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## Finance Minister not allowed to testify in San Raffaele case

by Sharon Spiteri

FINANCE MINISTER John Dalli yesterday was not allowed to testify in the hearing of a court case the government filed in a bid to overturn a ruling stopping it from awarding the San Raffaele Hospital tender.

Mr Justice Geoffrey Valenzia upheld the pleas by the Italian joint venture represented by Roberto Zamboni, whose tender was passed over by Government, that the Commercial Court had to decide whether the court could have rightfully reached its conclusion on the basis of evidence it had heard, and no new evidence was admissible at this stage.

The government is contesting the validity of the precautionary warrant issued by Commercial Court on Friday which stopped it from awarding the hospital tender to any joint venture apart from the one represented by Roberto Zamboni.

Mr Justice Alberto Magri, sitting in the Commercial Court, ruled that

the Contracts Committee's decision was final and the Finance Minister acted beyond his powers when he disregarded that decision.

The Commercial Court ruled that the Zamboni joint venture had a *prima facie* right which could be protected by the issue of a warrant of prohibitory injunction and accepted the application.

But late on Friday night, the government filed a writ with urgency before Mr Justice Valenzia and claimed the court could not substitute its discretion in the place of rights exercised by the Executive.

The government pleaded that the Commercial Court was not competent to hear the proceedings and Zamboni had not been in Malta when the court ruling was given yesterday morning.

But Zamboni insisted that the Commercial Court had jurisdiction

and that he had been regularly represented by his mandatory who held a power of attorney.

The government denied it had acted *ultra vires* because in terms of the Interpretation Act, a minister had the right and duty to substitute the decision of a department head as long as the minister accepted responsibility in writing.

But Zamboni said the Civil Code did not protect *ultra vires* behaviour and the Interpretation Act was irrelevant to the case.

The government claimed the warrant was not needed to protect the joint venture's rights and the joint venture could not request to be awarded the contract in question as of right. Any rights were vested in the government to award the contract to whoever it deemed fit.

It said the commercial court had wrongly interpreted the Financial, Administration and Audit regulations, 1966 since these did not say

the minister could not take decisions in the award of any contract.

The Zamboni joint venture had no right to request the court to stop the award of a contract, the government said. There was no contractual relationship between the joint venture and the government but only a relationship which might give rise to claims for pre-contractual liability.

The government said the court could never stop something which had already been done and, in this case, the government had already issued a letter of intent to another company.

But Zamboni said the joint venture had every right to see that its rights were safeguarded and that the law was not breached in its regard.

The injunction of the illegal tender award to third parties was indispensable to safeguard their rights. The Interpretation Act was totally irrelevant to the case.

Zamboni said the joint venture

would suffer enormous and irreparable harm if the tender was awarded to third parties. The government was saying that by issuing a letter of intent to third parties, the government was laying itself open to a claim for damages. This was irrelevant to whether or not the warrant should have been issued and it should definitely not have affected the outcome of the case.

In any case, the revocation of the letter of intent would in no way expose the government to a claim for damages and the joint venture had only learnt the letter of intent was issued after the application was filed.

The application for a warrant of prohibitory injunction had not been directed only at the letter of intent but at the prevention of any act related to the tender's adjudication.

The sitting started late yesterday because the file could not be located and it was needed to confirm that Xuereb had a power of attorney to act on behalf of Zamboni. The file was later found.

A ruling is expected on Wednesday.

Dr Giovanni Bonello was counsel to George Xuereb appearing on behalf of Roberto Zamboni.

Attorney General Dr Anthony Borg Barthet and his deputy Dr Silvio Camilleri were counsel to the government.

### De Marco in Luxembourg EU talks

FOREIGN MINISTER Guido de Marco starts a series of meetings in Luxembourg tomorrow whose aim will be to formulate a structural dialogue and pre-entry strategy for Malta to join the European Union.

Tomorrow's meeting with the Malta-EU council of association will also see the signing of a financial protocol for 45 million ECUs, or about Lm20 million, through which the Union helps Malta's economic reforms.

The Department of Information said Professor de Marco leaves for Luxembourg today and described the council meeting as fundamentally important for Malta. Those attending will include Commissioner Hans van den Broek, who manages the EU's relations with other countries, and EU foreign ministers.

From Luxembourg Professor de Marco travels to Rome to accompany the President, Dr Ugo Mifsud Bonnici, on an official visit to Fra Andrew Bertie, Grand Master of the Sovereign Military Order of Malta.

The foreign minister will also be meeting Senator Gian Giacomo Mignone, and Mirko Tremaglia, presidents of the Italian senate's and chamber of deputies' foreign relations committees respectively.

## Company to develop Grand Harbour area

by Ivan Fenech

THE Parliamentary Secretary for the Environment has suggested the setting up of a joint stock company to develop and trade in property in the Grand Harbour area.

The shareholding of the company, to be known as the Urban Regeneration Company, would be owned by the government, the private sector and local councils. The Valletta and Cottonera rehabilitation committees could be integrated within the company, Dr Stanley Zammit said.

He was speaking at the opening of a seminar on the Grand Harbour local plan, organised by the Planning Authority as part of a public consultation exercise.

And Dr Zammit also expressed his wish to upgrade the Menqa in Marsa to meet the request of the local council to turn the area around the former coalyard into a yacht marina.

Tracing the decline of the socio-economic importance of the Grand Harbour area over the years, Dr Zammit said the central business district of Malta had moved away from the Cottonera and today was made up of Sliema and Valletta.

"We need to regenerate the old harbour cities to give them back the economic, social, political and geographic importance they enjoyed in the past," said Dr Zammit.

Intrinsically linked with this is the need to regenerate and develop property in the area, said the Parliamentary Secretary, going on to suggest the Urban Regeneration Company.

The government owned a lot of land in the Grand Harbour area which it could make available to the company.

The private sector would be asked to come up with the heavy invest-

ment required and local councils would be responsible to co-ordinate work in their locality.

The money the company would generate would help the councils implement their own projects within the framework of their action area plans, the local plans and the company's regeneration programme.

Dr Zammit said the local plan being drawn up will include joint policies for a number of localities. It would also identify a number of detailed action area plans.

Turning to Marsa, Dr Zammit said he would like to see the restoration and regeneration of Il-Menqa and the sloping road to Belt il-Hazna.

This would make it possible for the government to accede to the request of Marsa residents to see the area turned into a yacht marina, he said.

The marina would itself help upgrade the area. An extension of this project would be the upgrading of the area close to the parish church.

Dr Zammit suggested that the area between Aldo Moro Street and the old racecourse in Marsa could be

(Continued on back page)

### Trade Fair supplement

THE SUNDAY TIMES of July 2 will include a Trade Fair Supplement. To be considered for inclusion in the supplement, all copy should reach the Editor, *The Sunday Times*, P.O. Box 328, Valletta CMR 01, by June 24.



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