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Media Release

ETC's erroneous implementation of Legislation discourages employment of persons with disability

Following an involvement of the ETC, Government, as part of its 2014 Budget deliberations, proceeded to introduce amendments to the Laws of Malta concerning the quotas of employment of persons with a disability. The MEA, as an involved social partner, has always been in favour of social inclusion, but was never consulted on these amendments intended to increase the employment of persons with a disability. The established social dialogue process was completely ignored. The law as amended, now includes more incentives in favour of companies employing persons with disabilities but also significant fines on employers who allegedly fall short of the quotas set for the employment of such persons. Unfortunately, considering the manner in which the ETC is implementing this legislation, employers are being placed in a position whereby they cannot fulfil their obligations.

The ETC has been made aware of the inconsistencies in the manner of implementation that make it near impossible for employers to ascertain whether or not they are within the quotas established.

Among others the following issues have been raised:

1. Employers have no access to the ETC register of persons with a disability;
2. An employee with a disability is free to register, himself / herself or not;
3. Employers can never officially know who of their employees have a disability and are on the ETC register;
4. As yet, to the exclusion of the KNPD and Social Security Department Disability Registers, it is only the Register of the ETC that is recognised by the Act;
5. To fulfil the declared quotas, there is an apparent shortage of registered persons with a disability seeking work, but employers will still be fined for employment quota shortfalls.

The ETC is citing data protection legislation so as not to divulge the names of registered persons with a disability who might be in a company's employment.

Employers who have tried to fill vacancies with persons with a disability through the ETC are being fined even though no persons were available to fill such vacancies.

Employers are of the opinion that the legislation as it is being implemented by the ETC aims more towards generating revenue, through fines, for the Lino Spiteri Foundation, than increasing the employment levels of persons with a disability. Some companies who have been providing employment for a number of disabled persons have still been invoiced with a fine on the basis that the work is outsourced. The Association has also received numerous reports of companies which have been invoiced twice, and others which have still been fined although compliant with the quotas.

The MEA said that it had presented a position paper with concrete proposals on how to increase the number of persons with a disability in employment. These proposals were unfortunately ignored by ETC. Attempts to establish a memorandum of understanding between the MEA, the Chamber of Commerce, Enterprise and Industry, and the ETC to diffuse the situation have also yielded no significant results.

It is a pity that such a sensitive and desirable objective should have become subject to a judicial protest which the MEA has presented in court today in a bid to elicit a reasonable behaviour on the part of the ETC.