

Session 702
European Down Sizing
[from an Anglo-Saxon Perspective]

Faculty xxx

Let's talk about

1. Front Page Stories : 2007 - 2001

2. Labor Costs an Job Reductions across countries

3. Would you have thought

4. Role of In-house Staff and Outside Counsel

1. Front Page Stories

2007

Delphi Corporation [US] announces to close Cadiz, Spain, plant, affecting 1,600 employees and subsequently files for Spanish Chapter 11 equivalent protection

2006

[Swedish] Electrolux announces to close facilities in Italy (650 employees) and Germany (1,750 employees). Italy closure fails, German closure succeeds at factor of 1,8 monthly salaries per year of seniority. Total closure cost is US \$ 289M, or US \$ 165k per employee

4 years after closure of a Valeo plant in France incl. severance payments a French court sentenced Valeo to pay an additional € 20k for 260 employees in „damages“ for wrongful termination

1. Front Page Stories - cont'd

2005

Thyssen-Krupp (Germany) announces to close a 3,000 employees plant in Italy, but after Italian Prime Minister and EU-Parliament involvement gives up

2004

Jaguar closes a 1,100 employees plant in Coventry, England

2001

British Retailer Marks & Spencer closes French, Spanish and Belgium stores which results in [successful] legal actions against M & S [lack of works council and government involvement]

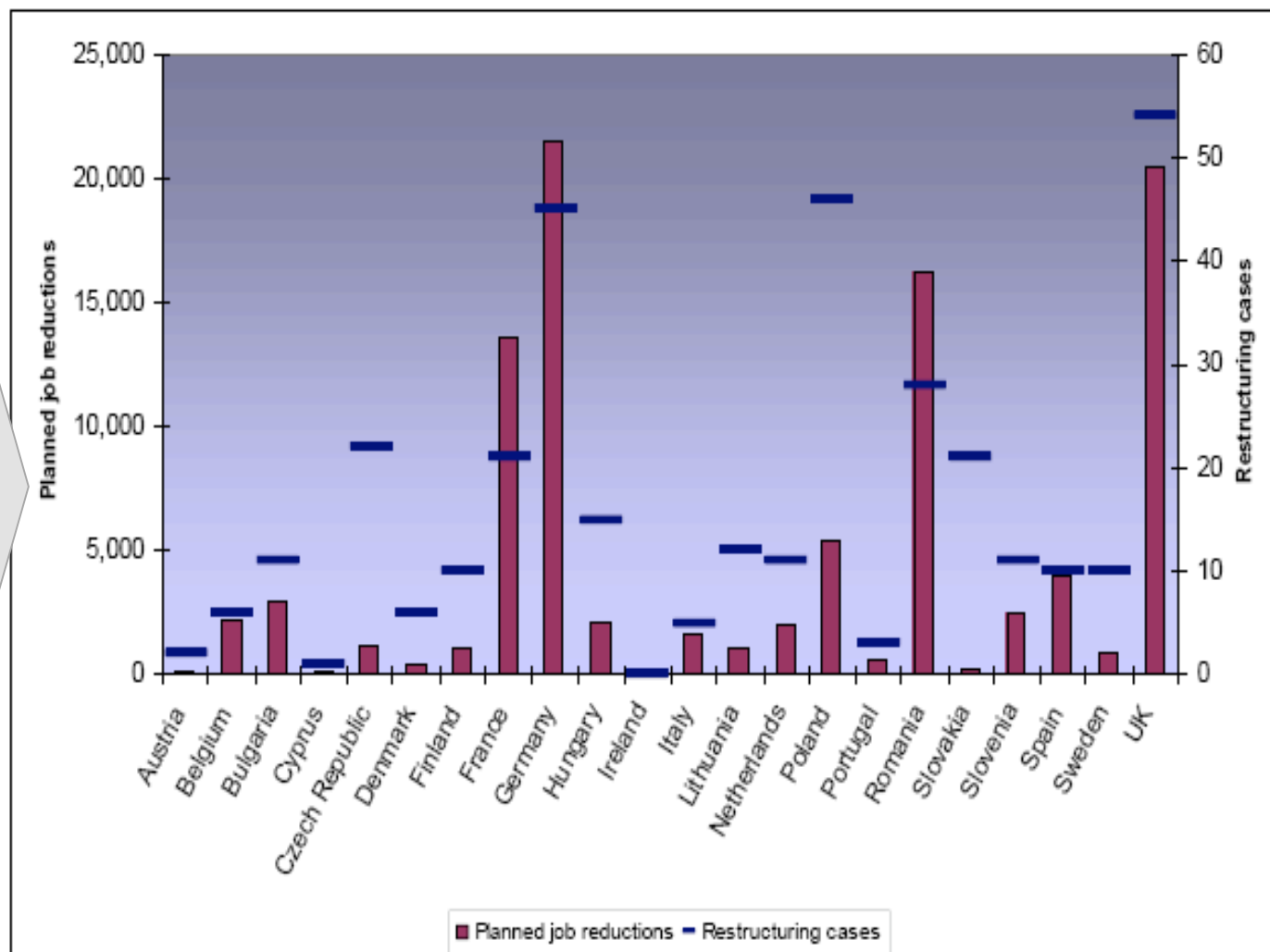
2. Labor Costs and Job Reductions across countries

