



**IL-QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI ISTRUTTORJA
(Fl-Att dwar l-Estradizzjoni msejha l-Qorti Rimandanti)**

Magistrat Dr. Donatella M. Frendo Dimech LL.D., Mag.Jur. (Int. Law)

Estradizzjoni Numru246/2019

**Il-Pulizija
(Spettur Mark Galea)
(Spettur Robinson Mifsud)
-vs-
Antonio Ricci**

Illum, 9 ta' Mejju, 2019

Il-Qorti,

Wara li rat li l-Pulizija ressqu b'arrest lil **Antonio Ricci detentur tad-dokument ta' residenza Maltija numru MT 4555514 (0054768A)**, aktar il-quddiem imsejjah 'l-estradant';

Wara li rat is-Schengen Information System Alert datat is-7 ta' Frar, 2019, mahrug fuq talba tal-*Pre-Trial Investigation Judge (Giudice Indagii Preliminari)* fi hdan il-Qorti ta' Reggio Calabria, l-Italja, pajjiz skedat a tenur tar-regolament 5 ta' l-Ordni dwar Pajjizi Barranin Appuntati dwar l-Estradizzjoni (aktar il-quddiem imsejjah 'l-Ordni'), Avviz Legali 320 ta' l-2004 (Ligi Sussidjarja 276.05);

Wara li rat il-Mandat t'Arresti datati id-29 ta' Jannar, 2019, u fit-2 ta' Mejju, 2019, mahruġa mill-istess awtorita`;

Wara li rat ic-Certifikat mahruġ mill-Avukat Generali a tenur tar-regolamenti 6A u 7 tal-istess Ordni mahruġ fid-19 t'April, 2019;

Wara li rat il-verbal ta' din il-Qorti, kif diversament preseduta, tat-22 t'April, 2019, u kif preseduta tat-2 ta' Mejju, 2019, u tas-6 ta' Mejju, 2019;

Wara li rat id-digriet taghha moghti illum stess fejn it-talba tad-difiza ghall-riferenza lil Qorti tal-Gustizzja tal-Kommunitajiet Ewropeja (ECJ) ai termini tal-artikolu tal-Artikolu 5(1) tal-Att dwar l-Unjoni Ewropea, Kapitolu 460 tal-Ligijiet ta' Malta, ma gietx milquha;

Wara li semgħet l-abbli difiza tagħmel is-sottomissjonijiet tagħha dwar il-mankanzi li, fil-fehma tagħha, jgibu n-nullita` tal-mandat t'arrest ewropew (aktar il-quddiem imsejjah 'MAE');

Wara li semgħet it-trattazzjoni tal-partijiet;

Ikkunsidrat,

A. European Investigation Order jew Mandat t'Arrest Ewropew?

Illi fl-ewwel lok l-estraddand jissottometti li f'dan il-kaz kellu jinhareg Ordni t'Investigazzjoni Ewropew (aktar il-quddiem imsejjah 'OIE') u mhux Mandat t'Arrest Ewropew.

Illi l-mizuri li pajjiz jagħzel jaddotta fl-isfera tal-*mutual assistance in criminal matters* huma nterament xelta tiegħu. Il-fatt wahdu li l-Prosekutur Taljan għazel f'dan l-istadju li jmexxi l-quddiem il-procediment kondott minnu permezz ta' MAE u mhux b'OIE hi indikazzjoni ċjara li l-awtoritajiet Taljani hassew li ma jinhtiegu l-ebda assistenza ulterjuri mingħand l-awtoritajiet Maltin biex tingabar aktar evidenza.

Illi hu rilevanti jitiqes li kien aktar minn hames xhur ilu li l-awtoritajiet Taljani ddecidew li johorgu, fil-konfront tal-estraddand, l-*Order implementing precautionary custody in prison* jew "*Ordinanza di applicazione di misura cautelare della custodia in carcere*" u dan dwar reat li skond l-**akkuza addebitata lilu tirrasali mill-2015¹ sal-2017²; akkuza li permezz taghha l-awtoritajiet esteri necessarjament qed jiddikjraw li fformulaw il-kwadru tal-fatti li fuqu fasslu dik l-akkuza.**

Illi fl-istess mandat jinghad li dik l-ordinanza domestika saret wara li ngabret evidenza u nhollqot stampa cjara u ben definita tal-kondotta addebitata lill-estraddand, li sussegwentement wasslet sabiex lilu tigi imputata imgieba ben definita fl-Italja kif ser jissemma aktar l-isfel. Jirrizulta li dan sehh wara "*plurime collaborazioni internazionali*" fosthom ma Malta³ (vide komunikazzjoni tad-24 t'April, 2019⁴). Din il-komunikazzjoni turi li meta l-awtoritajiet Malta rcevw talbiet ghall-assistenza legali sabiex isiru investigazzjonijiet f'Malta rigward l-investigazzjoni li kienet qed tigi kondotta gewwa l-Italja, esegwehom.

Illi ma jispettax la lil din il-Qorti, la lill-partijiet u lanqas lill-awtoritajiet Maltin jiddettaw lill-awtoritajiet Taljani meta hemm htiega li l-investigazzjoni taghhom tibda, tissokta jew tintemm. Daqstant iehor mhux kompitu taghhom jiddettaw lil dik l-awtorita` barranija x`mizuri ghandha tiehu biex tmexxi l-quddiem prosekuzzjoni jew investigazzjoni skond il-kaz! Li jsir mod iehor ifisser li tkun qed tigi uzurpata l-funzjoni tal-awtoritajiet kompetenti gudizzjarji propju minn awtorita` li la ghandha xi setgha jew kompitu fuq il-procedimenti kondotti fl-Italja u wisq anqas ma kienet komparticipi fihom ghajr ghal meta skond arrangamenti internazzjonali tkun giet msejja u tat l-assistenza taghha skond kif mitlub fl-arrangement u/jew trattati li Malta u l-Italja huma firmatarji taghhom.

Maghdud dan kollu jibqa' l-fatt li l-Qorti hi msejja biex tiddeciedi esklussivament dwar dak migjub quddiemha, il-MAE. Ghandha tiddeciedi jekk dan l-istrument jissodisfax il-vot tal-ligi li tirregolah.

¹ Fol.14 "*from 2015*" u Fol.5 "*(at which from 2015 onwards)*". L-abbli difiza ssolevat il-punt li l-akkuza ma ghandiex commencement date. Jirrizulta izda li l-imgieba addebitata lilu nbdiet mill-2015.

