Fil-Prim'Awla tal-Qorti Ċivili

(Sede Kostituzzjonali)

IMHALLEF

ONOR. MIRIAM HAYMAN LL.D.

Illum, 24 ta' April, 2023.

Fl-Atti tar-Rikors Kostitzzjonali numru 206/23MH

Fl-ismijiet Kanyi Bakri

Vs

1. **L-Aġenżija għall-Protezzjoni Internazzjonali**
2. **L-Avukat ta' L-Istat.**
3. **L-Uffiċjal Prinċipali tal-Immigrazzjoni**

Għal kull interess li jista' jkollu.

Rikors għal-Ħrug ta' Miżuri Interim datat 19 ta' April, 2023.

Il-Qorti;

Rat ir-rikors ta' Kanyi Bakri li sar biex jintalab l-għoti ta' mizura provisorja u dan is-segwitu ta'deċiżjoni li tat-Tribunal tal-Appelli għall-Protezzzjoni Internazzjonali datata 31 ta' Ottubru, 2022 fejn in sucċint ġiet ikkonfermata id-deċiżjoni ta' l-Aġenżija għall-Protezzjoni Internazzjonali datata 15 ta' Novembru, 2019 li l-Italja kienet l-Istat membru li l-ewwel ipproċessa l-applikazzjoni tar-rikorrenti għall-protezzjoni internazzjonali.[1]

Konsegwentement għall dan, għax ir-rikorrenti jsostni lid-deċiżjoni ċitata ttieħdet fuq fatti żbaljati, allura bi ksur ta' l-artikolu 39 u 6 tal-Kostituzzjoni u Konvenzjoni rispettivament, qed jitlob miżura proviżorja kontra deportazzjoni u rilokazzjoni forżata lejn l-Istat Taljan.

Rat id-digriet tagħha tas-19 ta' April, 2023.

Rat li l-intimati bil-qawwa jopponu din il-miżura fuq il-premessa li m'hemmx l-elementi estremi meħtieġa biex it-talba tiġi akkordata. [2]

Semgħet it-trattazzjonijiet.

Ikkunsidrat

Illi l-argument tar-rikorrenti għat-talba tal-ħruġ ta' miżura proviżorja huwa sostnut bil-fatt illi la hemm żball fl-isem tal-pajjiż fejn ġie reġistrat L-

[1] Ara dokument esebit fl-atti DokA folio 5
[2] 20 ta' April, 2023 folio 14

EURODAC HIT fil-konfront tiegħu, dikjarat bħala dak ta' Teramo minflokk Trapani u ħarġet fil-konfront tiegħu dikjarazzjoni ta' *Dublin Closure*, dan dejjem ai terminu tar-Regolament 604/2013 ta' l-Unjoni Ewropeja, hu se jsofri preġudizzju irremedjabbli jekk qabel ma jinstema' r-rikors kostituzzjonali promotur, jiġi deportat lejn l-istat Taljan in kwantu dan hu ir-Requesting Take Back State. Isostni li darba li tiġi forżata din r-rilokazzjoni jkun inutli l-eżitu favorevoli għalih tar-rikors promotur.

In soluzzjoni ta' din il-vertenza l-Qorti inevitabilment tagħmel referenza għal ġurisprudenza u kitbiet fir-rigward.

Fin-notamenti fuq in suġġett in tematika maħruġa mill-Qorti Ewropeja tad-Drittijiet fundamentali tal-Bniedem taħt l-awspiżju tal- Kunsill Ewropej bl-isem **Facts Sheet-*Interim Measure***[3] *insibu dan:-*

"*Scope of interim measures*

In practice, interim measures are applied only in a limited number of areas[4] and most concern expulsion and extradition. They usually consist in a suspension of the applicant's expulsion or extradition for as long as the application is being examined[5].

The most typical cases are those where, if the expulsion or extradition takes place, the applicants would fear for their lives (thus engaging Article 2 (right to life) of the European Convention on Human Rights) or would face ill-treatment prohibited by Article 3 (prohibition of torture or inhuman or degrading treatment) of the Convention[6]. More exceptionally, such measures may be indicated in response to certain requests concerning the right to a fair trial (Article 6 of the Convention)[7],

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[3] Sena 2023

[4] . On the question of the application of interim measures in inter-State cases, in situations of armed conflicts, see the factsheet on "Armed conflicts".

