

**DEPARTMENT OF INDUSTRIAL
AND EMPLOYMENT RELATIONS**

ANNUAL REPORT 2005

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 four 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 Unit**, falling under the responsibility of an Assistant Director, with a complement of four officers, allowing the Department to fulfill its role as the National Focal Point on issues relating to Industrial and Employment Relations 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.

- (c) **Enforcement and Inspectorate Section**, falling under the responsibility of an Assistant Director, carrying out the core inspection functions of the Department. This section is staffed by inspectors working in two units: the Enforcement and the Inspectorate Units. The Enforcement Unit 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 Enforcement Unit is also responsible for referral of cases to the Law Courts. The Inspectorate Unit 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 Enforcement Section, nine officers in the Inspectorate Section and a further five officers in supporting roles.
- (d) **Administrative Unit**, with seven officers under the direction of an Assistant Director, providing administrative support services to the Department and to the Industrial Tribunal.

Human Resource Issues

In August 2005, this Department's Director, Mr. Frank Pullicino Dip. Lab. Stud. retired from the Public Service after a long and fruitful career. Dr. Noel Vella M.D., M.Sc (Birm), M.I.O.S.H., F.R.S.H. was appointed as Director in his stead. Another two officers also retired. During the year, the Department improved on its performance by engaging a Junior Legal Officer.

During the period under review, members of this Department's staff attended various courses organised by the Staff Development Organisation. These included Information Technology, Data Protection and Information & Skills courses.

Furthermore, two officers of the Department started reading for a Diploma in Social Studies (Industrial Relations) organised by the Centre for Labour Studies of the University of Malta. Another officer started reading for a Diploma in Public Administration organised by the Institute of Public Administration & Management of the University of Malta. Moreover, one officer obtained a Bachelor of Arts (Honours) Degree in Social Administration while another officer obtained a Bachelor of Arts Degree in Theology & Human Studies.

Achievements

Employment Relations

Inspectorate Unit

Malta

The Inspectorate Unit carried out 2,736 inspections throughout the year, 17,101 employees, out of whom 4,521 were interviewed.

Four hundred and eight irregularities were observed, issuing fifty-five claims amounting to Lm 151,088.23.

Officials in this unit dealt with 16,776 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.

Gozo

For the year under review the Gozo Inspectorate Unit effected 236 routine inspections, covering 635 employees. During these inspections 472 employees were interviewed, and ten irregularities were observed. Action from the Inspectorate end was taken to rectify these irregularities. 174 follow-ups/special visits were undertaken.

Enforcement Unit

Malta

Throughout the year, officials in the Enforcement Unit served a total of 264 claims against employers in Malta, amounting to Lm193,181.57. Of these, 146 cases amounting to Lm59,834.82 were amicably settled out of Court, as a result of the direct efforts of the officers of the Enforcement Section. Lm9,407 were collected through Court intervention.

One hundred and five requests were made to the police for prosecution. Court hearings in Malta totalled 847.

No appeals against Court judgements were made throughout the year 2005.

Gozo

During this period 56 claims relating to wages falling below the minimum stipulated in the applicable legislation, arrears of wages, matters related to vacation leave, bonuses, overtime remuneration, and weekly allowances not granted were issued, amounting to Lm28,550. Two officers from the section attended a total of 23 court sittings/perizias.

Employment Agencies

The number of Licensed Employment Agencies at the end of December 2005 was 36.

During the period under review, 30 Employment Agencies renewed their licence. Five new Employment Agencies were granted a licence to operate as such while one Employment Agency re-activated its licence. Four Employment Agencies withdrew operations.

The total amount received as License fees amounted to Lm5,400.

The section also vetted 290 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 in terms of Article 3, with a one-year term of office. In fact, the Board was re-appointed on the 29th August 2005 after its previous term of office had expired on the 2nd December 2004. The Board held two meetings and discussed various draft Legal Notices

prepared by the Department's officers which were forwarded to the Board by the Minister responsible for industrial and employment relations.

During these Board meetings, recommendations regarding the subsidiary legislation were forwarded to the Honourable Minister for his consideration. Following this consultation process, the following three Legal Notices were published: -

LN 411 of 2005 – Wage Increase (Employees) National Standard Order

LN 412 of 2005 – National Minimum Wage National Standard Order

LN 413 of 2005 – Guarantee Fund (Amendment) Regulations

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 was requested to intervene on 59 occasions throughout the year. Agreement was successfully reached in 49 cases. Agreement failed to be reached in six cases, while four 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 Chairman 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 2005, seventy-four new cases of alleged unfair dismissals, and fifteen cases of alleged discrimination/harassment/victimisation were received. Nine cases of trade disputes were also introduced.

The Industrial Tribunal disposed of seventy-three cases of alleged unfair dismissals, two cases of alleged discrimination/harassment/victimisation, and five cases of Trade Disputes. The Industrial Tribunal also disposed of two cases introduced in terms of other provisions of the Employment and Industrial Relations Act.

All this was accomplished through 812 sittings, during which 368 cases were heard.

There were 477 cases pending on 31st December 2005. These include the 315 cases related to the re-organisation of the Shipyards, all alleging unfair dismissal and discrimination.

Industrial Actions

During the year 2005, eight strikes were ordered involving 972 employees. Strike action lasted for a total of 694 hours and resulted in a total of 1340.63 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, 71 Collective Agreements were registered at the Department during 2005.