² Fol.15 "*until the year 2017*"

³ Fol.60

⁴ **Dok. MX** a fol. 57 et seq; fol. 60

Ma ghandha l-ebda kompitu tuzurpa l-funzjoni tal-awtoritajiet gudizzjarji esteri u tiddetta hi liema strument u liema azzjoni procedurali kien jispetta jittiehed.

Ghalhekk is-sottomissjoni tal-abbli difiza tal-estradand li minflok MAE kellu jinhareg OIE qed tigi respinta.

B. L-iskop tal-MAE

Illi b'rabta mal-ewwel sottomissjoni taghha l-estradand ressaq dubbji dwar l-iskop li ghalih inhareg il-MAE.

Illi ssir riferenza ghal **Opinion ta' Lord Scott of Foscote fil-Judgement (Appellate Committee), House of Lords, Office of the King's Prosecutor, Brussels (Respondents) v. Armas**:⁵

50. Lord Hope has referred to the background to the European Council Framework Decision of 13 June 2002. The Framework Decision was intended to simplify the procedures for extradition of individuals from one Member State to another either for the purpose of being prosecuted for alleged criminal conduct or for the purpose of serving a sentence imposed after conviction. There were two particular features of the Framework Decision extradition scheme that, having regard to the issues raised by this appeal, deserve mention. First, in relation to offences falling within the so-called Framework List the requirement of double criminality was removed, that is to say, it would not be necessary to show that the conduct of the accused for which he was to be prosecuted in the requesting State, or which had constituted the offence of which he had been convicted in the requesting State, would have been criminal conduct for which he could have been prosecuted or convicted in this country.

51. Secondly, the Framework Decision was intended to make it unnecessary, whether in relation to Framework List offences or any other offences, for the requesting State to have to show that the individual had a case to answer under the law of that State. The merits of the extradition request were to be taken on trust and not investigated by the Member State from which extradition was sought. Article 1(2) says that:

“Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision.”

And recital (5) of the Framework Decision speaks of

⁵ 17 November, 2005; Session 2005–06; [2005] UKHL 67; Hearing Date 12 October, 2005

“abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities.”

52. The principle underlying these changes is that each Member State is expected to accord due respect and recognition to the judicial decisions of other Member States. Any enquiry by a Member State into the merits of a proposed prosecution in another Member State or into the soundness of a conviction in another Member State becomes, therefore, inappropriate and unwarranted. It would be inconsistent with the principle of mutual respect for and recognition of the judicial decisions in that Member State.

53. Accordingly, the grounds on which a Member State can decline to execute a European arrest warrant issued by another Member State are very limited. Article 3 sets out grounds on which execution must be refused. Article 4 sets out grounds on which execution may be refused.

None of these grounds enable the merits of the proposed prosecution or the soundness of the conviction or the effect of the sentence **to be challenged**. There is one qualification that should, perhaps, be mentioned. The execution of an arrest warrant can be refused if, broadly speaking, there is reason to believe that its execution could lead to breaches of the human rights of the person whose extradition is sought (see recitals (12) and (13)).

54. These features of the Framework Decision explain, I think, the inclusion in the 2003 Act of the requirement that if an arrest warrant is issued for the purpose of prosecuting the person named in the warrant, the arrest warrant must so state (see section 2(3)(b)). Extradition for the purpose of interrogation with a view to obtaining evidence for a prosecution, whether of the extradited individual or of anyone else, is not a legitimate purpose of an arrest warrant. **But the judicial authority in the requested State cannot inquire into the purpose of the extradition.**

Illi mid-dokumentazzjoni esebita gie ampjament ppruvat li dan hu mandat ta' arrest rilevanti għall-prosekuzzjoni skond kif jipprovdi r-regolament 5(2) tal-Ordni.⁶ Mill-istess dokumentazzjoni jirrizulta li l-persuna li dwarha nħareġ il-mandat hija **mfittxija fl-Italja għall-finijiet tat-tmexxija ta' prosekuzzjoni kriminali għall-ghemil ta' reat imsemmi fil-mandat** (Regolament 5(4) tal-Ordni).

Dan qed jigi sottolinejat biex issir distinzjoni minn mandat ta' arrest rilevanti wara sejbien ta' htija u fid-dawl tal-fatt li, erronjament, l-awtoritajiet Taljani ghazlu li jifformulaw il-formola li hemm fl-Anness li jinsab ma' l-

Arrangament, billi imlew anke dik is-sezzjoni ntiza esklussivament għall-'kazijiet fejn persuna tkun instabet hatja *in absentia*.

⁶ Dok. MG4 a fol.6; Dok. MG5 a fol.13

Fil-fatt fil-*Manwal dwar kif tohroġ u teżegwixxi mandat ta' arrest Ewropew (2017/C 335/01)* mahrug f'Ottubru, 2017, mill-Kummissjoni Ewropeja u ppublikat fil-Gurnal Ufficjali tal-Unjoni Ewropeja,⁷ insibu li:

5.5. Trials *in absentia*

Framework Decision 2009/299/JHA amended the Framework Decision on EAW by deleting Article 5(1) and inserting a new Article 4a on decisions rendered *in absentia*. These provisions concern situations where an executing judicial authority has received a EAW concerning execution of a custodial sentence arising from proceedings in the issuing Member State where the person was not present.

Article 4a of the Framework Decision on EAW contains a ground for optional non-execution whereby the EAW issued for the purpose of executing a custodial sentence or a detention order may be refused, if the person did not appear at the trial resulting in the decision (a decision rendered *in absentia*).

However, this rule contains a number of exceptions. An executing judicial authority cannot refuse to execute a EAW based on a decision rendered *in absentia* where the EAW states that the person, in accordance with further procedural requirements defined in the national law of the issuing Member State:

(d) was not personally served with the decision but:

(i) will be personally served with it without delay after the surrender and will be expressly informed of his or her right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed; and

(ii) will be informed of the time frame within which he or she has to request such a retrial or appeal, as mentioned in the relevant EAW.

Ghalhekk meta l-awtoritajiet Taljani ghazlu li jindikaw bhala applikabbli sezzjoni tal-formola – *Section D.3.4.* - li tirrigwarda esklussivament *trials in absentia*, inholqu incertezzi u tahwid bla bzonn.

