12TH BIENNIAL

EUROPE WORK EMPLOYMENT

ANTICIPATION AND PARTICIPATORY CHANGE MANAGEMENT IN COMPANIES DURING A PERIOD OF CRISIS AND TECHNOLOGICAL CHANGE

PROCEEDINGS

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RECORD OF THE PROCEEDINGS

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INTRODUCTION

◈ **Marcos Peña**, Chairman of the Spanish Economic and Social Committee, Spain

The topic of technological changes that we have opted to broach will take us from astonishment to panic. Today, 1.5 billion workers, or 47% of the world's working population, have precarious jobs. Studies show that 1 out of 2 jobs is slated to disappear, along with 47% of the occupational categories we now know. Productivity will increase by 30% and salaries will decrease by 33%. It is estimated that 60% of the children who now enter in a crèche will enrol in study programmes that do not yet exist. The three new horsemen of the apocalypse – robotics, digitisation and the "Googlised" economy -- are causing a sort of categorical break. Notions such as culture, salary, working time, wage-earning relationship, the statuses of employer and employee, and the work place are becoming blurred. There is no place for negotiating positions, any more than on the climate or demographic front. But it is even more dangerous to give in to "techno-determinism" or cybernetic fetishism, which is gaining ground.

Nowadays, it looks like surrender. The British economist Tony Atkinson comforts us when he talks about the banality of the elites and the difficulty to supervise these changes. Of importance are not so much the effects of robotisation as the weakening of institutions. The risks come from the increasing disintegration and weakness of political parties, trade unions and industrial relations, because they are the only institutions capable of bridging these phenomena and subjecting them to reason. We must therefore strengthen them. We could not avoid the change, but we have to find the means to manage what is happening already in a reasonable manner. We do not know yet what has to be done, but we will understand if we all engage in dialogue.

"The search for truth is a process." This phrase echoes the change management process to be adopted. Trade unions in Spain and Europe must as of now be first line stakeholders and managers. We must encourage a culture of understanding the reality of employment, however that may be.

◈ **Ignacio Fernández Toxo**, General Secretary of CCOO, Spain

During the meeting with the media, the questions will deal with aspects concerning the stabilisation policy in Spain. Yet, the proceedings of this seminar will condition and mark the future of employment and of society. The title of the seminar indicates that many restructuring processes are taking place. The crisis has admittedly accelerated changes as well as the way they are managed, which we can clearly see with the incipient recovery in Europe. But it will take a long time to get out of this crisis.

Structures allowing for the participation of workers, trade unions and works councils are of poorer quality than previously. Management is nearly exclusively controlled by companies and the divisons, on the basis of low participation rates. 25 million people became unemployed in Europe at the height of the crisis, and there are still 14 million unemployed today, including 5 million in Spain. This drop in the quality of participation and information, which is linked to the crushing weight of unemployment in our societies on the one hand, and to the transformation of employment relationships in Europe on the other, is particularly hard felt in Greece and Portugal, which are the most significant cases.

The counterweight elements in companies have to be strengthened and the level of worker participation in change management improved. As the fourth industrial revolution is falling into place, technological development is accelerating the digital revolution whilst shortening the useful time for making decisions and implementing them. Consequently, the modern trade union that wishes to influence the course of things, must be capable of interpreting these changes and drawing pertinent conclusions, not only for the trade union movement, but for society as a whole.

We cannot be certain that 1out of 2 jobs will be lost, because these developments are generally slower in influencing employment than theory would have it. If we preserve the essence of the European social model, a large part of future jobs which do not yet exist will be found in countries like Portugal, Spain and Greece, who are the hardest hit by the effects of the current crisis management. These jobs will belong to the personal service sector. Health, education, caring for dependant persons and small children are areas of public and social services where promising lines of work will be concentrated.

We must not for all that lose sight of change management in the company, however, both in industry and services. Meetings like this one are rightly aimed at recalibrating the discourse, at least for the trade unions, around appropriate management with the interest of society as a whole in mind. Also in the interest of workers, who are the

big losers from the management of the economic crisis that Europe is going through, we have highlighted the need to wager on more Europe. We need a Europe that transcends the monetary stakes, to be political and social as well, and tends towards the homogenisation of the quality of life, labour relations, and the social model. This is how Europeans will turn their back to the Euroscepticism and europhobia that are threatening the Union.

◈ **Jesús Gallego**, International Secretary of the UGT, Spain

Digitisation and robotics on the one hand, and free-trade agreements on the other, are decisive elements for the workers of tomorrow. They lead in both cases to a forced worker mobility, accompanied by a change of working conditions. Sometimes posted, workers tend to disappear purely and simply, or stay at home, which has become their new place of work. How should the trade unions broach collective bargaining with those workers? How can we draw close to them and involve them in the trade union action?

Digitalisation, robotics and free-trade agreements are bringing us face to face with a difficulty, broached by certain sociologists, which consists of choosing between defending the national interests, the interests of workers (and citizens) and the interests of globalisation. It seems impossible to combine these three struggles in the current context, in view of the standards in force. This tug of war is currently illustrated in the parliament of Wallonia.

It suffices to turn to traditional solutions, i.e. the social dialogue and collective bargaining. But the employment market reforms throughout Europe, and particularly in Spain, weaken our action. Furthermore, the other policies, which do not pertain exclusively to employment, such as the European semester, continue to reduce the possibilities of trade unions to take action to defend the interests of workers. They also tend to favour budget cuts in education.

Some countries, like Spain, France, Italy or Portugal, have demolished all their policies for training in new technologies. Can they still seriously pretend that they want to take up the impending challenge? In the case of Spain, we know that the University of Alcalá de Henares was one of the reference centres in robotics in southern Europe for artificial intelligence, but times have changed. As a result, this work has been left entirely to countries in Northern Europe which started to show interest in anticipating changes at the turn of the millennium, while budget cuts have accentuated the confusion between robotics or digitisation and the privatisation of services (public administration or call centres).

We must insist on the importance of training for workers so that they can keep their jobs, but also on the construction of an alternative for those who will be definitively excluded from the employment market. The effects of new forms of work on equality between men and women, as well as the effects of the latest mergers at world level are also worth underscoring. We must highlight the opportunities opening up to trade unions through international organisations such as the European Trade Union Confederation (ETUC) and the International Trade Union Confederation (ITUC). It is important to be able to speak frankly, not only about external challenges, but also about aspects that trade unions have to review in order to improve their daily action and provide appropriate responses.

◈ **Roger Briesch**, Lasaire Europe delegate, France

This conference follows up on the previous biennial, and more particularly the last seminar held here in September 2014. The discussion focused on the effects of the crisis and the policies pursued by the Spanish government, through coercion by the European Union and the IMF, to recover from the banking and financial crisis, and the reactions of the different social stakeholders to preserve the situation of the workers whilst aiming at economic efficiency. The deterioration of the situation in Spain which we had analysed is being corroborated, characterised by a disarticulation of the labour market and an unbalanced economy, clearly oriented far more to services than to industry. Against this background, calling collective bargaining into question points to the importance of a European framework that makes it possible to find coherent solutions to the situations we are faced with.

The role of the social stakeholders constitutes our common thread. How can we build solidarity when the wage earners are increasingly more heterogeneous, with all the levels of negotiation and compromise possible? To broach this issue, we will continue the discussions already initiated and concentrate on concrete case studies, based on the data analysed for Iberia-British Airways and Nokia-Alcatel. Based on the same rationale in analysing the various problems, our objective is to help representatives anticipate changes in companies and promote social dialogue and transnational cooperation in a context of restructuring and change that entails mergers, acquisition, relocations and sub-contracting networks. We shall not limit our approach to financial consequences only, but will shed light on social and industrial repercussions as well.

In the third quarter of 2013, as underscored by the European Commission in its communication, there were 250 restructuring operations which led to 57,000 announced job cuts and 27,000 announced new jobs, i.e. a net loss of

half. As regards this communication, which was aimed at defining a set of recommendations for companies, we aspire to assess the results, advancements and insufficiencies, and propose new efficient measures for workers and companies.

We shall follow three successive stages: a study phase in close connection with the representatives of workers and management of those companies (January-September 2016); a participatory phase (October-June in Germany, Romania, Spain, Italy and Belgium); a conclusive phase (Paris conference). The steering committee put in place will involve our various European partners in the form of an orientation committee, which met in April 2016, and several more select committees that will prepare the seminars. We agreed on a general philosophy for our work, its interest, and added value in accordance with pre-existing studies. The questionnaire used to develop the first study phase will follow a flexible approach according to the specific nature of the business case studies and the six countries concerned.

