



THE HIGH COURT
JUDICIAL REVIEW

[2026] IEHC 464

Record No. 2026/546 JR

BETWEEN

S.H.E.

APPLICANT

AND

**THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL,
THE MINISTER FOR JUSTICE, HOME AFFAIRS AND MIGRATION,
IRELAND AND THE ATTORNEY GENERAL**

RESPONDENTS

**EX TEMPORE RULING of Ms. Justice Siobhán Phelan, delivered the 13th
day of July, 2026**

INTRODUCTION

1. The Applicant is an Egyptian national who applied for international protection in the State on the 23rd of January, 2026. He now seeks leave to further amend his Statement of Grounds so as to challenge a deportation order and associated *refoulement* decision made on the 22nd of April, 2026 and communicated on or about the 23rd of April, 2026,

together with interlocutory injunctive relief restraining his deportation pending determination of these proceedings.

2. The applications arise in circumstances where the Applicant's international protection claim and his application for permission to remain have been refused without medical evidence being obtained in respect of his application. His protection claim included allegations of family difficulties in Egypt, detention and serious ill-treatment in Libya, including that he was anally raped, burned on the cheek with hot rods and in consequence has a fear that if returned to Egypt, upon conscription into military service, he would be medically examined (including anal examination), perceived as gay by reason of what had occurred to him in Libya (specifically, the incident of anal rape) and killed or seriously harmed.
3. A central feature of the present application is the Applicant's reliance on a medico-legal report (MLR) from Dr Joan Giller, dated the 29th of April, 2026, which, it is said, was awaited at the time of the permission to remain review process and which the Applicant maintains is relevant both to the credibility and substance of his underlying claim and risks to his mental health arising from a forced return to Egypt relied upon in seeking injunctive relief. While the application for injunctive relief rests squarely on the report from Dr. Giller, the question of medical evidence was already at the core of these proceedings.
4. The existing proceedings attach central importance to the fact that the Applicant's solicitors had sought to rely on s. 23 of the International Protection Act, 2015 (hereinafter "the 2015 Act") to obtain a medical report for the purpose of the Applicant's protection claim. The practical purpose of s. 23 is to allow decision-makers in the international protection process to obtain independent medical evidence where an applicant's physical or mental health may be relevant to the assessment of the application. The manner in which reliance on the s. 23 process was treated, the application for a s. 23 report rejected, and the protection claim refused without obtaining a medical report, is at the heart of the proceedings as instituted. Accordingly, the issue of medical evidence (or its absence) is already core to these proceedings.
5. The Minister resists the application to amend the Statement of Grounds and for injunctive relief on grounds which include delay, the absence of any good or sufficient reason for not challenging the deportation order and refoulement decision earlier, the

prima facie validity of the deportation order, the designation of Egypt as a safe country of origin and public interest factors said to arise from the Applicant's conduct in accommodation provided by IPAS.

6. Due to urgency arising from the fact that advanced arrangements are in place for the Applicant's deportation, the applications for leave to proceed on foot of an amendment Statement of Grounds and for interlocutory injunctive relief restraining his deportation pending determination of these proceedings were heard before me on the afternoon of Friday the 10th of July, 2026 and are being ruled upon today, Monday, 13th of July, 2026.

BACKGROUND

4. An application for international protection was made by the Applicant on the 23rd of January, 2026, following his arrival in the State on the 19th of January, 2026. In his initial application, he referred to serious family problems and claimed his life was in danger. He said "*right now I am very sick and not feeling well, so I cannot explain everything in detail*". In response to a question on the form in relation to medical issues, he replied "*I am depressed*".
5. The Applicant was interviewed under s. 35 of the 2015 Act on the 4th of February, 2026. When asked during his interview why he was seeking international protection in Ireland (Q. 18), he stated:

"I went to Libya it was 2018 or 2019 and I was detained for ten months. When I was detained, I was surrounded by bad people, and they tried to sexually harass me. One day they gave me something to drink like a drug. I drank it and slept and when I woke up the next morning one of the men came to me and he was laughing as he was drunk and he showed a video he took of me, where they were sexually assaulting me. After they showed me the video, they tried to rape me again and I refused, and they burnt me on my cheek with hot rods. He was threatening me with this video all the time as well. Now after what happened to me if I go back to Egypt and my family want me to go back is that the first thing that will happen is that I will have to be conscripted into the army and I will have to get a health check and they will know that I have been raped. This is a

very shameful think in my society, to be thought of as gay, and I will be killed. I have three paternal uncles and they might kill me and nobody will believe that I was raped. There is a certificate that the army issue called the red certificate after they do their intimate checks.”

