JUDICIARY
ENGLAND AND WALES

District Judge Tempia

BETWEEN :

GOVERNMENT OF ALBANIA

JUDICIAL AUTHORITY

V

FRANCESCO BECCHETTI

AND

MAURO DE RENZIS

REQUESTED PERSONS

ADVOCATES - For the Judicial Authority - Mr B Brando and Mr R Evans
For the Requested Persons - Mr J Knowles QC and
Mr A Watkins

(An Italian interpreter assisted)

APPLICATION AND BACKGROUND

1. This is an application by Mr Becchetti and Mr De Renzis (the RPs) to stay the extradition proceedings they face as an abuse of process.

2. The application arises under unusual circumstances which I will set out below.

3. Requests for Mr Becchetti and Mr De Renzis' extradition were sent to the Home Office under cover of a letter dated 24th July 2015. The requests were certified by the Secretary of State on 28th July. On 26th October the warrants were executed by appointment and the RPs appeared at Westminster Magistrates' Court on the same day when they were granted bail with conditions, which are still in place, namely, those of residence, to abide by a night time curfew, substantial cash securities and the surrender of travel documents.

4. Review hearings were undertaken on 7th December 2015 and 1st February 2016. An early extradition hearing was set for 16th-20th May 2016 with the service of defence expert evidence by 1st April 2016.

5. On 10th June 2015 a company controlled by Mr Becchetti, together with other companies and individuals (including Mr Becchetti and Mr De Renzis) instituted an arbitration claim in the International Centre for Settlement of Investment Disputes (ICSID) against the Government of Albania. On 3rd March 2016 the ICSID Arbitral Tribunal issued a "Provisional Measures Order" (PMO) against the Government of Albania. This is as form of interlocutory order which in effect told the Government to suspend the criminal proceedings and the extradition proceedings against the RPs until the issuance of a Final Award in those proceedings.

6. It is accepted by the Government that it is bound by that decision and so applied to this court on 8th April 2016 to adjourn the extradition proceedings sine die. On that occasion it was submitted the warrant could not withdrawn. It was submitted by those representing the RPs that, because extradition is a discretionary executive act, it would be extremely unlikely there would be no ability to withdraw a request. District Grant invited an explanation as to whether or not the requests could not simply be withdrawn and to resume proceedings by issuing fresh requests. The PMO was made against Albania on 3rd March 2016 recommending the Government suspend both the criminal proceedings and extradition proceedings against the RPs until the issuance of a Final Award is made.

7. By letter dated 5th April 2016 the Minister of Justice informed the Home Office that it would be challenging the PMO but stated that given the existence of the order the Government would be asking for an adjournment of the extradition hearing *sine die*. It continued by stating that if an adjournment were not granted, the Albanian authorities would not seek a security measure of "remand in prison" and would ask the Albanian court to grant the RPs bail with reasonable conditions, if extradition were ordered.

8. The RPs submit that there are three inter-linked grounds on which the application is made and should be considered in combination, namely, the application to adjourn sine die is clearly an unconscionable one given the proceedings could be adjourned for years; to allow the extradition proceedings to continue would mean this would take place in breach of an international law obligation and if the RPs were extradited, they would be remanded indefinitely in Albania and, finally, that these proceedings have become abusive. The document sent to this court on 22nd April 2016, which Mr Knowles submits contains a number of statements of Albanian law that are wrong, and/or untrue, and/or misleading, an inference can be drawn that the contents of the document could not have been genuinely believed by whoever wrote it (as sated by the expert evidence provided by the RPs to this court) and was an attempt by the Government to mislead this court and the document was not a bona fide attempt to set out relevant Albanian law. In fact in his oral submissions he asserted that Albania had sought to lie to this court.

EVIDENCE

9. I have read a bundle of documents including, but not limited to, the skeleton arguments prepared on behalf of the RPs (dated 6th May 2016) and the Government (dated 13th May 2016), document headed "memo", document headed "Reasons Why Albania Cannot Withdraw UK Extradition Proceedings", Opinion of Advocate Arben Qeleshi (dated 6th April 2016), ICSID pleadings and Order on Provisional Measures (dated 3rd March 2016).

10. I heard lengthy submissions from the parties which supplemented their written arguments and I was referred to the case law relating to abuse of process.

