

**DEPARTMENT OF INDUSTRIAL
AND EMPLOYMENT RELATIONS**

ANNUAL REPORT 2006

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 three 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 four officers in the Enforcement Section and ten officers in the Inspectorate Section.
- (d) **Administrative Unit**, with twelve officers under the direction of an Assistant Director, providing administrative support services to the Department and to the Industrial Tribunal.

Human Resource Issues

During 2006, an Assistant Director, a Messenger and a Labourer retired from Government service. An Assistant Director was recruited to fill the vacant position. During the period under review, there was one resignation and one out-going transfer. Two employees were transferred to the Department.

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, two officers of the Department started their second year reading for a Diploma in Social Studies (Industrial Relations) organised by the Centre for Labour Studies of the University of Malta. Another officer obtained a Diploma in Public Administration after successfully completing a two-year course organised by the Institute of Public Administration & Management of the University of Malta.

Achievements

Employment Relations

Inspectorate Unit

The Inspectorate Unit carried out 1,518 inspections throughout the year covering about 39,000 employees, out of whom 2,341 were interviewed.

Four hundred and ninety-three irregularities were observed, issuing 23 claims amounting to Lm38,981.16.

Officials in this unit dealt with about 21,000 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.

Enforcement Unit

Throughout the year, officials in the Enforcement Unit served a total of 258 claims against employers in Malta, amounting to Lm566,438.12. Of these, 158 cases amounting to Lm40,462.32 were amicably

settled out of Court, as a result of the direct efforts of the officers of the Enforcement Section. Lm2,900 were collected through Court intervention.

One hundred and twenty-nine requests were made to the police for prosecution. Court hearings in Malta totalled 358.

Nine appeals against Court judgements were made throughout the year 2006.

Employment Agencies

The number of Licensed Employment Agencies at the end of December 2006 was 43.

During the period under review, 36 Employment Agencies renewed their licence. Seven new Employment Agencies were granted a licence to operate as such while two Employment Agencies changed their Licence's name.

The total amount received as License fees amounted to Lm6,450.

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. During 2006, the Board held eight meetings and discussed various issues relating to employment and labour conditions such as Public Holidays, minimum leave entitlements, part-time employment etc.

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 three Legal Notices were published:-

LN 10 of 2006 – Employee (Information and Consultation) Regulations, 2006

LN 332 of 2006 – Wage Increase (Employees) National Standard Order, 2006

LN 331 of 2006 – National Minimum Wage National Standard Order 2006

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 72 occasions throughout the year. Agreement was successfully reached in 60 cases while such agreement failed to be reached in 12 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 2006, 90 new cases of alleged unfair dismissals, (of which two included allegation of discrimination) and four other cases of alleged discrimination/harassment/victimisation were received. Five cases of trade disputes and two cases of interpretation were also introduced. Seven cases were introduced in terms of other provisions of the Employment and Industrial Relations Act.

The Industrial Tribunal disposed of 73 cases of alleged unfair dismissals, 17 cases of alleged discrimination/harassment/victimisation, and eight cases of Trade Disputes. The Industrial Tribunal also disposed of four cases introduced in terms of other provisions of the Employment and Industrial Relations Act and one case of interpretation.

All this was accomplished through 345 sittings, during which 646 cases were heard.

There were 482 cases pending on 31st December 2006. These include the 315 cases related to the re-organisation of the Shipyards, all alleging unfair dismissal and discrimination.

Industrial Actions

During the year 2006, eight strikes were ordered involving 7023 workers. Strike action lasted for a total of 70 hours and resulted in a total of 2934.5 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 2006: -

New Collective Agreements	5
Renewals	29
Extensions	2
Side Agreements	3
Amendments	2

Registrar of Trade Unions

During the twelve months, ending on 31st December 2006, 11 organisations, six trade unions and five employers' associations, were cancelled. Trade unions cancelled during this period were the

Casino Employees Union, Għaqda (Union) - Uffiċjali Anzjani tat-Tarzna (DSESU), Għaqda (Union) Professjonisti tal-Korporazzjoni Għas-Servizzi ta' l-Ilma, Għaqda Professjonisti Legali tal-Uffiċju tal-Avukat Ġenerali, Union Haddiema Universita' ta' Malta, and the Union of Legal Graduates of HSBC Malta. The employers' associations cancelled during 2006 were the Association of Private Hire Bus Owners, Assoċjazzjoni tal-Bdiewa, Malta Association of Travel Agents, Maltese Association of Incoming Tourism Agents, and the Yacht Traders Association.

