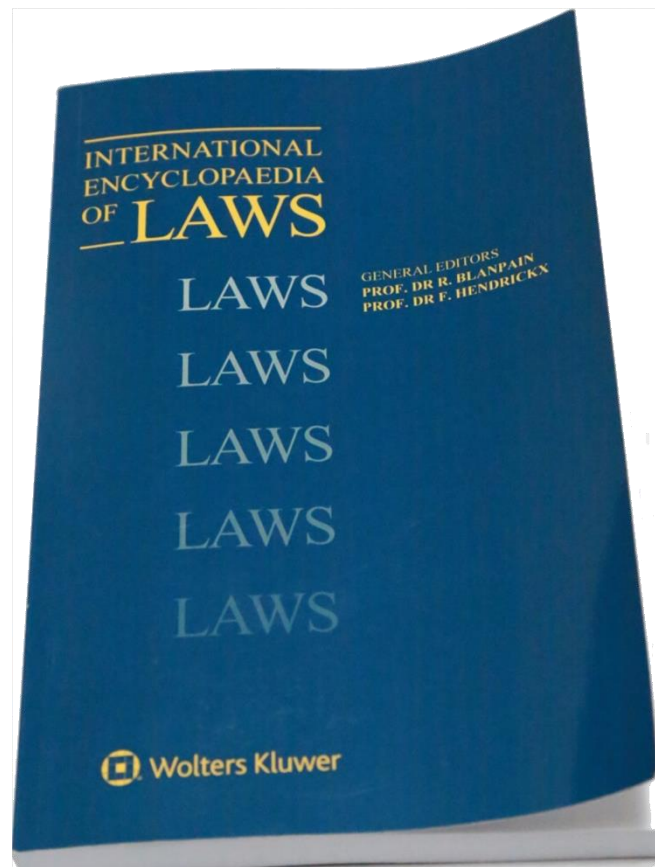


A More Mature Social Dialogue Built on Solid Foundation

Wolters Kluwer



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Zammit Edward with the collaboration of Debono Manwel and Brincat Matthew: 'Malta's Labour Law and Industrial Relations' – a monograph published by Wolters Kluwer as part of the Encyclopaedia of Laws. ELL.Suppl. 430 (2015)

Industrial and Employment Relations can be understood as the regulations of work and employment through a combination of market forces, state intervention and collective bargaining. None of these elements can be seen as independent. In spite of the common features emanating from these convergent elements each system operates in a scenario which may have its particular characteristics, reflecting its distinctive economic structure, political traditions and social practices. What are the characteristic features of the Maltese industrial and employment scenario? The answer to this question may be found in a monograph, consisting of a 320 page book, on Malta's Labour Law and Industrial Relations, which has been published by Wolters Kluwer as part of the international Encyclopaedia of Law.

This book, which is an enlarged and updated version of a 2006 edition, is divided into three parts namely: **General Introduction**, **Individual Employment Relationship** and **Collective Labour Relations**. The introductory section by providing an overview of the social, economic and political aspects of Malta critically analyses the traditional and contemporary key issues that have influenced and shaped the industrial and employment relations system in Malta. The reference to the colonial legacies on the contemporary industrial Relations helps the reader to understand the residual element of the Anglo-Saxon model in the Maltese labour law. Indeed the author points out that "Maltese law is generally based on the continental model of legislation, which has subsequently been laced with elements of the British and common law model" (page 43).

This does not however mean that EU membership did not affect the Maltese industrial and employment relations. The author notes that since Malta's EU membership a myriad of documentation has become part of the Maltese law and "within a short period of time, it will become common practice for the Maltese judiciary to refer to European Directives, regulations and decisions when deciding a labour related dispute" (page 43). Various provisions in the law testify that the transposition of the EU Directives into Maltese labour law contributed to the improved statutory provisions for workers' rights in non-unionised workplaces.

However the legacy of the 164 years of British rule in Malta is still evident in the practices at the workplace. Such a relic of the past is the union-appointed shop steward serving as an intermediary between the employees and the management. In many European countries such as Germany, Netherlands, Austria and Luxembourg this role is played by a works council which is set up according to statutory provisions of the law. The latter practice tends to be more

amenable to a consensual ethic and more commensurate to the principles of industrial democracy. The book does not engage in such a debate as a comparative analysis was not part of the remit set by the publishers.

The section that follows this introductory part consists of an explanation of the provisions in the Maltese labour law that regulates employment relations. The author remarks on some of the ramifications of these provisions. For example he comments that the industrial tribunal in its judgements about the retention of employment contract “gave due consideration to a number of factors including the lack of notification to ETC of the renewal of fixed term contract (page 51).

Moreover the numerous footnotes in this section make reference to a number of case laws relevant to the legal provision being explained in the text. These footnotes provide a very useful and rich data base which may save the researcher a lot of valuable time while navigating in the search engine.

The last part of the book ‘Collective Labour Relations’, which is the longest, gives a full profile of the social partners and institutions involved in the Maltese system of industrial and employment relations. In the web of the inter-relationships woven between these actors and institutions conflicts and disputes inevitably arise. In delineating the milestones of major industrial disputes that had a long lasting effect on the conduct of industrial relations the author pinpoints four major disputes occurring the last decade of the twentieth century. These are the Phoenicia case in 1990 which resulted in the closure of the hotel; the strike action at Air Malta in 1994 when the threat of a closure similar to that of the Phoenicia was made by management, the industrial action of UHM at Freeport in 1998 over the measures in the budget which gave a new dimension as to what constitute a trade dispute and the inter-trade union dispute between the GWU and UHM at the Malta International Airport in 1999 which had repercussions about trade union recognition at the place of work. The conflicts that occurred in the twenty-first century have not caused such a degree of turbulence. This implies that conflicts have either become less intense or real attempts are being made to solve them before they start to fester. This may be an indication, as the author asserts, that “the new social dialogue of culture is gradually being built on solid foundations” (p. 259).

The critical reflection on the terrain that the industrial and employment relations system in Malta has covered and on which it now stands is part of the comprehensive insight of the Maltese industrial and employment relations scenario. This insight is the result of a highly detailed and thoroughly documented study based on a collection and syntheses of available information. The text is very well referenced and appears to be based on a solid examination of the literature, statistical data and case laws pertaining to the issues featuring in the book. Indeed the information about the Maltese labour law regime, complemented by a useful review

of key situational issues, provides a very valuable reference source and text for discussion about the developments registered in this field. Although the sections and the chapters might differ in approach the book hangs together well. Naturally some readers rather than reading the book from cover to cover would rather dip into chapters that arouse their interest most. The pleasant and accessible reading style and the references to empirical studies and statistical data to support the assertions, makes the reader aware of the author's attempt to walk the line between the scholarly and the practical.