Registrar of Trade Unions

The report issued by the Registrar of Trade Unions was published in the Government Gazette of the 20th January 2006.

As on 30th June 2005, the end of the Registrar of Trade Unions' year, there were 57 organisations registered. These included 34 Trade Unions with a total of 85,679 members, and 23 Employers Associations, with a total of 8,789 members. This constitutes an addition of one Registered Trade Union throughout the Registrar year, Rampa Union.

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:-

Between the 31st May and the 16th June 2005, the Director of the Department led a tripartite delegation at the 93rd Session of the I.L.O. Conference in Geneva. The Minister of Education, Youth and Employment both attended for and addressed this Conference. The Maltese delegation included a number of high-ranking officials from Trade Unions and Employers' Associations. As required by the I.L.O. Constitution, the Department paid the travel and accommodation expenses for two workers' representatives and two employers' representatives to attend the Conference. The issues considered at this Conference included a discussion on the development of a new instrument establishing a promotional framework in Occupational Safety and Health, I.L.O. Standard Related Activities with respect to work in the fishing sector, with a view to the adoption of a Convention supplemented by a Recommendation and a general decision on the promotion of youth employment.

The DG for Employment, Social Affairs and Equal Opportunities of the European Union Commission organised two meetings for Directors General responsible for Industrial

Relations. These two meetings were held in London and Vienna, in June and in November, and were attended by Department officials. During these meetings, various issues were discussed including the evolution of social dialogue at Community level. Delegations of Member States also reviewed two Reports, prepared by the Commission on the application of Directive 94/33/EC on the Protection of Young People at Work and on the implementation of Council Directive 99/70/EC concerning the Framework Agreement on Fixed-Term Work.

In February, the Director also led a tripartite delegation at the Seventh European Regional Meeting of the I.L.O. which was held in Budapest. Every four years, the European Regional Meeting brings together the political, economic and social actors from the 50 countries of the region. This Seventh Meeting focused on good governance in the context of globalisation. The Prime Minister also attended for this Conference.

An officer of the Department participated at an international Conference organised by the I.L.O. and the European Commission in Brussels. The Conference dealt with employment conditions in the newly enlarged European Union, with particular focus on the new E.U. Member States.

This Department was very much involved in the negotiations which took place in 2005 regarding the “opt-out clause” in the Working Time Directive. In fact, officials from this Department attended various Expert Meetings and Social Questions Working Party Meetings where the Organisation of Working Time Directive was discussed. The Director was also present in the COREPER I meeting on the 25th November 2005 when this issue was discussed. The Director also accompanied the Minister for Education, Youth & Employment at the EPSCO meeting which took place on the 8th December 2005 which also dealt with the Working Time Directive.

The Department was also invited by Agenzia Regionale del Lavoro of Cagliari to participate in an International Conference on Improving Regional Employment. This Conference dealt with the safeguarding of employment conditions of temporary workers, working mothers and easing into retirement of elderly workers. This Conference also dealt with the evolution of social dialogue in different European countries.

An officer of the Department attended the Conference ‘Reconciling Labour Flexibility with Social Cohesion’ organised by the Council of Europe on the 17th and the 18th November 2005 in Strasbourg, France. The Conference highlighted the key issues raised by the debate on whether so called labour flexibility can be reconciled with European Social Cohesion Models. Labour Flexibility often makes people feel less secure. However, entrepreneurs are today in need of a flexible workforce so as to be able to adjust to the global markets and to be competitive. It is not impossible to reconcile labour flexibility and social cohesion. ‘Flexicurity’ measures achieve this aim and thus neither concept is done away with.

One of this Department’s officers attended a Conference on Social Dialogue organised by the United Kingdom Presidency of the European Union. This Conference provided an opportunity for participants from the Commission, Member States, business and social partner organisations to share ideas and good practice on the social dialogue process, in particular in sectors which comprise small and medium sized firms.

Department officials attended various meetings as follows:-

- Expert Meetings regarding the implementation of Directive 96/71/EC concerning the Posting of Workers in the Framework of the Provision of Services.
- A Conference organised in October by the Social and Economic Council of the Netherlands with regard to the Services Directive.

- Several Conferences organised by the DG Employment, Social Affairs and Equal Opportunities on Corporate Social Responsibility.
- Expert Meetings regarding the implementation of Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community.
- Expert Meeting concerning the implementation of Directive 2001/23/EC (safeguard of employees' rights in case of transfer of undertaking).
- Expert Meeting concerning the Implementation of Directive 80/987/EEC (Guarantee Fund).

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 Lm6,216.73 were recovered. Warning letters are still being issued to defaulters who fell back on their payment of instalments of said loan scheme. Further discussions are being held with the Attorney General's Office.

Expatriates

The Expatriates Unit dealt with 2,935 applications for work permits – 2,047 new applications, and a further 888 applications for the renewal of work permits throughout the year.

Up to the 31st July 2005, applications for work permits, or their renewal, were processed by an Inter-Departmental Committee, chaired by the Director of Citizenship and Expatriate Affairs. An officer from this Department, representing the Director of Industrial and Employment Relations, was a member of this Committee. This Committee held 29 meetings, during which 2,431 applications were processed. As from the 1st August 2005, the Employment and Training Corporation was entrusted with the receipt of applications and the issue of work permits.

Dr. N. Vella

Director of Industrial and Employment Relations