

MULTINATIONALS COMPANIES AND COLLECTIVE DISMISSAL. COMPARATIVE VIEW ON NOKIA LABOR POLICY IN GERMANY AND ROMANIA

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Abstract: *The dismissal of nearly 2,000 employees from Jucu by Nokia has significant social and economic effects in Cluj, especially and for Romania in general. This article presents the Nokia multinational actions in relation to collective layoffs in two European countries, Germany and Romania and their consequences in labor law plan.*

Keywords: *Nokia, collective layoffs*

Introduction

The management's of largest phone maker in the world decided at the end of September 2011 to close its plant in village Jucu of Cluj, in a program of efficiency and cost reduction. The company is turning to the Asian market, an area that buys cheap phones such as those manufactured in Cluj. Nokia has lost so much ground in recent years in Europe, because most people buy smartphones, and many prefer Android or iPhone models ahead of the Finns. For Nokia factory in Cluj work around 3-4000 people, of which 2,200 are employees of Nokia, and the rest are temporary. Finnish group started in February 2008 Nokia mobile phone production plant in Jucu, investment amounting to 60 million.

Nokia came and Nokia leaves. What remains for Romanian economy? An imbalance that will be visible next year and possibly the lessons we should draw. Nokia's arrival in Romania brought a wave of excitement. Nokia left, in 2007, in Germany, at Bochum, along with a series of protests of workers and the general public. In contrast, in Romania, Nokia has been received with open arms, the results were as enthusiastic.

In three years, Nokia factory became the second largest exporter of Romania, became a success story and was considered a major industrial project that leads to economic growth of Romania. For three years it has happened. Finnish company's sales volume, in overwhelmingly for export, benefited for Romania. A balance of trade balance, an increase in exports and a substantial contribution rates are shown in the balance of the leu-euro were among the little good news in times of crisis.

The all excitement of Nokia arrival made us see less economic project itself. It had been overlooked the fact that it is a project of industrial outsourcing in the sense that

the Finnish company only imported parts and assembled to plant near Cluj-Napoca. Of course, the outsourcing of textile and footwear, practiced widely in the '90s, the outsourcing industry can be a step forward. Second, not seen that Nokia used in Romania poorly qualified workforce and low cost. In fact, it was also the main reason to stay for Finnish company in Romania. Thirdly, we find now, at Nokia leaving, that the unions failed to negotiate a collective labor solid contract. Why? It is hard to answer, especially how unions had in 2007-2008, a strong position in the Romanian society. But against a multinational company, union strength has not been the same. Was the unions fault or the fault of the company? It is hard to say.

Comments and doctrine

For Romanian law, the term of collective layoffs was introduced in a normative act only through the Government Emergency Ordinance no.9/1997, although social realities have forced the vocabulary of each of us long before that term.

In the field of collective layoffs, Directive 98/59/EC on the correlation of the provisions relating to collective layoffs is transposed into Romanian legislation, in its essential provisions, by GEO nr.98/1999 approved by Law no.312/2001 which replaces previous legislation in this field and provides a unified framework, non-discriminatory measures for social protection of unemployed persons in collective redundancies in all sectors, regardless of ownership and the organization of work. Following this change, the financial compensation for those involved in collective redundancies support of their own funds of employers (Popescu, 2002). Directive includes several important features: refers to the collective dismissal for economic reasons, establishes a procedure to follow in detail, does not prevent the employer to reduce the number of employees, and applies to workers who have contracts of indefinite duration.

According to Article 68 of the Labour Code, the collective layoffs means the dismissal, of multiple employees, in a period of 30 calendar days of one or more reasons not related to the employee (Labor Code, art.68). It is called like this because it affects not only one employee or more individually, but a community of employees.

Number of employees to be fired to attract to the provisions governing collective layoffs depends on the total number of employees each employer, as follows: at least 10 employees if the employer has employed between 20 and 100 employees, at least 10% of total employees if the employer has 100-300 employees, at least 30 employees for employers who have over 300 employees. In determining the number of gired employees are taken into account those employees who have individual contracts of employment terminated as a result of mutual consent, at the employer's proposal, provided there are at least 5 employees.

That a collective dismissal to be qualified it must meet three conditions (Tinca, 2010):

- First, to be about a number of employees affected by this measure;
- The second, the reason of the termination of employment shall not keep their person;
- Third, how long that will take place end of those contracts will not exceed 30 calendar days.