6. It was put to the Applicant during the interview that COI from Egypt did not back up his assertion that an anal examination was part of the military health test for conscription (Q. 27) but the Applicant protested that the Army do a complete naked check to make sure that no gays join the Army. When asked if he had any medical proof that he had been raped (Q. 29), he replied that he did not. He stated that he was suffering from PTSD and had been treated for it in the UK where he admitted he had made a prior protection claim. He also stated during interview (as recorded in the signed s. 35 interview record) *“I have tried to commit suicide three times”*.
7. The first instance decision issued on the 18th of February, 2026 refusing a recommendation of protection status. In a report prepared pursuant to s. 39 of the 2015 Act, reliance was placed on the fact that Egypt has been designated a safe country of origin. The credibility of the Applicant’s claim to have been raped in Libya was not accepted due to a lack of depth in his responses which were described as *“inconsistent, vague”* and in consequence his application was refused.
8. An appeal was lodged against the negative first instance decision by Notice of Appeal filed on the 4th of March, 2026. One of the grounds of appeal identified in the Notice of Appeal was that the International Protection Office (hereinafter “IPO”) had erred in law in failing to make a referral under s. 23 of the 2015 Act for medical assessment.
9. In an accompanying cover letter also dated the 4th of March, 2026, the Applicant’s solicitor referred to the fact that the core of the Applicant’s claim was that he was *“the victim of rape, meaning that a medico-legal report is of critical importance in this case.”* The Tribunal was referred to the Tribunal Guideline No. 2025/2 on Medical Examination and Medico-Legal Reports, Guideline 2022/1 on Taking Evidence from Appellants and Other witnesses and the EUAA, Evidence and Credibility Assessment in the Context of the Common European Asylum System: Judicial Analysis, (2023) in support of the request that the Tribunal exercise its power under s. 23(2) of the 2015

Act to require that the physical and psychological health of the Applicant be examined, and a report furnished by a nominated registered medical practitioner.

10. It was further pointed out that as s. 23(2) requires the Applicant to “*choose*” the relevant practitioner and the Applicant’s solicitor wrote that this appeared to suggest that the Tribunal should nominate a range of appropriate practitioners to the Applicant. It was pointed out that the Applicant’s appeal was an accelerated appeal and so the Tribunal was called upon to issue a decision on s. 23 in advance of issuing a substantive decision given the importance for the Tribunal of having available to it the best evidence which the Applicant’s solicitor contended included a medico legal report. Neither the Notice of Appeal, accompanying letter or submissions made explained why the Applicant’s solicitor had not obtained a medical report in support of the application. While he has subsequently relied on difficulties in obtaining such reports and exhibited correspondence to corroborate this difficulty, there was a failure to make this known to the Tribunal when complaining about the failure of the IPO to obtain one and requesting the Tribunal to do so.
11. Inexplicably, no photographs (subsequently exhibited in support of these proceedings) were submitted in support of the appeal showing scarring to the Applicant’s face from the hot rod burning he had referred to in his Questionnaire and no reference was made anywhere in the papers to visible facial scarring. Neither was this recorded in the s. 39 report, despite the fact that the Applicant had been interviewed in person by a caseworker for the purpose of that report. Indeed, the Applicant appears to have been asked no questions about the burning with hot rods and his facial scarring.
12. If the Applicant had presented at interview as shown in the photographs exhibited in evidence before me, his scarring would have been obvious to his interviewer and the failure to refer to it during interview would be incomprehensible. In fairness to the IPO, I note from subsequent evidence of Dr. Giller (exhibited for the first time in July, 2026 having only been provided to the Minister in late June, 2026), however, that the Applicant underwent a form of chemical treatment in the UK prior to his arrival in the State to have the burn scarring treated. It appears from the photographs appended to Dr. Giller’s later report that the Applicant’s scars, while still visible upon close examination, are no longer as apparent as they were in earlier photographs. Nonetheless, the existence of these scars and their provenance is clearly relevant to the

proper assessment of the Applicant's application for international protection but received no attention during the assessment of the Applicant's protection claim by the IPO and were not referred to on behalf of the Applicant in either the request for a medical-legal report, the Notice of Appeal filed or the submissions lodged in support of the appeal. In this way, the lack of any apparent enquiry by the IPO with regard to scarring has been compounded by the silence of his solicitors on objectively important, relevant matters when representing him in respect of his claim.

