

Controversy over new smoking regulations

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The enactment of the Smoking in Public Places Regulations in 2004 has become a highly contentious issue between the government and associations representing various sections of the business community. The Malta Chamber of Small and Medium Enterprises (GRTU) claims that the regulations - which ban smoking in many workplaces - will have particularly adverse effects on entertainment venues, while the social partners generally have accused the government of a lack of consultation.

An intensive anti-smoking campaign has been going on in Malta for the past decade. People are being made aware of the dangers of smoking from an early age through the use of media adverts and educational programmes. The Health Promotion Department has set up free smoking-cessation clinics, personal counselling, self-help literature (also available online) and even a 'quit line'. Nevertheless, these activities have not been sufficiently successful, as the incidence of smoking-related illnesses resulting in death is still relatively high. About one in every four Maltese adults smokes. The number of young smokers, especially women, is particularly high.

Smoking in Public Places Regulations

In line with recommendations from the World Health Organisation (WHO (<http://www.who.int/en>)), the government decided to adopt a strong legal measure to protect public health. The Smoking in Public Places Regulations were thus enacted in September 2003. The regulations ban smoking in all establishments where services are provided to the public. These include hospitals and elderly homes, schools and other educational centres, places of entertainment and telecommunications studios, sports and exhibition centres, ports and airports. The regulations bind employers to ensure that persons refrain from smoking on their premises. Smoking is only permitted as long as this is done in separate areas that conform with established technical specifications. Employers that designate special areas for smoking should make sure that they are totally separate from areas normally occupied by non-smokers. Employers are also responsible for informing their employees and clients through no smoking signs that smoking is prohibited in the premises. The people responsible for running the establishment are to enforce the regulations and to report those who refuse to obey.

Heavy sanctions are in force for contravention. A first conviction carries a fine of between MTL 100 and MTL 500, in addition to a fine for each day in which such an act or omission subsists. Subsequent convictions may result in imprisonment for a maximum term of three months, and the suspension of the licence of the premises or public transport where the offence took place.

Employer criticism

While many social partners publicly stated that they agreed in principle with the need to reduce smoking, the government was harshly criticised over the new regulations. The Malta Chamber of Small and Medium Enterprises (GRTU (<http://www.targetltd.com/grtu/proposals.asp>)), Malta's main business organisation in the retail sector (MT0310101F (<http://www.eurofound.europa.eu/ef/observatories/eurwork/articles/employers-organisations-examined>)), and the Malta Hotels and Restaurants (MHRA (<http://www.mhra.org.mt/>)) were vociferous in their protests and accused the government of arrogance for passing the regulations without consulting them.

GRTU is in favour of a decrease in smoking levels and agrees that smoking is a hazard to human health. However, it defined the new regulations as unacceptable and threatened to instruct shop owners to defy them. It accused the government of lack of planning by failing to make an assessment of the adverse effects such regulations would have on businesses. GRTU is in favour of educating Maltese citizens that smoking is a health hazard. However, it maintains that citizens should be left free to make their own decisions. MHRA and GRTU strongly opposed the fact that shop owners are criminally liable for smoking by individual smokers on their premises. Such concern was also voiced by the Malta Chamber of Commerce and Enterprise (COC (<http://www.chamber.org.mt/>)), which stated that owners should not be penalised for an offence for which it is proven that all precautions had been taken in terms of the law.

In March 2004, GRTU officials met the Minister of Health, the Elderly and Community Care and presented him with a set of proposals, which include the following:

- bar owners should be given the choice to declare their premises as (a) totally non-smoking (b) non-smoking but having an area for smokers (c) not having a non-smoking area, or (d) not having a non-smoking area but being equipped with air purification systems;
- financial or fiscal assistance is needed to help its members buy air conditioning systems; and
- shop owners should not be threatened with the suspension of their trade licences.

GRTU argued that the new regulations would negatively affect over 5,000 employees working within various kinds of places of entertainment. It also claimed that the enactment of the regulations might cause the loss of about 500 jobs within six months from their implementation.

The government did not agree to these proposals, stating that having wholly smoking venues would defeat the purpose of the regulations. The Minister of Health, the Elderly and Community Care was adamant that public health should be given top priority. However, after the protests made by the employers' associations, the government decided to postpone to 5 October 2004 the enforcement of the regulations for restaurants and bars measuring more than 60 square metres. Besides, establishments measuring less than 60 square metres were given until 5 April 2005 to make the necessary arrangements for the new regulations. The regulations for all other enclosed public spaces (including offices providing public service) came into force on 5 April 2004.

The government set up a technical committee led by the Malta Standards Authority (MSA (<http://www.msa.org.mt/>)) in order to draft the technical specifications regarding the air levels in establishments. The committee included representatives of various interested bodies, including GRTU. However, the latter pulled out of the committee claiming that its concerns were not being considered and accused the Ministry of Health, the Elderly and Community Care of using MSA to serve its aims. In summer 2004, MSA released a document entitled 'Indoor air quality - reduction of effects of smoking on non-smokers requirements'. Among its various specifications, it states that smoking areas need to be equipped with adequate ventilation systems to minimise the possibility of contamination of the non-smoking area. Engineers have to certify the area to ensure that it complies with the set standards.

In the months prior to October, GRTU accused the government of breaching the agreement reached between the two sides in April. Consequently, the Minister of Health, the Elderly and Community and GRTU exchanged several accusations.

A few weeks before the 5 October deadline, GRTU officials declared that it was 'impossible for the majority of bars to comply with the new regulations'. GRTU kept its members informed of all the developments and also provided them with stickers stating that it was illegal to smoke in public places.

Meanwhile, a daily English newspaper reported that the Malta Asthma Society welcomed the new regulations stating that, apart from protecting the general public, they would particularly help those who suffer from respiratory diseases. According to the society, in Malta, 15% of children suffer from asthma, most of whom can get acute attacks through contact with cigarette smoke.

Commentary

Although in principle all the social partners tend to agree with the rationale of these regulations, they nonetheless criticised the government for its failure to consult them. The employers' associations representing the business community protested loudly while the other social partners kept a low profile. When the government wavered under the pressure of protests and delayed the introduction of the legislation for pubs and restaurants, it was chastised by the anti-smoking lobby. This legislation should not have led to such a high level of contention. It was a lesson to government that even in enacting legislation about which in principle there should be a high level of consensus, consultation with the social partners is still necessary. The lack of proper consultation created a low-trust relationship which led not only to confrontation but also to threats of defiance. (Manwel Debono, Workers' Participation Development Centre)