Today we shall examine the case of British Airways and Nokia, then broach the restructuring of European companies in Spain since 2008, which are directly related with the economic andsocial consequences we are facing. This work will be carried out to develop solid arguments that confirm our intentions.

RESTRUCTURING OF EUROPEAN MULTINATIONALS IN SPAIN SINCE 2008: ECONOMIC, SOCIAL AND TECHNOLOGICAL CAUSES AND CONSEQUENCES

◈ **Juan Mendoz**, Advisor to the EESC representing the UGT, Spain

We are going to talk about the Opinion of the European Economic and Social Committee (EESC) on the White Paper entitled "Towards more effective EU merger control." This Commission initiative, which dates from the end of 2014 and is geared to strengthening merger control, is in line with the mechanisms that the Commission had put in place. The Treaty of Rome mentioned a competition control for the development of a market in energy and without unfair competition. Nevertheless, merger control became effective following the 1989 regulation which establishes clear control mechanisms so that mergers and other business integrations (concentrations) will not endanger free competition on the European market through oligopolies and monopolies.

In 2001, the Commission launched a White paper which led to a regulation in 2004, which established the criterion of "significant impediment to competition:" it is no longer simply a matter of controlling and making sure that a concentration does not produce a monopoly or oligopoly. It is also vital to guarantee that certain activities do not entail a risk for competition. At the end of 2014, the Commission launched a White Paper which confirmed the principles of the 1989 and 2004 regulations. Two other important elements are put forward: first of all, the need to monitor and control the minority stakes in certain companies (fixed at 20%), and then the fundamental coordinating role played by the European Association of competition authorities with the national competition authorities. They communicate with each other and network – two conditions sine qua non for developing criteria on mergers and competition policy.

The recommendations contained in the existing regulations will have an impact on three types of concentrations: the creation of new companies, merger, and shareholding interest and total acquisition of the shares of one company by another. One of the crucial challenges of the European Union at this stage is to globalise the vision of the different aspects, in the face of an analysis compartmentalisation dynamic which is causing a lack of coordination and disconnection between the initiatives and the institutions. Whence the importance of coordination of the competition authorities. It will become increasingly more necessary to articulate and coordinate the initiatives, not only those of the European association of competition authorities with the national agencies, but also between the different national authorities.

The White Paper takes account of the repercussions on consumers and users. In its opinion, the EESC considers that it is also necessary to take account of the repercussions of policies on employment and the quality of employment. It is endeavouring to strike a balance between the public interest and that of companies. The advantages that mergers presumably entail for companies must be taken into consideration: greater technical capacity will make them more competitive, offer more outlets and expand their range of products and services. On the other hand, the competitiveness of European companies is now played out in a globalised economy. The EESC has also pointed to the need to take account of the social consequences.

All these business concentration processes will have an impact on the States, the European Union, production

sectors and volume of work. If a balance is not preserved between these interests, we will be faced with a distortion that will impair workers and the competitiveness of companies alike. If the austerity policy that is affecting the changes of the production system is adapted only by downward adjustments to the employment levels and working conditions, the entire economic activity and social cohesion will be compromised. That is why the effort to integrate a European global vision combining administrative authorities, trade unions, companies and social movements must be continued.

◈ **Paloma López**, MEP, Group of the United European Left, Spain

The vision I am going to share with you stems from the reality in Europe, which is completely different from that of multinational or transnational companies and their operations in the rest of the world. Multinationals do not condition only European policies but all policies. In this respect, it is important to bear in mind the Resolution of 26 June 2014 of the UN Council of Human Rights, which gives rise to an inter-governmental group with an open composition for companies. Its remit is to devise a legally restrictive instrument intended to regulate the activities of transnational companies relating to human rights. Drawn up by Ecuador and South Africa, the draft resolution garnered 20 votes for, 14 votes against, and 13 abstentions. It is significant that all the EU countries, as well as Japan and the United States, voted against.

There is a close relationship between the facts in relation to multinationals and the events linked to certain commercial treaties, such as TTIP, CETA or TISA. These treaties try to put in place conditions that will enable multinationals to behave in the same way in the countries of the North as of the South. In other words, at issue are the deteriorating working conditions, insufficient right and regulations and the lack of control by the States over multinationals -- typical of countries in the South. Naturally, we can also point to positive readings of the action of multinationals in terms of job creation or turnover, yet the reality shows a highly disparate impact, if we take a closer look at the regions in which they are present.

The multinationals work on the basis of a very in-depth knowledge of the political structures of the European Union through pressure groups. The committee of inquiry on polluting emissions from motor vehicles, in particular the Dieselgate scandal, highlighted strategies of this sort. After six months of work, the conclusions have shown that some companies in the automobile sector had influenced directly even some of its members. Dieselgate showed what the United States is capable of in the face of a serious violations, and in particular the threats of heavy penalties by the US Environmental Protection agency. In the Volkswagen case, which tampered with the tests on the CO2 emissions of its engines, the responsibilities will be established before the courts. The European Union must still develop sanction policies. The competition policy in force at present in the European Union enables consumers to lodge a complaint, but the capacity for penalties remains weak. This complicates not only the recourse, which is less efficacious, but also prevents inappropriate or illegal situations from being rectified.

Thanks to a taxation engineering screen, Apple avoids paying taxes in the countries where the group makes profits. In spite of the fact that Apple sells in Spain, as there are not profits there as such, they pay only 0.05% in taxes. Apple pays its taxes in Ireland, because the taxation conditions there are very close to those of tax havens. The competition commission could impose a penalty. The fact remains that it will not have the capacity to require its application, nor the payment of a fine. And to all that is added the pressure exerted by the United States, so that these fines and other sanctions are cancelled.

The multinationals are acting on several fronts to maximise their profits whilst cutting radically their costs. To reduce production costs, they influence the legislative frameworks that govern the working conditions. The Market reforms of all countries of the European Union are thus conditioned, not only by the positions of the Commission, but also by the multinationals which improve their competitive position by preventing legislative reforms which do not suit them, by bringing their weight to bear on salaries and collective bargaining. In the process they even manage to increase their profit margin.

In Belgium, ING decided to cut 3,000 jobs. Their argument is that their profit forecasts were not attained, in spite of the fact that they actually made sizeable profits. This decision was taken without any dialogue between the social partners, although it would have made it possible to reach an agreement. The mainstay of the Belgian model, collective bargaining, was completely ignored. We have the means at international level to limit this type of manoeuvres, except that the tools are based on participatory elements which must be ensured for the trade unions inside those companies. The attack against the trade unions aimed to weaken the counterweight they represent. In the breaches that will become perceptible during the coming changes, the contribution of the trade unions will be fundamental to promote new rights and influence the decision-making process. Whence the importance for trade unions to raise their level of representation and strengthen their counterweight at world level.

It is necessary to develop critical awareness about the role of multinationals in the restructuring process. It is neither desirable nor possible to eliminate them, but it is absurd to think that we can trust their self-regulating capacity. It is up to the public authorities to oversee the public interest, and certain aspects require a radical change, such as the system of industrial relations, the production model, the new economic governance and the regulating role of the European Union. By restoring this role, we will achieve a democratic quality and improve the socio-economic prospects of the immense majority of citizens.

Certain potentially dangerous imbalances must be monitored with Industry 4.0. The Juncker Plan provides for mobilising €315 billion for the re-industrialisation of the European Union, allocated at a rate of 30% for projects in Germany, and a second 30% instalment to be shared among 23 Member States. The stronger countries have a trade surplus, whereas those in the south of the Union have serious difficulties in resorbing their deficit. Even though the correction of surpluses is provided by treaties, it is not applied. We need to restore an industrial policy at EU level so as to reduce imbalances between States. We must support public investment, cease privatisations, influence the value chains and invest in training. As Luca Visentini put it, "we must bank on growth, but on another type of growth based on salaries, labour rights, and above all, the trust and confidence of citizens."

IBERIA-BRITISH AIRWAYS RESTRUCTURING CASE STUDY

◈ **Almudena Asenjo**, Director of the Largo Caballero Foundation, Spain

On 8 April 2010, British Airways and Iberia merged to form the International Airlines Group (IAG), which became the third largest European airline in terms of turnover, and fifth in the world, with total annual revenues of €15 billion, and 60 million passengers per year. The company was established in its social, fiscal and legal domicile in Madrid, and the management, operational and financial office in London. IAG shares have been traded simultaneously on the London and Madrid stock markets since 2011.

In spite of the merger, the company considers that the two separate brands represent a more sizeable value than a potentially joint brand. Furthermore, the choice of this impersonal name, which does not refer to the brands or companies that merged, would make it possible to undertake other merger operations with other companies without changing the company name nor making major changes inside the IAG Group.

