
Annual Report for Department of Industrial and Employment Relations, 2003.

INTRODUCTION

Functions

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

The protection of interests of workers who are on employment contracts, particularly with respect to the conditions governing their employment;

The provision of support services to the Industrial Tribunal, Wages Council, National Employment Authority, Guarantee Fund Administration Board, and Employment Relations Board;

The provision of effective mediation and conciliation in order to reduce industrial actions and trade disputes;

The promotion of good relationship between employers' and workers' representatives.

Employment Protection

The Employment and Industrial Relations Act, published in the Government Gazette on the 25th of October 2002, has been in effect for a year. Officers of the department participated

and held bi-lateral and multi-lateral explanatory meetings to promote this new act, and help in the true interpretation of its articles.

Subsidiary legislation was introduced to enable the coming into force of various work-life balance provisions

The Employment Relations Board which was appointed on the 2nd of December, 2002 consolidated its work during 2003 by meeting regularly, to recommend to the Minister for Social Policy various Legal Notices which were drafted by the Department's Consultant and Legal Officers. These Department's officials were appointed as ad hoc advisors to the Board. Sixteen board meetings were held throughout 2003, during which various recommendations vis-à-vis subsidiary legislation were forwarded to the Honourable Deputy Prime Minister for his approval and eventual publication. As a result eleven legal notices were published, namely:

224/03 – European Works Council (Information and Consultation) Regulations;

225/03 – Parental Leave Entitlement Regulations;

247/03 – Organisation of Working Time Regulations;

296/03 – Urgent Family Leave Regulations;

297/03 – Employment and Industrial Relations Interpretation Order;

306/03 – Organisation of Working Time (Civil Aviation) Regulations;

418/03 – National Minimum Wage National Standard Order;

419/03 – Wage Increase (Employees) National Standard Order;

438/03 – Notice of Coming into Force;

439/03 – Protection of Maternity (Employment) Regulations;

440/03 – Young Persons (Employment) Regulations.

The European Works Council (Information and Consultation) Regulations, the Organisation of Working Time (Civil Aviation) Regulations, the Organisation of Working Time Regulations, and the Urgent Family Leave Regulations were also discussed and finalised, and will come into force on the 5th April 2004.

A Guarantee Fund Administration Board was set up, and held its first meeting during 2003. Legal Notice 432 of 2002 provides for the creation of a fund to be used in order to mitigate the negative consequences on the employees in cases of the insolvency of the employer. The Director of the Department of Industrial and Employment Relations is the ex officio Chairman of this Board. Moreover members of the Department give support services to this Board.

EU Acquis

The Department's technical officials contributed effectively in the ongoing harmonisation process of Maltese Labour Legislation vis-à-vis EU Acquis. In fact the Department's Officials participated actively in direct meetings both locally and abroad.

Participation in Seminars/Conferences Abroad

The Department's Officials attended various conferences organised by the European Union, and the International Labour Organisation.

The Director, Mr Frank Pullicino, and the Assistant Director Mr Anthony Azzopardi attended a one week Joint Meeting, organised by the ILO in Geneva, entitled "Public Emergency Services: Social Dialogue in a Changing Environment". The agenda of the meeting comprised various workshops dealing with Employment Trends and Issues, Working Conditions, Human Resource Planning, Co-Ordination in Public Emergency Services, the State of Social Dialogue and Rights at Work.

Between the 3rd and the 19th of June, the Director of the Department for Industrial and Employment Relations led a tripartite delegation at the 91st Session of the ILO Conference in Geneva. The issues discussed at this conference included Human Resources Training and Development; the Scope of the Employment Relationship; ILO Standard-Related Activities with respect to Occupational Health and Safety, and Improved Security of Seafarers' Identification, *inter alia*. As required by the ILO constitution, the Department paid the expenses of two workers' representatives and two employers' representatives. The delegation included a number of high-ranking officials from various Social Partners. The Assistant Director, the Consultant and the Director accompanied the Deputy Prime Minister, as the official delegates representing the Government of the Republic of Malta.