⁷ **C335:** Dan il-manwal iqis l-esperjenza miksuba fl-aħħar 13-il sena mill-applikazzjoni tal-Mandat ta' Arrest Ewropew fl-Unjoni. L-għan ta' din ir-revizjoni huwa li jiġi aġġornat il-manwal u jsir aktar komprensiv u faċli għall-utent. Biex tipprepara din l-aħħar verżjoni tal-manwal, il-Kummissjoni kkonsultat ma' diversi persuni kkonċernati u esperti, inklużi l-Eurojust, is-Segretarjat tan-Netwerk Ġudizzjarju Ewropew, u l-esperti governattivi u l-awtoritajiet ġudizzjarji tal-Istati Membri.

Dan il-manwal jinsab fuq l-Internet fil-paġna: <https://e-justice.europa.eu> fil-lingwi ufficjali kollha tal-Unjoni.

Wara talba minn din il-Qorti, ai termini tar-regolament 13A tal-Ordni, fejn intalbet kjarifika dwar dan il-punt, irrizulta kemm mill-Form M⁸ u kemm mill-MAE datat it-2 ta' Mejju, 2019⁹, li l-istess awtoritajiet kienu qed jirreferu mhux ghal xi decizjoni dwar xi sejbien tal-htija, rrizulta li meta mlew dik is-sezzjoni l-awtoritajiet Taljani kienu qed jindikaw id-drittijiet spettanti lill-estraddand dwar il-mandat t'arrest domestiku li abbazi tieghu mhareg il-MAE - "*Ordinanza di applicazione di misura cautelare della custodia in carcere*" saret fil-5 ta' Dicembru, 2018¹⁰; "*the precautionary measure, for which the present Arrest Warrant has been issued*"¹¹ jew "*la misura cautelare, per la quale viene emesso il presente mandato di arresto*"¹² (Section D.3.4 tal-MAE datat it-2 ta' Mejju, 2019).

Illi kif anke jipprovdi l-istess Manwal:

2.1.3. Ir-rekwiżit għal decizjoni ġudizzjarja eżegwibbli

L-awtoritajiet ġudizzjarji emittenti jridu dejjem jiżguraw li jkun hemm **decizjoni ġudizzjarja domestika eżegwibbli** qabel ma joħorġu MAE. In-natura ta' din id-decizjoni tiddependi fuq l-iskop tal-MAE. **Meta jinħareġ l-MAE bl-iskop ta' prosekuzzjoni, mandat ta' arrest nazzjonali jew kull decizjoni ġudizzjarja eżegwibbli li jkollha l-istess effett trid tkun saret mill-awtoritajiet ġudizzjarji kompetenti tal-Istat Membru emittenti (l-Artikolu 8(1)(c) tad-**Decizjoni Kwadru** dwar l- MAE) qabel ma jinħareġ l-MAE.** Ġie kkonfermat mill-Qorti tal-Ġustizzja Qorti tal-Ġustizzja fil-Kawża C-241/15 Bob- Dogi (2) li l-mandat ta' arrest nazzjonali jew decizjoni ġudizzjarja oħra hija distinta mill-MAE nnifsu.....

Illi r-rekwiżit fid-Decizjoni Kwadru li ghandu jkun hemm **decizjoni ġudizzjarja domestika eżegwibbli** qabel ma jinħareg MAE, hi soddisfatta in kwantu dan il-MAE intalab wara li aktar minn xahar qabel, fil-5 ta' Dicembru, 2018, inharget l-*Ordinanza di applicazione di misura cautelare della custodia in carcere*". Dik l-ordinanza hi propju hekk kif rikjest bid-Decizjoni Kwadru fis-**Section B** u bl-artikolu **8.1.c** tad-Decizjoni Kwadru:

(c) evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, coming within the scope of Articles 1 and 2;

⁸ Dok. MG9 a fol.23; Dok.MX1 a fol. 47u Dok MX2 a fol. 48

⁹ Fol.110 et seq u fol. 120 et seq

¹⁰ Dok. MXZ1

¹¹ Fol.121

¹² Fol.112

Illi wara ordni addizzjonali ta' din il-Qorti moghtija ai termini tar-regolament 13A tal-Ordni, b'dokumentazzjoni trasmessa lill-Kulleġġ Malti fi hdan Eurojust mill-Kulleġġ Taljan, liema dokumentazzjoni hija ffirmata minn hadd inqas mis-Sostituto Procuratore della Repubblica, awtorita` gudizzjarja, inghatat is-segweni dikjarazzjoni kif mitluba minn din l-istess Qorti nhar it-2 ta' Mejju, 2019:

"...la consegna di Ricci Antonio alle Autorita` italiane non e' funzionale allo svolgimento di attivita` investigative e che questo Ufficio non appena il ricercato sara` consegnato provvedere a definire, celeremente, il procedimento giudiziario a suo carico nel rispetto della garanzie difensive, dei tempi e dei modi prescritti dalla normativa nazionale".¹³

Ghaldaqstant ma jifdal ebda dubbju li l-mandati t'arrest ewropew in atti huma **mandati ta' arrest rilevanti għall-prosekuzzjoni**. Mill-dokumentazzjoni migjuba, li din il-Qorti ma tqisx li ghandha tiddubita mill-veracita` jew l-awtenticitagħha, gie soddisfacentment ppruvat li t-treggija ta' Ricci hi mitluba sabiex fil-konfront tieghu jitmexxa il-quddiem il-**process gudizzjarju** skond is-sistema Taljana.

C. Xi tfisser "mandat t'arrest rilevanti għall-prosekuzzjoni"?

Ghalkemm hu minnu li dan kien l-ewwel strument ibazzat fuq l-hekk imsejjah *principle of mutual recognition between judicial authorities* ta' Stati Membri, liema principju jsib il-bazi tieghu fuq principju ta' *mutual trust* bejn dawk l-awtoritajiet, madanakollu l-Qorti jibqala' kompitu definit kif jipprovdi l-Ordni.

Fuqha jaqa' l-oneru li tiddetermina jekk jezistux il-presupposti fattwali li jimmitaw sabiex l-MAE jintlaqa' skond kif regolat bl-Ordni.

Illi r-regolament 5(3) tal-Ordni jelenka dawk ir-rekwiziti li mandat ta' arrest rilevanti għall-prosekuzzjoni irid ikun munit bihom: -

¹³ Fol.106

il-MAE irid ikun mandat mahruġ minn **awtorità gudizzjarja** ta' pajjiż skedat li jkun fih fosthom id-dikjarazzjoni li l-persuna li dwarha jinħareġ il-mandat hija mfittxija fil-pajjiż skedat **għall-finijiet tat-tmexxija ta' prosekuzzjoni kriminali** għall-għemil ta' reat imsemmi fil-mandat.

