

Song for unsung heroes



Mepa's enforcement section taking direct action in Rabat

It risks sounding like a much-abused cliché but the Malta Environment and Planning Authority arguably is the favourite pin cushion for many Maltese.

Whether this is justified or not is obviously subject to much heated debate, but this onslaught often claims many undeserving victims, including the authority's diligent enforcement team.

Today's column is, in fact, dedicated to the resolve of Mepa's enforcement staff who soldier on despite the adversity and the lack of limelight their thankless job attracts.

An accusation often levelled at Mepa is that it acts aggressively with the weak and rather meekly with the strong. Such a perception is so ingrained in the Maltese mindset that many are sceptical that the authority would ever flex its muscles with the country's top brass.

An overview of some enforcement cases may dispel this perception somewhat: Mepa recently carried out direct action for infringements committed (separately) by the former mayor of Qala, by a much-dreaded character with a criminal past in Mosta, and by an intimidating character at a scrapyards in Birżebbuġa.

Not surprisingly, the direct action team is often accompanied on site by three to four policemen as a deterrent to a repetition of some despicable behaviour witnessed in the past when an enforcement officer had to be hospitalised for facial wounds after a direct action at Iklin, and when direct action staff were shot at in Ғal Far.

Newspaper headlines frequently feature annual statistics and draw simple conclusions on the performance of the unit or department concerned. But as members of Mepa's enforcement team rightly point out, such statistics need to be interpreted with great prudence.

It would be easy to report a surge in the number of cases addressed by the direct action team for the sake of getting accolades and plaudits from the media. This would involve simply earmarking the most simple cases for direct action and wiping off three or four such cases in a single morning.

However, the direct action often takes the form of a more judicious approach in seeking to address the more difficult cases, which normally demand whole days of painstaking work. For example, the clearing of toxic sludge discharged from a batching plant in a valley in Mosta, required the deployment of DA staff for a full 15 days.

However, the head of the DA team, Alex Borg, is determined to implement a more systematic approach to direct action. An enforcement case is usually earmarked for direct action after the

lapse of 16 days after the issuing of a Stop and Enforcement notice, if the person responsible for the infringement takes no remedial action.

Statistics need to be handled with care for another, equally valid reason. The list of pending enforcement cases, which is several thousands strong, understandably elicits contempt at a first glance. This is especially justified when one considers cases on the list that are quite long in the tooth.

Closer scrutiny, however, reveals that the same list includes cases where enforcement has been undertaken by Mepa but in which the defaulter has not settled any pending fines; thus the case continues to feature on the list.

Other cases that might also still be on the list include those where partial enforcement has been conducted by Mepa, and cases dating back to the Planning Area Permits Board (PAPB - the precursor of the Planning Authority and of the Mepa), where redress is not possible due to a fait accompli (e.g. an inhabited block of flats, where demolition is obviously not very feasible).

A staggering 60 per cent of pending enforcement cases refer to within-scheme areas (with half of these referring to unauthorised household alterations), although newspaper headlines might give the impression that illegal development is the preserve of Outside Development Zone (ODZ) areas only.

Besides the public's somewhat uncomplimentary opinion of Mepa, what else saps the spirits of the enforcement team? Two culprits include the frittering of time and manpower to attend court hearings (which are invariably deferred due to the accused frequently not showing up), and the jaundiced reporting by some media sectors.

The latter point can be eloquently illustrated by referring to a particular enforcement case. Some weeks back, Mepa conducted a direct action in Qala, whereby illegal extensions to a guesthouse were demolished after that a Stop and Enforcement Notice were totally shunned by the perpetrator.

L-Orizzont went off at a tangent and carried the sweeping statement 'Mepa terrorises tourists' as its front-page headline. This is the same newspaper that frequently raps Mepa's knuckles for purportedly pussyfooting on enforcement issues. The blinkered L-Orizzont report accusing Mepa of leaving the site in a shambles, not realising that direct action staff were stopped dead in their tracks by an injunction issued by the Gozo court at request of the defaulter.

To cap it all, the same defaulter admitted in court that he had committed the contraventions Mepa had accused him of, and offered to finish the demolition and clearing job himself.

However, the situation is not entirely bleak. The threat of direct action is being taken more seriously by infringers across the board, with many now choosing to defray prohibitive bills slapped by Mepa by removing infringements themselves.

Here again, such statistics do not show up as feathers in the direct action team's cap since the perpetrators themselves remove the illegality after receiving timely advice from Mepa that direct action is imminent. The maxim 'prevention is better than cure' springs to mind here.

In addition, compliance certificates are gaining leverage. Mepa issues such certificates only after all development and planning permit conditions have been adhered to, and they pave the way for the Enemalta and the Water Services Corporation to accede to requests for electrical and water supplies.

Banks, notaries and property buyers are also giving greater importance to such certificates as a guarantee of their financial interests. As a result, contractors are wary of committing any infringements which would jeopardise their obtaining a compliance certificate, which in turn would compromise the marketability of their property.

The much-maligned Mepa reform promises to buttress the authority's enforcement arm. In fact, the reform proposes the amalgamation of the planning and environmental enforcement sections (so far, two separate entities, operating under two different regimes), a zero tolerance policy towards sanctioning of illegality in ODZ areas, the watering down of the reconsideration procedure (which was previously bogging down any enforcement action) and the conducting of direct action even while an appeal is ongoing (thus placing the onus on the infringer, rather than on Mepa, to seek redress).

This column is known for its no-hold-barred approach to Mepa shortcomings. However, I strongly believe in giving Caesar his due and in praising the authority for positive action taken when circumstances warrant it.

Enforcement is a thankless job that includes crossing paths with unsavoury characters. If journalists and the environmental movement take it for granted, this invariably impacts on their credibility and demoralises Mepa's enforcement team.