



Position Paper on the Draft Discussion Document on the Introduction of Blacklisting Regulations

October 2014

1. General Statement

The Malta Employers' Association has always been vociferous in condemning illegal and unethical working practices. It had also proposed the setting up of a *Services Charter* to regulate employment practices in the cleaning, security and care working sectors, where alleged breaches were most concentrated.

The Association has opposed using the term 'precarious employment' on the basis of a lack of an accepted definition of the term. However, certain contentious employment practices can be classified under three general headings that are defined and which could therefore be addressed concretely. This was done in a position paper issued in 2013 which referred to atypical, illegal and unethical employment practices. The main gist of the paper is that the incidence of atypical work is lower in Malta than most EU countries; that many people work on a part-time and definite period contract basis voluntarily; and that atypical employment is expected to increase as more employees seek flexible conditions of employment not restricted to the traditional indefinite 40 hour week. With respect to illegal practices, the Association fully supports the enforcement of existing legislation, as abuse is wrong in principle and also creates an unfair playing field with legitimate operators. The Association also guides its members to avoid unethical employment practices which may be borderline legal but undesirable.

2. Blacklisting employers

It is understood that the primary objective of the proposed regulations is to ensure that employers who tender for and are awarded public contracts comply with labour legislation and give employees their due. In some cases the regulations impose

conditions that go beyond legal obligations. The Association agrees in principle on implementing a blacklisting mechanism to combat illegal working conditions.

3. Recommendations to the Proposed Regulations

Following the meeting held at MEA on the 6th October 2014 which was attended by MEA members and addressed by the Permanent Secretary of the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, Mr. Joseph Camilleri, the MEA is forwarding the following recommendations:

- Remove any references to precarious employment, replace with illegal employment practices.
- The provision of a detailed payslip is not yet a legal requirement. It is recommended to issue the legal notice before or concurrently with the blacklisting regulations.
- Regarding point 2 c), some companies still pay by cheque at the employees' request. There is no need to impose direct payment as it will not address abusive practices. If there are allegations of employees giving a kickback from their wages to their employer, this possibility will occur irrespective of whether they are paid by cheque or through direct credit.
- The €600 deposit requested to file an appeal is too high. There should be no charge to file such an appeal.
- The established minimum rate of €5.78 needs to be revised upwards to allow compliance with minimum legal requirements and allow for sustainable and profitable enterprise. The MEA had proposed setting this threshold at €7.50.
- The provision whereby employers may face a prison sentence is offensive to employers and should be removed.

The MEA will be available to provide support to promote the interests of legitimate employers through these regulations.