
2004 Annual Report

Department of Industrial and Employment Relations

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1 Introduction

1.1 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”.

1.2 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.
- 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.

1.3 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 6 officers, which is responsible for
- the strategic overview of Department's operations;
 - overall responsibility for the 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,
 - overall responsibility for preparation of Draft employment legislation.

(b) **International Affairs Unit**, falling under the responsibility of an Assistant Director, with a complement of 6 officers, which allows 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 and carrying out the core inspection functions of the Department. This Division is staffed by inspectors working in two units: the Enforcement Section and the Inspectorate Section. 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 program of routine inspections, inspections targeting particular sectors, or inspections to investigate specific complaints. Complaints can be received directly from the person concerned, through correspondence or email or even anonymously. There are 6 inspectors in the Enforcement Section, 9 officers in the Inspectorate Section (Employment Relations Officers) and a further 7 officers in supporting roles.

(d) **Administrative Unit**, with 14 officers under the direction of an Assistant Director, to provide administrative support services to the Department and to the Industrial Tribunal.

1.3.1 Human Resource Issues

During the year the Department improved on its performance by engaging further qualified personnel. Six new members of the team were recruited throughout the year, including two Assistant Directors, who replaced two Assistant Directors who retired from government service. Another officer in the grade of Principal also retired. Officers of the Department were offered in-house training vis-à-vis new labour laws.

During the period under review nine deployments took place and four members of staff were awarded with appointments. Moreover three officers graduated with a Diploma in Labour Studies from the University of Malta, organised by the Workers' Participation Development Centre, after successfully completing a two-year course. One officer is at present in the final year of reading for a Bachelor of Arts (Honours) in Social Administration, also organised by the WPDC at the University of Malta.

2 Achievements

2.1 Employment Relations

2.1.1 Inspectorate Section

Malta

- The Inspectorate Section carried out three thousand two hundred and seventy-four (3,274) inspections throughout the year, covering twenty-two thousand and seventy-nine (22,079) employees, out of whom four thousand eight hundred and fifty-eight (4,858) were personally interviewed.

Four hundred and seventy-seven (477) irregularities were observed, issuing sixty claims amounting to Lm 92,685.14.

Officials in this section dealt with eighteen thousand six hundred and fifty-seven (18,657) 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 Employment and Industrial Relations Act, the sale of which amounted to Lm27.00.

Gozo

For the year under review the Gozo Inspectorate Section effected two hundred and seventy-four (274) routine inspections, covering eight hundred and seventy-four (874) employees. During these inspections six hundred and forty-nine (649) employees were interviewed, and fourteen irregularities were observed. Action from the Inspectorate end was taken to rectify these irregularities. One hundred and thirteen (113) follow-ups/special visits were undertaken.

2.1.2 Enforcement Section

Malta

- Throughout the year officials in the Enforcement Section served a total of two hundred and twenty-six claims against employers in Malta, amounting to Lm130,923.45. Of these, Lm50,152.96 were amicably settled out of court, as a result of the direct efforts by the officers of the Enforcement Section, totalling one

hundred and sixty-six cases. Lm6,688.42 were collected through Court intervention.

One hundred and eighteen (118) requests were made to the police for prosecution. Court hearings totalled six hundred and thirty-three (633) in Malta.

No appeals were made throughout the year.

Gozo

In this period forty-seven (47) 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 Lm32,415. Two officers from the section attended a total of twenty-six (26) court sittings/perizias.

2.1.3 EU related Matters

- 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 prepared ten draft Legal Notices which were eventually published during 2004. Furthermore, Department's officers actively participated in various EU working groups on amendments to existing directives as well as new proposals both through direct attendance at such meetings as well as through an ongoing process of preparation of memoranda and Instruction Notes on various Commission documents forwarded to the Department by the Ministry's EU Affairs and Policy Development Directorate.
- Department's officers also contributed to various radio and TV programs on employment relations matters as part of the Department's strategy of capitalising on any opportunity to raise awareness on Maltese labour legislation.
- The Department also presented papers at Seminars and Conferences held in Malta. These were:
 - "Industrial Action, Mediation and Consultation", presented at a Seminar entitled 'A critical review of Developments in Industrial Relations in Malta in 2003' organised by the WPDC and Friedrich Ebert Stiftung;
 - "Organisation of Working Time- Legal Notice 247 of 2003" at a Conference organised by the Foundation for Human Resources Development
 - "Rights relating to Equal Treatment in Employment and Occupation" was presented at the National Conference organised by the KNPD.
- The Department was also actively involved in preparing a project to secure EU funds from the 2004 Transition Facility. The funds, if granted, would allow the Department to improve its effectiveness in carrying out its core activities.

2.1.4 Employment Agencies

The number of Licensed Employment Agencies at the end of December 2004 was thirty-four (34), a decrease by 2 over the corresponding figure for the previous year.

During the period under review, thirty-two (32) Employment Agencies renewed their licence. Two new agencies were granted a License to operate as such. Four Employment Agencies withdrew operations.

The total amount received as License fees amounted to Lm5,100.

The section also vetted two hundred and seventy-seven advertisements placed by the Licensed Employment Agencies in the local press as job vacancies.

2.1.5 Technical Support to Employment Relations Board

The Employment and Industrial Relations Act has now been in effect for 2 years. The Act provides for the setting up of the Employment Relations Board in terms of article 3, with a two-year term of office. In fact the Board was re-appointed on the 2nd of December, 2003 and continued its work during 2004. It held several meetings to discuss matters relating to conditions of employment, and also 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. Department officials were also appointed as ad hoc advisors to the Board.