The contacts between the two companies go further back than the merger, as in 1999, Iberia started its privatisation with the entry of British Airways in its capital through the acquisition of 9% of its shares. In 2000, Iberia joined Oneworld, thereby entering, together with 15 other airlines (including British Airways), in a commercial alliance, without any exchange of shares, which enabled them to cooperate to offer customers an integrated service. The lack of resources and weakness of the ones were offset by the strengths of the others. This close commercial cooperation probably played a key role in getting the merger under way.

Another step prior to the merger was the acquisition of 10% of the capital of British Airways in 2008 by Iberia. The merger materialised in 8 April 2010, bringing to a close the concentration cycle of the air passenger transport sector, following the merger between KLM and Air France (2004) and the expansion strategy of Lufthansa by mergers and acquisitions. IAG carried out new merger and acquisition operations when Vueling entered the group, after IAG acquired 100% of its shares (2013).

◈ **Jean-Cyril Spinetta**, President of Lasaire, France

Of the cases that the European Commission wanted us to study, some are already in progress, such as Alcatel-Nokia. Others concern companies that merged 6 years ago (2010). We will delve into the rationale of the operation which leads to merger and beyond, to focus on problems that these companies will have to confront in the years to come, and what that means in terms of structuring the social dialogue and social regulation bodies.

What triggered these mergers? The European air transport sector in the new millennium was composed of one company per country. In 2010, it was composed of three large groups: 1) Lufthansa (Swiss Air Lines, Brussels Air Lines, Austrian Air Lines, etc.); 2) IAG (International Airlines Group); 3) Air France-KLM, with some subsidiaries. This sector was consolidated and restructured in 10 years. There are a few independent companies, such as the Portuguese airline TAP, the Chinese Air China; SAS (Scandinavian Airlines System) has practically disappeared; and companies like Alitalia or Air Berlin have passed under the economic domination of Gulf companies, in particular Abu Dhabi. This

situation has arisen from the opening of the large single European market.

All the economic activities of goods and services have been affected by this opening, but air transport was turned upside down outright. The rules were set by the United States, with the Chicago Convention (1944). It is those rules that apply today still, based on the international overfly rights of States, but each State may choose whether it wants to be connected to another one via an airborne route. When a State decides to open these international negotiations, in general on the basis of reciprocity, they sign international agreements and treaties giving them traffic rights, generally in exchange for additional access to the market.

Air transport does not fall under the World Trade Organisation, but specific international institutions, which by nature favoured this system of one company per State. Each State that obtained traffic rights had to hand them to a national company, based on the principle that the nationality of a company corresponds to the nationality of the majority investors in the capital. When the large single market shattered these regulations that applied in Europe, the protected system was replaced by a totally open system, where the freedom of establishment and access to traffic is total. From there, the States and governments postulated that the major European leaders in air transport necessarily had to replace systems marked by the nationality of companies. This is the new rationale, which does not come from the economic stakeholders themselves, but rather from the regulators. The latter, in instituting the large European economic market, by deciding that it would apply to air transport, also decided that the founding rules of air transport would be forgotten. In so doing, they created the conditions for an extremely rapid consolidation and restructuring.

The speed with which the events occurred shows that there was an underlying economic rationale. Air transport is a service activity, which has registered extraordinarily strong growth, but which is not mature and continues to grow in the world at a rate of 5% to 6% per year. But air transport is also characterised by a very high capital intensity: the needs for investment are considerable (purchase of planes), equivalent to those in chemicals and steel. It is a labour intensive service business. So the labour costs constitute a sizeable part of the overall costs. Finally, it is an activity which has been nearly completely liberalised and has no barriers to entry, insofar as it is not necessary to master any particular technological tools or accumulated expertise. Not only is it simple to create and get an airline running, but the capital intensity which is supposed to protect a sector against the appearance of too many new competitors has no effect, because the assets are mobile. If the company goes bankrupt, the planes, which stand real guarantee, are recovered by the banks and sold immediately to another company. Put another way, access to capital in the sector is not a constraint. Finally, European and even world air transport has no non-price competitiveness. In the case of air transport, the consumer looks for the lowest price, thanks in particular to price comparators. Consequently, it is a sector which must constantly struggle to reduce its costs and rates if it wants to continue to exist, whether in Europe or the rest of the world.

On the legal front, the development towards the large single European market did not get rid of the AOCI rules. For example, the rule according to which a right to use Spanish traffic rights, obtained by the Spanish government, by a Spanish company, with investors the majority of whom is still Spanish, still holds. It's the rationale of the applicable law at global level. Now this right is in complete contradiction to the European construction. Let us take the example of KLM: the large countries (China, Russia, Japan, etc.) could put forward to the Dutch government that following the acquisition of the company by the French (Air France), KLM is no longer a Dutch company pursuant to the founding convention of 1944, and thus claim that they want to withdraw all the traffic rights that their own government had delivered to the government of the Netherlands. This can be done on the legal level. After the Air France-KLM merger, some States were able to test that strategy. What lesson can be drawn here?

In fact, we would benefit from giving the impression that nothing has changed – KLM is a company where the shareholders are essentially French, and yet we can wonder whether it would not be better to do as if it were still a Dutch operator; as if Iberia were still an exclusively Spanish operator; as if Austrian Airlines was still an Austrian operator, and so forth. Otherwise we risk losing the goodwill, which comes down to the traffic rights. This rationale leads to the implementation of a governance that complies with the national character of the merged companies and their managerial and decision-making independence. We could not say how long contradiction of rights will persist, but its impact on the consolidation of the sector is enormous.

The first transnational merger in our sector concerned Air France-KLM (2004). As there was no precedent, a certain number of rules were established to enable companies to continue to exist with their names, trademarks, autonomy, staff decision-making bodies, and an autonomous personnel management. They can thus legitimately continue to say that they are national companies. The systems of financial holdings used in those cases held 100% of the economic rights of the different groups and made sure that this identity and autonomy are respected.

For example, British Airways and Iberia have quite different signatures. British Airways, a very large, long-haul

company, with a significant medium-haul sector, essentially positioned on the North Atlantic (more than 50% of its activity); Iberia, essentially based in Madrid, is geared to Central and South America -- rather remote geographically from each, and relatively little in competition in relation to the customer they can attract, plus minimum competition between their airports, London Heathrow and Madrid-Barajas. The governance put in place by British Airways-Iberia through the merger and control holding IAG leaves great autonomy to each entity, by being limited to a business governance centred on the finance objectives. The investments are at group level (IAG) and are decided only if the financial objectives assigned are actually reached. A very large autonomy is left to the commercial sectors, the flight sectors and to production.

Upon each merger, we will note that all the players were favourable: the regulators (the competition DG in Brussels), the national governments, managements, social stakeholders and trade unions -- even the works council of KLM, which nonetheless has a veto right on the operations. At Iberia, the trade unions also gave their consent. In reality, what has happened since the mergers is not due to the pooling itself, because the companies keep their general services (2 financial departments, 2 marketing and sales departments, 2 legal departments). Air transport is incompatible with relocation projects. Whereas a car maker can have its cars made in Romania or Morocco, an air operator cannot consider relocating the city in which it is established. This explains why the social stakeholders have always been favourable to mergers which seemed to provide protection through the size effect.

The mergers or restructuring operations that punctuated air transport since the beginning of the 2000s will continue to multiply. Incidentally, the business is closely linked to the economic cycle, so it is not favourable for the time being, and that exposes air transport to considerable challenges. New players, such as the low-cost airlines or the Gulf companies represent the major threats. The sector will be inevitably confronted with restructuring operations if things stay the way they are. It will escape under only one condition: if and only if the regulators play their role – which they are slow to do. It took decades for the European Commission to decide to establish rules that ensure fair competition between traditional and low-cost airlines. Let us hope that it will respond more rapidly to demand it of certain non-European actors, such as the Gulf companies.

In summary, a part of the responses has more to do with the position of the regulators and their determination to have fair competition rules respected than to the economic players themselves. There has been a great deal of talk about the internal devaluation in recent times. That is precisely what the airlines have been doing since the 2000s: when they reduce costs, they reduce labour costs. Half the costs of a company are non-manageable (plane, kerosene, taxes), and the other half is steerable, bearing in mind that 2/3 of those costs are labour costs. When we speak of restructuring, we speak essentially of the reduction of the workforce. British Airways and Iberia have lost a little over 1/3 (35%) of their jobs since 2000. Furthermore, the drop in net salaries poses a problem. This begins always with the pilots, but in reality, all the staff are exposed to these measures (ground staff, cabin crew).

The airlines will probably tend to integrate the two undertakings. What happens with the social regulation bodies? For essentially economic reasons, we will demand to have group committees play this role. Today, the regulation is going well, independently for each of the two groups, but that will not last. A line of thought in needed on the role for the group committees of these merged transnational organisations in order to establish the right regulatory body for strategic problems.

