

DEPARTMENT OF INDUSTRIAL & EMPLOYMENT RELATIONS

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”.

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 aided by five Assistant Directors.

These activities are carried out by the following branches:-

- a) Director’s Office, with a complement of one officer, responsible for the:-
 - strategic overview of the Department’s operations;
 - proper functioning of the five 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 & Industrial Relations Branch, falling under the responsibility of an Assistant Director with a complement of two officers, allowing the Department to fulfil its role as the National Focal Point on issues relating to Industrial and Employment Relations. This Branch responsible for:
 - coordination with local associations or organisations which have a role to fulfil in protecting the interests of parties engaged under an employment contract;
 - maintaining contacts at the technical level with Governments and other international bodies including the EU and I.L.O.
- c) Enforcement Branch, falling under the responsibility of an Assistant Director carrying out the core inspection functions of the Department. This Branch is staffed by seven officers serving as Inspectors and four officers in the Customer Care Section. Additionally four Registry officers provide administrative back-up to both the Enforcement and the Terminations and Legal Office branches. An important section within this branch is the Inspectorate Section, which is responsible for monitoring conditions of employment and processing complaints of workers who are still in employment. The Customer Care

Section on the other hand handles all queries received by e-mail, through telephone calls and in person relating to employment conditions. It is the first point of reference for the general public in seeking information on employment relations.

- d) The Termination and Legal Office Branch headed by an Assistant Director 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. This branch is also responsible for referral of cases to the Law Courts. It is staffed by two Terminations officers and two Junior Legal Officers who provide legal services and are responsible for court proceedings.
- e) The Research and IT Branch falling under the responsibility of an Assistant Director having responsibility for Library and Archives, Labour Research, Registration of Trade Unions and Employment Agencies. It also oversees any IT-related issues and works in coordination especially with Chief Information Officer of line ministry. This Branch has a total complement of three officers.
- f) Administrative Branch, falling under the responsibility of an Assistant Director with a total complement of four officers overseeing all operating and/or administrative functions of the Industrial Tribunal and two officers providing administrative support services to the Department including the administration of the department's budget, revenue and expenditure, issuance and adjustment of salaries, issuance of honoraria payments to ERB members and Tribunal Chairpersons, administration of PMPs, progressions, allowances, Engine Driver licenses, the departmental inventory, supplies' stores etc. This Branch also administers minor staff who carry out maintenance, messengerial, reception and cleaning duties.

Human Resources Issues

Similar to previous years, in 2014 the Department of Industrial and Employment Relations continued experiencing various changeovers in its workforce. One EIRA Inspector, one Economics Officer, a Principal Officer and a Casual Substitute Clerk left the Department due to transfers elsewhere or retirements; no replacements however were appointed to serve in their stead. On the other hand three new EIRA Inspectors were engaged to carry out duties within the Inspectorate Section of the Department. The number of officers who carry out inspectorate duties has thus increased to seven but one of them is carrying out duties within the Terminations Section following the transfer in November 2013 of an officer in Scale 7 for whom a replacement has also not yet been provided. Also significantly during 2014, the DIER lost the services of another two officers, deployed from IPSL who opted for an alternative employment in another government department.

During the period under review, staff from within the Department attended various courses organised by the Centre for Development of Research and Training and other private and EU-funded institutions. Such courses were especially related to legal matters concerning employment law and also Information Technology, office procedures, customer care etc.

ACHIEVEMENTS

Employment Relations

Inspectorate Section

The Inspectorate Section carried out 1466 inspections throughout the year covering 27,813 employees out of whom 2671 were interviewed. During such inspections a total of 611 irregularities were observed.

Officials within this section dealt with an average of 17,569 enquiries regarding conditions of employment – both on the phone and through personal visits at the Office. Another 1,418 e-mails requesting information were received and answered with immediate effect. In most cases concerning outstanding dues and other irregularities in connection with contract of employment, rectification was effected through the Section Officers' direct efforts. Other cases were followed up through court action. In this regard a total of 79 monetary claims were issued whilst 548 cases each possibly including a number of irregularities were settled and another 45 unresolved cases were referred for legal action.

The Inspectorate Section also processes Posted Workers Notifications; during 2014 a total of 212 notifications were received.

Terminations Section

Throughout the year, officials in the Terminations Section served a total of 391 claims against employers in Malta. The total amount for such claims amounted to €700,871.48. During the period under review 188 cases amounting to €179,718.54 were amicably settled out of Court, as a result of the direct efforts of officers within this Section. A positive outcome in court action during 2014 resulted in the collection of €110,748.91 however these cases do not necessarily represent claims that originated in 2014.