11. The document headed "memo" was obtained from three Albanian lawyers, Av Enyal Shuke, Av Sokol Mengjesi and Av Skenderaj (who are Mr Becchetti's lawyers in Albania). It clearly sets out that the UCSID Provisional Measures Order is binding on Albania, on the particular facts of this case Albania can comply with the ICSID Provisional Measures Order by withdrawing both the domestic arrest warrants and the extradition requests and Article 260 of the Criminal Procedure Code allows a prosecutor to apply to a court to revoke the warrants. Further, it states that extraction is a matter of executive discretion under Albanian law and therefore the Minister can withdraw an extradition request.

12. The response from Albania came in the form of a document headed, "Reasons Why Albania Cannot Withdraw UK Extradition Proceedings". This was undated, no name was given of the author of the report and was sent to the Home Office by e mail on 21st April 2016.

13. It asserts that Albania cannot withdraw the proceedings because the prosecutor is progressing a criminal trial against the RPs for the following reasons:
    - The prosecutor issued a request for a remand in custody order which was granted by the Tirana District Court;
    - The decision was appealed and upheld by the Supreme Court;
    - A binding decision remains in place for the RPs to be remanded in custody;
    - Under Article 466 of the Albanian Criminal Procedure Code the prosecutor must issue the order for execution of the remand order and pass it to the Judicial Police and/or agents to execute the order;
    - Where defendants cannot be found in Albania the Prosecutor General and the Minister of Internal Affairs issue an international arrest warrant through Interpol in Tirana. Having done this the authorities were informed the defendants were in the UK;
    - The Prosecutor General then serves on the Ministry of Justice documents requesting extradition;

- The Ministry of Justice is obliged to comply with the judgment of the Tirana Court requiring the arrest and remand in custody of the defendants and by Article 504 the Ministry of Justice submits the request for extradition;
- If the Minister of Justice does not comply with his obligations he is subject to sanction;
- There is no specific provision within the Albanian Criminal Code for the withdrawal of a extradition request, although one can be withdrawn in only very specific and limited circumstance (examples given are, if there are no grounds to extradite or the identity of the person to be extradited is wrongly confirmed);
- Article 260 of the Code allows for revocation and replacement of remand orders and for security measures to be lowered but only if there are a change of circumstances. In this case there is no change of circumstances to allow a reduction in security measures as the defendants are considered to be evading justice;
- The PMO recommends a suspension of the extradition proceedings and not a withdrawal.
- The Minister of Justice is unable to withdraw the extradition proceedings because a judgment is in force.

14. An expert's independent opinion was obtained by the RPs. It is dated 6th June 2016 and is written by Av Argben Qeleshi. His experience is impressive and includes serving as the Tirana Prosecutor's Office Chief between 1993 – 1995. Between 1995 – 2002 he served as a Magistrate in the Tirana Appeals Court and Korce Appeal Court. Since 2002 he has been an attorney in private practice. His report can be summarized as follows:
    - The Minister of Justice is *"the only body which has the legal right, under the Albanian legislation, to assess the discretionary way whether or not to request extradition, as well as to announce any decisions to foreign nationals"* He looks at the terminology used in Article 504 which regulates the extradition procedure and concludes that the decision whether or not to seek extradition remains with the Minister of Justice,

regardless of the request or decision of the local judicial authority. The Minister of Justice can refuse to accept a request. This is a discretion

- This conclusion is reinforced by Article 49 (Request for Extradition) which sets out the "possibility" and not an "obligation" of the Minister of Justice to present a request for extradition. The Minister of Justice has the "last word" in whether to either grant or not grant a request for extradition and has the discretion to deicide and order the withdrawal from an existing extradition procedure.
- The order for execution of the remand order is issued by the prosecutor (Article 466 of the Albanian Criminal Procedure Code). The decision of the court of first instance which set the security measure (and upheld in this case by a higher court) is a revisable decision at any time until the final decision is made on the merits. Article 260 of the Criminal Procedure Code allows the revocation of a security measure at any time. Av Qeleshi states *"This is a well-accepted principle of law in doctrines, as well as confirmed by judicial practice, both Albania and that of the European Court of Human Rights"*. The revocation or replacement of security measures can be made not only in the phase of preliminary investigations but also during the judicial/trial process. The court may revoke and/or replace the security measure of arrest in prison.
- Even if there is a decision of the judicial authorities on extradition the Minister of Justice *"may give way to such decision-making, but there is no "obligation" to respect it. This is because the last word in this procedure in any case belongs to the Minister of Justice"*.
- He concludes that the conclusion in the letter of 21st April 2016 is wrong and a misrepresentation of the meaning to the legal provisions.
- He further concludes that *"citation of article 504 of Criminal Procedure Code without making clear the discretion of Minister of Justice provided by this article but also by the requirements of the Law No. 10193 dated 03.12.2009, is obviously misleading and causes a wrong reading of the applicable legal requirements in this aspect (ie discretionary authority concerning extradition)"*.