Ikkunsidrat,

Illi d-dokumentazzjoni mibghuta mill-Ministero di Giustizia Taljan **tikkonferma** li l-MAE inhareġ in segwitu għall-mandat t'arrest domestiku mahruġ fil-5 ta' Dicembru, 2018 *"the new European Arrest Warrant issued on the 2nd May 2019 against RICCI Antonio, with regard to the Order implementing precautionary custody in prison issued on 5 December 2018"*; *"contenente il nuovo mandato di arresto europeoin relazione all'ordinanza di applicazione della custodia cautelare in carcere emessa in data 5.12.2018 nel ambito del procedimento"*¹⁴

Illi l-MAE tat-2 ta' Mejju, 2019,¹⁵ jikkjarifika li rigward din id-decizjoni, li abbazi tagħha inhareġ il-MAE prezenti, l-estradand għandu dritt t'appell. Ikompli *"the trial actually has not started yet and can be initiated when the person sought arrives in Italy"* u jkompli jelenka - dejjem erroneament fis-sezzjoni dwar *trials in absentia* - dawk id-drittijiet spettanti lilu. Jispicca hekk: *"at the end of this phase the Public Prosecutor can decide to initiate the trial against the person sought or request that the case be dismissed and as a consequence that the person under investigation be released."*¹⁶

Illi din il-procedura lanqas tant hi xi wahda aljena għal kollox għalina. Meta persuna jingieb Malta fuq MAE (fejn ikunu għadhom ma giex *arraigned*, "mressaq" il-Qorti), il-pulizija Maltija tissokta bl-investigazzjoni tagħha billi fil-presenza tal-legali tiegħu tiehu l-ahhar interrogatorju/i u tgħamel l-ahhar indagini qabel ma tghaddi biex tippresenta l-akkuzi tagħha quddiem il-Qorti dwar ir-reati li dwarhom dik il-persuna tkun giet mregga' lejn Malta fuq l-istess MAE.

¹⁴ Dok.MXZ1 a fol. 107, 108

¹⁵ Ibid.

¹⁶ Fol.121

Illi anke minn dak li jispjega is-Sostituto Procuratore della Repubblica¹⁷ hemm similarita` għall-proceduri nostrani u cioe` dawk meta persuna li tibda għaddejja kumpilazzjoni, tista' tigi *discharged* (Art.401(2) Kodici Kriminali), kemm il-darba jigi deciz li ma hemmx kaz *prima facie*; jew addiritura jkun l-Avukat Generali innifsu li jtemm hesrem il-proceduri billi jagħmel *Nolle Prosequi*.

Illi mhemmx dubbju li fis-sistema Taljana il-fazi meta nharget l-*Ordinanza di applicazione di misura cautelare della custodia in carcere*, hija fazi lin tkun issuperat l-istadju tal-investigazzjonijiet mill-pulizija. Il-process ikun evolva f'wiehed ta' **procediment gudizzjarju** fejn jispikka l-irwol ewlieni tal-Prosekutur Pubbliku, **awtorita` gudizzjarja**.

Fil-Preambolu tad-Decizjoni Kwadru jinghad-

- (1) According to the Conclusions of the Tampere European Council of 15 and 16 October 1999, and in particular point 35 thereof, the formal extradition procedure should be abolished among the Member States in respect of persons who are fleeing from justice after having been finally sentenced and extradition procedures should be speeded up in respect of persons suspected of having committed an offence.....
- (5) The objective set for the Union to become an area of freedom, security and justice leads to abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities. Further, the introduction of a new simplified system of surrender of sentenced or suspected persons for the purposes of execution or prosecution of criminal sentences makes it possible to remove the complexity and potential for delay inherent in the present extradition procedures. Traditional cooperation relations which have prevailed up till now between Member States should be replaced by a system of **free movement of judicial decisions in criminal matters**, covering both presentence and final decisions, within an area of freedom, security and justice.
- (6) The European arrest warrant provided for in this Framework Decision is the first concrete measure in the field of criminal law implementing the principle of mutual recognition which the European Council referred to as the 'cornerstone' of judicial cooperation.....
- (10) The mechanism of the European arrest warrant is based on a high level of confidence between Member States. Its implementation may be suspended only in the event of a serious and persistent breach by one of the Member States of the principles set out in Article 6(1) of the Treaty on European Union, determined by the Council pursuant to Article 7(1) of the said Treaty with the consequences set out in Article 7(2) thereof.

¹⁷ Fol.106

Illi issir riferenza ghad-decizjoni tal-Qorti Rimandanti fl-ismijiet **Il-Pulizija vs Philip Mifsud**¹⁸ fejn f' dak il-kaz giet trattata *in funditus* it-tifsira tal-kelma "akkuzat" kif ukoll dak mehtieg biex Qorti tkun soddisfatta li l-persuna li taghha qed tintalab it-treggija tkun hekk mitluba "għall-finijiet tat-tmexxija ta' prosekuzzjoni" ("*for the purposes of conducting a criminal prosecution*") – Regolament 5(4) tal-Ordni.

F' dik is-sentenza il-Qorti kkunsidrat:

8. It-terminu "akkuzat" fir-regolament 5 tal-Ordni tfisser li l-estradant ma jkunx biss suspettat li kkommetta reat izda jehtiegu li huwa jkun gja gie formalment akkuzat quddiem l-awtoritajiet gudizzjarji kompetenti fil-pajjiz skedat.

Fuq dan il-punt il-Qorti taghmel riferenza ghal zewg punti li fil-fehma taghha huma importanti – (a) it-tifsira tal-kelma "akkuzat" fil-kuntest tal-Arrangament u tal-Ordni kif imfisser fir-Regolament 5(4)(a) u (b) il-kuntest innifsu tal-mod kif dan ir-regolament huwa redatt.