During these Board meetings recommendations regarding the subsidiary legislation were forwarded to the Honourable Minister for his consideration. Following this consultation process, the Minister published ten legal notices, with the aim of aligning Maltese employment law with the EU Labour Acquis and enhancing the work-life balance of the Maltese work force. The Published Legal Notices in the period under review are:

LN 3 of 2004 – Protection of Maternity (Employment) (Amendment) Regulations

LN 46 of 2004 – Various Laws (Amendment) Act, 2003 (Act No IX of 2003)

LN 110 of 2004 – One-time Special Bonus National Standard Order

LN 324 of 2004 – European Works Council Regulations

LN 402 of 2004 – Amendment of Various Laws Act, 2004 (Act No. III of 2004)

LN 442 of 2004 – Collective Redundancies (Protection of Employment) Amendment Regulations

LN 452 of 2004 Employee Involvement (European Company) Regulations

LN 461 of 2004 Equal Treatment in Employment Regulations

LN 506 of 2004 – National Minimum Wage National Standard Order

LN 507 of 2004 – Wage Increase (Employees) National Standard Order

2.2 Industrial Relations

2.2.1 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 fifty-five (55) occasions throughout the year. Agreement was successfully reached in forty-four (44) cases. Only two cases, from the eleven (11) where agreement was not reached, were referred to the Industrial Tribunal.

2.2.2 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 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 the year 2004, fifty-nine new cases of alleged unfair dismissals, and eight cases of alleged discrimination/harassment/victimisation were received. Three other cases introduced in terms of other provisions under Title 1 of the Employment and Industrial Relations Act. Ten cases of trade disputes were also introduced.

The Industrial Tribunal disposed of ninety-two cases of alleged unfair dismissals, one case of alleged discrimination/harassment/victimisation, and seven cases of Trade Disputes. A request for Interpretation of a Tribunal Decision was withdrawn.

All this was accomplished through three hundred and twenty-seven (327) sittings, during which seven hundred and fourteen (714) cases were heard.

There were four hundred and sixty-one (461) cases pending as at the 31st December 2004. These include the three hundred and fifteen cases related to the re-organisation of the Shipyards, all alleging unfair dismissal and discrimination.

2.2.3 Industrial Actions

Strikes were ordered on 4 occasions throughout the year 2004.

- Two of the strikes occurred in part of the public health sector. Upon both occasions unions abided by the law, in that two workers in the section involved remained on duty to offer this essential service of health care.
- The other two strikes were ordered by the Public Transport Association, and at a private firm in the media industry.

2.2.4 Collective Agreements

Article 5(2) of the Employment and Industrial Relations Act states 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, thirty-seven (37) Collective Agreements were registered at the Department during the year 2004.

2.2.5 Registrar of Trade Unions

The report issued by the Registrar of Trade Unions was published in the Government Gazette of the 30th of December 2004.

As at the end of 2004 there were fifty-seven (57) organisations registered, of which 34 are Trade Unions, and 23 are Employers' Associations.

As at the 30th of June 2004, the end of the Registrar of Trade Unions' year, there were also thirty-four (34) Trade Unions with a total of 86,156 members, and 23 Employers Associations, with a total of 8,846 members. This constitutes an addition of one Registered Trade Union throughout the Registrar year, the University of Malta Academic Staff Association.

3. Other Activities

3.1 Participation in Seminars, Conferences and Working Party Meetings Abroad

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

Between the first and the seventeenth of June, the Director of the Department led a tripartite delegation at the 92nd Session of the ILO Conference in Geneva. The Director, and other department high ranking officials accompanied the Hon. Minister of Education, Youth and Employment as the official delegates representing the Government of the Republic of Malta. The Maltese delegation included a number of high-ranking officials from Trade Unions and Employers' Associations. As required by the ILO Constitution, the Department paid the travel expenses for two workers' representatives and two employers' representatives to attend same conference. The issues considered at this conference included a discussion on the revision of the Human Resources Development Recommendation, ILO Standard Related Activities with respect to work in the fishing sector, and a general discussion on migrant workers.

The Director and another Department official attended a Conference organised by the European Union on Social Dialogue and Conflict Resolution, which was held in Ljubljana, Slovenia.

A Department official attended a conference on Labour Law, organised by the Dutch Ministry of Social Affairs and Employment with the Support of the European Commission. Developments in Labour regulations over the last decade within the different Member States, and within the European Union were discussed.

A Department official attended a study visit on Social Dialogue in the Netherlands in November, organised and financed by the Workers Participation Development Centre of the University of Malta

The DG for Employment and Social Affairs of the European Union Commission organised two meetings for Directors General responsible for Industrial Relations. These two meetings were held in Amsterdam and Luxembourg in June and in November, and were attended by Department officials. During these meetings the Maltese delegates gave a presentation on developments in Malta regarding the Industrial Relations scenario. Various issues were also discussed, including proposals for amending the Working Time Directive.

Department officials attended various meetings as follows:

- two Expert Meetings held in Brussels in March and October regarding the implementation of Directive 96/71/EC, concerning the Posting of Workers in the Framework of the Provision of Services;
- participation in technical and advisory committees on the free movement of workers, which were held in Brussels in March.
- two Social Questions Working Party Meetings held in Brussels in November, regarding the Organisation of Working Time Directive.

3.2 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 Lm4,712.73 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.

3.3 Expatriates

The Expatriates Unit dealt with three thousand one hundred and fifty-nine (3,159) applications for work permits – two thousand and fifty-seven (2,057) new applications, and a further one thousand one hundred and two (1,102) applications for the renewal of work permits throughout the year.

Twenty 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 thirty-eight (38) meetings, during which two thousand four hundred and thirty-six (2,436) applications were processed.

F. Pullicino,

Director of Industrial and Employment Relations