- As regards whether the Minister would face sanction is he does not request extradition, AV Qeleshi states this is no provision that provides for any sanction on the Minister of Justice. (That an e mail sent on the first day of the hearing specifies that this is not correct). He further comments that the law quoted by the Government to assert this *"cannot be treated as true assertions of law that are genuinely believed"*.
- In respect of whether extradition requests are withdrawn in only very specific and limited circumstances Av Qeleshi opines that although there is no express law on withdrawing requests it is implicit in the discretionary power to seek extradition that a request can be withdrawn due to the special nature of the extradition process where it requires both a legal assessment as well the political and administrative one. Again he says this is a misinterpretation of the applicable legal provisions, doctrine and practice. He comments that there are statements in the letter dated 21st April 2016 that *"are so obviously wrong or misleading they cannot be assertions of law that are genuinely believed by whoever wrote them. For example, no Albanian lawyer can believe that Law 8331 dated 21.04.1998 permits a sanction on the Minister if he does not seek extradition because it deals with something totally different"*.

SUBMISSIONS

15. **Mr Knowles QC** – His submissions were contained in a lengthy and helpful skeleton argument. However he developed them in oral submissions which I will summarize. He dealt with the factual background to proceedings to give the court a flavour of what he said lies behind the requests, given he is alleging bad faith against Albania and one of the grounds used to resist extradition includes extraneous considerations (section 81). The requests are politically motivated.

16. I will summarize the factual background as follows; Mr Becchetti has significant business interests in Albania and is the ultimate owner of Agon Channel, a leading TV channel in Albania until it was closed down by the Albanian Government in 2015. Mr De Renzis is or was a shareholder in some

of the relevant companies. One of Mr Becchetti's projects in Albania was the construction of a dam and hydroelectric power station at Kalivac (the Kalivac Hydroelectric Project). Beginning in the 1990s Mr Becchetti's corporate vehicle signed various agreements with previous Albanian Governments concessions, for example in relation to VAT rebates. With a new Socialist government elected in 2013 investigations were launched into his companies' financial and tax affairs. This led to claims for compensation before the ICSID. Warrants were issued for Mr Becchetti's and Mr De Renzis' arrest for money laundering, forgery and tax evasion. On 30th July 2015 summonses were issued against four associated companies. Mr De Renzis has been requested because of his perceived association with Mr Becchetti.

17. Mr Knowles took me through the law on abuse of process, as did Mr Brandon, as to how it developed. It is a residuary jurisdiction. Mr Brandon challenged the use in this context given the RPs will be relying on specific bars to challenge their extradition requests. However Mr Knowles submitted the challenge today amounts to a truly residual point and invokes the abuse process in this court.

18. Mr Knowles' submissions were predicated on the basis that the response received from Albanina, to answer a direct question posed by District Judge Grant, was made in bad faith; and if the court so found the whole proceedings should be stayed. He did not concede this point but submitted if the court decided it could not adjourn *sine die*, to allow the extradition proceedings to continue would be unconscionable and vexatious and the court should stay.

19. The application to adjourn *sine die* is a declaration that Albania's preference is not for the expeditious surrender of the RPs, which is thereby inconsistent with this court's need to proceed with extradition expeditiously, in accordance with the UK;s international agreements (the multilateral treaty creating the extradition relationship between the UK and Albania; the European Convention on Extradition 1957, stipulates under Article 1 that the obligation to extradite only arises where the "authorities of the requesting Party are proceeding against the defendants) and from the perspective of domestic law

which is a central feature of the Extradition Act 2003 that extradition proceedings are dealt with expeditiously. If extradited, it is not accepted the RPs will be tried (the very vice under section 12A in part 1 cases). No date has been given for the conclusion of the ICSID litigation; it could last a year or longer, no date has yet been given for the substantive hearing save that it may occur in summer 2017.

20. The RPs would be prejudiced in that it would impede the RPs participation in the ICSID claim which the Tribunal sought to avoid. Their inhibited engagement in proceedings would be undermined as would the effectiveness of the tribunal itself.