Another 26 cases, amounting to €25,555.84 were closed on request of the claimant. A total of 203 requests were made to the police for prosecution whilst court hearings in Malta totalled 25.

Four appeals against Court judgements were made throughout 2014.

Employment Agencies

The number of Licensed Employment Agencies at the end of December 2014 was 71.

During the period under review, 58 Employment Agencies renewed their licence. Thirteen new Employment Agencies were granted a licence to operate as such while six Employment Agencies had their licence withdrawn.

The total amount received as License fees amounted to €24,808.11.

The section also co-ordinated closely with local newspapers who publish advertisements for the recruitment of personnel, by providing them with an updated list of Licensed Employment Agencies who are permitted to place advertisements on behalf of their clients for the recruitment of personnel. This initiative hinders unlicensed organisations from placing newspaper adverts for recruitment and assists them seeking formal registration.

Employment Relations Board

The Employment and Industrial Relations Act provides for the setting up of the Employment Relations Board. During 2014 the Board held six meetings and discussed various issues relating to employment and labour conditions such as the granting of recognition to a union or unions by the employer, the process to be used to verify the union's or unions' claims of majority membership at the place of work, itemised payslips, penalty clauses in employment contracts, the review of Wage Regulation Orders, the conditions of employment of third country nationals and amendments to the Equal Treatment in Employment Regulations, the Transfer of Business Regulations and the Overtime Regulations.

During these Board Meetings, 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 Prime Minister for his consideration.

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

Equal Treatment in Employment (Amendment) Regulations. (L.N. 274 of 2014)

Adaptation of Laws (Wages Council Wage Regulation Orders) Order (L.N. 482 of 2014)

Transfer of Business (Protection of Employment) (Amendment) Regulations (L.N.483 of 2014)

National Minimum Wage National Standard Order (L.N.484 of 2014),

Wage Increase (Employees) National Standard Order (L.N. 485 of 2014)

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 37 occasions throughout the year. Agreement was successfully reached in 27 cases, one case was referred to the Industrial Tribunal while such agreement failed to be reached in only nine cases.

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 2014, 116 new cases of alleged unfair dismissals and six other cases of alleged discrimination/harassment/victimisation were received. Fourteen cases were introduced in terms of the Act whilst two cases concerning trade disputes were also introduced.

The Industrial Tribunal disposed of 90 cases of alleged unfair dismissals, 11 cases of alleged discrimination/harassment/victimisation and 10 cases referring to a trade dispute. The Tribunal also disposed of 1 Interpretation. There were 576 pending cases on 31st December 2014 of which 520 refer to alleged unfair dismissals.

Industrial Actions

During 2014, a strike was recorded involving 1000 workers and resulting in 750 man-days lost. Another strike concerning the Malta Public Transport Services Ltd was also registered but no information on the number of workers involved has been provided by both the employer and the workers' representatives.

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 2014: -

Type of Agreement	Qty
New Collective Agreements	5
Renewals/Extensions	18
Side Agreements/Addendums	2
Amendments	Nil

Table 1: Number of Agreements between industrial establishments and trade unions registered at the DIER in 2014

Registrar of Trade Unions

On 1st January 2014, there were 31 registered trade unions and 19 employers' associations.

During this period no trade union or employers association was registered and no trade union or employers' association was cancelled.

Thus, on 31st December 2014 the Register of Trade Unions was composed of 31 trade unions and 19 employers' associations. Fifteen verification exercises for union recognition were also carried out in which a total of 2519 employees were subject to be interviewed.

OTHER ACTIVITIES

Participation in Seminars, Conferences & Working Party Meetings Abroad

Between the 28th May 2014 and 12th June 2014, the Director led a tripartite delegation to the 103rd Session of the I.L.O. Conference in Geneva. The Minister for Social Dialogue, Consumer Affairs and Civil Liberties attended and addressed this Conference. The Maltese delegation included a number of high-ranking officials from Trade Unions and Employers' Associations. The issues considered at this Conference included a discussion and eventual adoption of the Recommendation on Forced Labour, discussion on facilitating transitions from the informal to the formal economy and a recurrent discussion on the strategic objectives of employment.