◈ **Jose Antonio Herráez Jiménez**, General secretary of the State aviation sector – CCOO, Spain

The trade unions that had to be involved in the case set out above had understood that a merger between two very different companies would entail negative consequences. The CEO of Iberia, Fernando Conte, was not in favour of this merger. That is the reason he was succeeded by Antonio Vázquez, while Rafael Sánchez Lozano became managing director. They were both experts in mergers and had already managed that of Tabacalera. The merger coincided with a downturn in the market and the global crisis. The trade unions were immediately faced with a plan to ensure the survival of Iberia, which had nothing to do with what happened in the United Kingdom.

We need to explain the differences between Iberia and British Airways. British Airways has practically a monopoly at Heathrow. Work is now starting on the construction of a third runway at this airport, whereas there are four in Barajas. At the same time, low-cost companies have a considerable impact. In Spain, they transport more than 50% of the passengers. This phenomenon prevents Iberia from rationalising its traffic on short- and medium-haul flights. The other problem is the presence in Spain of an airline which has practically the same value as Iberia: Air Europe, which is the equivalent of Iberia in South America, where Iberia has its strongest market. This situation of strong pressure on an airline does not exist anywhere else.

The other activities of Iberia, such as the maintenance and assistance during a stopover, are also undergoing changes. Iberia is not only an airline. If that were the case, its staff would be limited to 5,000 or 6,000 people. At

Iberia, its activities employ another 10,000 people. The majority trade unions are essentially present in these groups of employees. If the company were only an airline, it is highly likely that both CCOO and UGT would have disappeared from it. Since the merger with British Airways, the trade unions are endeavouring to defend and maintain these activities. Social plans are negotiated continuously since the merger to try and protect employment. This implies permanent efforts to explain to workers why some services, such as purchasing or systems, were transferred to Krakow, to benefit from synergies created by the merger, which is far from being as positive as expected. This element had not been mentioned before the merger.

In this context, collective bargaining is very different. The trade unions previously had a direct rapport with the president, the managing director and the board of directors through the economic and social committee, where information was exchanged on the situation, purchasing, sale and other strategic changes. Today, it is the IAG group that decides. The Commission still meets, although less frequently, with a considerably reduced level of information and weaker power to act and intervene. In the course of these meetings, the workers' representation is obliged to call for efforts to obtain profit forecasts. The pressure on Iberia workers to boost profitability is unremitting. We presume the same is true in England.

These changes have given rise to very weakened negotiations, subject to the approval of what is negotiated in Spain. The European works council of the IAG group is being set up at present. In this respect, there are concerted positions and close contacts with the trade union UNITE through cooperation agreements. The organisations meet to take account of all the branches presented. Nevertheless, the IAG group capitalises to the maximum on all allowed delays to set up the council, whereas the negotiating possibilities in this committee will be insufficient from the outset. When a group governs with a very powerful managing director, collective bargaining is limited to day-to-day matters, and pertains for instance to the work posted or a national collective agreement. For the rest, they are always expected to make profits.

The distribution of routes on which Iberia and British Airways both operated has not been very logical: for certain activities such as cargo and parcel transport, Iberia allowed nearly the entire business to be taken away from it. British Airways, with a higher volume, more planes and capacity, and a more powerful cargo department than that of Iberia, managed to take away the major part of Iberia's market. On the other hand, Iberia is a company that has few long-haul planes and many short- and medium-haul planes. Conversely, British Airways has a far more financial market. Business class may arrive at 60 or 70 passengers, whereas it is only 12 at Iberia. Other aggravating circumstances: low-cost companies have appeared in Iberia's strong market, countries like Brazil, Venezuela and Argentina, whose political situations are complicated. All this has negative repercussions on the situation of Iberia.

The merger as such was necessary, because Iberia would not have been able to survive if it had stayed outside the large groups. Unfortunately, the sacrifices were enormous. The consequences on the matter of collective negotiations and risks taken at the level of the activities were the company was strong prove as much. For their part, the workers are left with very weakened trade unions.

◈ **Miguel-Angel Cilleros**, General Secretary of FESMC-UGT, Spain

The role that Iberia played in the merger was marked by a vision, shared by the trade unions and the company, and based on the search for formulas that make it possible to make the company more competitive. Contextual elements include those arising out of the crisis – decline in business activity, reduction of migration flows, in particular with Latin America where Iberia was highly competitive – to which have been added the appearance of low-cost airlines and the increase in fuel prices. The trade unions accepted the need to improve competitiveness, while following the merger process with great concern.

The trade unions did not have the impression that the merger plan offered guarantees to Iberia workers. Both UGT and CCOO wanted to anticipate and obtain a commitment, not only from the company, but also from the government. They contacted to the Ministry of Transport and to the government department in charge of economic affairs to convince the Spanish government that the merger did not necessarily pose a problem of employment, that it could be an incentive, a stimulation, but it could also impair the country's model. In concrete terms, they feared that Madrid would be the reference base for Iberia, not only because of the impact on the workers, but also due to the Iberia's contribution to the GDP of the Community of Madrid and to society as a whole. Safeguard clauses were considered and the trade unions held talks with government to try and develop nationality "structures" that would maintain the traffic rights and flight authorisations. The basic concern was whether it was an equal-to-equal merger. That, however, was impossible. First, because the volume and structure of each of the companies were very different, in terms of both their fleet and their personnel (British Airways represented nearly the double of Iberia). Then, with regard to the pension fund of British Airways employees; the stopover assistance and maintenance services of Iberia;

the three different collective bargaining agreements of Iberia, ground activities (stopover assistance and maintenance), flights (cabin crew), and pilots, which complicated trade union management.

ITF (International Transport Federation), UNITE, CCOO and UGT met before the merger, with positive results. They formalised and signed a declaration that specified what was acceptable for the trade union organisations and what was not in connection with the merger. Then, once the merger went through, it became clear that it did not guarantee the viability of the company. The trade unions in Iberia did not have the same sensitivities. The UGT and CCOO had to work hard to convince their talking partners of the need to conclude agreements. At that time, some of the messages stressed the need to make efforts to cut jobs, reduce salaries, take measures for productivity and capacity adjustments, and proposed the creation of Iberia Express. The negotiations on the incorporation of the Iberia Express brand triggered 15 days of strike by ground workers, and then 10 additional days when the pilots walked out in turn.

The management of the company (the managing director) was not in favour of collective bargaining or the recognition of the trade unions. Negotiations were constantly blocked, so that the trade unions and the company had to accept the intervention of an external mediator. In March 2013, an agreement was concluded with 80% of the trade unions, including the UGT and CCOO, but other minority organisations or branches did not sign it. The agreement provided for the departure (negotiated in a social plan) of more than 3,100 people, a 7% salary reduction for ground staff, and 14% for navigating staff and pilots, the freezing of seniority and advancement. A negotiating round on productivity was opened, but it was dissolved when it failed to reach the objectives within this stipulated time limit of one month, which led to a further 4% cut in salary. From that moment, a collective agreement was negotiated and signed only by the CCOO and the UGT.

The consolidation of the social dialogue remains an objective in the company. The company's workforce declined by 21% between December 2012 and December 2016. Negotiations are continuing, while exogenous elements and situations are disconcerting, such as the impact of Brexit, for instance, because the company is endowed with British and Spanish capital or subject to trade treaties such as the TTIP and CETA.

Mergers do not yield only positive results and decisive factors are not only economic, political and commercial agreements concluded by executives and shareholders. Everything that concerns workers is fundamental. They want to be recognised daily in the social dialogue and collective bargaining. The aim is not to distribute company shares among trade unionists, but to recognise the actions of trade unions for the workers.

◈ **Luis Pérez Capitán**, Industrial Relations Manager of Iberia, Spain

As the company's current human resources management team has been in place for only 6 months, its members cannot provide information on industrial relations. British Airways and Iberia were at the end of a profit economic cycle in 2007. Conversely, in 2008 and 2009, the two companies suffered substantial losses: €78 million for Iberia in 2008, which climbed to €464 million in 2009, while British Airways lost €220 million during the same period. The managing director declared to the press in 2009 that the two companies were fighting for survival. All this in a context of multiple social conflicts, which previous speakers have mentioned. According to an IAG report, the social conflict with cabin crews cost £185 million (2009 and 2010).