Also on the ILO front, the Director and Mr Anthony Azzopardi attended the ILO Ministerial meeting on Social Dialogue and Labour Reform held in Malta. This meeting was organised by the Ministry for Social Policy, and the International Labour Organisation Europe Regional Office. Mr Frank Pullicino was Chairman of the local organising committee.

Later on in the year, the ILO, together with the European Foundation for the Improvement of Living and Working Conditions, and the Ministry of Economy, Labour and Social Policy of Poland, further organised a conference on the Right to Information and Consultation in Practice in an Enlarged Europe, held in Warsaw. The Assistant director, Mr Anthony Azzopardi attended said tripartite conference.

A meeting in Rome was held for Directors General responsible for Industrial Relations, organised by DG Employment and Social Affairs of the EU Commission. This was attended by Mr Frank Pullicino and Dr Noel Vella. Various issues were raised including the progress of the individual acceding countries on the regular implementation of the EU Acquis, Discrimination, and the Working Time Directive.

All Directors General for Industrial Relations were invited to a meeting held in Dublin, Ireland. The Maltese delegation comprised Mr Frank Pullicino and Dr Noel Vella. The Working Time Directive and the Evolution of Social Dialogue at community level were discussed during this meeting.

The Department's Legal Officer, Dr Joseph Bonello, participated in a seminar in Brussels regarding Workers' Involvement, which was organised by TAIEX. During this seminar the European Union Directive dealing with employee involvement on a European Company (SE) Level was discussed at length and several other issues which might potentially effect its implementation on the local scene were raised. Various speakers dealt with the implementation of the directive in their local contexts.

Legal Officer, Dr Maria Sciriha further attended a seminar organised by the Greek EU presidency entitled "Employment, Social Security, Immigration and their Judicial Protection," held in Athens, Greece.

The Italian EU presidency held a meeting in Milan, entitled “Fighting Discrimination: From Theory to Practise”, which Dr Maria Sciriha attended, accompanying Parliamentary Secretary Ms Dolores Cristina.

Mr Anthony Buttigieg, DRO attended two meetings – that of the technical committee and of the advisory committee – on the Free movement of Workers, held in Brussels, Belgium.

Human Resource Issues

During the year the Department improved on its performance by engaging qualified personnel. Four Economics Officers, and four Employment Relations Officers were recruited throughout the year. Officers of the Department were offered in-house training vis-à-vis new labour laws.

Moreover 3 officers are currently studying on a two year course, leading to a Diploma in Labour Studies at the University of Malta, organised by the Workers’ Participation Development Centre. One officer is undergoing a course that will lead to a Bachelor of Arts (Honours) in Social Administration, also organised by the WPDC at the University of Malta.

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 involved, and the Union. 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 70 occasions throughout the year. Agreement was successfully reached on 54 cases. Only 4 cases, where agreement was not reached, were referred to the Industrial Tribunal.

Industrial Tribunal

The Industrial Tribunal is an independent tribunal, made up of a Chairperson who is selected from a panel of chairpersons, members who are selected from a panel of persons representing employers’ interests, and members who are selected from a panel of persons representing the trade unions. The tribunal hears and decides trade disputes referred to it by the Minister for Social Policy, at the request of either one, or both of the parties involved in a dispute. It also decides on cases of alleged unfair dismissal. Sessions of the Industrial Tribunal are held at the Courts of Law in Republic Street, Valletta.

The Department provides support services for the Industrial Tribunal, through the provision of secretaries for each Chairperson, and all other clerical and office facilities necessary to operate such a service.

Throughout the year 2003, 404 new cases of alleged unfair dismissals, and 7 cases of alleged discrimination were received. Of these 316 cases were of both alleged unfair dismissals and discrimination (Malta Dry Docks). Moreover there were 12 cases of Trade Disputes, and 2 other cases received.

The Industrial Tribunal disposed of 80 cases of alleged unfair dismissals, and 16 cases of Trade Disputes. It gave 1 interpretation, and disposed of one other case of discrimination.

All this was accomplished through 306 sittings, during which 709 cases were heard.

There were 468 cases were pending before the Industrial Tribunal as at 31st December 2003, whilst 21 case were deferred sine die.

