AFEP member companies fully support the aim set out within the framework of the Lisbon Strategy of creating “a competitive economy, capable of sustainable growth, with more and better jobs and greater social cohesion”, which the Commission’s initiative is in line with. They nevertheless regret that this continuity has not been reaffirmed more explicitly.

The companies emphasise that it is essential that the Commission respect the principle of subsidiarity, and they add that the relevance and the success of this initiative are subject to this requirement. Indeed, the Commission should not lay down further norms on an increasingly complex matter. This complexity hinders the objectives that Member States have set for themselves.

With this proviso, the Commission’s initiative opens up interesting prospects: the adoption of general and common principles, freely implemented by the Member States, should make for a new dynamic to emerge, one that is in conformity with the objectives of the Lisbon Strategy.

Both the promotion of a more “flexible and inclusive labour market” and “modernising labour law” presuppose that the Commission encourages Member States to simplify the legal framework of labour relations and to enhance its legal certainty.

In this sense, for AFEP member companies, reinforcing the credibility of social dialogue must be one of the “priorities for a meaningful labour law reform”.

The excessive role of the law and the case-law – whether national or European – curbs the initiative of social partners and hinders them in “seeking to avail of opportunities to increase productivity and adjust to the introduction of new technologies and changes linked to international competition.”

AFEP member companies thus expect the Commission to allow Member States to abandon this approach and encourage them to trust those involved in the field of research to come up with appropriate and innovative solutions.

Thus the Commission ought to stimulate – without legislating – the contractualisation of labour relations. This should reinforce the freedom of social partners to take charge of the social dialogue (the subjects to be addressed, the level of negotiations opted for, hierarchy of agreements, etc.).
Within such a renewed and simplified framework, it should be possible to develop innovative solutions within each Member State, closer to the reality of the difficulties experienced, in particular those which the Commission has identified (e.g. “mobility of workers”, “organisation of working time”, “employment transitions”).

Furthermore, certain points for reflection referred to in the Green Paper call for specific remarks, notably:

- “employment transitions”: the companies would like the severance awards made to employees in the event of termination of the employment contract to be considered more as a capital that helps returning to work rather than as compensation for damages.

They expect the Commission to help promote this perspective.

Within this context, unemployment insurance should, where necessary, take over from the severance payment and be reserved to those employees effectively searching for a job.

Member companies emphasise that attaining this objective presupposes a profound reform, in France, of the mechanisms available to help someone get back to work;

- “three way relationships”: the companies are opposed to an extension of their responsibilities beyond their boundaries.

While employers can facilitate access to training for their employees, or can assist them in transitions between different forms of employment, they cannot take responsibility for the security of outside agents. Employment protection outside a company itself must be guaranteed by ad hoc tools yet to be created or perfected (e.g. the portability of benefits);

- “monitoring the application of the law and undeclared work”: the companies would like the Commission to invite the Member States to clarify the tasks entrusted to their labour ministries.

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