exist, illustrative of cases of restructuring, in the metal sector in the country:

- The Shipyard NAUSI was closed and the personnel were dismissed. There was an oral agreement on the sale of the company and the workers' relocation. The company was sold, but the workers were not relocated.
- Factory of pipes in Korinth, after a tragic accident that resulted in the 6 workers' death, the company closed, and the whole personnel was dismissed, and a new factory, a more modern one, opened in another area of Greece. In the old factory, that closed, there was trade union representation, however, in the actual, the trade unions are not present.

In both cases, the restructuring were presented, to the trade unions at the companies, as a decision taken. The consultation happened later, between the management and the trade unions, but without significant results.

In the case of the shipyard Nausi, the workers still wait for the payment of the some sums in debt, while that at the factory of pipes, were agreed compensations for the workers that were dismissed.

In what concerns the **participation right**, such is foreseen in the legislation in the chapter dedicated to the "Workers' Councils". However, this law fell in disuse and just some companies have this type of councils.

In both cases, above mentioned, the "Workers' Council" didn't exist, but only trade unions.

In most of the cases the trade unions play an important part in the action and in the participation. They force the representatives of the companies and Government to discuss with the trade unions in order to find common solutions. These meetings happen in almost all of the cases, but the results are not positive.
That's the reason why there are, sometimes, conflicts between the trade unions and the Government and employers, for instance a strike, etc.

On a day by day basis, the workers' rights suffer changes due to the threat of restructuring and competition, for that is necessary a movement/a European action with view to overcome this situation.

Whenever is involved a multinational company the EWC is involved in the process.

HUNGARY
(in VASAS)

The country suffered, in the last two years, restructuring processes in 15 companies, despite the fact of existing changes, on a daily basis, only four cases of restructuring led to the closure of the companies. Hungary is still, in many cases, a country of cheap labour and is the destiny of productions. Nevertheless, the country is already suffering pressures because there are countries with cheaper labour costs such as China, Ukraine and Romania.

The reasons presented for the restructuring situations are the following:

- Increase of the earnings;
- Improvement of the competitiveness;
- Reduction in the expenses (logistics);

- Improving efficiency;
- Market absence.

Results of the restructuring:

- Loss of work places;
- Loss of the safety at the work place;
- Increase of the workers' fear;
- Decrease of the labour organization tax.

Global evaluation

In the understanding of the trade unions, there aren't companies that have, seriously, violated the rights of information and consultation of the trade union and of the Workers' Council, nevertheless it has been reported that, in the great majority of the cases, in some situations, the workers' representatives were just informed after the decision taken, on the part of the company. The assumed position, on the part of the companies, is based on the argument that until the decision is taken, facts don't exist, and as such they cannot inform the workers. The workers' Council and the trade unions have 15 days to express their opinion. On the part of the companies they sustain their action, essentially, on the fact that they are not responsible for the situation, although most of the negative effects has to be supported by the company, like this, the Administration has to do everything to obviate the negative effects, and after the negotiation start in order to reach an agreement.

In the processes of company restructuring, in practice, the workers are informed after the taken decision. The position of the Administration is that decision doesn't exist, then facts don't exist, consequently they cannot inform the workers. For that reason the workers' representatives are not consulted about the restructuring forms and on the reduction of the impact of the negative consequences.

The proposals, in case of restructuring, comprehend the reduction of the working hours, the dismissal of the temporary workers and of the workers with a term contract, having in mind an improvement of the situation

desiring and hoping that, later, will be possible to reintegrate those workers. This for situations of restructuring that didn't lead to a total closing yet.

In the case of total closing, the representative organisations of the workers negotiate the payment of compensations, the dismissal scheme and the workers' possible relocation.

In what concerns the EWCs, frequently, these only intervene after the decision is taken of restructuring the multinational company, despite the workers already pay more attention to the information of the EWC, but such happens, most of the time, after the decision is taken which condition the role of the EWC, not being this a significant one.

A good example…

The workers of a company "LDW" were informed of the plan of restructuring of the company through the workers' representatives at the Council of Administration. After what they constituted a Bipartite Consultative Committee, that decided on the program of the "lay off" and the benefits concerning such program (payment of the dismissal, notice period), the compensation dependent on the performance.

The Committee informed the regional department of unemployment and it kept the workers informed on potentials jobs. To such adds that a strong "Committee to find a Job" helped the workers to find a new job. As a result the workers received more 2/3 of payment of what was stipulated by the Labour Code.

Participation Right

In the intervener's opinion, the participation right, is useful in the sense of reaching a commitment, on the other hand the workers consider the trade unions and Workers' Councils impotent because they were not capable to save their jobs. The improvement of obtained dismissals' conditions (higher compensations, etc.) didn't mean a lot for them.

The members of the Administration are elected by the owner. Consequently the members of the Administration only criticize the decisions of the

Administration in exceptional cases. In this context the workers' representative is independent, he can represent the workers in the Administration, but his vote does not worth a lot (1:3). Frequently the workers' representative, in the administration is chosen on the basis of his knowledge in areas such as languages and the possibility to take knowledge of the situation of the company. For that reason the workers don't give a lot of relevance to this role.

LATVIA
(in Masoc)

The country, and according with the speaker, doesn't present cases of restructuring.

LITHUANIA
(in Linpra)

Lithuania faced, in the last two years, near 20 processes of companies' restructuring, being the most significant ones in the sector of the industrial engineering. These restructuring went through three types of actions: mergers, production dislocation and closing (total or partial) of the company, or companies.

The main reasons for such are:

- the normal development of the economic activity;
- the dislocation of the production from the central parts of cities to the suburbs;
- the economic problems related to the global competition and the increase of the remuneration values (about 40% over the last two years).

Result: 8 thousand workers were long duration unemployed.

Among the several examples we point out the following:

AB"Ekranas" (TV picture tubes), that closed down as a result of the bankruptcy caused by the competition of the East Asia producers; UAB "Ekmecha" (systems for production automation, tools and equipment,

metalwork and services) that were closed down, also, as a result of the bankruptcy together with its mother company mother AB"Ekranas"; AB "Vilniaus Vingis" (deflection systems for television sets, automation systems, equipment, metal and plastic parts) was partly restructured and closed down upon decision of the shareholders; UAB "Vilniaus Vingio Mechanika" (automation systems, subcontracting in metal parts, tools and equipment) and UAB "Vilniaus Vingio Gija" (plastic components, electronic products) that was separated from the AB "Vilniaus Vingis" and sold out in the course of its restructuring; UAB "Vilniaus Vingio Geba" (large-serial production of electronics) was closed down as a result of the closing down of its mother company the AB "Vilniaus Vingis."

The company UAB "Graztai" (drills) moved its main production from the central part of Vilnius to the rural area, about 200 Kms from Vilnius; the company UAB "Vingriai" (metal processing machines, stainless vacuum technologies equipment and components), also moved its production outside of the capital, while the company UAB "Kazlu rudos metalas" (industrial boilers and metal constructions) was sold and merged with UAB "Áxis Elaborate" (engineering solutions for the industry and energy equipment maintenance and servicing). The same happened with the company UAB "Katra" (heat and water metering technologies) with the company UAB "Limatika" (industry automation).
The company AB "Snaige" (household refrigerators and freezers) was partially restructured through the relocation of part of the production to the Russian Federation.

According with what has been presented, in all of the cases has been applied the mechanisms of information and consultation, and these have developed by the Administrations.

Actually, the information and consultation is supplied on a frequent basis what raises good opportunities for the information be given very soon, in an initial phase. Nevertheless, in most of the cases of true restructuring these were already presented as an accomplished fact. Although in most of the cases informal information has been rendered and indicators were given of existence of problems before the legal facts have been announced.

The information, in these cases, had different purposes. In some cases, to the workers were proposed to choose (personal decision) on their participation after the restructuring. These situations were typical in the cases of displacement (of the company or production). In the cases of closure, the workers were informed of the decisions already taken and they used the information through a compensation scheme.

Some proposals of the workers were accept, others no, but in general terms information and consultation occurred before the decision. In what concerns to the proposals presented by the workers, in its majority, were, according the speaker's opinion, trivial and obvious such as to maintain the workplace or to increase their compensations. Usually the national trade unions supply legal support to their members, accompanying them in their proposals.

The information is also patent on a daily basis. Foreseen by law and by collective bargaining, usually the information is organized according a continuity basis, 2 to 4 times a year.
In what respects the holders of this right, such may vary depending on if is a small company (the workers directly) or a big or medium size company, in this case are the workers' representatives that are entitled to the information. In the cases of essential consultation the representatives are involved.

There are examples of many companies that carry out true information and consultation, of which we detached the company UAB "Baltik Vairas" (bicycles and baby prams, metal parts) and UAB " Vienybe" (valves, boilers, compressors, metal parts) that can be considered as the best examples.

Simultaneously, information and consultation is also carried out, at national level, between the speaker (LINPRA - Engineering Industry Association) and the Association of Trade Unions of the Metal Sector - LITMETAL.

A tripartite cooperation agreement between these two partners and the Labour Inspection is being drawn up. The main objective of this agreement is to improve the quality of the work places and to increase the competitiveness of the industry.

The participation right exists and it is foreseen in the collective agreements. Usually the workers' representative's opinion is heard, but it is not relevant in the cases of restructuring.
The participation right is beneficial, because it supplies more additional information and it reduces the risk of conflicts within the company. And it is foreseen for all of the cases related with changes of the workers' conditions; the opinions are usually considered.

This practice can be improved by enlarging it to all of the companies of all the sectors.

As for the subject of the EWCs, there are no cases of involvement in such body.

MALTA
(in GWU)

Over the last two years three cases of restructuring happened:
- Air Malta
- Malta Dry-docks and Shipyard
- PBS (Public Broadcasting Service)

The arguments, or grounds, for such were:
- the continuous losses and
- consequently a certain number of workers had to be dispersed for the civil service or placed in a company constituted with the purpose of finding alternative jobs.

The restructuring were presented as an accomplished fact. The Government that was the biggest shareholder of the three companies informed that, or the restructuring process was initiated, or it would close the company or, still, it would initiate a process of reduction of the company.

Just after the announcement, on the part of the government, there was existed information and consultation and such was due to the reaction of the trade unions that already happened after the announced process.

In spite of the initial circumstances, the opinion of the trade unions was taken into consideration and it led to the change of the position, assumed by the Government, on certain aspects.

Participation Right

GWU awoke, during the seventies, with the labour governments in order to allow that one of the workers, in the state owned companies to be chosen as a Director with the same rights of the other members of the Administration. Though, this practice was abolished during the years and few are the cases where such it is still verified.

Although it is not a priority the main usefulness of such would be to watch, closely, the decisions and whenever possible to participate in those decision, assuming, also, an essential role in moments of restructuring as a way to maintain the actual work conditions and the workplaces.
The participation right is faced as the power of influencing.

Information and Consultation in the day by day

The initiative for consultation, usually, departs from the trade unions after the transmission of the information.
The existing information and consultation is exercised at the basic level and most of the consultation is carried out before the decision is taken. Nevertheless, there are cases of imposed decisions where it was not made possible the consultation.
The involved matters are the ones that concern the workers.

However, as in most of the companies, there is a good relationship between workers' representatives and employers, for that reason the practice exists. In the companies, where trade union presence doesn't exist, is where more problems emerge, therefore in those cases one of the problems that it is felt is linked to the lack of information and consultation.

SLOVENIA
(in SKEI)

Despite not having statistical data, one thing is sure, over the past years some companies, of the Slovenian economic scene have been suffering restructuring. These have been faced as a permanent process in order to react to the changes that the markets and the businesses are subject to.

Result of the largest restructuring, happened during the nineties, in some cases, the companies dismissed half of the workers or the restructuring turned to be a failure. Once carried through a restructuring, this should be evaluated, both by the workers as by the employers.

The trade unions demand social responsibility to the companies, trying to negotiate acceptable solutions for all; they seek the balance between the interests of the employers and of the workers.

In the last two years, as good examples, it can be pointed out the case of the multinational company "Gorenje" with approximately 10.000 workers. The company established a new factory in the Czech Republic and such meant an increase of the production with new workers and without dismissals.

Another company "Unior", with approximately 1000 workers, sold a plant to an Austrian company "Weba" employing 120 workers approximately. In this case there was not direct dismissals linked to the loss of the working place because were found forms of overcoming the situation, namely because some of the workers have chosen to have an earlier retirement.
In both cases the information and consultation happened according what it is foreseen in the Legislation.