(a) Kwantu ghat-tifsira tat-terminu "akkuzat", il-Qorti taghmel riferenza ghas-sentenza In Re Ismail (Application for Writ of Habeas Corpus) (On Appeal From a Divisional Court of the Queen's Bench Division) moghtija fid-29 ta' Lulju 1998 fejn dawn il-Law Lords iddecidew li jilqghu l-Opinjoni ta' Lord Steyn dwar it-tifsira tat-terminu "accused" – ekwivalenti ghal accused fl-Ordni. Il-Qorti sejra ticcita testwalment minn din is-sentenza is-silta l-aktar rilevanti :

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The meaning of "accused" person

It is common ground that mere suspicion that an individual has committed offences is insufficient to place him in the category of "accused" persons. It is also common ground that it is not enough that he is in the traditional phrase "wanted by the police to help them with their enquiries." Something more is required. What more is needed to make a suspect an "accused" person? There is no statutory definition. Given the divergent systems of law involved, and notably the differences between criminal procedures in the United Kingdom and in civil law jurisdictions, it is not surprising that the legislature has not attempted a definition. For the same reason it would be unwise for the House to attempt to define the word "accused" within the meaning of the Act of 1989. It is, however, possible to state in outline the approach to be adopted. The starting point is that "accused" in section 1 of the Act of 1989 is not a term of art. It is a question of fact in each case whether the person passes the threshold test of being an "accused" person. Next there is the reality that one is concerned with the contextual meaning of "accused" in a statute intended to serve the purpose of bringing to justice those accused of serious crimes. There is a transnational interest in the achievement of this aim. Extradition treaties, and extradition statutes, ought, therefore, to be accorded a broad and generous construction so far as the texts permits it in order to facilitate extradition: **Reg. v. Governor of Ashford, Ex parte Postlethwaite [1988] A.C. 924, 946H-947D**. That approach has been

¹⁸ Per Onor. Magistrat Dr. Aaron Bugeja; Deciza nhar it-18 ta' Ottubru, 2013; Numru. 911/2013. Vide ukoll decizjonijiet moghtija mill-istess qorti fl-istess sens **Il-Pulizija vs. Michael Spiteri; Il-Pulizija vs Francis Xavier Galea**

applied by the Privy Council to the meaning of "accused" in an extradition treaty: **Rey v. Government of Switzerland [1998] 3 W.L.R. 1, 7B**. It follows that it would be wrong to approach the problem of construction solely from the perspective of English criminal procedure, and in particular from the point of view of the formal acts of the laying of an information or the preferring an indictment. Moreover, it is important to note that in England a prosecution may also be commenced if a custody officer decides that there is sufficient evidence to charge an arrested person and then proceeds to charge him: section 37 (7) of the Police and Criminal Evidence Act 1984; and see generally as to the commencement of prosecutions **Card, Cross and Jones, Criminal Law, 13th ed., (1995) Chapter 4**. Despite the fact that the prosecuting authorities and the court are not involved at that stage, the charging of an arrested person marks the beginning of a prosecution and the suspect becomes an "accused" person. And that is so even if the police continue to investigate afterwards.

It is not always easy for an English court to decide when in a civil law jurisdiction a suspect becomes an "accused" person. All one can say with confidence is that a purposive interpretation of "accused" ought to be adopted in order to accommodate the differences between legal systems. In other words, it is necessary for our courts to adopt a cosmopolitan approach to the question whether as a matter of substance rather than form the requirement of there being an "accused" person is satisfied. That such a broad approach to the interpretation of section 1 of the Act of 1989 is permissible is reinforced by the provisions of section 20. This provision deals with the reverse position of an extradition of a person "accused" in the United Kingdom and contemplates that "proceedings" against him may not be commenced ("begun") for six months after his return. This provides contextual support a correspondingly broad approach to "accused" in section 1. For my part I am satisfied that the Divisional Court in this case posed the right test by addressing the broad question whether the competent authorities in the foreign jurisdiction had taken a step which can fairly be described as the commencement of a prosecution. But in the light of the diversity of cases which may come before the courts it is right to emphasize that ultimately the question whether a person is "accused" within the meaning of section 1 of the Act of 1989 will require an intense focus on the particular facts of each case.

The facts

My Lords, I would reject as unrealistic the argument that the appellant is a mere suspect whose presence is required in Germany for the purposes of questioning. I would rest my decision on the cumulative effect of three matters. First, it is common ground that the German judge had been satisfied on compelling evidence that the appellant was guilty of conspiracy to defraud and fraudulent mis-representation before he ordered the warrant of arrest to be issued. Secondly, although the point was disputed, it is clear beyond any doubt that the senior public prosecutor of Bochum had been satisfied that there was sufficient evidence to justify criminal proceedings against the appellant. He had to be so satisfied to apply for the warrant of arrest. It is true that there is no evidence that he transmitted the papers to the State Court. But he certainly had decided that there was sufficient evidence for a criminal prosecution against the appellant. Thirdly, and most importantly, there are the terms of the particular Warrant of Arrest. It is true that the German lawyer disputes the translation in certain respects. For my part I find some of his criticisms less than convincing. But I do not have to examine these points. He does not dispute that the warrant of arrest recites that "The accused is charged with the following", and that it then sets out at some length the criminal conduct alleged against the appellant and the statutory provisions under which the charges are brought. In combination these three circumstances point irresistibly to the conclusion that the appellant is a person "accused" under

section 1 of the Act of 1989. And he is certainly a person "against whom the competent authorities of the requesting party are proceeding for an offence" within the meaning of article 1 of the Convention.

Din il-Qorti hija sodisfatta mill-fatt li Silvia Carpanini hija giudice per le indagini preliminari fit-Tribunal ta' Genova u hija sodisfatta wkoll li din hija awtorita kompetenti biex tohrog il-MAE. **Dan fl-ahhar mill-ahhar iccertifikah l-Avukat Generali u huwa konklusiv.** Dan il-MAE huwa mahrug fuq il-principji bazilari ta' "mutual trust" u "mutual recognition" li fuqhom huwa bazat l-Arrangament. Il-MAE jibda biex jghid li "chiedo che la persona appresso sia consegnata ai fini dell'esercizio dell'azione penale o dell'esecuzione di pena o misure di sicurezza preventive di liberta'". Din il-Qorti ma ghandhiex ghalfejn tiddubita li jekk ikun hemm il-konsenja tal-estradant huwa sejjer ikun qieghed jiffaccja proceduri penali quddiem it-Tribunal Taljan in segwitu ghal dan il-MAE ghaliex wara kollox ghal dan il-ghan qed tigi formalment mitluba l-konsenja tieghu u ghal ebda raguni ohra. Dan wara kollox johrog ukoll mid-definizzjoni tal-MAE skont l-istess Arrangament li jghid li l-MAE jikkostitwixxi decizjoni gudizzjarja u huwa definit hekk : -

The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

Il-Qorti hija sodisfatta li l-Awtoritajiet Taljani huma gwidati min dawn il-principji wkoll u ghalhekk iridu l-estradant sabiex fil-konfront tieghu jitkompli l-procediment penali ghar-reati imsemmija fil-MAE u li gew mibdija bil-MAE.

