

**DEPARTMENT OF INDUSTRIAL  
AND EMPLOYMENT RELATIONS**

**ANNUAL REPORT 2007**

**Introduction**

**Mission Statement**

The mission statement of the Department of Industrial and Employment Relations is “to protect the interests of workers holding employment contracts while, in a spirit of social partnership, actively promoting a healthy relationship, and to contribute towards stable industrial relations”.

## **Functions**

The principal functions of the Department of Industrial and Employment Relations are:-

- Providing effective machinery for the establishment of standard conditions of employment, in consultation with the social partners, and their eventual promulgation as legal instruments;
- Providing the necessary monitoring and enforcement of employment conditions as established by law;
- Regulating employment contracts in an equitable manner so as to ensure that rights and obligations pertaining to each party in the contract are observed;
- Protecting workers whose employment relationship has been terminated by an employer;
- Eliminating discriminatory practices;
- Providing support services to the Industrial Tribunal, Wages Council, National Employment Authority, Guarantee Fund Administration Board, and Employment Relations Board;
- Providing effective mediation and conciliation in order to reduce industrial actions and trade disputes;
- Promoting good relationship between employers’ and workers’ representatives.

## **Department Structure**

In December 2002, Parliament approved the Employment and Industrial Relations Act, Cap 452 of the Laws of Malta, which set out the framework for the adoption of the EU Labour Acquis and the responsibilities of the Director responsible for the implementation and enforcement of the Act and subsidiary legislation. The Director has overall responsibility for the operations carried out by the Department.

These activities are carried out by the following Units: -

- (a) **Director’s Office**, with a complement of two officers, responsible for the:-
- strategic overview of the Department’s operations;
  - proper functioning of the three divisions of the Department;
  - registration of trade unions;
  - provision of the machinery for the voluntary settlement of trade disputes in terms of the Act and promoting such settlement;
  - preparation of draft employment legislation.
- (b) **International Affairs and Research Branch**, falling under the responsibility of an Assistant Director with a complement of five officers, allowing the Department to fulfill its role as the National Focal Point on issues relating to Industrial and Employment Relations. This Branch is divided into two sections:
- i) **Internal Relations Section** whose tasks are mainly to:
- coordinate closely with local associations or organisations which have a role to fulfill in protecting the interests of parties engaged under an employment contract;
  - maintain contacts at the technical level with Governments and other international bodies including the EU and I.L.O.

- ii) Research Section having responsibility for Library and Archives, Labour Research and Registration of Trade Unions.
- (c) **Enforcement and Employment Agencies Branch**, falling under the responsibility of an Assistant Director and two Managers, carrying out the core inspection functions of the Department. This branch is staffed by inspectors working in two sections: the Terminations and Inspectorate Sections. The Terminations Section processes queries and investigates complaints of clients, primarily related to employees whose employment has been terminated, whether of their own accord or by the employer. The Terminations is also responsible for referral of cases to the Law Courts. The Inspectorate Section is responsible for monitoring conditions of employment and processing complaints of workers who are still in employment. This involves an ongoing programme of routine inspections to target particular sectors or to investigate specific complaints. Complaints can be received directly from the person concerned, through correspondence or email or even anonymously. There are five officers in the Terminations Section and eleven officers in the Inspectorate Section.
- (d) **Administrative Branch**, with a total complement of eleven personnel including eight minor staff under the direction of an Assistant Director provides administrative support services to the Department and the Industrial Tribunal. Such services entail the administration of the department's budget, revenue and expenditure, issuance and adjustment of salaries, administration of PMPs, progressions, allowances, the departmental inventory, supplies' stores etc. During 2007, an exercise was also carried out with Education Division to transfer surplus unserviceable items to Education with the aim of setting up a Board of Survey in 2008.

### **Human Resources Issues**

During 2007, an Assistant Director retired from Government service and another Assistant Director was recruited to fill the vacant position. Yet another Assistant Director was appointed Director in another department but no replacement has yet been appointed in his stead in spite the Call for Application having been issued on two different occasions. During the period under review two officers moved to DIER to replace respectively an officer on long-term sick leave and another officer who resigned from the Civil Service. A Junior Legal Officer on the other hand was recruited to replace another legal officer who moved from this department in 2006. Three Casual Substitute Officers were also engaged to replace temporarily three DIER personnel on long-term parental leave. A Manager was also recruited to serve at the Inspectorate Section and a messenger was transferred from the DIER, a replacement for the latter however has not been deployed.

During the period under review, members of this Department's staff attended various courses organised by the Staff Development Organisation. These included Information Technology, Employment & Social Policy and Training for Messengers courses.

Furthermore, three officers of the Department successfully graduated at the University of Malta following the completion of their studies.