[5] . For example, on 14 June 2022, the Court has decided to grant an interim measure in the case of *K.N. v. the United Kingdom* (no. 28774/22), an Iraqi asylum-seeker facing imminent removal to Rwanda. In this case, the Court has indicated to the UK Government that the applicant should not be removed to Rwanda until three weeks after the delivery of the final domestic decision in his ongoing judicial review proceedings (see press release of 14 June 2022 and press release of 15 June 2022).

[6] . See, for example, the press releases of 7 December 2021 (link) and 21 February 2022 (link), regarding requests for interim measures concerning the situation at the borders with Belarus. See also, below, pp. 2-7.

[7] . In February 2022, for example, in the case *Wróbel v. Poland* (no. 6904/22), the Court indicated an interim measure, asking that the respondent government ensure that the proceedings concerning the lifting of the applicant's – a Supreme Court judge – judicial immunity comply with the requirements of a "fair trial" as guaranteed by Article 6 § 1 of the Convention, in particular the requirement of an "independent and impartial tribunal established by law", and that no decision in respect of his immunity be taken by the Disciplinary Chamber of the Supreme Court until the final determination of his complaints by the European Court (see press release of 9 February 2022, press release of 20 April 2022, and press release of 10 August 2022). See also the press release of 24 March 2022 and the press release of 31 March 2022 concerning the indication by the Court of interim measures in cases concerning charges brought against Polish judges. See also the press release of 14 April 2022, concerning the case *Stępka v. Poland*, in which the Court indicated an interim measure to the respondent Government, asking the Government to ensure that the proceedings concerning the lifting of the judicial immunity of the applicant – a Supreme Court judge –comply with the requirements of a "fair trial", and that no immediately enforceable decision in respect of his immunity be taken by the Disciplinary Chamber of the Supreme Court until the final determination of his complaints by the European Court. See also: press release of 12 July 2022, concerning the case *Raczkowski v. Poland* (no. 33082/22), in which the Court indicated an interim measure asking that the Polish Government ensure that the proceedings concerning the lifting of the

the right to respect for private and family life (Article 8 of the Convention)[8] and freedom of expression (Article 10 of the Convention)[9].

4. *See, for example, concerning the application Navalnyy v. Russia (no. 4743/21), currently pending before the Court, the press releases of 17 February 2021 (link) and 19 April 2021 (link).*

In the Court's case-law as it currently stands, Rule 39 of the Rules of Court is not applied, for example, the following cases: to prevent the imminent demolition of property[10], imminent insolvency, or the enforcement of an obligation to do military service; to obtain the release of an applicant who is in prison pending the Court's decision as to the fairness of the proceedings; to ensure the holding of a referendum[11]; to prevent the dissolution of a political party[12]; or to freeze the adoption of constitutional amendments affecting the term of office of members of the judiciary[13].

Expulsion or extradition cases

Risk to life or of torture, inhuman or degrading punishment or treatment

Asylum seekers fearing persecution, ill-treatment or other serious harm

Risk of persecution for political, ethnic or religious reasons

Abdollahi v. Turkey
3 November 2009 (decision – strike-out)

applicant's – a military judge – judicial immunity comply with the requirements of a fair trial as guaranteed by Article 6 § 1 of the Convention and that no decision be taken until the final determination of his complaints by the Court; press release of 17 August 2022 concerning three judges in Poland facing disciplinary proceedings and at risk of imminent suspension from their judicial functions; press release of 7 December 2022, concerning the indication to the Government of Poland of an interim measure requesting that the respondent State should suspend the effects of the decisions to transfer the applicants, experienced specialists in criminal law and judges, from the Criminal Division to the Labour and Social Security Division of the Warsaw Court of Appeal and ensure that no decision to transfer the applicants to another division of the Court of Appeal against their will is taken until the final determination of the applicants' complaints by the Court; press release of 16 February 2023.

[8] . See below, pp. 7-11, for examples.

[9] . See, for example, the press release of 10 March 2022, concerning the application in the case *ANO RID Novaya Gazeta and Others v. Russia* (no. 11884/22).

[10] . See, for example, the press release of 1 September 2020 concerning the case *Upravlinnya Krymskoyi Yeparkhiyi Ukrayinskoyi Pravoslavnoyi Tserkvy (Crimean branch of the Ukrainian Orthodox Church of the Kyiv Patriarchate) v. Russia*, in which the applicant Church requested the Court to indicate interim measures to prevent the Russian authorities from evicting it from its main premises, a Cathedral in Simferopol, and from demolishing another of its buildings.