F'dan is-sens tal-Arrangament u tal-Ordni il-Qorti qeghdha tqis li l-procediment penali kontra l-estradant sejrin jissuktaw u ghalhekk ghandu jitqies li huwa "akkuzat" ghall-fini ta' prosekuzzjoni li ser tissokta quddiem it-Tribunal Taljan, fil-kaz li jigi konsenjat lil dawk l-Awtoritajiet.

Minbarra dan, jinghad ukoll li l-kuntest ta' dan ir-Regolament juri kemm dan huwa s-sens li johrog mil-Ordni. Ir-Regolament 5(4) jghid hekk-

Id-dikjarazzjoni hija wahda li :

- (a) Il-persuna li dwarha jkun hareg il-mandat tkun akkuzata fil-pajjiz skedat bl-ghemil ta' reat imsemmi fil-mandat u,
- (b) Il-mandat jinhareg bil-ghan tal-arrest u l-estradizzjoni tal-persuna lejn il-pajjiz skedat bil-ghan li jinbdew proceduri kontriha ghal dak ir-reat.

Minn qari ta' din id-disposizzjoni, u jekk l-interpretazzjoni tad-difiza hija korretta, kif jista jkun ikun hemm persuna diga akkuzata fil-pajjiz skedat meta l-mandat ikun inhareg precizament sabiex l-estradant ikun jista jmur lejn dak il-pajjiz biex jinbdew proceduri kontrih. Jekk huwa akkuzat fis-sens li trid id-difiza, allura l-proceduri jkunu diga inbdew kontrih u allura t-tieni subinciz jigi kwazi superfluwu fit-tieni parti tieghu "bil-ghan li jinbdew proceduri kontriha ghal dak ir-reat". Il-Qorti tqis li t-tifsira "akkuzat" ghandha tinghat tifsira "purposive" kif imsemmi aktar il-fuq. Ghalhekk din l-eccezzjoni mhix qed tigi milqugha.

Issa f'dan il-kaz l-istess MAE ukoll jipprovdi *"I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or a detention*

order".¹⁹. Dak bil-verzjoni Taljana jghid "Il presente mandato e' stato emesso da un' autorita` competente. Chiedo che la persona menzionata appresso sia arrestata e consegnata **ai fini dell' azione penale** o dell'esecuzione di una pena o misura di sicurezza privative della liberta.". ²⁰

Illi bit-terminologija wzata fl-Ordni li jittramanda d-**Decizjoni Kwadru tal-Kunsill 2002/584/GAI, tat-13 ta' Ġunju 2002**, it-terminologija "tmexxija ta' prosekuzzjoni kriminali" ghandha tigi interpretata b'mod li tiehu in konsiderazzjoni n-natura stess tal-estradizzjoni.

Dik it-terminologija trid tigi interpretata fid-dawl tal-fatt li hawn si tratta dwar estradizzjoni, li necessarjament ma jinkludix biss il-kuncetti legali domestici ta' Malta, izda trid tintpretaha fid-dawl tal-fatt li fil-proceduri t' estradizzjoni necessarjament pajjiz irid jitratta ma pajjizi ohrajn li ghandhom kuncetti legali u tradizzjonijiet legali differenti. Dak li necessarjament ghandu jigi kkunsidrat hu **s-sustanza tal-kuncett u mhux lejn il-kelma jew il-forma tat-terminologija adoperata**.

Illi li tkun "wanted for the purposes of conducting a criminal prosecution" ma tfisser xejn hlief li l-awtorita' gudizzjarja estera jidrilha li hemm **ragunijiet bizzejjed biex b' mod formali jimputalek certi reati**.

B'mod formali ghaliex, xi jfisser? Ifisser li mhux bizzejjed li l-pulizjia ghall-argument sempliciment jghidu li int halliel, b' mod vag - hawnhekk din ma twassalx ghal xi forma ta' imputazzjoni. Izda b' imputazzjoni formali infissru li int trid twiegeb ghal certi reati u cioe` l-imputazzjoni b'mod formali li inti tinhtieg tirrispondi ghal reati specifici li gejt imputat bihom minn awtorita' gudizzjarja. Dan hu li tfisser "wanted for prosecution" fl-ambitu tal-ligi dwar l-estradizzjoni.

Isegwi fuq l-insenjament ta' **R vs Ismail (1998) 3 WLR 495 (HL)** li l-MAE irid juri li fil-konfront tal-persuna rikjesta fil-pajjiz rikjedenti hemm **imputazzjoni formali minn awtorita' gudizzjarja** (mhux allegazzjoni jew suspett mill-pulizija) li dan ikkometa xi reat kriminali.

¹⁹ Dok. MXZ1 fol.120

²⁰ Dok. MXZ1 fol.111

Issir riferenza ghal dak deciz mill-Qorti tal-Appell fis-sentenza fl-ismijiet **Il-Pulizija vs George Cauchi**:²¹

3. Il-ligijiet li jitrattaw dwar l-estradizzjoni, galadarba ma humiex strettament ligijiet ta' natura penali – intizi, jigifieri, biex jikkwalifikaw xi ghemil jew nuqqas bhala reat u jippenalizzawh, bhalma hu, per ezempju, il-kaz tal-Kodici Kriminali – **għandhom jigu interpretati b'mod li, sa fejn hu possibbli, jintlahaq l-iskop li għalih saru, u cioe` li jkun hemm ko-operazzjoni internazzjonali b'tali mod li reati ta' certa` gravita` jigu puniti fil-pajjiz fejn ikunu twettqu.** Tali ligijiet, għalhekk, ma hux mehtieg li jinghataw interpretazzjoni restrittiva – bhalma huwa l-kaz ta' ligijiet penali. Kif tajjeb osserva Lord Steyn fil-House of Lords filkawza *In re Ismael* (deciza fid-29 ta' Lulju, 1998): **Next there is the reality that one is concerned with the contextual meaning of “accused” in a statute intended to serve the purpose of bringing to justice those accused of serious crimes. There is a transnational interest in the achievement of this aim. Extradition treaties and extradition statutes, ought, therefore, to be accorded a broad and generous construction so far as the texts permit in order to facilitate extradition.** (sottolinear ta' din il-Qorti).