### **Achievements**

## **Employment Relations**

### **Inspectorate Section**

The Inspectorate Unit carried out 1,248 inspections throughout the year covering about 43,719 employees, out of whom 2,751 were interviewed.

Five hundred and nineteen irregularities were observed, issuing 22 claims amounting to €140,866.82 (Lm 60,471.71).

Officials in this unit dealt with about 27,554 enquiries regarding conditions of employment – both on the phone and through personal visits at the Office. In most cases of arrears of wages and other irregularities concerning contract of service, rectification was effected through the Section Officers' direct efforts. Other cases were followed up through court action.

### **Terminations Section**

Throughout the year, officials in the Enforcement Unit served a total of 269 claims against employers in Malta, amounting to €378,014.023 (Lm 162,281.42). Of these, 222 cases amounting to €131,693.13 (Lm 56,535.86) were amicably settled out of Court, as a result of the direct efforts of the officers of the Enforcement Section. €31,446.54 (Lm 13,500) were collected through Court intervention.

Two hundred and thirty-one (231) requests were made to the police for prosecution. Court hearings in Malta totalled 556 cases.

Fourteen appeals against Court judgements were made throughout the year 2007.

### **Employment Agencies**

The number of Licensed Employment Agencies at the end of December 2007 was 49.

During the period under review, 40 Employment Agencies renewed their licence. Eight new Employment Agencies were granted a licence to operate as such while two Employment Agencies had their licence withdrawn.

The total amount received as License fees amounted to Lm 7,200.

The section also vetted 358 advertisements placed by the Licensed Employment Agencies in the local press as job vacancies.

### **Employment Relations Board**

The Employment and Industrial Relations Act provides for the setting up of the Employment Relations Board. During 2007, the Board held nine meetings and discussed various issues relating to employment and labour conditions such as minimum leave entitlements, fixed term contracts, equal treatment in employment and parental leave. The Board also discussed the European Commission Green Paper: Modernising Labour Law to meet the Challenges of the 21<sup>st</sup> Century and the observations made by the members of the Board were submitted to D.G. Employment.

During these Board Meetings, various draft Legal Notices prepared by the Department's officers and forwarded to the Board by the Minister responsible for industrial and employment relations, were also discussed and forwarded to the Honourable Minister for his consideration.

Following this consultation process, the following 17 Legal Notices were published:-

L.N. 46 of 2007 – Extension of Applicability to Service with Government (Part-time Employees) Regulations, 2007.

L.N. 48 of 2007 – Employee Involvement (European Cooperative Society) Regulations, 2007.

L.N. 51 of 2007 – Contracts of Service for a Fixed Term Regulations, 2007.

L.N. 52 of 2007 – Extension of Applicability to service with Government (Contracts of service for a Fixed term) regulations, 2007.

L.N. 53 of 2007 – Equal Treatment in Employment (Amendment) Regulations, 2007.

L.N. 54 of 2007 – Extension of Applicability to Service with Government (Equal Treatment in Employment) Regulations, 2007.

L.N. 140 of 2007 – Part-time Employees (Amendment) Regulations, 2007.

L.N. 156 of 2007 – Notice of coming into force of the Contracts of Service for a Fixed Term Regulations, 2007.

L.N. 157 of 2007 – Extension of Applicability to Service with government (Contracts of Service for a Fixed Term ) Regulations, 2007

L.N. 164 of 2007 – Notice of coming into force of the Part-time Employees (Amendment) Regulations, 2007.

L.N. 338 of 2007 – Equal Treatment in Employment (Amendment) (No 2) Regulations, 2007

L.N. 428 of 2007 – Wage Increase (Employees) National Standard Order, 2007.

L.N. 429 of 2007 – National minimum Wage National Standard Order, 2007

L.N. 430 of 2007 – Parental Leave Entitlement (Amendment) Regulations, 2007.

L.N. 431 of 2007 – Protection of Maternity (Employment) (Amendment) Regulations, 2007.

L.N. 432 of 2007 – Minimum Special Leave Entitlement Regulations, 2007.

L.N. 433 of 2007 – Extension of Applicability to Service with Government (Parental Leave Entitlement Regulations and Urgent Family Leave Regulations) Regulations 2007.

## **Industrial Relations**

### **Conciliations and the Settlement of Trade Disputes**

The Department always strives to take an increasingly more proactive approach towards the settlement of trade disputes to the mutual satisfaction of both the Enterprise and the Union involved. This mediation in the field of industrial unrest has largely contributed towards an increasingly stable industrial climate, avoiding strikes and other costly forms of litigation. The Department intervened on 56 occasions throughout the year. Agreement was successfully reached in 47 cases while such agreement failed to be reached in only six cases. Partial agreement was on the other hand reached in one case and another two cases were referred to the Industrial Tribunal.