Industrial Actions

Strikes were ordered on 8 occasions throughout the year 2003, involving 1,945 workers, hence resulting in 3,313.5 man-days lost. The majority of the strikes were in the public sector, with only one strike being in the private sector – affecting 63 workers, resulting in 63 labour-days lost.

Collective Agreements

A total of 41 Collective Agreements entered into by industrial establishments and trade unions were registered during the year under review, in terms of Article 5(2) of the Employment and Industrial Relations Act

Inspectorate

Malta

The Inspectorate Section caters for those employees who require assistance whilst still in employment. The Section carried out 3,229 inspections throughout the year, covering 21,475 employees, out of whom 5,551 were interviewed.

783 irregularities were observed, issuing claims amounting to Lm 89,737.23.

Officials in this section dealt with an average of 16,718 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. The section also printed various copies of Wage Regulation Orders, National Standard Orders, and the new legislation Employment and Industrial Relations Act, the sale of which amounted to Lm21.50.

Gozo

For the year under review 128 routine inspections, covering 445 employees were carried out in Gozo. During these inspections 249 employees were interviewed, and 7 irregularities were observed. Action from the Inspectorate end was taken to rectify these irregularities. 65 follow-ups/special visits were undertaken.

In this period 20 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 Lm 11,415. Two officers from the section attended a total of 23 court sittings/perizias.

Enforcement

The Enforcement Unit of the Department is mainly responsible for dealing with cases of termination of employment, and the referral of cases to Court. Members of the public, including employees, call at the Department to discuss employment problems, including cases

of termination of employment, terminal benefits, and other matters falling within the Employment and Industrial Relations Act. The Unit dealt with over 18,000 enquiries regarding legislation.

Throughout the year a total of 306 claims were served by officials of this section against employers in Malta. These claims amount to an aggregate of Lm123,880.23; Lm64,376.61 were settled by voluntary out-of-court settlements, as a result of the direct efforts by the officers of the Enforcement Section.

Ninety requests were made to the police for prosecution. Court hearings totalled 685 in Malta.

Throughout the year 2 cases were heard before the Court of Appeals, and none by Legal Referees. 196 cases were settled out of court.

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 Lm6,769.36 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

For the year 2003 the Expatriates Unit dealt with 2,024 new applications for work permits, and a further 1,425 applications for the renewal of work permits. 19 on the spot inspections were carried out by personnel of this unit.

Applications for work permits, or the renewal thereof, are processed by an Inter-Departmental Committee, chaired by the director of Citizenship and Expatriate Affairs. A Department's Officer, representing the Director of Industrial and Employment Relations, is a member of this committee. This Committee held 44 meetings, during which 3,065 applications were discussed.

Employment Agencies

In terms of the Employment Agencies Regulations, 1995, every person, company or association that carries out employment and recruitment services requires a license issued by The Director of Industrial and Employment Relations, except in the case where the services are provided by the employer for his own firm.

This Legal Notice also regulates the publication of advertisements for the filling of vacancies.

The number of Licensed Employment Agencies at the end of December 2003 was 36, an increase of 2 over the corresponding figure for the previous year.

During the period under review, 32 Employment Agencies renewed their licence. 3 new agencies were granted a License to operate as such. 1 such agency has re-activated its operations as an agency, and one other such agency merged its operations with another. 1 Employment Agency withdrew its operations.

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

The section also vetted over 300 advertisements placed by the Licensed Employment Agencies in the local press as job vacancies.

Registrar of Trade Unions

The report issued by the Registrar of Trade Unions was published in the Government Gazette of the 26th of December 2003.

As at the end of 2003 there were 56 organisations registered, of which 33 are Trade Unions, and 23 are Employers' Associations.

As at the 30th of June 2003, the end of the Registrar of Trade Unions' year, there were also 33 Trade Unions with a total of 86,061 members, and 23 Employers Associations, with a total of 8,960 members. 13 registered organisations have still not yet submitted to the Registrar complete returns as required by the Employment and Industrial Relations Act. These organisations are being asked to comply with the relevant legislation.

F. Pullicino,

Director of Industrial and Employment Relations