[11] . See press release of 21 December 2007 concerning the inappropriate use of interim measures procedure.

[12] . For example, in the case of *Sezer v. Turkey*, the Court rejected a request for the adoption of an interim measure to prevent the Turkish Constitutional Court from ordering the dissolution of the AKP (*Adalet ve Kalkınma Partisi* – Justice and Development Party) (see press release of 28 July 2008).

[13] . See press release of 8 July 2020 concerning the case *Gyulumyan and Others v. Armenia*.

The applicant alleged that he was a member of the People's Mujahedin of Iran and that he would therefore face death or be subjected to ill-treatment if deported back to Iran. The Court granted an interim measure to prevent the applicant's deportation pending further information. The application of Rule 39 of the Rules of Court was lifted after the Registry lost contact with the applicant.

F.H. v. Sweden (no. 32621/06)

20 January 2009 (judgment)

The applicant alleged that, if deported to Iraq, he would face a real risk of being killed or subjected to torture or inhuman treatment on account of his Christian faith and background as a member of the Republican Guard and the Ba'ath Party.

The Court decided to apply Rule 39 of the Rules of Court, requesting the Swedish Government to refrain from deporting the applicant until further notice. The application of Rule 39 was lifted when the Court's judgment finding that the implementation of the deportation order against the applicant would not give rise to a violation of Articles 2 or 3 of the Convention became final.

Y.P. and L.P. v. France (no. 32476/06)

1 September 2010 (judgment)

The first applicant, an opponent of the regime and a member of the Belarusian People's Front, was detained and assaulted on a number of occasions by the Belarusian police.

He fled with his family, passing through various European countries, and applied for asylum in France, but it was denied. The applicants alleged that if they were returned to Belarus they would risk imprisonment and ill-treatment.

The Court decided to apply Rule 39 of the Rules of Court, requesting the French Government to refrain from deporting the applicants pending the outcome of the proceedings before it. The application of Rule 39 was lifted when the Court's judgment finding that the implementation of the deportation order against the applicants would give rise to a violation of Article 3 of the Convention became final.

M.A. v. Switzerland (no. 52589/13)

18 November 2014 (judgment)

The applicant, an Iranian national, claimed that, if forced to return to Iran, he would face a real and serious risk of being arrested and tortured because of his active participation in demonstrations against the Iranian regime.

The applicant's expulsion was suspended on the basis of an interim measure granted by the Court in September 2013 under Rule 39 of its Rules of Court, which indicated to the Swiss Government that he should not be expelled for the duration of the proceedings before it. The application of Rule 39 was lifted when the Court's judgment finding that the implementation of the expulsion order against the applicant would give rise to a violation of Article 3 of the Convention became final.

W.H. v. Sweden (no. 49341/10)

8 April 2015 (Grand Chamber – judgment)

This case concerned an asylum seeker's threatened expulsion from Sweden to Iraq, where she alleged she would be at risk of ill-treatment as a single woman of Mandaean denomination, a vulnerable ethnic/religious minority.

In this case the applicant's expulsion was suspended on the basis of an interim measure granted by the Court under Rule 39 of its Rules of Court, which indicated to the Swedish Government that the applicant should not be expelled to Iraq whilst the Court was considering her case. In October 2014 the applicant was granted a permanent residence permit in Sweden and, following this decision, the applicant submitted that she no longer wished to pursue her application before the European Court. The Court therefore considered that the matter had been resolved at national level and decided to strike the application out of the Court's list of cases.

F.G. v. Sweden (no. 43611/11)

23 March 2016 (Grand Chamber – judgment)

This case concerned the refusal of asylum to an Iranian national converted to Christianity in Sweden who alleged that, if expelled to Iran, he would be at a real risk of being persecuted and punished or sentenced to death.
In this case the applicant's expulsion was stayed on the basis of an interim measure granted in October 2011 by the Court under Rule 39 of its Rules of Court, which indicated to the Swedish Government that the applicant should not be expelled to Iran whilst the Court was considering his case. In its Grand Chamber judgment, the Court held that there would be no violation of Article 2 (right to life) and Article 3 (prohibition of torture and of inhuman or degrading treatment) of the Convention, on account of the applicant's political past in Iran, if he were deported to his country of origin, and that there would be a violation of Articles 2 and 3 of the Convention if the applicant were to be returned to Iran without a fresh and up-to-date assessment being made by the Swedish authorities of the consequences of his religious conversion.