13. Despite the express request for a medical assessment and the basis advanced (which did not include reference to the facial scars or the Applicant's suicidal ideation and symptoms of PTSD, although he had referred to these latter features of his case at interview and they were therefore contained on the record of the application) of a history of rape, there was no response to the request for a s. 23 report in advance of the issue of the Tribunal decision.
14. The Tribunal decision dated the 18th of March, 2026 was issued by email on the 19th of March, 2026. The request for a medical assessment was addressed at paras. 5 and 6 of the decision as follows:

“The Appellant's legal representative made a preliminary application to request the tribunal exercise its power under section 23 of the 2015 Act to compel the Appellant to be medically examined, and a report furnished by a registered medical practitioner of the Appellant's choosing. The tribunal will not accede to this application. The Appellant has experienced and capable legal representatives who could have, if they considered it necessary, had their clients medically examined. No reason for why the Appellant wished the Tribunal to compel a medical examination was given other than the fact that he alleges he is the victim of rape, and a medical report is of critical importance in this case. No reason is evident as to why the Appellant or his legal representatives, of their own motion, could [not] seek a medical report, as many applicants and legal representatives do in the usual way.

Further, the Appellant's legal representatives asked that the issue of whether the tribunal would exercise its power pursuant to section 23 of the 2015 Act be determined as a preliminary issue. The tribunal will not accede to this

application either, as per the case law and the Tribunal's own Administrative Practice Note, there is no obligation on the Tribunal to enter into correspondence in relation to preliminary issues and there is no obligation to make a discrete finding in relation to same. Further all submissions must be made at the time that the notice of appeal is lodged."

15. It should be noted that the Tribunal never queried with the Applicant's solicitor why they did not have the Applicant medically assessed themselves, despite then relying on the fact that "*it was within the gift of the Appellant and his legal representatives to bespeak a medical report from a medical practitioner in Ireland*" as a negative factor in refusing a recommendation of protection status (at para. 39 of the decision).
16. Of some note, the Tribunal member also relied (at para. 43 of the decision) on the fact that the claim that the Egyptian Army undertake anal examinations on all new recruits is "*at variance with the COI*". Although, again inexplicably, the Applicant's legal representatives did not refer the Tribunal to COI documenting the practice of anal examinations in the context of army recruitment in Egypt in support of his appeal, ostensibly mainstream COI which confirms this practice has been exhibited in support of these proceedings (namely, the UK Country Guidance, Country Policy and Information Note: Military Service, Egypt, June 2025, para. 8.4.1). This is an openly accessible document which would otherwise have been available to the Tribunal from its own inquiries as part of its consideration of this claim.
17. By letter dated the 26th of March, 2026, the Applicant's solicitors submitted a submission with supporting documentation in respect of a s. 49(7) review. This submission made no reference to the difficulty in obtaining a medical report and the negative conclusions drawn by the Tribunal from the failure to submit such a report. Nor did it make any reference to the Applicant's obvious facial scarring, relevant to factual basis advanced in support of his application for protection and humanitarian considerations. Despite the finding in the Tribunal decision that the claim in relation to anal examinations as part of army medical checks was at variance with COI, the Applicant's legal representative again failed to alert the Minister to the error of this finding and the availability of relevant COI which contradicted this finding. Although

this COI has subsequently been relied upon in these proceedings, there is no explanation as to why it was not submitted to the Tribunal or the Minister.