Illi fil-kaz tal-MAE in dezamina ma tezisti l-ebda htiega sabiex xi element kontenut fil-mandat jinghata xi *“broad and generous construction”*. Il-MAE jimputa lill-estradand **b'fatti u akkuzi specifici, bid-data li fih twettaq, fejn twettaq dak ir-reat, ma min u anke għalliema skop!!** Altru` li jiddipartixxi minn semplici sospetti u allegazzjonijiet vagi jew mera spekulazzjoni.

Il-MAE hu cjar u inekwivoku: **l-estradand qed jigi imputat bir-reat ravvizat bl-artikoli 416 u 416 bis tal-Codice Penale, liema reat qed jigi allegat li twettaq “presso cui dal 2015²²...a decorrere dal 2015²³... ..In Reggio Calabria ed altri luoghisino all'anno 2017”²⁴.**

Fid-deskrizzjoni li tinghata dwar kif hu mahsub li twettqet il-kondotta kriminuza tieghu, l-estradand qed jigi akkuzat li kien *“head of the association”* fejn taht is-Section **'Description of the Circumstances of the Crime'** u **'Degree of Involvement'** jigi spjegat kif skond l-investigazzjonijiet kondotti fl-Italja u abbazi ta' liema nhareg l-*“Ordinanza di applicazione di misura cautelare della custodia in carcere”* l-estradand ikkometta reati *“in violation of tax and anti-money laundering regulations....aggravated fraud to damage of the State”*.²⁵

²¹ Per S.T.O. Prim Imhallel Vincent De Gaetano; Deciza 06.01.2004 p.10

²² Fol.113

²³ Fol.114

²⁴ Ibid.

²⁵ Fol. 122

Illi l-A form li tirrelata mal-istess Schengen ID indikat fuq l-allert (ITRMAS52CJWKYBQ000001)²⁶ fil-partijiet intestata '**Description of the Circumstances**' tar-reat tipprovdi: *"This subject has been accused for having acting as leader, joined a criminal conspiracy aimed at the organization and managing....the crimes that have been committed are: illegal exercise of betting and business, unfaithful tax return and declaration of Vat, aggravated fraud, moneylaundering etc."*²⁷

Fid-dawl ta' dawn il-konsiderazzjonijiet u fuq dan l-insenjament il-Qorti tqis li mhemmx dubbju li r-rekwiziti dettati bir-regolament 5(4) tal-Ordni huma soddisfatti fis-sens li l-estraddand **huwa mfitteq fl-Italja għall-finijiet tat-tmexxija ta' prosekuzzjoni kriminali għall-għemil ta' reat imsemmi fil-mandat.**

Illi l-MAE jikkontjeni dikjarazzjoni li (a) il-persuna li dwarha jkun hareg il-mandat hi **akkuzata** fil-pajjiz skedat bl-għemil ta' reat imsemmi fil-mandat u cioe` dak ta' *"participation in a criminal organization"* u (b) il-mandat inhareg bil-ghan tal-arrest u l-estraddizzjoni tal-persuna lejn **il-pajjiz skedat bil-ghan li jinbdew proceduri kontriha għal dak ir-reat.**

D. Reati Estraddibli?

Illi qabel mal-Qorti tikkunsidra jekk ir-reat indikat fil-MAE jikkwalifikax bhala reat t'estraddizzjoni trid tindirizza is-sottomissjoni tal-estraddand meta rrimarka li filwaqt li s-SIS Alert jiddeskrivi bhala *Type of Offences* li dwaru qed tintalab it-treggija *"Offences against property"*,²⁸ il-MAE jittellem dwar *"participation in a criminal organization"*.

Illi minn qari tas-Section '**Description of the Circumstances of the Crime**' l-estraddand qed jinghad li l-kondotta imputata lilu kienet *"in violation of tax and anti-money laundering regulations....aggravated fraud to damage of the State"*.²⁹ Illi l-A form li tirrelata mal-istess Schengen ID indikat fuq l-allert (ITRMAS52CJWKYBQ000001) fil-partijiet intestati

²⁶ Dok. MG 6 a fol. 19

²⁷ Fol.20

²⁸ Dok.MG3 a fol.5

²⁹ Fol. 122

'Description of the Circumstances' u **'Legal Description'** issemmu "This subject has been accused for having acting as leader, joined a criminal conspiracy aimed at the organization and managing....the crimes that have been committed are: Illegal exercise of betting and business, unfaithful tax return and declaration of Vat, aggravated fraud, moneylaundersing etc." u "criminal conspiracy aimed at the organization and managing of the collection of illegal bets and gambling ..." rispettivament. ³⁰

Illi harsa lejn il-Codice penale Taljan turi li r-reati ta' *truffa*³¹ u *riciclaggio* (money laundering)³² *self-money laundering* (*Autoriciclaggio*)³³ u *re-use of the proceeds of crime* (*Impiego di denaro, beni o utilità di provenienza illecita*) lkoll jaqaw fl-ambitu ta' *Reati contro il Patrimonio, Titolo XIII, Capo II - Codice penale*. Ghalhekk dak indikat fuq is-SIS alert hu **deskrizzjoni korretta** ta' whud mir-reati li l-estradand qed jigi akkuzat li twettqu mill-organizzazzjoni kriminali li kien jippartecipa fiha "*con ruolo di capo*".³⁴

I. Kondotta Skedata - Partecipazzjoni f'organizzazzjoni kriminali.

Illi r-reat li ghalih qed tintalab it-treggija tal-estradand hu dak ravnizat fl-ewwel partita tal-kondotta skedata.

Illi r-regolament 59(2) tal-Ordni jipprovdi:

(2) L-imġieba tikkostitwixxi reat ta' estradizzjoni dwar pajjiż skedat jekk ikunu ġew sodisfatti dawn il-kondizzjonijiet:

(a) l-imġieba tiġri fil-pajjiż skedat u ebda haġa minnha ma tiġri f'Malta;

(b) ċertifikat maħruġ minn awtorità adatta tal-pajjiż skedat ikun juri li l-imġieba tkun kondotta skedata;

(c) iċ-ċertifikat ikun juri li l-imġieba tkun punibbli taħt il-liġi tal-pajjiż skedat bi priġunerija jew xi forma oħra ta' detenzjoni għal żmien tliet snin jew b'piena akbar.

