

Naghti l-kunsens tieghi.

(L.S.)

GUIDO DE MARCO
President

11 ta' Ottubru, 2002

ATT Nru. XX ta' l-2002

ATT biex jemenda l-Kodici Ċivili, Kap. 16, biex jagħmel disposizzjonijiet dwar il-hlas ta' danni f'kazijiet ta' korruzzjoni u biex jagħmel disposizzjonijiet ancillari dwar dan.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f' dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2002 li jemenda l-Kodici Ċivili. Titolu fil-qosor.

(2) Dan l-Att għandu jinqara u jftiehem haġa wahda ma' "il-Kodici Ċivili" Kap. 16, hawnhekk iżjed 'il quddiem imsejjah "il-Kodici".

2. Minnufih wara l-artikolu 1051 tal-Kodici għandu jżied dan l-artikolu 1051A ġdid li ġej: Żjieda ta' artikolu 1051A ġdid mal-Kodici.

"Rimedji
ċivili
f'kazijiet
ta'
korruzzjoni.

1051A. (1) Ghall-finijiet ta' dan l-artikolu "korruzzjoni" tfisser li titlob, toffri, tagħti jew taċċetta. direttament jew indirettament, tixhim jew xi vantaġġ iehor mhux dovut jew li jkun prospettat, li jghawweg it-twertiq kif imiss ta' xi dmir jew imġieba mehtieġa minn min jirċievi t-tixhim, bil-vantaġġ mhux dovut jew kif ikun prospettat.

(2) Kull min ivanta li jkun sofra danni bhala rizultat ta' korruzzjoni għandu jkollu l-jedd li jiehu azzjoni biex jikseb kumpens għad-dannu kaġunat lilu bl-att ta' korruzzjoni kontra l-persuni li jkunu għamlu jew awtorizzaw l-att ta' korruzzjoni jew li jkunu naqsu li jieħdu passi raġonevoli biex jipprevjenu l-att ta' korruzzjoni.

(3) Il-persuni li jkunu ghamlu r-reat jew awtorizzaw l-att ta' korruzzjoni u l-persuni li jkunu naqsu milli jiehd u passi ragonevoli biex jipprevjenu l-att ta' korruzzjoni ghandhom ikunu solidament responsabbli ghad-danni msemmija fis-subartikolu (2).

(4) Meta l-att ta' korruzzjoni jkun sar minn ufficjal jew minn impjegat tal-Gvern jew minn korp maghqud stabbilit bil-liġi, il-Gvern jew skond ma jkun il-każ il-korp maghqud stabbilit bil-liġi ghandu hu nnifsu jkun responsabbli biex jaghmel il-hlas dovut ghad-dannu kagunat bl-att ta' korruzzjoni meta:-

(a) min ikun qiegħed ivanta l-pretensjoni li jkun sofra d-danni jkun ta, meta jkun sar jaf bl-imġieba mhux xierqa ta' l-ufficjal jew ta' l-impjegat, avviż bhal dak lill-Gvern jew lill-korp maghqud, skond il-każ, biex jiehu dawk il-mizuri preventivi li jkunu ragonevoli fiċ-ċirkostanzi biex jipprevjenu l-ghemil ta' l-att ta' korruzzjoni;

(b) min ikun qed ivanta li sofra d-danni ma jkunx hu nnifsu għar-rigward ta' l-istess kwistjoni giegħel lil xi ufficjal jew impjegat jaghmel l-att ta' korruzzjoni, jew b'xi mod kien parti f'dak l-att;

(c) min ikun sofra d-danni jkun ha kull azzjoni kontra l-persuna responsabbli ghad-danni skond is-subartikolu (3) biex jirkupra d-danni; u

(d) il-Gvern jew il-korp maghqud, skond il-każ, ikun sar parti fil-kawża kontra l-persuni responsabbli ghad-danni skond is-subartikolu (3) sabiex jiddefendi l-interessi tiegħu taht dan is-subartikolu.