## **Industrial Tribunal**

The Industrial Tribunal is an independent tribunal, set up in terms of the Employment and Industrial Relations Act and has a variable composition established by the law, depending on the nature of the case. This is either of a Chairperson [who is selected by rotation from a panel of Chairpersons] alone, or a Chairperson and two members, one selected from a panel of persons representing employers' interests, and the other from a panel of persons representing the trade unions. The Industrial Tribunal hears and decides trade disputes referred to it by the Minister responsible for employment and industrial relations, at the request of either one, or both of the parties involved in a dispute. It also hears cases of alleged unfair dismissal, discrimination, harassment and different remuneration for work of equal value. Sessions of the Industrial Tribunal are held at the Courts of Law.

The Department provides administrative support services for the Industrial Tribunal, to ensure its proper functioning.

Throughout 2007, 92 new cases of alleged unfair dismissals and eight other cases of alleged discrimination/harassment/victimisation were received. Ten cases of trade disputes were also introduced.

The Industrial Tribunal disposed of 82 cases of alleged unfair dismissals, four cases of alleged discrimination/harassment/victimisation and seven cases of Trade Disputes. The Industrial Tribunal also disposed of three cases introduced in terms of other provisions of the Employment and Industrial Relations Act and four cases of interpretation.

There were 496 pending cases on 31<sup>st</sup> December 2007 of which 314 refer to the same case of alleged unfair dismissal of Drydocks workers.

## **Industrial Actions**

During the year 2007, five strikes were ordered involving 1106 workers. Strike action resulted in a total of 5763 man-days being lost.

## **Collective Agreements**

Article 5(2) of the Employment and Industrial Relations Act states that where conditions of employment are prescribed in a collective agreement, the employer is obliged to send to the Director of Industrial and Employment Relations an authenticated copy of said agreement, within fifteen days of signing. In accordance with this article, the following agreements between industrial establishments and trade unions were registered at the Department during 2007: -

New Collective Agreements	5
Renewals	35
Extensions	3
Side Agreements	2
Amendments	nil
Addendums	3

## **Registrar of Trade Unions**

On 1<sup>st</sup> January 2007, there were 30 registered trade unions and 20 employers' associations.

A total of five organisations consisting of three Employers' Associations and two Trade Unions were cancelled during the period of 1<sup>st</sup> January and 31<sup>st</sup> December 2007. The two Trade Unions that were cancelled were St. Edwards Teachers' Union and the Union of Assistant Chemists while the

Gozo Bus Owners, the Association of Tractors and Trailers Operative Owner and the Association of Insurance Agents were the three Employers' Associations that were cancelled.

During the period under review two organisations applied to register as Trade Unions and were accepted by the Registrar. These organisations were the Union of TEFL Teachers and the *Għaqda Professjonisti tal-Korporazzjoni Għas-Servizzi ta' l-Ilma*.

On 31<sup>st</sup> December 2007 the Register of Trade Unions was composed of 30 trade unions and 17 employers' associations.

## **Other Activities**

### **Participation in Seminars, Conferences and Working Party Meetings Abroad**

Department officials attended several conferences organised by various bodies, including the European Union and the International Labour Organisation, as follows:-

The 96<sup>th</sup>. Session of the International Labour Conference was held in Geneva between the 30<sup>th</sup>. May and 15<sup>th</sup> June 2007. The Director of the Department led a tripartite delegation which included a number of high-ranking officials from Trade Unions and Employers' Associations. During the Conference a new I.L.O. Convention in innovative new labour standards in the fishing sector was adopted. The Conference also presented the conclusions of the Committee on Sustainable Enterprises which stated that sustainable enterprises are a principal source of growth, wealth creation, employment and decent work. Among the other items on the agenda was a general discussion on International Labour Standards, as well as discussions on child labour in agriculture.

The DG for Employment, Social Affairs & Equal Opportunities of the European Union Commission organized two meetings for Directors General responsible for Industrial Relations. These two meetings were held in Lisbon and Ljubljana and were attended by the Director. During these meetings, various issues were discussed including the Commission's Green Paper "Modernising Labour law to meet the challenges of the 21<sup>st</sup> Century" and social dialogue at Community level. Participants also exchanged information on recent developments regarding industrial relations in member states.

An official of the Department attended an Expert Meeting on the implementation of Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community. During this meeting, the Commission presented its draft report on the transposition of the directive in the various Member States. Participants gave information on awareness raising actions and studies in their respective countries concerning the application of the Directive.