Already in what concerns to the worst examples, also in the last two years, we can detach the company "Siteco" that moved the production back to Germany, which meant that all the 200 workers lost their job. The company "Iskra Kondenzatorji" suffered a restructuring that meant a reduction in the production without other options or the existence of new productions - near 200 people lost their job.

Despite the information and consultation has happened according what is foreseen by the Law, management declared that the company didn't have means of assuring another production, in substitution of the one that was lost.
Following these and other cases, several actions took place. Actions such as meetings between the management and the workers' representatives, demonstrations, strikes, press conferences, lobby, etc.

The companies in the metal sector, and not only (also in other sectors), in Slovenia, as well as in the rest of Europe and of the world, come across with the pressure of the industrial changes and restructuring. The globalisation, the technological changes, etc., are some of the reasons that lead to a restructuring, and Slovenia, or the companies of the country, are not an exception that has led to the necessary repercussions in the employment and in the conditions of the work.

Information and Consultation

The information and consultation, or better, the cases where it occur, as well as the way how it should be accomplished, are foreseen in the Law about the workers' Participation.

If the workers' opinions and/or their representatives are not taken into consideration, on the part of the company, this one usually justifies its non acceptance.

Both in the day by day, and when facing a restructuring situation, the workers and/or their representatives participate in the process, presenting suggestions and opinions, that pass, for instance, for the need to reinforce the dialogue, to promote the mutual trust, to improve the anticipation of the risk, to turn the organisation of the work more flexible, but balanced according with the interests on both sides, to facilitate the access of the workers to the training program, to maintain the workers' safety as for their work place, to make the workers conscious of the need to adapt themselves, to increase the workers' availability to undertake measures and activities to increase their employability, to promote the workers' involvement in the operation and increase the competitiveness.

Information in due time and consultation are prerequisites for the success of a restructuring and adaptation of the companies to the new conditions created by the globalisation of the economy, particularly through the development of new ways work organisation.

Participation Right

Also the participation right is foreseen by law.
Before the employer takes the decision it should supply the necessary information and to proceed to respective workers' and/or with their representatives. If such doesn't happen, the workers' committee is entitled to veto the decision of the employer and simultaneously to initiate a procedure with view to heal the conflict between the employer and the workers' committee. While the arbiter's decision, as well the Court's decision, is not divulged and known, the employer cannot proceed with its' decision.

In what respects the workers' representative's position in the Council, this should always be ruled according with the workers' interests and not as a decision merely individual.

Representatives are nominated for the workers' committee, and the nominated person can be, or not, a member of a trade union. Usually what happens is that the majority of the workers are unionised. However, the unions are not able to, directly, to name a representative to the Council.

One thing is sure, the trade unions will be able to, also, take other actions, for instance, going on strike.

The information and consultation day by day

On a daily basis this is quite visible, namely the information that is transmitted by e-mail, posted, by phone, the meetings that take, etc.

The procedure is defined according with the workers' committee and the employer and by agreement between the union and the worker and it pass through the join meeting or by written information.

This right belongs, usually, to the workers' representatives (trade union officers, workers' committee, the representative at the council, to the trade union at the company).

Usually this procedure happens before the decision occur and it includes matters as the investment program, organisation substantial changes, structural situation, economic and financial, the expected development of the business, production and sales, etc.

In these cases the consultation will have to take place once it is foreseen by law. If the workers' opinion is taken in consideration, such only depends on the case.

There is a control body - the Labour Inspection - that can intervene if requested to do so.

The evaluation that can be made of the actual information and consultation will have to be based in the different agreements that there are with the employers, because these agreements can foresee the possibility of going beyond of what is established by law.

TURKEY
(in TURKMETAL)

In the most recent years Turkey has been facing some changes in its business environment. This because it is quite high the number of companies that are closing down, in all of the activity sectors. While others suffer changes, either in their working capital, or changing their legal status.

In concrete, in the metal sector, two small steel companies merged - Demirsen and Ictas.

Right of Information and Consultation

The law compel the employers/companies to inform the trade unions before the decision is taken and it grants rights to the workers on the information and consultation. However, the consultation is not carried out by the

employers. In what concerns information, they just scribble something in order to try to accomplish their official obligations.

Participation Right

The workers, or their representatives, were never entitled to have Participation Right.