Izda l-Gvern jew il-korp maghqud, skond il-każ, ikun biss responsabbli għal dik il-parti tad-danni li ma tkunx qed tiġi rkuprata mill-persuni responsabbli għal dawk id-danni skond is-subartikolu (3) ta' dan l-artikolu.

(5) Ma ghandu jkun hemm ebda dritt għall-hlas ta' danni b'kumpens meta l-parti li tvanta li tkun sofriet id-danni kienet hi nnifisha xjentement parti fl-att ta' korruzzjoni:

Iżda ebda haġa f'dan is-subartikolu ma ghandha tiftiehem bħala li tipprekludi lil xi persuna milli tirkupra xi hlas li jkun sar jew xi haġa li tkun giet mogħtija, jew il-valur tagħha, meta l-hlas ikun sar jew il-haġa tkun giet mogħtija għal xi korrispettiv li ma jkunx skond il-liġi.

(6) Kull azzjoni għall-irkupru ta' danni taht dan l-artikolu għandha tingieb qabel ma jiskadu tliet snin mid-data meta min ikun qed jitlob id-danni jkun sar jaf jew imissu raġonevolment ikun sar jaf li tkun grať il-hsara jew li jkun sar att ta' korruzzjoni u min tkun il-persuna responsabbli għaldaqstant jew qabel ma jiskadu għaxar snin mid-data ta' l-att ta' korruzzjoni, skond liema jiġi l-ewwel, u ma tista' tingieb ebda azzjoni wara li jiskadi dak iż-żmien.

(7) Meta jsir xi kuntratt minn xi persuna (inkluż il-Gvern jew xi korp magħqud stabbilit bil-liġi) u l-kuntratt jew xi klawnsola relattiva jkunu ġew mitmuma minn xi impjegat, uffiċjal jew aġent ta' dik il-persuna minhabba f'xi att ta' korruzzjoni favur dak l-uffiċjal, impjegat jew aġent, il-persuna li tkun marbuta b'dak il-kuntratt u li jkollha lil dak l-uffiċjal, impjegat jew aġent tagħha li jkun ġarrab dak l-att ta' korruzzjoni, għandu jkollha, mingħajr preġudizzju għal kull dritt ta' azzjoni biex tirkupra d-danni skond dan l-artikolu, dritt li tibda azzjoni mhux aktar tard minn sena wara li ssir taf b'dak l-att ta' korruzzjoni jew minn meta hija kien imissha raġonevolment saret taf b'dan, biex tannulla l-kuntratt jew xi klawnsola minnu li tkun iddahhlet minhabba f'dik il-korruzzjoni:

Iżda ma tista' tingieb ebda azzjoni wara li jiskadu għaxar snin mid-data ta' l-att ta' korruzzjoni."

3. Minnufih wara l-artikolu 1627 tal-Kodiċi, għandu jiżdied dan l-artikolu 1627A ġdid li ġej:

Żjeda ta' l-artikolu 1627A ġdid mal-Kodiċi.

"Projbizzjoni ta' diskriminazzjoni.

1627A. Hadd ma jista' jiehu ebda azzjoni jew sanzjoni diskriminatorja kontra xi wiehed mill-uffiċjali, impjegati jew aġenti tiegħu minhabba f'li dawk l-uffiċjali jew impjegati, billi jkollhom tassew għaliex jissuspettaw li jkun hemm xi korruzzjoni, jkunu rrappurtaw b'mod bonafidi s-suspett tagħhom lil persuni jew awtoritajiet responsabbli, u kull min seta' kien il-vittma ta' tali azzjoni jew sanzjoni

A 1820

diskriminatorja ghandu, minghajr pregudizzju ghal kull dritt iehor li jkollu taht xi ligi ohra, jkollu l-jedd ghal kumpens ghad-danni lilu kagunati b'dik l-azzjoni jew sanzjoni diskriminatorja.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 795 tat-8 ta' Ottubru, 2002

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

11th October, 2002

ACT No. XX of 2002

AN ACT to amend the Civil Code, Cap. 16, to make provisions with regard to the payment of damages in cases of corruption and to make other provisions ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) The short title of this Act is the Civil Code (Amendment) Act, 2002. Short title.