Officials from the Department also participated in a number of conferences and meetings, including:

- An EU Member States expert meeting in Brussels dedicated to prepare for the International Labour Conference to discuss EU Member States' common positions on issues being discussed at the Conference.
- An EU Member States meeting dedicated to the preparation of the 2015 International Labour Conference discussions on the transition from informal to formal economy.
- Two meetings for Director Generals responsible for Industrial Relations in Rome and Riga organised by the DG for Employment, Social Affairs and Inclusion of the European Union
- A seminar organised by ASEM (Asian European Meeting). This seminar addressed the issue of social progress through social dialogue in a rapidly changing business environment. During this seminar the strengthening of institutions and processes of social dialogue, collective bargaining and workplace cooperation were discussed.
- The 7th Annual Legal Seminar organised by the European Network of Legal Experts. The theme of this seminar was "New Forms of Employment and EU Law".
- A Conference organised by the DG Employment, Social Affairs and Inclusion on Working Conditions.
- The 3rd Conference on European Social Law. The subject of this conference was on Directive 96/71/EC concerning the posting of workers.
- Various Expert Meetings organized by the Directorate General for Employment, Social Affairs and Inclusion.
 - Two meetings of the Committee of Experts on Posting of Workers. During these meetings, the Commission provided information on recent and pending cases of the European Court of Justice. The Commission also gave an overview of the state of play of the negotiations on the proposal of the Enforcement Directive and sought feedback from Member States regarding applicability of the IMI system.
 - *A Meeting of the Expert Group on the transposition of Directive 2008/104/EC on Temporary Agency Work.* Directive 2008/104/EC on temporary agency work has been fully applicable since 5 December 2011. During this meeting the Commission's report on the application of this Directive was discussed. Member

States were also asked to give feedback on recent developments in the field of temporary agency work, notably in relation to the implementation of the principle of equal treatment and the review of restrictions on the use of agency work.

- *A meeting of the Expert Group on the Transposition of the Enforcement Directive of the Posting of Workers Directive 2014/67/EC.* The scope of this expert group is for Member States to discuss the implementation of the Enforcement Directive and indicate the most problematic articles for transposition. During this first meeting of the expert group, the working methods of the group were discussed. The experts also discussed certain chapters of the Directive.
- A meeting of the High Level Group of National Representatives on Corporate Social Responsibility. During this meeting, delegates took stock of the situation on business and human rights and updated each other on their own CSR activities. During the meeting, the initiatives of the Commission on the private sector in development and responsible sourcing of conflict minerals were discussed.
- The CSR Annual Review Meeting.

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, 413 of 2005, 427 of 2007 and 445 of 2011) 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 a fund 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 2014, one sitting of the Guarantee Fund Administration Board was held during which only one claim was processed and the sum of € 2108.47 was paid out of the Fund. In accordance with Regulation 6(7) of the Guarantee Fund Regulations, an audit exercise by a qualified auditor was undertaken to review the Board's financial statements for 2014. To date the balance of this fund stands at €487,268.

Implementation of Project financed under the European Fund for the Integration of Third-Country Nationals

In 2014 the DIER implemented a project partly financed under the European Fund for the Integration of Third-Country Nationals entitled '*Study and Conference on the Conditions of Employment and the Level of Integration of Third Country Nationals in Employment*'. This project principally included a research study leading to the publication of a paper on '*The Conditions and Employment and the Level of Integration of Third Country Nationals at Their Place of Work*' and a conference for stakeholders involved in matters concerning employment and the integration of third-country nationals, which was hosted by the Minister for Social Dialogue, Consumer Affairs and Civil Liberties. This conference principally included the presentation of the researched paper

but various experts including those invited through coordination with the International Organisation for Migration (IOM) had the opportunity to express their views also in specifically-focused workshops.

Participation in Events & Publication of Online Journal

Apart from the organisation of the conference indicated above where an information stand was also set up to distribute informational leaflets on employment conditions in addition to the departmental journal *I Review* and other publications of the DIER, the Department continued distributing informational leaflets specifically earmarked for students through its permanent Stand Holder at MCAST. Such leaflets concerning Hours of Work, Leave, Fixed-Term Contracts, Telework, Part-Time Employment, Young Persons in Employment and Termination of Employment were thus distributed.

In 2014 an edition of the online departmental journal *I Review* was also published comprising interesting and well-researched articles on different aspects relating to labour law and industrial relations.

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 €2,020.00 were recovered. Whilst in December 2011, judicial letters were sent to all defaulters who fell back on their payment as per Article 466 of the Code of Organisation and Civil Procedure, in 2012, 2013 and 2014 further reminders were sent to such defaulters.

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