An official attended a Conference in Berlin, organized by the German Presidency of the European Union, on "Quality of Work- the key to more and better jobs. This Conference dealt with the quality of work, which included employee rights and participation, fair wages, health and safety and family – friendly measures.

The Department was also represented in a Conference, organized by the Portuguese Presidency of the European Union on reconciling Professional, Personal and Family life: new Challenges for the Social Partners and for Public Policies.

On occasion of the 50<sup>th</sup> anniversary of the EU the German Presidency organised a meeting entitled "50 Years of EU – 50 Years of Jurisdiction of the European Court of Justice concerning Labour and Social Law." One official from the DIER attended for this meeting which highlighted the role the ECJ has

played in the interpretation of community law since the beginning in so far as labour and social law is concerned.

Another meeting attended by yet another DIER official concerned EU gender equality law. The meeting was held to outline the developments EU institutions have brought about in the field of gender equality law.

A meeting concerning the implementation of Directive 2001/23/EC (Transfer of Undertakings) was held on 24<sup>th</sup> May 2007. The Meeting was convened to discuss a report compiled by Profs. Sargeant and the Middlesex University on the implementation of directive 2001/23/EC on the safeguarding of employees' rights in transfer of business in all Member States. One DIER official attended this meeting.

An official from the DIER on the other hand attended a conference organised by the Directorate-General of Enterprise and Industry of the European Commission that brought together entrepreneurs from small and medium-sized enterprises and experts from the corporate social responsibility (CSR) field to discuss how SMEs can be assisted to act in a responsible manner.

The Directorate-General of Employment, Social Affairs and Equal Opportunities of European Commission, organised the 15<sup>th</sup> meeting of the High-Level Social Representatives on CSR. These meetings act as a important platform for the exchange of information on initiatives taken by Member States at a national level and other initiatives taken at a European level. One official from the DIER again attended this meeting.

The Department of Trade and Industry in the United Kingdom organised an event that brought together heads of government research together to be able to discuss and share information on their research on industrial relations and working conditions. This inaugural meeting held between the 20<sup>th</sup> and 21<sup>st</sup> September looked into the level of knowledge in industrial relations and working conditions research across member states. One official from the DIER attended this Forum.

Two officials on the other hand attended the 16<sup>th</sup> meeting of the High-Level Group of EU Member States for Corporate Social Responsibility organised on the 16<sup>th</sup> October. One of the principal aims of such meetings is the sharing of information between member states, while on the other hand the EU also gives an overview of any developments at a European level. During this meeting this was enhanced since the members of the European Alliance were invited to brief participants on the development of the European Alliance for CSR.

On 7<sup>th</sup> December two DIER officials attended a CSR conference entitled 'CSR at a Global Level'. This conference discussed the role of the EU at international level in promoting CSR.

Another two DIER officials attended two different meetings in April and October of the Group of National Experts on the Implementation of Directive 96/71/EC. Posting of workers in the framework of the provision of services was the main topic discussed during these two meetings.

In December the Director also attended the EPSCO Council at Brussels where the discussion centred on Temporary Agency workers, Working Time and Flexicurity.

## **Guarantee Fund Administration Board**

The Employment and Industrial Relations Act (Cap. 452) and the Guarantee Fund Regulations (L.N. 432 of 2002 as amended by L.N. 444 of 2004 and 413 of 2005) provides for the setting up of the Guarantee Fund Administration Board. This Board is composed of the Director of Industrial and Employment Relations who acts as Chairperson, four representatives of employees and four representatives of employers who are appointed on the Employment Relations Board, a member nominated by the Minister of Finance, the Chairperson of the Employment and Training Corporation and a person appointed by the Minister who shall be a member of the legal profession. The Guarantee Fund is endowed with the sum of € 582,343 (LM 250,000) to be utilized, at the Administration Board's discretion, to guarantee payment of valid claims for employees' outstanding wages when the Administration Board is satisfied that the employer has become insolvent.

During 2007, the Administration Board held one sitting where 32 claims were processed and the sum of € 35,815.98 (LM 15,375.80) were paid out of the Fund.

### **Newsletter**

During 2007 two editions of the newsletter, "I Review" were published. Such newsletters included various interesting articles mainly written by DIER staff on various matters related to industrial and employment relations. The "I Review" is intended to continue being issued on a biannual basis.

### **Self-Employed (Loan) Scheme**

The process of recouping funds from persons who had applied for, and benefited from, the Self-Employed Loan Scheme was continued. For the year under review Lm2,590.00 were recovered. Warning letters are regularly issued to defaulters who fell back on their payment of instalments of said loan scheme. In December 2007 in addition judicial letters were officially issued to serial defaulters.

**Dr. N. Vella**

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