Risk of ill-treatment related to sexual orientation

M.E. v. Sweden (no. 71398/12)
8 April 2015 (Grand Chamber– judgment)
This case concerned an asylum seeker's threatened expulsion from Sweden to Libya, where he alleged he would be at risk of persecution and ill-treatment because he is a homosexual.
In this case the Court decided to indicate to the Swedish Government, under Rule 39 of its Rules of Court, not to expel the applicant to Libya until further notice. In December 2014 the applicant was granted a residence permit in Sweden. The Court considered that the potential violation of Article 3 of the Convention had now been removed and that the case had thus been resolved at national level. It therefore decided to strike the application out of the Court's list of cases.
See also, among others: ***A.S.B. v. the Netherlands (no. 4854/12)****, decision of 10 July 2012;* ***A.E. v. Finland (no. 30953/11)****, decision of 22 September 2015.*

Kommunament kemm da parti tal-Qorti Ewropeja għad-drittijiet tal-Bniedem ukoll il-Qrati ta' ġurisdizzjoni Kostituzzjonali nostrali jakkordaw din il-miżura interim f'każijiet estremi kif rapportat *supra* u fejn jolqot il-ksur ta' l-artikolu 2 u 3 tal-Konvenzjoni.

Naraw ukoll fl-istess notamenti ċitati li din il-miżura straordinarja ġiet ukoll, pero mhux daqstant akordata, fejn bħal każ in deżamina qed jiġi invokat il-ksur ta' l-artikolu 6 tal-Konvenzjoni. Għalhekk fl-istess notamenti din l-applikazzjoni meta invokat l-artikolu 6 hija kkunsidrata bħala waħda eċċezzjonali u fil-fatt l-eżempji hemm mogħtija huma biss tnejn ċioe' :- *"Right to a fair trial and legal representation*

Rule 39 of the Rules of Court has been applied by the Court of its own motion ***in very exceptional cases*** *to ensure that the applicant would benefit from appropriate representation in judicial proceedings****. (enfasi ta' din il-Qorti)***

Öcalan v. Turkey
12 May 2005 (Grand Chamber – judgment)
In this case the European Court requested that the Turkish Government take interim measures within the meaning of Rule 39 of the Rules of Court, notably to ensure that the requirements of Article 6 (right to a fair trial) of the Convention were

complied with in the proceedings which had been instituted against the applicant in the National Security Court and that the applicant was able to exercise his right of individual application to the European Court effectively through lawyers of his own choosing.

X. v. Croatia (no. 11223/04)
17 July 2008 (judgment)
The applicant complained that her daughter had been given up for adoption without her knowledge or consent.
In this case the Court indicated to the Croatian Government, under Rule 39 of its Rules of Court, that they had to appoint a lawyer to represent the applicant in the proceedings before the Court, since she was suffering from schizophrenic paranoia and was deprived, within the meaning of domestic law, of her capacity to choose a legal representative." .

Mill-lat ta' kitbiet dwar l-istess insibu applikabbli fost ħafna oħrajn li-:

Fil-ktieb "**A Practitioner`s Guide to the European Convention on Human Rights"** (4th Edition – Sweet & Maxwell) Karen Reid tghid illi :-

"*As a general practice, measures (riferibbilment ghal interim relief) are applied only where there is an apparent real and imminent risk of irreparable harm to life and limb … While the procedure has been invoked in respect of other types of cases e.g. adoption of children, which may be arguably be of an irreparable nature, r.39 (riferibbilment ghar-Rule 39 tar-Rules of Court tal-ECHR) has not been applied save in a few exceptional cases. Matters of detention or interference with property, for example, are not regarded as necessitating interim measures."* (sottolinear ta' din il-Qorti).

L-awturi **Harris, O'Boyle & Warbrick**[14] jsostnu li: "*After articles 2 and 3,*

"..... Another category is when immigrants are to be deported from a contracting party and allege only that the deportation will violate their private and family life, the rest of the family residing in the contracting party concerned. Rule 39 will only be applied exceptionally in such cases (indeed there would be a presumption that it would not be applied) since it is rare that the ' irreparable damage test' will be met."

(sottolinear ta' din il-Qorti).