During the period under review four organisations sought registration with the Registrar of Trade Unions. Two organisations, namely the Malta Dockers Union and the Professions and Services Employees Union (PSEU), were registered as trade unions, while the Assoċjazzjoni tal-Bdiewa and the FATTA (Federated Association of Travel and Tourism Agents – Malta), were registered as employers' associations.

At the end of the period under review the Register of Trade Unions was composed of 30 trade unions and 20 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: -

Between the 31st May and the 16th June 2006, the Director of the Department led a tripartite delegation at the 95th Session of the ILO Conference in Geneva. The Minister of Education, Youth & Employment both 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 on the adoption of a Recommendation on Employment Relationship and the adoption of a Convention and a Recommendation on Occupational Safety & Health. The Conference also dealt with the role of the ILO in technical co-operation with Member States.

The Director also addressed a seminar on the Working Time Directive organised by TAIEX in Brussels and another seminar on the Employee Information and Consultation Directive's application in Malta also organised by TAIEX and held in Malta.

The DG for Employment, Social Affairs & Equal Opportunities of the European Union Commission organised two meetings for Directors General responsible for Industrial Relations. These two meetings were held in Helsinki and Berlin and were attended by the Director. During these meetings, various issues were discussed including the implementation of the Posting of Workers Directive, the Labour Law Green Paper and the evolution of social dialogue at Community level.

The Director also attended various Expert Meetings, Seminars and Bilateral Meetings on the Working Time Directive.

An officer of this Department attended meetings of the Expert group Mainstreaming CSR among SMEs organised by the European Commission, Directorate-General of Enterprise and Industry.

An official also attended meetings of the High-Level Social Representatives on CSR organised by the European Commission, Directorate-General of Employment, Social Affairs and Equal Opportunities.

Two officers of the Department attended a Workshop in Budapest organised by the European Foundation for the Improvement of Living and Working Conditions. This Workshop dealt with

organisational, financial and skills capacities for building social dialogue at sectorial and company level of the new European Member States and Bulgaria, Croatia, Romania and Turkey.

Officials also attended two Expert Meetings concerning the application of Directive 96/71/EC on posting of workers in the framework on the provision of services. During these meetings a Commission Communication on the guidance on the posting of workers in the framework on the provision of services was discussed. Participants were also asked to give a presentation on their responsibilities and tasks in the area of posting of workers.

Two officials attended an Expert Meeting concerning the implementation of Directive 2001/23/EC on the safeguarding of employees' right in case of transfer of undertakings. This meeting was convened to present a synthesis of the replies to a questionnaire on the directive by all the Member States. Participants acknowledged the inexperience of the majority of Member States in the transfer of business law and across borders transfer law.

An officer of the Department also attended the European Productivity Conference organised by the Finnish Presidency of the European Union. This was the first productivity event of its kind and addressed important issues which are pertinent if Europe is aspiring to become the most competitive region in the world.

One of the Department's officials also attended a Conference organised by the European's Commission on different dimensions of internal and external EU policies that are relevant for promoting decent work for all.

An official attended a review meeting of the European Multistakeholder Forum on Corporate Social Responsibility organised by the European Commission, Directorate-General of Employment, Social Affairs and Equal Opportunities.

An official of the Department was invited to attend the final session of the 3 MOIRE PROJECT. The conference was organised by the Agenzia Regionale di Lavoro and it treated the subject of The Three Modern Opportunities Improving Regional Employment. The three objectives tackled were workers, working mothers and elderly workers, especially more so where social dialogue is concerned. Participating in this project, apart from Malta, were representatives of Belgium, Romania and Spain. The findings of the working committee of the project were passed on to the EU Commission for future reference.

One official formed part of a delegation on a Study Visit to Cyprus, sponsored by the Freidrich Ebert Stiftung (FES). The delegation had meetings with the heads of the institutions involved in social partnership and/or in labour issues and in the designation of policies related to pre and post EU Accession.

Visit/Seminar Organised by the Department

During the month of December, the Director of the European Foundation For The Improvement of Living and Working Conditions, led a high level delegation to separately meet the Social Partners and to hold a seminar on "The Fourth European Working Conditions Survey".

The Department of Industrial and Employment Relations, apart from participating at this seminar, was also involved in organising the whole visit. Apart from scheduling the meetings with the social partners, the Department also organised the seminar held on the 7th December at Mediterranean Conference Centre. Invitations were sent to entities and personalities involved in the sector. Attendance at the seminar was very encouraging.

Newsletter

In August, the Department published the first edition of its newsletter, "I Review" which was very well received by stakeholders. It is intended to continue issuing this newsletter 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 Lm4,395.23 were recovered. Warning letters are still being issued to defaulters who fell back on their payment of instalments of said loan scheme.

Dr. N. Vella

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