21. The extradition proceedings are in breach of international law given the PMO specifically states there should be a suspension, a "stay" of the extradition and domestic proceedings to allow the RPs to engage with their claim. Granting an adjournment *sine die* will not achieve this purpose. The RPs would remain on bail and be under the court's oversight and have restrictions on their liberty. In the UK they would have to return to court every 3 months and it would be oppressive and vexatious to be held in that state for a number of years. It would also have a significant financial implication on the RPs.

22. Whether the extradition proceedings should continue? Mr Knowles submitted this would be a clear abuse of process given this would amount to a breach of international law (and unconscionable following ***R v Horseferry Road Magistrates'' Court ex p Bennet (No1) [1994]1 AC 42).*** It is not accepted that if returned to Albania the RPs will remain on bail because the Minister of Justice, a member of the Executive, who has given the assurance, cannot bind the judiciary/courts. Reasonable bail conditions may be impossible to meet. It was also submitted that the RPs will not be tried in Albania because the PMO specifically states the criminal proceedings must be suspended and therefore there would not be a trial in the immediate future.

23. Further, the document sent on 21st April 2016 states that a trial is progressing in Albania; the steps to be taken to try the RPs in their absence have not been

started and the evidence of the lawyers in Albania is that proceedings are at the pre-trial stage phase, the investigation stage.

24. The RPs will not be tried until the arbitration proceedings are concluded. The ICSID made the order for two reasons, firstly if the RPs were incarcerated they could not engage in the arbitrary proceedings and secondly, they could not run their businesses which was of grave concern to the procedural integrity of the proceedings. The ICSID reasons dated 3rd March 2016 states (at paragraph 3.20), *"the Tribunal is satisfied that the procedural integrity of the proceeding would be protected recommending that the criminal proceedings (and the associated extradition proceedings) be stayed pending resolution of the proceedings"*. This clearly sets out the rationale of the decision, locking up the RPs up will affect the arbitration proceedings and Albania cannot try them until the arbitratral proceedings are concluded. This resulted in the Minister saying that bail will be granted.

25. The third submission of bad faith is based on the response submitted on 21st April 2016 containing a number of intentionally false/and or recklessly misleading statements of Albanian law. It is self-evidence extradition requests can be withdrawn. The Minister of Justice is not obliged to go ahead because an arrest warrant is issued. The Minister of Justice will not suffer sanction. These submissions are substantiated in the expert evidence provided by the RPs to which no response has been received from Albania. The court is asked to draw an inference that this response has been made in bad faith and an attempt to manipulate the extradition process in bad faith in a way which would prejudice the RPs because of the indefinite adjournment that would result in them spending years on bail.

26. Mr Knowles took me through the document received 21st April 2016 in some detail but in summary he submitted the Minister has discretion whether to request extradition or not as contained in Article 504 (3) *"The Minister of Justice may decide, for the purposes of extradition, the searching abroad for the proceeded r sentenced person and his temporary arrest"*. The text of the law used by Albania to assert the Minister would be sanctioned is a lie. It sets

out what the duties of the prosecutor; judicial police and probation are Articles 8 and 8). Article 260 allows for revocation but to do so there has to be a change of circumstances. This Article does not set out why the RPs would be released on bail and are not a change of circumstances. Art 504 states the Minister of Justice can order extradition subject to an arrest warrant being in existence and if he does not make the request for extradition he must tell the prosecutor who applied for it. Art 504(3) says the Minister "may" decide which it is submitted confers a discretionary power.

27. I was taken through the procedure for extradition as set out in Articles 48 – 49 (in the documents provided to the court) which is, the prosecutor obtains the arrest warrant and under Article 49 the Minster of Justice may submit a request for extradition; not "obliged" as set out in the document received on 21st April 2016 (paragraph f).

28. This is supported by the expert evidence supplied by the RPs.

29. **Mr Brandon's** submissions are contained in his skeleton argument dated 13th May 2016 and were supplemented in oral arguments which I will summarize as follows.

30. The conduct alleged does not constitute an abuse of process because an application to adjourn proceedings *sine die* does not seek to usurp extradition proceedings but seeks to comply with the PMO; failure to comply with the PMO may result in adverse consequences for the Requesting State in the arbitratal proceedings, this would not affect the validity of the security measures imposed or the extradition request and any misrepresentation would not affect the validity of the security measures or extradition request and there are no reasonable grounds to believe the Requesting State is misleading the court.