Given the need to restructure, the question must be asked as to the opportunity of the merger, which has become a routine process. In the last decade, 4 of the 8 North American giants disappeared. The large merger in 2013 led to the creation of the world's number one aviation group. Iberia and British Airways have thus just gone with the flow. It is even probable that, under cover of commercial alliances, this merger process might not be over yet. The IAG report which mentions the reasons for the merger provides sufficient elements in terms of synergies and consolidation. With the synergies, it is calculated that after 5 years, the savings made by the group will amount to €400 million. Finally, in strategic terms, these are companies established around the same hub, that of the Atlantic route (British Airways in America and Asia; Iberia in Central and South America). Their activities are complementary.

Whereas the term "globalisation" has a meaning on the economic front, it is particularly significant in the aeronautics industry which is influenced by multiple circumstances: first, the global economic crisis, which caused a precipitous drop in goods transport. Furthermore, the cut-throat competition between companies, to which is added the arrival of low-cost airlines (not only on short haul, but also on long haul flights), and the appearance of Arab airlines. Competition is fierce, right down to maintenance.

What was the impact of the merger on employment? The current state and reality of the group, which makes sizeable profits, is difficult to gauge without the results of the dialogue between the trade unions involved. The decisive turning point was the mediation conducted by Gregoria Tudela, and the plan developed to absorb the blows that Iberia

could suffer. This entailed a very hard adjustment plan, caused a 14% drop in the salaries of cabin crews, and 7% of ground personnel, plus an additional 4% which depended on the adoption of productivity measures to come in the collective agreement. During the first stage of the social plan, the agreement entails the departure of 3,100 workers, and then another 1,400 people, always on a voluntary basis. A series of agreements and sacrifices were also compensated by the company in the form of industrial relations and employment would be maintained until 31 December 2017 under the merger of the maintenance with an independent entity.

What this experience teaches us, therefore, is that the future of Iberia and the IAG depends on dialogue with the social forces who are committed to building a brighter future for workers in the various lines of business and for the company and the group.

GENERAL DISCUSSION

◈ **Roger Briesch**

According to Miguel-Angel, some minority trade unions did not agree with the merger. But how did the CCOO and the UGT fare? Have we noted a significant weakening during this period?

◈ **Jean-Cyril Spinetta**

The agreement signed by the trade unions of Iberia to seal the merger stipulates that a certain number of lines of business (maintenance, in-air activity, handling) cannot be sold under any circumstances for a minimum period of eight years (2018). Do you think this issue will be reopened, and if so in what terms? Are IAG's intentions known?

According to the same agreement, no cut and dry redundancies at Iberia could be decided in the five years that followed the merger (2010-2015). This period came to a close last year. Have things changed? Is the agreement renewed for another term?

◈ **Pierre Héritier**, Founder of Lasaire, France

Are the trade unions that came out against the mergers autonomous, as they exist in large numbers in the air transport sector? Or are they recently created trade unions? In view of the prevailing system in the UK, who were the talking partners of the trade unionists? Since it would take another two years of talks to put a European works council in place, who, outside the council, would have more extensive rights than those known at this time?

◈ **Hugues Bertrand**, Economist at Lasaire, France

We have noted that the talks have wound up in a vicious circle, whether in terms of wages, remunerations or the workforce of the various categories. What would be the limit from which all that would no longer have the same meaning? If we have come together, it is to prevent the situation from drifting too far. Everything is going badly up to now, but could it really get even worse?

◈ A **participant**

I heard that there was trade union coordination at the level of the International Transport Federation. Yet the two companies are European. Isn't there any trade union coordination in the European Transport Federation?

◈ **Jean-Cyril Spinetta**

It is worth bearing in mind that the WTO is not competent on air transport, so the TTIP has nothing to do with air transport either. The international institution under which air transport falls is the ICAO. But it is the WTO that has safeguard clauses. Though not perfect, these do exist when a State, or industries, or the services of a State do not comply with fair competition conditions – the gap between what European companies can do and what others get away with, such as the Gulf countries, for instance, is colossal.

The ICAO has no such clause, however. It can note that a State is behaving badly towards others, but it does not have the power to sanction it. That is why a reflection was geared to determining whether air transport should

exit from the ICAO and come under the WTO. It is worth noting that the States and governments have decided to establish a principle of competition, which is replaced by a principle of protection. Here is the problem of air transport: it lived for half a century under a protective regime only to fall under a principle of total competition in Europe all of a sudden. Whether that is good or bad, is another question. Let us say it is a good thing, but on condition that the authorities, the European Commission in particular, make sure that fair competition conditions are respected, which is never the case.

The efforts required of all sides are not related to the mergers, because they are made necessary by the growing difficulties encountered in all countries, without exception. The European Commission took twenty years to establish rules concerning low-cost airlines. We know that there is an entire series of unacceptable things (Ryanair, Easylet) which have everyone's blessing for the sake of the consumer. In addition, it has been unequivocally established that the Gulf companies received €42 billion in subsidies (€4 billion in the last ten years) from their respective States, and the Commission does nothing. And yet, the future of air transport and mergers will depend on the quality of the regulations imposed effectively. If this colossal effort is not made, or continues to be poorly made, an infernal spiral will be put in place. Everyone recalls the discussion in 2005 about the so-called "Polish plumber," but it has stayed the same, in transport, whether maritime, road or air. The Polish plumber is also the Chinese flight attendant or Chinese captain who arrives in Madrid with the conditions of her or his country of origin.

As already said, these mergers were goaded by European States and governments. The existence of a large open market de facto entails the emergence of large European leaders. In the case of British Airways-Iberia, the synergy between the two groups is limited: London is far from Madrid, the networks are very different, etc., but this makes it possible to retain great managerial autonomy within each of the entities, insofar as they are not in direct competition – except that the governance put in place can respect several radically different models that would have to be analysed closer. For example, Air France-KLM has integrated the commercial activities and IT services extensively, but Finance only to a limited extent. Conversely, the IAG model has integrated financial objectives extensively, but commercial operations, networks and strategies only very little.

One last point: the effort that Iberia made in 2013 to reduce its costs is gigantic (from 14% to 7%). British Airways did not do it, because its economic situation was deemed to have been clearly better. In the case of Iberia Express in 2012 (short-haul only), ca. 25% of Iberia's total business was targeted. Did the government arbitration that took place stem from Spanish law? If yes, that means that the government can legitimately call for arbitration when a sector is on strike. In parallel, in 2013, was mediation requested by the trade unions or by the Spanish government who tried to put an end to a complicated social situation, leading to strikes and conflicts? It seems to me that there is a difference between the French system, and the German, Dutch, English, Spanish and Italian systems, because where there is a serious conflict in the sector, the States try hard to intervene directly or indirectly. Whereas in France, the State does not have the means to intervene on the legal front.

NOKIA-ALCATEL RESTRUCTURING CASE STUDY

◈ **Ramón Baeza**, Director of 1° de Mayo Foundation, Spain

If there is a sector that is constantly changing, it is telecommunications. One of the emblematic moments that had an impact on companies covered by our study was the burst of the tech bubble in 2000. As regards Alcatel, the merger started in 2004 with the acquisition of Lucent shares, but the company did not however take up the challenge of competition from new Asian companies. For its part Nokia, although it was at the cutting edge of mobile telephony, missed the smartphone boat. Consequently, the two companies are in a process Alcatel Lucent being acquired by Nokia.

To broach this case, in addition to the participants round the table, the company was invited to participate, given the great added value its perspective provides. Nevertheless, the Spanish branch considered that the time was not right to take part in that meeting, and declined the invitation.

◈ **Joël Maurice**, Economist at Lasaire, France

The acquisition of Alcatel-Lucent by Nokia is a case that falls under the sector of Information and Communication Technologies. This field has been the locus of ongoing innovations since the 1930s, and in particular since World War II. There have been major developments, particularly in business creation, to which a certain financial

policy was grafted. As of the 1990s, it has been reflected by very low interest rates and very high liquidity. Such liquidity, which leads to significant speculations, pertained to new technologies in particular. The burst of the Internet bubble is not only due to new technologies, but also to the interference which occurred between technical progress and financial circumstances, soon joined by an economic context.

In this adventure, many companies in the sector, including some of the strongest, faltered. Nortel disappeared, although it was the world leader in the telecom sector thanks to vision and daring. Lucent, in the United States, had to look for alliances to check its decline, and that is how the merger between Alcatel and Lucent came about. At the outset, Alcatel acquired Lucent, then the company became a company under French law, headquartered in Paris. With the crisis that broke out in 2008, followed by a slowdown in activities in 2009, companies from the sector had to deal with a drop in demand and again the need for restructuring. Alcatel did not come out of these difficulties. Its last general manager, Michel Combes, applied the Shift plan, which reduced the workforce by 15% between 2013 and 2015, and in spite of that, he found that Alcatel-Lucent did not have sufficient cash to develop its future financing. The telecom equipment manufacturer was forced to look for new alliances.