18. Even though the submissions in support of a review had made no reference to the issue of a medical report, the Applicant's mental health symptoms or the existence of facial scarring, on the 30th of March, 2026, the Applicant's solicitors informed the Minister that the office was in the process of obtaining a medico-legal report for the Applicant. They forwarded a holding letter from Dr. Joan Giller indicating that a medico-legal report would be provided by the 30th of April, 2026.
19. Without awaiting the report of Dr. Giller, a negative permission to remain review decision issued by letter dated the 10th of April, 2026. In it, negative reference was again made to the fact that the Applicant had not provided any medical matters and "*the medical evidence available does not support the contention that there are substantial grounds for believing that there is a real risk that, if returned to his country, the applicant would be exposed to serious, rapid and irreversible decline in his state of health resulting in intense suffering or a significant reduction in life expectancy.*"
20. Proceedings by way of judicial review were filed in the Central Office of the High Court on the 21st of April, 2026. Initially, the case as pleaded was directed to the negative Tribunal decision but at the leave hearing, the application was presented on foot of a draft amended Statement of Grounds which also encompassed a challenge to the subsequent negative s. 49(7) decision.
21. In grounding his application for leave to proceed by way of judicial review, the Applicant averred that he had been advised that the Minister erred in a number of respects in the decision to refuse his application. He further averred that he feared a serious deterioration in his mental health should he be returned to Egypt and that he believed the forthcoming medico-legal report would be of substantial assistance in demonstrating his case.
22. The Applicant's solicitor swore an affidavit in which he averred that, in his experience as a solicitor practising in this area, it was not then feasible to obtain a medico-legal report until the appeal stage. He exhibited a letter from Dr. Giller dated the 15th of April, 2026, stating that because of the high volume of referrals, she and colleagues were unable to provide medico-legal reports for international protection applicants unless the client was at the appeal stage and had a hearing date, or was unlikely to have

an oral hearing. The Applicant's solicitor confirmed that he understood that a similar position pertained in relation to Spirasi. As set out above, however, this difficulty in obtaining medical reports had not been articulated by the Applicant's solicitor, as it ought to have been, when requesting the Tribunal to nominate a medical practitioner for the purpose of a medical assessment. Notably, reliance was also placed on COI (in relation to the anal examinations as part of military checks in Egypt) which similarly had been neglected by or on behalf of the Applicant before the Tribunal's or the Minister's negative decisions were made concerning the Applicant. Any criticism of the Tribunal's consideration of the Applicant's claim as advanced in these proceedings must ultimately be tempered by the fact that his legal representatives repeatedly missed important opportunities to present relevant information in a timely manner during the currency of the decision-making process which it is now sought to impugn in these proceedings.

23. A s. 50 *refoulement* decision was made on the 22nd of April, 2026. It was communicated to the Applicant by email dated the 23rd of April, 2026 at the email address provided by him in his International Protection Digital Form. A copy of the correspondence was also sent to the Applicant's solicitors by registered post letter dated the 23rd of April, 2026.
24. A deportation order made on the 22nd of April, 2026 was also served and by the terms of the letter dated the 23rd of April, 2026, the Applicant was advised that he was required to leave the State by the 23rd of May, 2026 and, if he did not leave by that date, he was required to present at GNIB (Garda National Immigration Bureau), Burgh Quay, on the 27th of May, 2026 to make arrangements for his removal. The letter also advised the Applicant that if he considered that his personal circumstances had changed to such an extent as to warrant a review of the decision to make a deportation order, it was open to him to make submissions under s. 3(11) of the Immigration Act, 1999.
25. The *refoulement* consideration recorded that Egypt has been designated as a safe country of origin. It further recorded the Applicant's claims, including that he had family problems in Egypt, that he had been raped in Libya, that he feared conscription and medical examination upon return to Egypt and that he feared being killed if returned. The decision concluded that repatriating the Applicant to Egypt would not be contrary to s. 50 of the 2015 Act.