31. Mr Brandon also took me through the authorities in relation to abuse of process and submitted in extradition proceedings it is a residuary provision.

32. He submitted that the court has to decide whether to adjourn *sine die* and if it is not, in the interests of justice to do so, the proper course is to consider the bars to extradition and the abuse argument as a residual bar. Mr Brandon submitted the RPs requested the ICSID to withdraw the extradition requests. This was not recommended. The real concern of the ICSID was the RP's incarceration in Albania. Albania is seeking to challenge the PMO (as it is entitled to do so) and the Minister of Justice has given an undertaking that if the RPs were extradited they will bailed on reasonable terms and there is no evidence to support any suggestion Albania would renege on that undertaking.

33. The Albanian Code of Criminal Procedure states the Government cannot interfere with the court's function and submitted the effect of the undertaking would be that the RPs would be returned to Albania and taken into custody. At the bail hearing the court would be appraised of the undertaking, the prosecutor would not seek a remand in custody pending trial and would ask for reasonable bail. The prosecutor is obliged to follow the undertaking given by the Minister of Justice and stated that under Article 2443 of the Albanian Code of Criminal Procedure the court itself cannot assign a remand order more severe that the one applied for by the prosecutor. The reason why the bail undertaking has been given is because it is the prospect of incarceration which led to the issuance of the PMO.

34. Given the Albanian case is it cannot withdraw the extradition request it applies to adjourn *sine die*. There is no prejudice to Albania if they could withdraw the warrant and reinstate it. In the application for an adjournment *sine die* there is a final date, which is when the arbitration comes to an end and accordingly there is no oppression to the RPs. If the case is adjourned this court will give the RPs what amounts to unconditional bail which will allow them to engage in the arbitration and run their business. This court has in the past adjourned hearings when a higher court is determining a point or when some cases take many years to resolve. The criminal proceedings are extant in Albania. There is no undisclosed, sinister motive to make the application. There is nothing in Part II of the Extradition Act 2003 which imposes an

obligation to act expeditiously, although it is desirable to do so in this court and the higher court.

35. Mr Brandon took me through the document of 21st April 2016 and submitted it did not contain blatant lies.

36. In respect of Article 504 the RP's expert does not say the author of the document must have known it was wrong, but that it is manifestly wrong and has been misinterpreted.

37. In respect of Law 8331 dated 21st April 1998 the expert says *"it cannot be a bona fide reading of the real meaning of this law"* and the e mail dated 19th May 2016 states that the author of that e mail disagrees with the person who wrote the 21st April 2016 document because it agrees the Minister is not subject to sanction.

38. There is an insufficient evidential basis to say the response by the Government contains lies and, although there is no response to the expert's evidence, the answers put to District Grant's question remain valid. Mr Brandon took me through the 21st April 2016 response from Albania and stated that at (f) the Minister of Justice is obliged to comply with the judgment of the court, not it has to issue a request for extradition. This document was designed to answer why the warrant cannot be withdrawn and he questioned whether we could be confident that in the document "obliged" is use in the English sense of the word. This is one document stating the Minister will be sanctioned if he does not comply with his obligations (as per law no 8331 dated 21st April 1998) and the e mail dated 19th May 2016 rectifies this statement.

39. It was also submitted that there is no provision in Albanian law to withdraw the warrant and relied on Article 504 which deals with the situation before a request for extradition is made, not after. The 21st April 2016 also supports this in specifying that only in very specific limited circumstances can a request be withdrawn.

40. The RPs point that there is a change of circumstances given the Minister's letter dated 5th April 2016 that the authorities will not continue with the security measure to remand in prison for the RPs was a bad one given the security measure remains in place as it was ordered, but the undertaking provided by the Government is not contradictory to Article 260(2).

41. If the court does not adjourn, it was submitted that to continue with the extradition hearing would not be a breach of international law. The PMO is a provisional order and can be either varied or revoked at any time.

42. Mr Brandon also referred me to the Select Committee Report on extradition in respect of Poland to rely on the fact that in Poland it is common ground that a European Arrest Warrant has to be made and there is no discretion on the Requesting State to withdraw it certainly up until relatively recently. Mr Knowles responded by submitting this should be put to one side and not relied on because the Polish principle has nothing to do with the issues in this case and the European Arrest Warrant and the Polish principle of legality has nothing to do with surrender.