The case of Nokia is different because it suffered less from the Internet bubble than other companies, thanks to its position as world leader in mobile telephones. Unfortunately, it missed out on smartphones and was outpaced, which forced it to sell a number of its lines of business and refocus on optical image stabiliser (OIS) technology and in mobile telephony infrastructures. We note that the companies were both in a poor financial situation, and Alcatel-Lucent more so than Nokia, bearing in mind that Nokia had to sell a certain number of its lines of business, including HERE, a geolocation service negotiated at a good price with German car makers. This rapprochement between Nokia and Alcatel Lucent was carried out rather rapidly and the two partners reached the conclusion that a better decision was the full acquisition of Alcatel Lucent by Nokia. It was announced on 15 April 2015.

Whereas the global turnover and workforce of the two companies were about the same, the stock exchange capitalisation was lopsided, in favour of Nokia. To understand how the stakeholders were involved in this restructuring it is necessary to appreciate the importance of applicable law. Alcatel Lucent is a company of French law, and thanks to that, we had access to precise information, which French workers also acted on at the time to react to the acquisition. Under French law, a file must be submitted for every public exchange offer with the Financial Markets Authority, which after a few days of examination, is made public. What is more, in the case of a public exchange offer, French law now provides that the party acquired, if it is incorporated under French law, must consult its works council, which can call on an expert. This consultation and the expert's report are part of the file submitted to the Financial Markets Authority.

Now let us look at the perspective of the latest European information and consultation of workers directive (2009/38/EC). Right after the acquisition, there were two separate companies, two European works councils, with differences in terms of applicable law, and above all management philosophy. This did not prevent them for getting together to reflect on the reactions to this merger by acquisition. On 14 January 2016, Nokia had acquired enough of Alcatel's shares (more than half) to assume the management of the company. On that date, the two groups became 1. The two works councils wrote a co-signed letter to the new management to request the application of the famous 2009 directive which provides for the establishment of a European works council for the regrouped company, as well as a negotiating group, provided by the directive, to decide what would be the status, remit and modus operandi of this new works council. On 25 February, management answered that it refused to open negotiations or put in place a negotiating committee on the status and contours of this new council. Instead, it opted to adopt, as the directive authorised, subsidiary requirements (cf. Annex 1 of the 2009 directive) for a sort of minimum European works council. Thus, every country is entitled to 1 representative when it has at least 10% of all the work force, and if there are more, 2 representatives, up to 20%. This result is a very surprising configuration with only 3 countries out of 28 having 2 representatives. This in turn causes major problems and calls for reflection on proposals for improvements.

The workers discussed among themselves whether to take note of this decision of management or engage in a show of force. There was an in-depth discussion, followed by a vote, and it was decided to accept this direction, for lack of any better option, so as to promote the rapid establishment of this new council. Last April, in a plenary forum, the management in Helsinki presented the new group to the employees and the management strategy, then announced a certain number of workforce restrictions. As the tables which were disseminated remained confidential, we do not know the precise figures, but we know the totals: 4,400 jobs cut out of 34,400 for the group in Europe. The information provided by the new management was very limited, and moreover showed the style of management practiced by Nokia. Theoretically, Nokia should have acquired 100% of the last remaining shares, so as to become the sole owner, and then dissolve Alcatel, which would have become a simple subsidiary, but certain shareholders took the case to court. The court has to decide whether the cost of the acquisition is right, and that risks dragging the matter out for some months, during which each of the companies will still have its own legal personality.

Then, it is necessary to broach the second issue, which is the negotiation of these job cuts in the different countries. 28 European countries are represented in the grouping, with very variable workforces, distributed in certain major hubs, as in Finland or Germany, then to a lesser degree, in France and Italy in particular. Conducted separately, without any coordination, the negotiations depend on the right of each country, i.e. very heterogeneous rights, with different time frames. To which is obviously added, for each, the temptation to avoid job cuts in its own country. We have not tried to adopt certain common procedures even at European level.

The first country to come out of the negotiation is Finland, where the agreement was reached between the workers' representatives and management on 1,000 job cuts, i.e. far fewer than initially planned. Then Spain wound up its negotiations rapidly, and succeeded in reducing the planned cuts (122 instead of 192 or even 320 wanted by management). Negotiations were successful in France too (70 at Alcatel and 17 at Nokia) and the trade unions, although they had refused to approve the redundancy plan, accepted unanimously plans with significant support measures (training actions).

What has happened must be taken into account in order to make proposals to improve the current European law. The first thing to consider is the applicable law, which varies widely from country to country, and which deserves closer attention at the time of mergers-acquisitions than the management styles. The subsidiary requirements of the directive are not very satisfactory: for one, the composition of the European works council is very imbalanced, heavily favouring countries where there are few workers' representatives and thus entailing a weakened power relationship for most workers with management. Furthermore, only one meeting a year is planned, save exceptional cases. How can the council play an effective role in these procedures? The Commission must be informed that a balance in subsidiary requirements must be restored more in favour of the workers as a matter of urgency.

The workers are aware of the vital stakes of this restructuring for the two companies, all the more so under pressure from the Chinese and Google Earth. In a restructuring of such scope as Nokia-Alcatel-Lucent, the biggest management challenge is to ensure that workers know what they have to do and what awaits them, and that they come on board. Now the method used up to that point, does not allow for that. Similarly, provisional personnel and skills management is needed that is really future-oriented. The directive is interested only in workers in European countries, but here we are dealing with global groups, that now cover all continents, with very strong sites in the United States, China, India and Brazil. More information must be demanded on what is happening outside Europe and on the relations that are being established.

Finally, the imbalance between the provisions to protect the shareholders (cf. precautions taken in the report filed with the Financial Markets Authority to assess the value of the shares of both parties) and the dearth of information for workers are striking. Even the figures concerning their workforce are not public. We must arrive at provisions whereby employers are required to provide the same degree of precise information to workers as they do to shareholders.

◈ **Arturo García Hidalgo**, Nokia Works Council - CCOO, Spain

An overall view of the case is indispensable, because this merger is not the first. A good number of companies which are currently integrated in the de facto Nokia structure used to be different. There was Siemens, Alcatel, Lucent and Nokia, then came the first wave of mergers in 2006 and 2007. Alcatel and Lucent on the one hand, Siemens and Nokia on the other, which gave rise to the Nokia Siemens Network. A second wave of mergers is in progress, and in the interim, parts of Nortel, Motorola and others, were absorbed. The sector knows merger and consolidation processes, which are driven by technological changes and competition from China.

Alcatel has always had liquidity problems; it had to sell a business activity regularly to survive. It was foreseeable that in order to secure its future, a solution of this type was necessary. The merger with Nokia was perhaps the least poor option. There were rumours that Alcatel Lucent would be taken over by a Chinese company. Nevertheless, given the strong presence of Lucent on the American market, where they are very protectionist, it was difficult for a Chinese company to acquire the entire Alcatel Lucent group. This dynamic of the group has been a permanent feature for 15 years with a restructuring (mainly social plans) every year, except in 2010 and in 2015. In 2016, a restructuring was negotiated for 2017, but it will probably take place in 2018.

In Spain, Alcatel had up to 25,000 workers at one point. At the time of the merger with Lucent, only about 750 were left at Alcatel and 400 at Lucent. At the time of the merger with Nokia, Alcatel Lucent had 700 employees and Nokia Spain 300. The forecasts seem to indicate that together they will manage to stay competitive. The European council currently functions according to Finnish legislation, determined by the acquisition of Alcatel Lucent by Nokia. In the opposite case, the legal base would have been different. The situation with management is similar. The CEOs of

Alcatel had always been French, which did not change significantly after the merger with Lucent. Conversely, Nokia has an Indian CEO for a number of years now.

At world level, the merger is different from that experienced by Alcatel-Lucent insofar as one of the first steps will concern local entities of each country (national Alcatel and Lucent). The model varied from one country to the other, and the absorbing company was not always the same. For example, in the USA, where Lucent staff were more numerous, Lucent absorbed Alcatel. After the merger of the local entities and the establishment of a single works council, negotiations on restructuring could commence. Conversely, in the case of Nokia, the merger of the local entities was postponed until 2017-2018, which involved negotiation problems.

The current European council is very different from that of Alcatel-Lucent. Owing to the legal base in force, many rights have been lost relating to training, the number of annual meetings, interpreting services (the Nokia management went as far as to refuse those who were not fluent in English), legal personality (by virtue of French law, the European council was a legal person and consequently entitled to engage in prosecution, which is no longer the case, by virtue of the Finnish legislation), and finally, the budget. French legislation guaranteed far more rights.