26. Separately, on Dr. Giller furnished a report dated the 29th of April, 2026 which was received by the Applicant's solicitors on the 3rd of May, 2026.
27. Through extraordinary and entirely unacceptable omission, subsequently explained as solicitor oversight and error (Affidavit of Mr. Steer sworn on the 9th of July, 2026), none of the events which post-dated the negative s. 49(7) decision were referred to when the application for leave to proceed by way of judicial review was moved before the High Court in May, 2026, despite the fact that an adjournment was sought on the first return date (11th of May, 2026) to draft an amendment to the Statement of Grounds to include a challenge to the negative s. 49(7) decision. Indeed, in an affidavit sworn to ground the application to proceed on foot of a proposed amended Statement of Grounds sworn on the 27th of April, 2026 and filed on the 30th of April, 2026, the Applicant's solicitor does not refer to the fact that his office had, that same week, been served with a copy deportation order in respect of the Applicant. These failures are deeply concerning and raise serious questions.
28. Also unbeknownst to the Court, by letter dated the 6th of May, 2026, IPAS notified the Applicant that it had received reports of intimidation of a female staff member, attempts to access that staff member's car uninvited, threats to damage the car, inappropriate behaviour in the staff member's office, and a physical altercation with another resident. The matter was said to have been reported to An Garda Síochána and IPAS indicated that consideration was being given to transferring the Applicant to another accommodation centre.
29. It appears (the Applicant is silent in this regard and has not responded to these serious allegations) that on or about the 14th of May, 2026 the Applicant was transferred from Citywest Reception Centre to Columb Barracks, Mullingar.
30. By Order *ex parte* made on the 18th day of May, 2026, the Applicant was given leave to challenge the negative protection and permission to remain decisions on grounds, inter alia, that the Tribunal had failed in its inquisitorial role under s.61(3)(a) of the 2015 Act and/or its shared duty under s.28 of the 2015 Act and/or Article 4 of the Qualification Directive by not discharging its investigative burden in the context of COI with regard to the information listed at s.28(3) of the 2015 Act and/or Article 4(3) of the Qualification Directive. It was pleaded that had the Tribunal properly discharged its shared duty it would have identified the following from the UK

Government Guidance: Country policy and information note: military service. Egypt. June 2025 (updated 9 March 2026) which recorded that the medical examination conducted in the context of military service “*include the infamous anal examination perceived to identify gay people.....*”.

31. Leave was also granted to challenge the negative decisions on the grounds that the Tribunal erred in refusing the Applicant’s request that it direct a medico-legal report under s.23(2) of the 2015 Act (para. 5) and in relying on an alleged failure of the Applicant to obtain his own MLR (para. 39) while declining to determine the matter as a preliminary issue as requested. Part of the complaint for which leave was granted was that no opportunity was afforded after a negative s.23(3) decision, to allow the Applicant an opportunity to obtain an MLR outside the s.23 process. In the case made and for which leave was granted, it was contended that the truncated timeline in an accelerated procedure did not afford sufficient opportunity to obtain a report outside that process. It was further pleaded that the wording of the Tribunal decision failed to disclose that there in truth exists no panel of medical practitioners as required by s.23(3) of the 2015 Act as the Minister has failed to establish such a panel. Consequent upon the failings identified the case for which leave was granted include that the decision to refuse international protection was made in breach of duty under s.23 of the 2015 Act and/or Article 39 of Directive 2005/85/EC, Article 4 of Directive 2004/83/EC and/or Article 47 of the CFREU.
32. As there was no reference to the s. 50 decision or deportation order in the proceedings as instituted, no relief was sought and leave was not granted to challenge either the s. 50 decision or the deportation order which requires the Applicant to leave the State.
33. Proceedings were served on the Chief State Solicitor’s Office by email on the 21st of May, 2026. By replying email dated the 25th of May, 2026, that office raised a query in respect of the Applicant’s affidavit sworn on the 27th of April, 2026 where his explanation for failing to provide photographs exhibited to the Tribunal in advance of its decision was left incomplete in the translated version of the affidavit. There is no evidence that this correspondence was ever responded to, although in an affidavit sworn on the 9th of July, 2026, the Applicant’s solicitor maintains that this is a result of difficulties arising from the withdrawal of solicitors’ services which has impacted on the swearing of a supplemental affidavit from the Applicant in this regard.