(2) This Act shall be read and construed as one with "the Civil Code" Cap 16, hereinafter referred to as the "the Code".

2. Immediately after article 1051 of the Code there shall be added the following article 1051A: Addition of new article 1051A to the Code.

"Civil remedies in cases of corruption.

1051A. (1) For the purposes of this article "corruption" means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, by the undue advantage or the prospect thereof.

(2) Any person who claims to have suffered damage as a result of corruption shall have a right of action to obtain compensation for the damage caused to him by the act of corruption against the persons who have committed or authorised the act of corruption or who have failed to take reasonable steps to prevent the act of corruption.

(3) The persons who have committed or authorised the act of corruption and the persons who have failed to take reasonable steps to prevent the act of corruption shall be jointly and severally liable for the damages referred to in subarticle (2).

(4) Where the act of corruption has been committed by an officer or employee of the Government or of a body corporate established by law, the Government or as the case may be the body corporate established by law shall itself be liable to make payment for the damage caused by the act of corruption where:—

(a) the person claiming to have suffered the damage has, on becoming aware of the improper behaviour of the officer or employee, given such notice to the Government or the body corporate, as the case may be, to take such preventive measures as are reasonable in the circumstances to prevent the commission of the act of corruption;

(b) the person claiming to have suffered the damages has not himself in relation to the same matter induced any officer or employee to commit the act of corruption, or in any manner been party to it;

(c) the person suffering the damage has taken all action against the person liable for the damages in accordance with subarticle (3) to recover the damages; and

(d) the Government or the body corporate, as the case may be, has been made a party to the suit against the persons liable for the damages in accordance with subarticle (3) in order to defend its interests under this subarticle:

Provided that the Government or the body corporate, as the case may be, shall only be liable for such part of the

damages as are not recovered from the persons liable therefor in accordance with subarticle (3) of this article.

(5) No right for compensation for damages shall lie where the party claiming to have suffered the damages has himself wilfully been a party to the act of corruption:

Provided that nothing in this subarticle shall be construed as precluding any person from recovering any payment made or thing given, or the value thereof, where the payment has been made or the thing has been given for an unlawful consideration.

(6) An action to recover damages under this article shall be brought before the lapse of three years from the date that the person claiming damages becomes aware or should have reasonably become aware that damage has occurred or that an act of corruption has taken place and of the identity of the person responsible therefor or before the lapse of ten years from the date of the act of corruption, whichever is the earlier, and no action may be brought after the lapse of such time.

(7) Where any contract has been entered into by any person (including the Government or any body corporate established by law) and the contract or any clause thereon has been concluded by an employee, officer or agent of such person following an act of corruption in favour of such officer, employee or agent, the person bound by such contract and whose officer, employee or agent has been so corrupted, shall without prejudice to any right of action to recover damages in accordance with this article have a right to take action not later than a year after becoming aware of such corruption or from the time when he should reasonably have become aware, to annul the contract or any clause thereof which has been entered because of such corruption:

Provided that no action may be brought after the lapse of ten years from the date of the act of corruption."

3. Immediately after article 1627 of the Code, there shall be added the following new article 1627A:

Addition of new article 1627A to the Code.

"Prohibition of discrimination.

1627A. No person may take any discriminatory action or sanction against any of his officers, employees or agents on the grounds that such officers or employees, having reasonable grounds to suspect corruption reported in good

A 1824

faith their suspicion to responsible persons or authorities, and any person who may have been the victim of such discriminatory action or sanction shall, without prejudice to any other right under any other law, have a right to compensation for any damage caused to him by such discriminatory action or sanction.”.

Passed by the House of Representatives at Sitting No.795 of 8th October, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives