

## Impasse over legitimacy of industrial action resolved

Published on: 04 May 2005 | Author: Debono, Manwel; Tabone, Charles

In March 2005, Malta's General Workers' Union was in disagreement with Enemalta, a state-owned corporation, over the legality of industrial action called by the trade union at Malta International Airport. As initial meetings failed to reach an amicable settlement, the government referred the issue to the Industrial Tribunal, while GWU pledged further action and sought the backing of the European Trade Union Confederation. Last-minute meetings led to an agreement and the suspension of GWU's plans to organise sympathy action.

In March 2005, workers at the Malta International Airport (MIA) aircraft refuelling section following a General Workers' Union (GWU (<http://www.gwu.org.mt/>)) directive to take industrial action were suspended by the state-owned Enemalta Corporation over what it claimed was illegal industrial action. According to Enemalta, the collective agreement in force clearly stipulates that 'essential public services shall be maintained at all times'. Enemalta suspended its aircraft refuelling service at MIA after aviation consultants said that the GWU actions threatened aircraft safety. This brought the essential service to a standstill. GWU was also accused of breaching the collective agreement because it had allegedly failed to give Enemalta two working days' notice prior to taking industrial action.

The GWU Chemicals, Energy and Printing Section secretary rejected these claims, stating that he had informed Enemalta's chief executive about the intended directives 'well in advance'. The section secretary declared that at the beginning of March he had requested a meeting to address unresolved issues, including that of the complement of workers at the aviation section. On 7 March, he informed Enemalta that GWU would resort to industrial action if its request for a meeting was not met by the end of the week. The industrial action commenced on 16 March.

Despite the entrenched positions held by the conflicting parties regarding the legality of the whole situation, a conciliatory meeting held three days after the commencement of the directives led to the agreement that GWU would lift its industrial action while Enemalta would allow the suspended aviation section workers back to work.

However, the reconciliatory meetings which followed resulted in an escalation of tension between the parties. The GWU general secretary insisted that it was inconceivable for the union to accept the suspension of employees who followed a directive to take industrial action. He argued that Enemalta employees should be paid for the time when they were suspended. The general secretary also condemned Enemalta for allegedly asking its employees, following the action, to sign a declaration stating they would stop observing the union's directives.

The minister in charge of Enemalta recommended that both parties settle the matter at the Industrial Tribunal where they would have the opportunity to choose an independent arbiter. The minister stressed that, following the tribunal's decision, the party found responsible would have to

incur all the expenses resulting from the industrial action. GWU did not accept this proposal, arguing that its members' right to strike need not be discussed at the tribunal.

## **GWU seeks support**

The management of Enemalta remained adamant over the question of the action's legality and held to its position not to pay the suspended workers. GWU stated that the government was threatening the union's right to strike. It announced that it would have to resort to sympathy strikes in order to safeguard the right of workers to take industrial action. In the meantime, the European Trade Union Confederation (ETUC), through a letter sent by its general secretary to the Maltese Prime Minister, gave its full support to GWU. ETUC also pledged to explore ways of offering its assistance to GWU throughout Europe.

In the meantime, GWU sent a letter to the employers giving them notice that it would have to order sympathy strikes. In response, the Malta Employers Association (MEA (<http://www.maltaemployers.com/>)) advised GWU to reflect upon the consequences of its proposed actions. MEA urged GWU to act cautiously and responsibly, and also warned that in the event of sympathy actions it would exercise its legitimate rights as an employers' association and support its members' interests. The Federation of Industry (FOI (<http://www.foi.org.mt/>)) took a similar stance and urged GWU to avoid industrial action on a national scale.

The GWU general secretary expressed satisfaction that the president and other officials of the Confederation of Malta Trade Unions (CMTU) reportedly agreed with the position of the GWU that workers following industrial action directives should not be suspended.

## **Agreement reached**

In light of the threat by GWU of widespread industrial action, and after a meeting with the Prime Minister, an agreement was reached on 30 March. Enemalta agreed to pay the workers for the period during which they were suspended for taking industrial action, while GWU pledged to pay the expenses if the Industrial Tribunal were to decide against it. Both GWU and Enemalta concurred that in future disputes they are to abide to the terms and conditions stipulated in the collective agreement and that all industrial action is to conform to the provisions of the 2002 Employment and Industrial Relations Act (EIRA). It was also agreed that if action is taken in breach of the law, the party taking the action would not be given legal protection.

## **Commentary**

This was the second case in 2005 in which the government challenged the legality of the industrial action taken by a trade union. The other case arose in a dispute between GWU and Malta Shipyards Limited (MT0502104N ([//www.eurofound.europa.eu/ef/observatories/eurwork/articles/gwu-sued-for-damages](http://www.eurofound.europa.eu/ef/observatories/eurwork/articles/gwu-sued-for-damages))).

At first it looked as if there was no way out of this impasse and both sides were heading for a confrontation. The issue was about to escalate to national level. The intervention of the Prime Minister fortunately provided an honourable way out to both parties. The onus is now on the Industrial Tribunal, whose decision is likely to have an impact on industrial relations in Malta. (Manwel Debono and Charles Tabone, Malta Workers' Participation Development Centre)