[14] Law of the European Convention on Human Rights (3rd Ed.) p 142

Hekk ukoll illi fil-pagna 113 *et seq*. tal-ktieb "**Theory and Practice of the European Convention on Human Rights"** (Raba` Edizzjoni – 2006 - Intersentia) l-awturi van Dijk, van Hoof, van Rijn u Zwaak, ighidu –

"... it is only in cases of extreme urgency that interim measures are indicated : the facts must prima facie point to a violation of the Convention, and the omission to take the proposed measures must result or threaten to result in irreparable injury to certain vital interests of the parties or the progress of the examination." (enfasi u sottolinear tal-qorti).

Dawn iċ-ċitazzjonijiet jissottolineaw kemm trid tkun urgenti in-neċessita ta' dan ir-rimedju, ukoll kemm hu reali u mpellenti l-preġudizzju li se jiġi soffert jekk din il-miżura provisorja ma tingħatax.

Mill-lat ta' ġurisprudenza lokali nsibu li-:

fil-kaz fl-ismijiet **Raymond Caruana vs L-Avukat Generali, Rik. Nru. 36/03** moghtija fit-23 ta' April 2004 il-qorti ikkonsidrat talba għall-miżura provizorja iżda ċaħħditha wara li kkonsidrat li : "*skont il-prassi taht il-Konvenzjoni Ewropea dwar id-Drittijiet tal-Bniedem 'interim relief' jinghata meta 'there is an apparent real and imminent risk of irreparable harm' u generalment jinghata f'kazijiet fejn hemm 'an alleged risk to life or ill treatment' fosthom kazijiet ta' 'deportation' u 'explusion' ghal stati fejn ir-riskju ghall-hajja huwa kbir hafna." (sottolinear ta' din il-Qorti).*

Illi din il-qorti kif diversament preseduta, fil-kaz **Emmanuel Camilleri v Spettur Louise Calleja et** (PA (Kost) - per On.Imh.J.R.Micallef - 2 ta' Gunju 2014) enunċjat il-prinċipji leġali u dottrinali li ggwidaw il-Qrati tagħna fil-materja rigwardanti din il-miżura provisorja; *interim relief* :-

"*Illi s-setgħat mogħtijin mil-liġi lil din il-Qorti f'kawżi ta' għamla Kostituzzjonali mhumiex imfissrin b'mod eżawrjenti f'xi dispożizzjoni partikolari, u r-rimedji li hija tista' tintalab tagħti huma mħollijin fid-*

diskrezzjoni tagħha fl-aħjar interess tal-ġustizzja u biex tagħmel ħaqq fejn meħtieġ;

Illi hija għandha s-setgħa tirregola l-proċedura tagħha u li tagħti dawk ilprovvedimenti, kemm definittivi u kif ukoll interlokutorji, li tinqala' l-ħtieġa tagħhom waqt kull smigħ, sabiex jiggarantixxu li t-trattazzjoni talkwistjoni li tkun tressqet quddiemha bl-ebda mod ma tkun suġġetta għal pressjonijiet indebiti jew ħsara irriversibbli għal xi waħda mill-partijiet[15]*;*

Illi l-miżuri provviżorji huma maħsuba biex iżommu milli ssir ħsara li ma tissewwiex lil vittma ta' ksur ta' jedd fundamentali b'tali mod li ma jsir xejn li jista' jxejjen jew inaqqas mill-awtorita' u l-effikaċja tas-sentenza li tingħata dwar l-istess ilment[16]*. F'dan ir-rigward, biex jista' jingħata rimedju provviżorju, jeħtieġ li min jitolbu juri li hemm każ 'prima facie' ta' ksur ta' jedd fundamentali u li n-nuqqas tal-għoti tal-miżura provviżorja sejra ġġib ħsara li ma titreġġax lura fil-każ tiegħu*[17]*. Għalhekk, m'huwiex biżżejjed li wieħed joqgħod biss fuq xi sitwazzjoni ipotetika jew li mhix ċerta li sseħħ. Minħabba f'hekk, l-għoti ta' provvediment proviżorju f'kawża ta' allegat ksur ta' jedd fundamentali jitlob li jintwerew ċirkostanzi eċċezzjonali li jagħmluh meħtieġ*[5]*;*

Illi fuq kollox, l-għoti tar-rimedju interlokutorju jew provviżorju ma għandu qatt jintalab jew jingħata b'mod li jippreġudika l-mixi nnifsu tal-proċedura li fiha jintalab u bl-ebda mod ma għandu jintuża biex jorbot idejn il-Qorti li tagħtih dwar il-mod kif fl-aħħar mill-aħħar tagħti s-sentenza tagħha jew kif tikkunsidra bis-serenita' jew l-indipendenza meħtieġa l-provi u l-argumenti li l-partijiet iressqu quddiemha."