**Labor costs in the
automotive industry
(in euros per hour worked)**

	1998	1999	2000	2001
Germany	30.89	31.60	32.22	32.70
France	18.53	19.65	20.51	21.25
Italy	15.96	15.39	15.93	16.28
Spain	14.85	15.36	16.09	16.57
United Kingdom	19.05	20.01	23.03	23.38
Belgium	23.16	23.84	24.28	25.04
Holland	19.68	20.26	21.81	22.91
Sweden	20.40	20.95	22.77	21.50
Portugal	7.50	7.86	8.23	8.48
Austria	22.34	22.76	22.61	22.94
United States	22.65	24.69	29.73	31.57
Japan	21.62	25.87	32.03	30.83

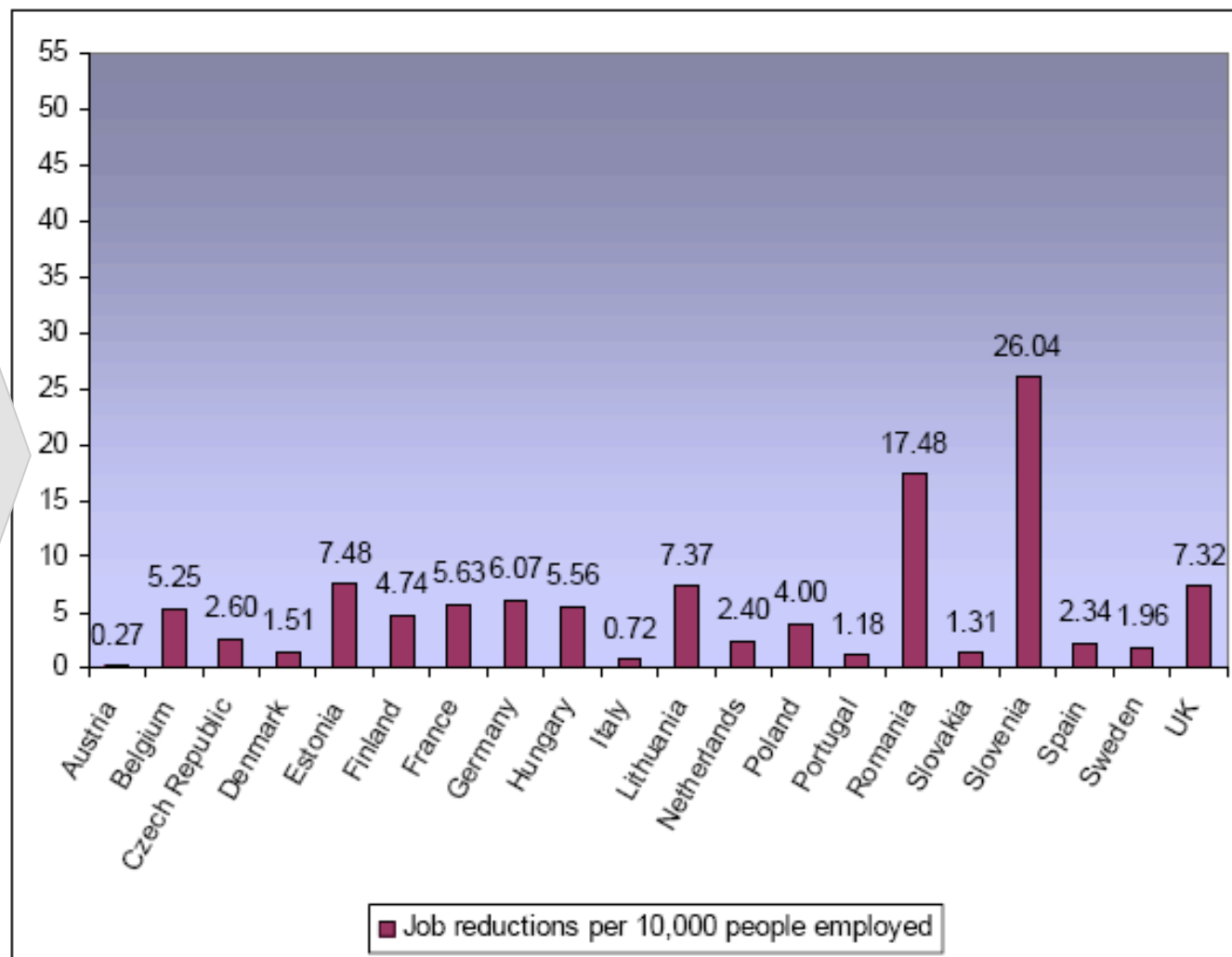
Source: VDA, quoted in El Pais, 6 October 2002

