



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

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Italy: Government moves in the Eluana Englaro Case to undermine the Judiciary and separation of powers

The International Commission of Jurists today denounced moves taken by the President of the Italian Council of Ministers, Silvio Berlusconi, to defy the decisions of the Court of Cassation to allow interruption of the artificial means of life-support to Eluana Englaro.

On Friday 6 February, a serious conflict of powers arose when Mr Berlusconi issued a Law Decree (Decreto Legge) that would have prevented Ms Englaro's father from removing her artificial feeding tube, despite rulings of the Court of Cassation that allowed him to do so. The President of the Republic, Giorgio Napolitano, refused to sign the Law Decree on the grounds that the requirement of "extraordinary necessity and urgency" of Article 77 of the Italian Constitution had not been satisfied, that emergency legislation cannot be used to address a single case, and that such a measure would interfere with the final decision of the Judiciary.

The ICJ welcomes the refusal of the President of the Republic to sign the Law Decree. The ICJ particularly condemns the attempt to use the Law Decree as a means of defying the definitive decision of the Judicial Power in breach of the principle of separation of powers and of independence of the judiciary, internationally recognised cornerstones of the rule of law and democracy.

"Executive authority, including through invocation of special or emergency powers, must never be used to defy final decisions of the Judiciary. The organs of the Judiciary took a final decision on Mr Englaro's powers to allow the removal of his daughter's artificial feeding tube, and the separation of powers requires that both the Government and the Parliament must respect it", said Róisín Pillay, Legal Officer for Europe at the ICJ.

The ICJ is also concerned at the initiative to call special sessions of the Senate and the House of Representatives in order to approve, reportedly within days, fast track legislation on interruption of artificial sustenance in irreversible vegetative situations. The ICJ considers that the Parliament must deliberate the issue through democratic procedures, allowing for open and transparent public discussion and input, before acting on legislation that may affect fundamental rights.

Background information on the ICJ

The International Commission of Jurists is a non-governmental organisation working to advance understanding and respect for the Rule of Law as well as the protection of human rights throughout the world. It was set up in 1952 and has its headquarters in Geneva (Switzerland). It is made up of 45 eminent jurists representing different justice systems throughout the world and has 90 national sections and affiliated justice organisations. The

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

International Commission of Jurists has consultative status at the United Nations Economic and Social Council, the United Nations Organisation for Education, Science and Culture (UNESCO), the Council of Europe and the Organisation of African Unity. The organisation also cooperates with various bodies of the Organisation of American States and the Inter-Parliamentary Union.

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