◈ **Pedro Mures**, General Secretary of Nokia, - UGT, Spain

In the case of the French company Alcatel, as for Lucent Technologies (European part of American Telephone and Telegraph, which was headquartered in the Netherlands), the trade union approach was more European than North American in style. The policy of dialogue with the trade unions was very similar. Nevertheless, the current management of Nokia has another vision. For Alcatel Lucent, the presence of the social partners in European councils through the trade unions (and even the direct presence of French trade unions), constitutes a fundamental basis. After the first months following the absorption of Alcatel-Lucent by Nokia, it was noted that although there is dialogue in the works council, Nokia did not attach the same importance to integrating that dialogue in a trade union or the social dialogue. The unique experience of Nokia on this issue was that it stems from members of its staff. Each country represented in the European works council has its characteristics and policies in this area. There may be cases, as in Spain, where the trade union sections of the UGT and CCOO constituted all the workers" representatives in the European works council. Nevertheless, there are other countries where the representatives are not affiliated with trade unions, which raises the question of the legal assistance and support that these persons can have.

At the local level, there are two separate companies with two different tax identification codes. Although Nokia and Alcatel share the same headquarters where the essential segment of the staff is located, they have to have two workers' representations and two trade union sections, because each tax identification code maintains its representatives and sections. In this regard, the negotiation of agreements or social plans, or of the merger of fringe benefits or the work planning become more complex, because formalities and negotiations have to be done in double. Consequently, the dialogue is double, with all the complexities and sensitivities that can entail, since neither of the two groups has to feel injured. Furthermore, the initiating company of this merger, i.e. Nokia (which had sufficient cash to buy Alcatel), was also the one with fewer employees.

Nokia and the other companies that follow this model are global multinationals. Whereas the representation of workers continues to speak about solving problems at European level, Nokia is no longer making European plans. According to the latest Nokia forecasts on the organisational structure forecasts, they will develop the software in India, engineering support in Eastern Europe, and manufacture equipment (cameras, smartphones) in China. Nokia distributes its production sites among low to medium-cost countries, regardless of the continent where they happen to be. With the acquisition of Alcatel-Lucent, it is present on the American, European and Chinese markets. It is a global company with a global vision, where the workers' representation has very little power.

◈ **Clemens Suerbaum**, Chairman of the Central Works Council of Nokia, Germany

Germany is often presented as the land of milk and honey that wins on every front, irrespective of the economic cycle, crisis or no crisis. That said, it is also European champion in redundancies, i.e. more than 25%.

The central works council of Nokia Germany is currently working on the way in which workers can control change in the management method. This involvement of the works council could change the procedure put in place and the very substance of that change. It would be in the blatant interest of management, which could only be delighted with this involvement of workers for the common goal of improving things in the company.

In reality, a new office in charge of guiding change was created and placed under the direct control of the CEO. The employees active at the operational level have no contact with this office. Nor do they have the time to think about what the future holds in store for them. They are drowning in work. It is understandable therefore that the news that the organisation of work could still be changed could traumatise them, as this type of change is associated with a deterioration in their situation.

In March, management created a new entity, "sales and services," the implementation of which presupposed the consent of the trade unions. A trade agreement was thus negotiated so that the planned changes should apply under the same conditions to employees of Nokia and Alcatel Lucent. In a general manner, the announcement of the "change" means the announcement of job cuts, and that announcement is made in the same way and concurrently to the media, the shareholders, the works councils and all the workers concerned. The negotiations with the trade union are always closed in the same way: the announced job cuts in the near future, leaving those concerned scarcely any time to give their consent to Nokia's proposal of voluntary departures.
Whence the change requested to give employees more time to take this type of decision by announcing this reduction in the workforce far ahead of time, i.e. six months in advance.

The programme comprises several aspects: one aimed at getting employees themselves to participate in this process, at the end of which a certain number of them will have become aware that they are ready to change jobs. To get there, they can count on the skills of a particularly renowned placement office which places a personal coach at the disposal of each employee (list of skills, drafting of the CV, oral presentation, etc.). It should also be borne in mind that the employees concerned have in general some twenty years of seniority at Nokia and that they never worked elsewhere. When the employee finds a new job at the end of this personalised preparation, he also gets the severance bonus paid by Nokia, and a guarantee for two years that Nokia will make up any difference in salary.

Naturally, the conception and implementation of such a mechanism do not really involve the participation of workers, and the few positive points of the programme are only one small step in the right direction. It is still far from an active participation of employees in the concrete elaboration of "change" procedures.
These inevitable changes must be positive changes that open up to the future, in the interest of the company and the employees themselves.

Three final remarks:

1. Nokia takes advantage of the diversity of labour law rules in its different sites in Europe. Thus, the deadlines concerning the information and communication obligation are not the same, and the management of Nokia uses it as a pretext to align all staff on the shortest deadline and not to give priority to the information of the works council. Now, the works council should have priority on all the other bodies of the company.
2. The disparity of the legal rules can also impair the proper unfolding of the process on another level: This is the case for example in Finland, where a works council does not have the right to take to court a company that failed to inform it in due course. Similarly, the effects of this type of dysfunction may impair the proper conduct of the negotiations at the scale of the Nokia group as a whole.
3. As to the rules of subsidiarity imposed on companies by European law to force them to negotiate with the representatives of employees, they can prove less advantageous for them and function as a real trap. In fact, the very complexity of the forms to comply with is such that it ends up blocking the entire process, and it should come as no surprise that the Nokia management does not stand in the way, seeing how difficult it is to align the different representation bodies of workers (former Alcatel-Lucent works council, Nokia works council, special negotiating committee, et.) thereby delaying the start of the negotiations as much, if not making them completely impossible.

In a general manner, the management bodies of the companies tend to think that after 45, workers can no longer adapt, if only in terms of computer skills. This is a highly debatable judgement, all the more so as he himself admits that he is older than 45.

GENERAL DISCUSSION

◈ **Udo Rehfeldt**, Researcher at the IRES, France

The remarks which follow concern the questions broached at the end of Joël Maurice's study: the application of the law, the distribution of seats, and what is called the "unequal treatment of employees and shareholders." On the applicable law, there are two aspects: on the one hand, the European works council, on the other information and consultation at national level. As to the European works council, there are differences depending on the transposition law, but they deal with things that have not been settled in the directive itself, for example, the question of recourse before the courts, and any punishment applicable to the company which does not respect the law.

For the rest, according to our studies, the transposition laws of the directive are exactly similar to the directive itself, with the exception of the famous French model, which is applied only in France or in companies that would like to implement it: in such a case, the European works council is chaired by the employer and not by an employee. In practice, it does not make much of a difference. It is more of a nuance. In fact, the practices of representatives of the workers are at stake. The report points out that by foregoing their European works council consent, the Finnish representatives are deprived of the possibility to renegotiate the Nokia agreement after the merger. Otherwise, this solution would probably have been the most practical.

As regards the national rights, we should insist on French law, where there are not only general information and consultation rights, but also the Florange law, adopted after problems in the French steel industry during the re-acquisition of ArcelorMittal. It confers very significant additional rights to the representatives of workers. To be sure, there is the European directive on the rights of employees in case of a takeover bid, but French law goes as far as possible based on the content of the directive. It nonetheless seems to me that French employees did not use the full scope offered to them. It enables a company threatened by a takeover bid to be consulted, but it also entails the possibility of holding a meeting with the CEO of the company that had made the offer. On the other hand, this law makes it possible to carry out a requalification so that the employees can indicate whether they consider the takeover bid to be hostile. At that time, other rights open up.

The question of the distribution of seats is very delicate because of two contradicting principles. First, the democratic principle, according to which everyone must be represented. On the other hand, in point of fact, particularly in the European works councils of French firms, we note an over-representation. This was not justified, or justified only by the fact that there was trade union pluralism in France, and all organisations had to be represented. It is probably against this excess that the Commission introduced the so-called democratic principle. I would propose a compromise: it would entail continuing to ensure that all countries are represented, but weight the votes of representatives according to the weight of number of employees per country.

Finally, in concrete terms, we can say that it is through the law that we will restore balance as much as possible to this unequal treatment of employees and shareholders.

CONCLUSIONS

◈ **Jean-Cyril Spinetta**

The French employees did not invoke the Florange law, because they were in favour of this exchange public offer. They considered, rightly or wrongly, that it was indispensable for the group's survival from a strategic point of view. In any event, this means that the previous merger had failed. If a merger succeeds, the addition of the two groups is greater than their initial sum. However, the calculation was not right. The people were traumatised by the merger, which could be called a "merger between egos." The worse that can happen during a merger, is precisely a paralysis of this sort, where no one decides the line of products to be maintained, etc. It explains in large measure the position of the French trade unionists.