34. Notwithstanding his transfer from Citywest to Mullingar arising from difficulties with the Applicant in his IPAS accommodation, the Applicant is said to have returned to Citywest on the 29th of May, 2026 and sought further interaction with the staff member in question. These contentions have not been addressed by or on behalf of the Applicant on affidavit, although during the hearing before me it was contended that evidence in relation to difficulties in IPAS accommodation as deposed to on behalf of the Minister was “*hearsay*”.
35. The Applicant was detained in Limerick Prison on the 5th of June, 2026 on foot of a warrant of detention. Despite being detained in Limerick Prison, it appears that the Applicant did not make contact with his solicitor until in or around the 15th of June, 2026, the eve of the first return date for the proceedings in the Asylum Registrar’s List. Upon request, his warrant of detention was furnished to the Applicant’s solicitor on the 16th of June, 2026 and it confirms that the basis for arrest and detention is both that he failed to leave the State within the time specified in the deportation order and that he failed to comply with another provision of the order or with a requirement in a notice under s. 3(3)(b)(ii) of the Immigration Act, 1999.
36. By letter dated the 16th of June, 2026, the Applicant’s solicitor wrote to the Chief State Solicitor’s Office confirming that it had come to their attention that the Applicant was detained in Limerick Prison and upon a review of their file they realised for the first time that a deportation order dated the 22nd of April, 2026 had issued. Reference was made to the extant proceedings and an undertaking not to deport was sought. Even at this late stage, no reference was made to the MLR which had also been received from Dr. Giller in the intervening period and not forwarded for the Minister’s attention.
37. By responding letter dated the 17th of June, 2026, an undertaking for a period of one week was given that the Applicant would not be deported.
38. Finally, by letter dated the 22nd of June, 2026, the Applicant’s solicitors forwarded the report of Dr. Giller, dated the 29th of April, 2026, to the Minister for the first time. It was confirmed to the Minister that while the report had in fact been received by them on the 3rd of May, 2026, it had not been brought to the attention of the Minister or the Court at the leave stage and that its receipt only came to light following a query from counsel on the 19th of June, 2026. The request for an undertaking pending the determination of the proceedings was repeated.

39. In her report, Dr. Giller outlines her qualifications (she is an Obstetrician and Gynaecologist with an MA in Counselling and Psychotherapy). She confirms that the report was prepared on foot of an interview conducted *via* video link on the 26th of April, 2026. She does not record how long the assessment took. She records the Applicant's current medical and psychiatric problems as including scarring on cheek, low mood and tearfulness, suicidal thoughts and many other psychological symptoms as assessed (including insomnia and nightmares, intrusive thoughts, low mood, low energy, tearfulness, poor appetite, loss of interest, poor memory, sense of hopelessness, anxiety, suicidal ideation, shame, loss of libido, sense of worthlessness). She notes evidence of some pale burn scarring still visible on his face. In her clinical opinion, if a threat of deportation were to become imminent:

“there is a real and significant risk that his levels of hopelessness, depression, despair and fear will reach such a level that his suicidal ideation will increase and become overwhelming. In my opinion, there are substantial clinical grounds for believing that deportation to Egypt would expose [Applicant's name] to a serious, rapid and irreversible decline in his mental health, resulting in intense suffering and possible death.”

She also concluded that the clinical evidence is “*highly consistent*” with the Applicant's account of trauma.

40. Following delivery of this report, the Minister's undertaking was extended to the 10th of July, 2026. By letter dated the 1st of July, 2026, the Minister was asked to extend the undertaking pending a determination of these proceedings with reference to principles identified in *Okunade v. Minister for Justice, Equality and Law Reform* [2012] 3 I.R. 152, [2012] IESC 49.

41. On the 3rd of July, 2026, in the absence of confirmation of a continuing undertaking, leave was granted to the Applicant, on notice to the Minister, to bring an application returnable to the 10th of July, 2026 for leave to amend the Statement of Grounds (to include, *inter alia*, relief in respect of the deportation order) and for an interlocutory

injunction restraining deportation. Directions were given in respect of the issue of the Notice of Motion and any replying affidavit.

42. Although a draft of the Notice of Motion and unsworn grounding affidavit were served on the Chief State Solicitors, these were not filed in accordance with court direction necessitating a further application to Court on the 9th of July, 2026, for leave to file the application late. A replying affidavit on behalf of the Minister had been sworn in response to the draft papers but had not been filed because it was discovered that the application on behalf of the Applicant had not been filed and the grounding affidavit in respect of which the replying affidavit had been prepared had not yet been sworn.
43. In view of imminent expiry of the undertaking and difficulties in otherwise accommodating an injunction application before impending deportation and notwithstanding objection on behalf of the Minister, an extension of time for issue of the Notice of Motion (already served in draft) was granted on the basis that were new elements introduced beyond what was contained in the draft application which had been furnished to the CSSO, the application would be adjourned even though in consequence the application would likely then not be heard in advance of effect being given to the deportation order.
44. The application finally issued in accordance with these revised directions on the 9th of July, 2026 and the Affidavit sworn on behalf of the Minister resisting both the application to amend the Statement of Grounds and injunctive relief was filed returnable to the 10th of July, 2026.
45. In grounding the applications, the Applicant's solicitor outlines his office's error in failing to identify that a deportation order had been made and was served on them in respect of the Applicant, attributed to an administrative error which resulted in it being filed with the solicitor being made aware of its existence.
46. He separately referred to the query raised by the Chief State Solicitor's office in respect of the pleadings which had not been responded to, explaining that due to "*current withdrawal of services*" which it was said the court would be aware of, the supplemental affidavit to remedy this issue had not been obtained. Given that the issue which had been raised predated the withdrawal of any legal aid services (which is presumably what is referred to) and the matter in question related to what the Applicant's solicitor