³⁰ Dok. MG6 a fol. 20

³¹ Art.640 Codice Penale

³² Art.648 *bis* Codice Penale

³³ Art.648 *ter* Codice Penale

³⁴ Fol.58 u 113

Illi skond l-akkuza addebita lill-estradand jinghad “*In Reggio Calabria ed altri luoghi del territorio nazionale, nonche` all'estero (tra cui Malta) sino all'anno 2017*”³⁵.

Illi issir riferenza ghal *Opinion ta' Lord Bingham of Cornhill, Judgement (Appellate Committee), House of Lords, Office of the King's Prosecutor, Brussels (Respondents) v. Armas*:³⁶

11. It is evident that section 65 specifies five categories of case in which extradition may be requested or surrender sought. The list is cumulative, as shown by “also” in subsections (3), (4), (5) and (6). The categories are different, but a condition applicable to one category may also be applicable to another: for example, the condition that no part of the conduct should occur in the United Kingdom is applicable to each of the categories in subsection (2), (5) and (6). Only in subsection (2) is express reference made to the European framework list, but there is nothing to suggest that the conduct referred to in subsections (3), (4), (5) and (6) may not constitute an offence within that list.

II. Reat Estraddibli ai termini tar-regolament 59(3) tal-Ordni

Ghalhekk galadarba il-MAE jindika li parti mill-imġieba tieghu saret gewwa Malta, huwa r-regolament 59(3) tal-Ordni li jassumi rilevanza:

(3) L-imġieba tkun ukoll tikkostitwixxi reat ta' estradizzjoni dwar il-pajjiż skedat jekk i kunu ġew sodisfatti dawn il-kondizzjonijiet li ġejjin:

(a) l-imġieba tiġri fil-pajjiż skedat;

(b) l-imġieba kienet tikkostitwixxi reat taħt il-liġi ta' Malta li kieku din tkun ġrat f'Malta;

(c) l-imġieba tkun punibbli **taħt il-liġi tal-pajjiż skedat** bi priġunerija jew xi forma oħra ta' detenzjoni ghal żmien tnax-il xahar jew b'piena akbar (tiġi kif tiġi deskritta f'dik il-liġi).

Ikkunsidrat,

- a. Illi r-reat li dwaru qed tintalab it-treggija tal-estradand hu dak ta' “*participation in a criminal organization*” jew kif imfisser fit-test Taljan “*partecipazione a un orgnizzazzione criminale*”³⁷. Din l-imġieba sehhet fil-pajjiż skedat, l-Italja;

³⁵ Ibid.

³⁶ 17 November, 2005; Session 2005–06; [2005] UKHL 67; Hearing Date 12 October, 2005

³⁷ Fol.114

b. Illi dik l-imgieba tikkostitwixxi wkoll reat taht il-ligi Maltija u cioe` taht l-artikolu 83A tal-Kodici Kriminali li jipprovdi:

83A. (1) Kull min –

(a) jippromwovi, jikkostitwixxi, jorganizza jew jiffinanzja għaqda bil-ħsieb li jitwettqu reati kriminali soġġetti għal-piena ta' priġunerija għal żmien erba' snin jew iktar; jew

(b) waqt li jkun jaf jew ikollu kawża raġonevoli li jissuspetta dwar l-għan jew l-attività b'mod ġenerali tal-għaqda stabbilita għall-finijiet imsemmija fil-paragrafu (a), jipparteċipa b'mod attiv fl-attivitàet kriminali tal-għaqda, inklużi iżda mhux limitati għall-għoti ta' informazzjoni jew ta' mezzi materjali jew irreklutaġġ ta' membri godda, ikun ħati ta' reat u jehel, meta jinsab ħati, il-piena ta' priġunerija għal żmien minn erbgha sa disa' snin.

c. Illi l-piena massima erogabbli għal tali reat taht il-ligi Taljana hi dik ta' *"the penalty of 7 years (increased by half)"*³⁸

Ghaldaqstant ir-rekwiziti kollha kif stipulati bir-regolament 59(3) tal-Ordni huma għal kollox soddisfatti u għalhekk ir-reat, li dwaru qed tintalab it-treggija, jikkostitwixxi reat ta' estradizzjoni.

Illi ma giet sollevata ebda raguni msemija fir-regolament 13 tal-Ordni li tammonta għall-impediment għall-estradizzjoni (*"bar to extradition"*).

Ghaldaqstant ai termini tar-regolament 24 tal-Ordni -

Tordna li l-estradand għandu jinżamm taht kustodja fi stennija għat-treggigh lura tieghu lejn l-Italja, il-pajjiż skedat fejn inħareġ il-mandat.

Din l-ordni għal-kustodja tal-estradand qeghdha ssir bil-kundizzjoni li l-estradizzjoni tal-estradand lejn l-Italja tkun soġġetta dejjem għal-*"law of speciality"* ossija in konnessjoni mar-reat addebitat lilu fil-Mandat t'Arrest Ewropew li abbazi tieghu saru dawn il-proceduri, u msemmi fir-regolament 18 tal-Ordni.

³⁸ Fol.120: Section C) Indications on the Duration of Penalty

Il-Qorti qeghdha, ai termini tar-regolament 25 tal-Ordni moqri flimkien mal-Artikolu 16 tal-Att dwar l-Estradizzjoni, Kapitolu 276 tal-Ligijiet ta Malta, tinforma lill-estraddand li:

- (a) Mhuwiex ser jigi mregga' lura lejn l-Italja qabel ma jghaddu sebat ijiem mid-data ta' din l-ordni ta' kustodja;
- (b) Ghandu dritt li jinterponi appell quddiem il-Qorti tal-Appell Kriminali minn din l-ordni;
- (c) jekk jidhirli li xi wiehed mid-disposizzjonijiet tal-Artikolu 10(1) u (2) tal- Att dwar l-Estradizzjoni, Kapitolu 276 tal-Ligijiet ta Malta, gie miksura jew li xi disposizzjoni tal-Kostituzzjoni ta' Malta jew tal-Att dwar il-Konvenzjoni Ewropeja hija, tkun giet jew x'aktarx tkun sejra tigi miksura dwar il-persuna tieghu hekk li tkun gustifikata r-revoka, l-annullament jew il-modifika tal-ordni tal-kustodja tal-qorti, huwa ghandu jedd titlob rimedju skont id-disposizzjonijiet tal-Artikolu 46 tal-istess Kostituzzjoni jew tal-Att dwar il-Konvenzjoni Ewropeja skont il-kaz.

Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law).
Magistrat