Qualification of dismissal as individual or collective layoffs has an overwhelming importance in terms of its obligations to the employer. In the event of collective dismissal, the employer is obliged to follow a special legal procedure, as specified in detail in Article 69-74 of the Labour Code. In case of collective dismissal, the employer must: initiate timely, in order to make them agree, consultations with the union or, where appropriate, employee representatives, on the ways and means of avoiding collective redundancies or reducing the number of employees affected and mitigating, to provide the union has members in the unit or, where appropriate, employee representatives all relevant information relating to collective redundancies, in order to formulate proposals on their part (Top, 2008).

The employer has the obligation to initiate timely and in order to harmonize, consultation with the union or, where appropriate, employee representatives, on at least: the methods and means of avoiding collective layoffs or reducing the number of employees who will be employed; mitigate the consequences of dismissal by the use of social measures aimed, inter alia, support for retraining or retraining the fired employees (Țiclea, 2009).

The procedure for informing and consulting workers' representatives should strive to reach an agreement. The employer is obliged to provide all relevant information and communicate in writing to workers' representatives to enable them to make constructive proposals during the consultation, with reference to: reasons for the redundancies, the number and categories of workers to be dismissed, the period within which redundancies to be made, criteria for selecting employees to be dismissed in so far as legislation and / or practice confers competence employer, methods of compensation for dismissal (Popescu, 2008). Please note that the word "timely" means: the enterprises having fewer than 100 employees, 15 days prior notice, to companies with 101-250 employees, with 20 days prior notice, to companies with over 251 employees, 30 days prior notice. The employer is obliged to notify draft dismissal to the Labour Inspectorate and Territorial Employment Agency at the same time as the union notified or, where appropriate, employee representatives.

The essential elements that must be followed in the procedure for collective layoffs and to be observed by the employers are (Stefanescu, 2007):

- Written notification to the competent authority in work on the project dismissal and a copy of this notice transmitting the employee representatives, which in turn may submit comments that authority;
- Collective layoffs will become effective for at least 30 days notice; in the meantime the public authority will seek solutions to problems posed by future redundancies.

The union or, where appropriate, employee representatives may propose to the employer measures to avoid layoffs or decrease the number of employees fired within 10 days of receipt of the proposed dismissal. The employer is obliged to respond in writing and the proposals made within 5 days of receipt.

If the issues considered collective layoffs can not be resolved within statutory deadlines established, at the request of either party, the Labor Inspectorate may decide to postpone the request of either party within 10 days from the decision of dismissal. The employer that disposed collective dismissal cannot make new employment for a period of

3 months from the date of their dismissal. If the employer resumes operations during this period which led to termination of collective redundancies, he shall transmit to employees who were dismissed with a written notice to this effect and to recommit the same jobs they previously held, without examination or competition or trial period. Employees have a period not exceeding 10 working days from the date the employer to show expressly consent to the job offered. If employees who are entitled to be enlisted this is required, the employer may make new employment on vacant jobs.

According to the Labor Code, the dismissal decision shall specify, among other items required, also the period of notice. Accordingly, this notice period begins after the dismissal decision is communicated to the employee. If employers choose to communicate the notice period as a separate document prior to the redundancies, he may face the risk that the entire procedure to be annulled in court.

Another reason for cancellation is if the dismissal decision does not include any of the items required under Labor Code, namely: the reasons for dismissal, notice period, the criteria considered, list of all jobs available in the unit, the term in which the employees will opt to fill a vacancy job.

The decisions of dismissal take effect from the date of their communication, or by mail with return receipt or by other ways such as through judicial enforcement. Since most times the employees refused to sign acknowledgment of receipt, and so employers cannot proof of the collective layoffs, the best solution is through the bailiff.

According to articles 81 of the Collective Labour Agreement, the effective application of staff reduction, by reducing vacancies as those removed, employer collective dismissal procedure will have redundancy measures so that they affect in order:

- employees who accumulate two or more functions, as well as those that accumulate pension with salary;
- individuals who meet the standard age and contribution period and did not require retirement by law;
- people that qualify for retirement at their request.

According to Government Emergency Ordinance nr.95/2002, the employees whose individual employment contracts terminated by collective layoffs in the restructuring, have the following rights: the time of dismissal, an amount equal to twice the average net wage economics Institute of Statistics announced by the previous month in which dismissal shall carry out, monthly payments, set at the average wage in the economy announced by the Institute of Statistics for the month preceding the month in which it shall carry out collective redundancies, unemployment benefits, monthly income completing (Article 12).

Germany, Bochum

In 2008, Finland's decision to move their factory from German city Bochum to Jucu, Romania raised eyebrows and sparked a few more dissatisfaction among Germans. Finish main argument for relocation was cost-effectiveness: it was cheaper to move their operations in Romania. Ironically, the Jucu employees happen now the same thing, losing battle with cheap labor in Asia.