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[15] Ara provvediment P.A. (Kost.) AJM 5.10.1999 fil-kawża fl-ismijiet **Joseph Gauċi et vs Avukat Ġenerali et**

[16] *Q.E.D.B. 6.2.2003 fil-kawża fl-ismijiet **Mamatkulov et vs Turkija** (Applik. Nru. 46837/99) § 110*

[17] *Van Dijk, van Hoof, van Rijn, Zwaak Theory & Practice of the European Convention on Human Rights (4th Edit, 2006) §.2. 2.8.3, p. 113- Illi fil-pag 113 et seq –*

... it is only in cases of extreme urgency that interim measures are indicated : the facts must prima facie point to a violation of the Convention, and the omission to take the proposed measures must result or threaten to result in irreparable injury to certain vital interests of the parties or the progress of the examination. (enfasi u sottolinear tal-qorti) [5] Deg P.A. (Kost.) AE 16.4.2014 fil-kawża fl-ismijiet Daniel Alexander Holmes vs Avukat Ġenerali et.

Jidher għalhekk minn analiżi li jista' jsir minn dan it-tagħlim li dawn il-miżuri straordinarji huma biss akkordati meta l-applikant/rikorrenti jkun se jitqiegħed f'pożizzjoni ta' *irreparable harm,* dan huwa l-grad għoli mitlub biex talba ta' din in-natura tiġi akkordata.

L-abbli avukati tar-rikorrenti jargumentaw illi jekk r-rikorrenti jiġi deportat qabel ma jiġu deċiżi l-lanjanzi kostituzzjonali u konvenzjonali li ressaq taħt l-artikolu 39 u 6 rispettivament hu se jiġi hekk preġudikat, fis-sens lil kawża tkun saret għal xejn.

Tqies li jekk vera r-rikorrenti jiġi deportat *pendente lite*, allura jintbagħat ġewwa l-Istat Membru Taljan, lir-rikorrenti se jgħaddi minn proċeduri simili li jiġi soġġett għalihom f'pajjiżna biex jiġi determinat jekk it-talba tiegħu għal protezzjoni internazzjonali tiġix milqugħa A prexindere mill-fatt jekk tkunx Malta jew l-Italja li tieħu konjizzjoni tat-talba tiegħu u jekk it-Tribunal tal-Appell għall-Protezzjoni Internazzjonali kisirx id-dritt ta' smigħ xieraq spettanti lir-rikorrenti, skont ma hu minnu spruxnat fir-rikors promotur, ma ġiex muri lil Qorti li hu se jbagħti xi preġudizzju irreparabbli, agħar; *imminent risk, risk to life, ill-treatment* li jimmerita li din it-talba tiġi akkolta. Vera f'każ ta' nuqqas ta' rappreżentanza legali , eċċezzjonalment l-artikolu 6 ġie ukoll *"engaged"* f'dawn il-miżuri, imma tali nuqqas jolqot *in funditus* id-dritt ta' smigħ xieraq tenut kont li rikorrent żgur qatt ma hu munit bil-konoxxenza legali biex jressaq sew u b'mod legalment elokwenti t-talbiet u sottomissjonijiet tiegħu. Fil-fatt minn notamenti tal-Qorti Għad-drittijiet tal-Bniedem ċitati, ċioe' l-**Facts Sheets,** il-Qorti qieset li kien f'dan l-estrem ta' nuqqas ta' rappreżentanza legali fl-ambitu ta' fair trial li kellhom jiġu akkordati dawn il-miżuri interim.

Magħmula dawn il-konsiderazzjonijiet il-Qorti tqies li kif ġia ngħad il-preġudizzju lir-rikorrenti javvanza quddiema jekk jiġi deportat mhux tali li jikkwalifika fl-estremita' meħtieġa għal din il-miżura straordinarja. Ma ġie qatt muri lilha li kieku r-rikorrenti jiġi deprotat qabel ma jinqatgħu l-proċeduri

kostituzzjonali li hu se jkun fil-perikolu u dannu li huma mitluba fl-eċċezzjonali ta' proċeduri interim.

Konsegwentement tiċħad it-talba.

Onor. Imhallef
Miriam Hayman

Dep.Reg.
Rita Falzon