Then, from the European point of view, we note that the power systems of works councils are extremely varied. Take the Dutch law, for example: In the Netherlands, the works council have a veto right. If there is opposition, then the court will decide. Even though this modus operandi is in no way suitable for the European model, it shows the wide diversity of powers, which are those of the consultation instances in case of merger or restructuring operation. This diversity is probably greater than we imagine. In any event, my experience at Air-France KLM shows that the European group councils do not function properly. That there are representatives from all countries is understandable, as it is in line with the democratic principle. But in reality, 1 representative per 10 employees when there are 2 for 20,000, is a strange reflection of democracy. Ultimate, their composition, and perhaps even their role, will have to be revised.

At times, we no longer know very well which company we are dealing with. For example, Alcatel-Lucent, which is a French company, has 50,000 employees in the world, but only 5,000 in France (i.e. 10%). The company is French, but 2/3 of the turnover are generated in the United States. Lucent as well as the network management, that's nearly $5 billion in turnover; and the other significant activities are essentially carried out in China. These multinational companies escape the traditional mould with powerful national roots. Today, according to this example, a company is French because its legal status is French, but in reality the centre of gravity of its business activities is not on its territory, or even in Europe, but in the United States. Imaginaning the regulatory and social concentration authorities for multinationals which are disconnected to such a degree from a national and territorial reality is an enormous challenge.

Europe had endeavoured to create a European company status, but we noted that the large single market leads to the emergence of major leaders. This status may have been designed to cover this type of merger between European players – very few companies adopted it.

◈ **Maryse Huet**, Member of Lasaire, France

The current context requires us to think about global competition and the globalisation of companies, and perhaps also trans-national agreements. Telephony is a sector where there is non-cost competiveness, the opposite of the aviation sector, so we should cite what Nokia could expect thanks to the investment in research and development. The question would then arise about the organisation of research at European level. The government is preparing a Silicon Valley French style and we also have a number of start-up incubators far superior to other European countries. We observe a sort of national retrenchment in this field.

Moreover, how will Nokia attract young people, who are only dreaming of the real Silicon Valley, and to attract women in this innovative sector?

◈ **Udo Rehfeldt**,

I agree that we should not use the vote weighting system to get a majority decision. Because it is far more important to create consensus and to strengthen relations of confidence between the members of the works council. We should bear in mind why the legislator had chosen this principle for the subsidiary requirements. At the time of the 94 directive, only 15 European countries had to be represented in a works council with a maximum of 30 persons. In the European works councils, where there was crushing representation of workers from the country of the headquarters against a few representatives from other isolated subsidiaries, the climate will remain extremely tense. I of course agree fully that the development of the operability is a priority. But we cannot arbitrate conflicts of interest through a majority vote, and that is why I consider that it is far more important to have a trade union coordinator. He

alone would be able to reconcile opposing stances based on divergent interests, for instance on the unequal distribution of redundancies in a large group.

The other effectiveness condition, which requires a negotiated company agreement, is the existence of a select committee. There are very few European works councils for that matter which are based on the subsidiary requirements – about 3 or 4 over a total of 800.

◈ **A participant**

The new committee being put in place will apparently be composed of 30 members (although there are only 28 countries), but there would be a select committee of 5 members.

◈ **Anne-Marie Grozelier**, General Secretary of Lasaire, France

How can the representatives of employees be involved or participate in decisions that affect the development of companies, particularly in the case of merger or restructuring based on major industrial changes? From this point of view, we have spoken a great deal of the works council, where their role consists essentially of assuming social management relating to the consequences of decisions. In fact, we should broach the question of the participation of employees in the boards of directors, in the supervisory boards, or in the management structures of companies. Those which we discussed today are more or less concerned, depending on their legal provisions, which do not necessarily promote employee participation.

The European company had in fact foreseen that employees can participate, but not when it comes to thinking about industrial decisions, and then to the consequences in terms of jobs. And yet, the development of industrial establishments resembles strongly forms of relocation within Europe and the employees are directly concerned. Certain activities are going to veer to countries in the Union where salaries are lower to the detriment of companies in sectors with higher salaries, as is the case in Finland, Germany or France.

◈ **A participant**

The new council will meet for the first time this week, so we will have information very soon on the topics of work to come. Various nuances of opinion surfaced in our discussion today on the composition of the council. We shall have to find proposals that are both relevant and attain a general consent. The new company will clearly manage to succeed only if it achieves a certain adherence. It cannot leave employees in the dark, when it needs to attract young people and create dynamism. To that end, it will have to be able to explain how the tasks are distributed in the different countries of the world and put in place a training process that will attract young people and retain those already in place. Bearing in mind that even the leader, Ericsson, is in difficulty, we can say that the problem is European. The vision will therefore have to be global, because we are faced with a European challenge, and we cannot make do with half measures on the strategic front.

◈ **Joël Decaillon**, Vice-President of Lasaire, France

We shall have to enlarge our vision to avoid remaining fixated on works council. We are talking about "merger," "restructuring" and "the challenge of new technologies," but will these elements necessarily entail a decline in the workforce? Will the system necessarily be based on cutting jobs in the tertiary sector? Where will workers concerned by these changes be, these 47% who may no longer be employable? The 2000 Lisbon strategy aimed at full employment in Europe. It's a vision that has disappeared from the European vocabulary. We must think about this aspect. It will not be simply a matter of finding an economic adaptation. There will be enormous challenges for society. Brexit is proof. It is our responsibility to refuse that the workforce is reduced everywhere in the name of progress and the trend towards mergers.

The situations are highly heterogeneously in terms of both management and corporate culture. Moreover, workers in the service of historical companies always at the cutting edge of technology have already gone through several restructuring operations. They have experienced mobility and adaptation, with which they are still confronted nowadays, for at least thirty years already. There is a tendency to make us understand that changes should be accelerated, but those workers have not stopped following the movement of transformations. Finally, ageing has to be taken into account. Is it a permanent factor for all these companies? Could we imagine having figures on the demographic organisation of European workers among our reflection elements?

Reforming the trade union discourse is perhaps necessary, but above all we shall have to work on coordination, on unity. Reviewing our method will not suffice. It is our capacity to organise things differently that we

must question more broadly.

Finally, the strategies are global, and not European. Are multinationals in international framework agreements? How are we to act when we know that there are some 200 of them with a total of 50,000 multinationals? The interesting point is that the social management is very separated from the overall strategy of groups. We should insist on this point.

◈ **Isabel Araque**, UGT, Spain

The companies and workers' representatives have been negotiating transnational collective agreements for a decade to address the growing international dimension of the organisation of companies in general This is at times the result of mergers or the consequences of their will to economic expansion. To encourage a reflection which integrates the trade unions opinion, we must turn to the fundamental coordination carried out by ETUC with the European Commission to strengthen the European social dialogue. This dialogue is indispensable since the geographic scope of these agreements can cover the territory of several States. Furthermore, they vary according to the codes of conduct of multinationals in terms of employment, industrial relations and trade unions.

In conjunction with this fourth industrial revolution, the consequences of economic, technological and digital globalisation in all known production and employment sectors are at stake. For the UGT, it is vital to study this new cycle so as to anticipate in order to adapt, correct possible imbalances and ensure a balanced power relationship in industrial relations and employment. We are insisting on the anticipation role of ETUC through legislative, fiscal, scientific and employment proposals. The UGT considers it is fundamental to have recourse to experts to advise trade unionists who are negotiating in European works councils.

In 2011, more than 10 million workers were already covered by 215 transnational agreements concluded in 138 companies throughout the world Nevertheless, this type of practice poses legal, political and trade union questions for trade unions concerning the ties between the different levels of the social dialogue (international, European and national) and its different scopes of horizontal application. It is an important form of collective bargaining, stemming from economic globalisation and promoted by it. It opens new doors to the social partners and its influence makes it necessary to acquire specific knowledge about its interpretation, dimension, effects and global, EU and national legislative provisions To continue to work to maintain balance in the power relationship, we must capitalise on transnational agreements and use ETUC as a communication channel to ask the Commission and European Parliament that industrial relations, employment relations and social relations advance hand in hand.

◈ **Christina Facabien**, Confederal secretary of international cooperation, CCOO – Nokia European Committee

The current situation is confused and one of the aspects on which there is consensus is the obligation trade unions have to develop the capacity to address these new requirements. Furthermore, the European Union can no longer limit itself to being an economic and monetary union; it must become a social and political union capable of taking up current challenges.

As members of ETUC, both the UGT and CCOO adhere to the idea of a new future with a Europe based more on rights. It is worth underscoring the necessity to improve the power relationship, at the workplace and in institutions, by means of the social dialogue and collective bargaining. It is time to put an end to the hegemony of neoliberal policies which are imposed in employment relations and other policies that influence our day-to-day life.