Because of pressure from German politicians, Nokia has postponed plans for a while. Germans felt wronged because the government supported the Nokia with 80 million Euros. Factory in Bochum have 2,300 employees, but other than 2,000 people working at suppliers and other companies built around Nokia factory. In total, about 5,000 Germans were left jobless when.

Finnish group Nokia has offered a total compensation of 200 million to fired workers from the factory in Bochum. Then, Nokia and German state North Rhine - Westphalia have concluded an agreement for reimbursement of subsidies, after closing the Bochum plant by the Finnish group.

The state demanded 60 million Euros for the subsidy manufacturer during 1998-1999, when it opened the plant in Bochum. Nokia has paid 30 million Euros to a special fund "Growth for Bochum", to encourage the installation of other companies in the region.

Telecommunications Company then announced an agreement with representatives of plant employees to pay 200 million Euros of compensation for dismissal. Brussels also helped the Germans fired workers by Nokia, the European Commission approved a 5.5 million euro aid to support the reinstatement of employees fired over 1,300 Nokia factory in Bochum, Germany, after the Finnish group's decision to move production to Cluj.

Romania, Jucu

In March 2006, the Romanian Government, Cluj County Council signed a memorandum with Finnish company Nokia to build a factory in joint venture, in Jucu village, near Cluj-Napoca. In May, Government allocated 12 million lei for infrastructure works and utility area Tetarom III, where Nokia factory building. The government also issued an emergency ordinance to regulate the legal situation of land for the factory, and in February 2008 in Transylvania, the Finnish factory started production. Nokia received in 2007 with free charges 90 of the 159 hectares of Tetarom Industrial Park III, and Government has allocated 12 million lei to finance investment infrastructure works in Jucu Park.

Over time, three years after the opening production at Jucu, the Finno-Transylvanian factory closed, about the same reasons invoked in Bochum: Asian production units are more efficient, while the phones made so far to Jucu are sold more in Asia.

But the crisis has changed things dramatically. Nokia lost competition on smartphone's market, his stock market capitalization has dropped from 90 billion dollars in 2007 to only 15.7 in 2011, and the sales plummeted. Even so, it was one of the biggest exporters of Romania (the second).

If for Germany, the Bochum factory was not much to a GDP of over 3,000 billion; for Romania, a GDP of about 180 billion dollars, the Nokia leaving from Jucu would mean an economic loss over one percent, or nearly equivalent growth would cancel the year 2011-2012: the production accounting for 1.3% of GDP, the added value being 0.25% of GDP (in fact, GDP loses its value created, not turnover). Nokia added value of Romania's GDP was, but much smaller - is about 0.25%, the Nokia business in

Romania in 2010 reached approximately 1.6 billion Euros, up 60% compared to 2009. In 2010 the Finnish company in Romania recorded a net profit of about 42 million Euros. Last year, Nokia was the second largest exporter in Romania, after Dacia, providing 5% of the country's exports, with 1.56 billion Euros from 2008 to the end of 2010.

Nokia lockout was expected because only the Romanian state took the responsibility of all social responsibility that had to have the Finnish company, the Romanian legislation and the current Labour Code moving the unemployment's care from the firms to state. If the law would have been different, Nokia would have had to pay as in Germany, where workers from collective layoffs, severance payments granted. In turn, the unions could not do anything in this case because the law no longer allowed protesting in any way, the only protest that they could do was to ask all Romanian citizens to stop buying Nokia products.

Collective labour agreement between the Jucu factory's workers and Nokia did not provide compensation pay. In addition, Nokia notified in early 2011, the Labour Inspectorate that company was not affiliated to national contract of the branch, for electronic firms, which provides severance payments for workers. The contract was registered at Labour Inspectorate on 1 February 2011, so if it wanted, Nokia did not give any money for severance payments. Article 27 of the collective agreement is the only provision in this document that now forms the basis of negotiations between unions and employers. For their part, the unions have nothing on which to base so that all they got was only Finns favor. They have promised three salaries for every employee and nothing more.

Finally, Jucu employees of Nokia received at least three severance payments, after concluding negotiations with trade unions, which were offered to all employees of the Nokia factory at the end of Bridge program. The compensation packages were at the minimum clauses in existing collective labour agreement, not exceeding the provisions of Romanian law, representing three wages for each employee in question, plus a monthly salary for each year of service in the company. Also, Nokia employees have received a grace period between January 2012 and end March 2012, a paid period allowing employees who lose their job to adapt and focus on reemployment.