Distribution of recorded restructuring cases and job reductions across the EU during the 4th quarter 2005




Source: ERM quarterly – Issue 4, Winter 2005, Page 5

Announced job reductions due to restructuring (per 10,000 people employed) during the 4th quarter 2005

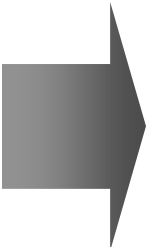


Source: ERM quarterly – Issue 4, Winter 2005, Page 6

3. Would you have thought

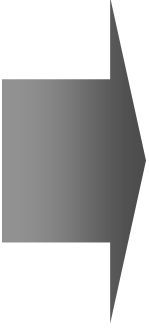


a) *of informing a European Works Council [not only its „Select Committee“] – if applicable – prior to a restructuring ?*

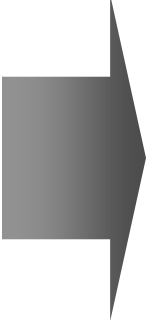


b) *that, in France, for groups with more than 1,000 employees in Europe, the Group needs to provide „relocation“ and „revitalization“ support for 24 months after closure at an additional cost of 10 – 20 % of severance costs and costs are inflated further by several „soft“ factors ?*

3. Would you have thought

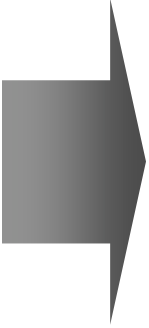


c) *that with the exception of Germany most countries exempt redundancy related severance payments from income tax, resulting in packages to employees of 2 – 5 annual net salaries ?*

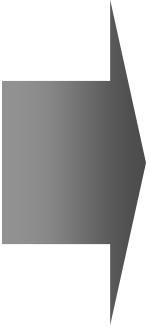
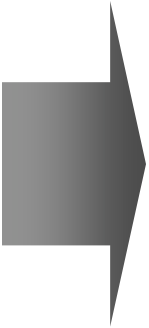


d) *that considerable „advisor“ fees may need to be paid although the Group has not hired the advisors ?*

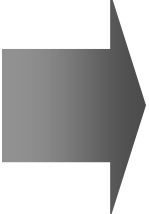
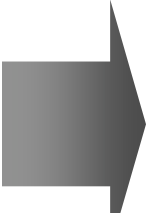
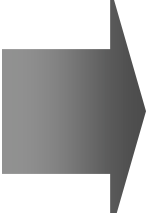
3. Would you have thought

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- e) *that in the emotional environment of a redundancy proceeding Case Law and „Precedent“ are no longer reliable and may be easily disregarded by local courts and authorities ?*
[The recently failed merger of German E.ON and Spanish Endesa being an obvious example in the non-Employment Law area]

3. Would you have thought

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- f) *that your company could still be sued [and potentially lose] by employees although an agreement with unions, works councils and employees as well as local authorities had been reached and executed ?*
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- g) *that in Spain local labor authorities can veto redundancies ?*

3. Would you have thought

-  *h) that announcing a collective dismissal without having previously considered the implications of a likely strike is foolish ?*
-  *i) that, irrespective of national boundaries and national legal particularities unions and works councils are becoming Pan-European and cherry pickers ?*
-  *j) That there is an increasing tendency by local/national courts to second-guess a local closure where the closing company may be profitable globally, yet not locally ?*

4. Role of In-house Staff and Outside Counsel

- *Your best managers must lead redundancy proceedings*
- *They must be “local” in culture but global in thinking*
- *Not for a minute should your managers expect any goodwill from their negotiation counter-parts*
- *Do not “default” the redundancy to outside advisors*
- *Do not assume that your legal advisors have been through this “many times” – they will not*
- *“Teach” your advisors on your experiences (inside and) outside of their jurisdiction – it will make them think out of the box*
- *Be smart on fees and put legal fees in the context of overall project costs*



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