MY FINDINGS OF FACT

43. I find that a valid order, the PMO dated 3rd March 2016, has been issued by the ICSID which is accepted by the Government of Albania as binding on it. It recommends that the criminal proceedings against the RPs and the extradition proceedings should be suspended. On the evidence before me I find that to mean that both proceedings should be stopped temporarily to allow the RPs to comply with the order. The rationale of which is to allow them to engage with their businesses and engage in the proceedings.

44. The document of 21st April 2016, which does not contain either the name of or the qualifications of the person who wrote it, was sent by the Ministry of Justice and is therefore the evidence relied on by the Government to substantiate their position as to why the warrant cannot be withdrawn. It was produced to answer this question posed by District Judge Grant when he was asked to adjourn these proceedings *sine me*. I do not make an adverse

inference form the anonymity of the document because I am considering it as a document from the Albanian Ministry of Justice as it is relied on by the Government (as per the e mail sent to the Home Office dated 21st April 2016).

45. The RPs have produced an expert report prepared by Av. Arben Qeleshi dated 6th April 2016 in which he states that the contents of that document are wrong or misleading and causes a wrong reading of the applicable legal requirements in relation to their being a discretionary authority concerning extradition. In fact in respect of some of the assertions of law set out in the 21st April 2016 document he says *"There are statements of law in the Letter of 21.4.16 that are so obviously wrong or misleading they cannot be assertions of law that are genuinely believed by whoever wrote them. For example, no Albanian lawyer can believe that Law 8331 dated 21.04.1998 permits a sanction on the Minister if he does not seek extradition because it deals with something totally different"*. As will be he is right on that point, as accepted in Ms Fenjilli's e mail (see below at paragraph 47).

46. He has an impressive legal background. Before being in private practice he was Prosecutor to the General Attorney's Office between 1991-1993, served as the Tirana Prosecutor's Office Chief between 1993-1995 and was appointed a Magistrate in the Tirana Appeals Court and Korce Appeal Court between 1995 -2002. His comprehensive report sets out why he is of the opinion that the contents of the document of 21st April 2016 are incorrect and misleading in every aspect of law and interpretation set out in it. I will not recite what he says as I have set it out above but its contents have not been either challenged or addressed by the Government. I have also been taken to the provisions of Albanian law which show the Minister of Justice has a discretion to withdraw the warrant. This evidence has not been addressed by the Government and I accept his evidence in its entirety which, in my assessment, correctly answers the question posed by DJ Grant as to why the warrant cannot be withdrawn.

47. In an e mail dated 19th May 2016 Odeta Fengjilli (Director) confirms that one of the statements made in the 21st April 2016 document was incorrect when it states the Minister of Justice has to comply with the Tirana Court's decision

proceedings which will be heard sometime in 2007). To that specific question, the Government of Albania stated that the Minster of Justice had no power under Albanian law to withdraw the warrant. This has been conclusively discredited by the evidence of the expert instructed by the RPs. I have accepted his evidence, which has not been challenged by the Government, and have come to the conclusion that the Minster has a discretion to withdraw the warrant. In coming to that conclusion I also take into account the fact that the document sent to this court by the Ministry of Justice is not on headed notepaper and has no author attributed to it. It is totally misleading.

54. I also finds this court cannot continue with the proceedings at this stage given the PMO is binding on the Government. It would be in breach of an international law obligation. It would also prejudice the RPs rights to be allowed to continue with their business interests and engage with the arbitral proceedings. I have read the assurance given by the Minister about bail but if reasonable bail is not met (for example onerous conditions are imposed the RPs could not meet) they will be remanded in custody and this will defeat the rationale behind the order. No assurances have been given as to what the bail conditions will be. This would obviously be prejudicial to the RPs.

55. If the case were ajourned *sine die* the prejudice to the RPs will be that they would remain on bail for an indefinite period of time and subject to bail conditions. This will be an infringement on their liberty for an unspecified amount of time.

56. I have found there has been an abuse of this court's process but I do not find there has been bad faith on the part of the Government. The document provided to this court (21st April 2016) is misleading but I cannot find it has been produced in bad faith. The RP's expert has concluded the interpretation of the law set out in that document is wrong and misleading. I cannot find it has been produced in bad faith but there has been a manipulation and usurpation of the court process and I stay and therefore I stay these proceeding up to this point.

District Judge Tempia.

20th May 2016.