The only solution found by the Romanian government to return to employment of the 2,600 employees will lose their jobs by early next year was filing a European project to access the European Globalization Adjustment Fund. It is difficult to estimate that the replication of German project would happen in Romania, given that, after two years of implementation in Germany, just over half (56%) of the 1,337 employees at Bochum were able to find a new job. The project submitted to the European Commission to access European funds totaling over one million Euros creates an employment mini agency for the 2,600 employees affected by the lockout of Nokia factory.

The project, which would run for a period of two years from December 31, 2011 (official date of termination of employment contracts of employees), entitled "Transition Center: from job to smart job" is in the working phase and will be submitted to the Commission for first reading. The center will carry out activities of a small employment agency, will introduce evidence that CEA employees who lost their jobs because they

receive unemployment benefits, and some experts will identify vacancies in each region employees coming and they will get career transition counseling.

Most likely, among employees transition center (which will have a staff of about 65 people) will be employees of the department of human resources from Nokia. Depending on the qualifications that the employees have, the center will facilitate the introduction of mentoring programs in companies that need employees, but with no money to pay salaries of new employees so that employees covered by a mentoring program to be paid from EU funds.

Thus, the European Commission could spend 4,000 Euros each for every employee of Nokia Romania fired, in a project by whom the Ministry of Labour wants to obtain financing from the European Globalization Adjustment Fund (EGF) for employees affected by the departure of Nokia. The model is taken from the measures applied by Finland in Germany, after they closed the factory in Bochum.

Comparative view Bochum-Jucu

The way Nokia goes from Jucu, Romania, seems similar to the departure of Bochum, Germany, three and a half years ago, but compensation obtained by the Romanian employees differ from those obtained by the German employees:

- In Romania, 2,200 employees lost their jobs by the end of 2011. In Germany, 2,300 Germans on the payroll of Nokia have been sent in unemployment, with an additional 1,000 temporary employees and 1,000 from various other suppliers.
- In Romania, the departure news was received with quiet and resignation, the protests have been non-existent, at least on the first day of the announcement of collective layoffs, and unions have hardly made felt their presence in the company. The union leaders accused, among other things, alleged dictatorial practices in the factory, due to changed labor laws in favor of employers. On the other side, the Bochum factory relocation was met with violent protests at the time of leaving, the plant was surrounded by a human chain of 6,000 union members.
- As facilities offered to investors, the Romanian government granted from the beginning almost four million Euros for investments in infrastructure and utilities in the industrial park. Cluj County Council invested a total state investment of 33 million Euros, 10 million to local authorities and the rest of the government. In Bochum, Nokia has received effective subsidies of 60 million Euros.
- On compensation for workers after lockout, the 2,200 workers from Jucu will receive salaries until March 2012, while the average wage in the factory was about 250 Euros per month. In Bochum, Nokia was forced to pay employees severance payments of 200 million Euros in total individual compensation are in the tens of thousands of dollars and up to 200,000 Euros. In parallel, a program of 5 million approved by the European Commission was held for Nokia unemployed professional conversion at Bochum.

Conclusions

Finnish company Nokia has rejected proposals made by the unions and the authorities in Cluj County to pay their employees to be dismissed with lockout from 20 to 30 compensatory payments, the package set after negotiations are much smaller, announced both the company and unions. Of the 2,200 employees, only 1,830 have access to social package negotiated by unions with company representatives.

Nokia paid Romanians workers which were dismissed three compensatory payments - or about 2,250 lei (523 Euros), a sum that will add a product of Jucu factory, Nokia 500 smartphone, which was offered free. Nokia 500, the first smartphone product of Jucu, costed 165 Euros free piece. For employees with greater seniority, Nokia paid seven or eight compensatory salaries, and between 5250 and 6000 lei (1,220 and 1,395 Euros) plus cheap mobile.

In these circumstances, Nokia closed his operations in Romania with a reduced cost of several million Euros: if it paid 30 salaries of 2,200 employees compensatory budget had reached 11 million Euros.

Nokia fired 1809 employees last year from the factory in Jucu, county Cluj, but other bad news just beginning to appear, with suppliers and contractors with local partnerships Finnish investors began to make collective layoffs notified to several hundred employees.

The Nokia departure from Cluj surprised everyone, from employees to politicians and analysts, and caused the authorities to start a mad rush to fill the void left by the Finns in the Romanian economy. Decision could not crash the worst, in a time when Western economies engines, where a significant portion of Romanian exports go, slow down and the Romanian economy tries to keep afloat. The impact on Romanian economic growth will be somewhere between 0.5% and 0.8%, and ceasing exports of mobile phones, representing 4.5% of total exports, brought the economy back into the red zone.

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