described as an error in his office “*in the drafting and swearing process*”, this explanation is incomplete.

47. The Applicant’s solicitor also addressed the failure to identify the MLR “*regrettably overlooked*” until counsel raised a query on the 19th of June, 2026 and the fact that it was not sent to the Chief State Solicitors Office until the 22nd of June, 2026.
48. In grounding the application for injunctive relief, the Applicant’s solicitor relied on the Applicant’s fear of persecution if considered gay following an anal examination on return to Egypt, the risk to the Applicant’s health in the event of a forced return to Egypt as outlined in Dr. Giller’s report, the suicide risk evidenced, the Minister’s failure to establish a medical practitioners panel under s. 23 of the 2015 Act and the concern that the proceedings would be rendered moot if the Applicant were deported.
49. In resisting the applications, a deponent on behalf of the Minister refers to the fact that the *refoulement* decision made pursuant to s. 50 of the 2015 Act and the deportation order which the Applicant now seek to impugn through application to amend the Statement of Grounds, were made on the 22nd of April 2026 and communicated to the Applicant by email dated 23rd of April 2026. Communication was to both the Applicant and his solicitor. It is stressed, therefore, that at the time that the application for leave to seek judicial review was initially moved on the 18th of May, 2026, the Applicant and his solicitor were, or should have been, in possession of the deportation order and *refoulement* decision which he now seeks to challenge. Inadvertence or error on the part of the Applicant’s solicitor therefore does not excuse the failure of the Applicant to pursue the matter with his solicitor.
50. As the proposed amendment and thus the application for leave to seek judicial review in relation thereto, is being moved some 7 weeks outside of the time limit permitted by s. 5 of the Illegal Immigrants Trafficking) Act 2000 (as amended), it is contended that the application should be refused on grounds of delay. It is pointed out that the explanation for delay relates to the Applicant’s solicitor’s oversight and does not address the Applicant’s failure to raise the issue of the deportation order with his solicitor. It is contended, therefore, that there is no good or sufficient reason advanced for the delay in seeking to challenge the said deportation order and/or *refoulement*

consideration and that, in all the circumstances, there is no lawful basis to permit the Applicant to further amend his Statement of Grounds at this juncture.

51. In relation to the injunction application, reliance was placed on the fact that arrangements have been put in place to imminently implement the valid (and to date unchallenged) deportation order. These arrangements have involved expenditure on the part of the State following engagement with the Egyptian authorities as well as the rostering of members of the GNIB and the Respondents would therefore be prejudiced by any injunction which might be granted at this stage.
52. The Applicant's delay was cited as a basis for resisting injunctive relief in circumstances where he was detained in Limerick Prison on the 5th of June 2026 on foot of a warrant of detention but did not contact his solicitor until the 15th of June 2026, the eve of the first return date for the proceedings in the Asylum Registrar's List (17th of June, 2026). The delay in forwarding the report of Dr. Giller was similarly pressed.
53. In addition, serious issues relating to the Applicant's conduct were cited as a basis for refusing relief. The Assistant Principal Officer who swore the affidavit on behalf of the Minister referred to a number of alleged incidents of intimidation of a female staff member, attempting to access the said staff member's car uninvited and making threats to damage her car which it was claimed have been reported to An Garda Síochána.
54. It was further confirmed that because of this conduct, by letter dated 6th of May 2026, the Applicant was advised by IPAS that his behaviour constituted a very serious breach of the IPAS House Rules, was illegal and contrary to the smooth running of the Centre. He was informed that consideration was being given to transferring him to another accommodation centre and he was invited to make representations and/or give his views on the matter. It was confirmed that thereafter on the 4th of May, 2026, the Applicant was transferred from his IPAS accommodation at Citywest Reception Centre to a location in Mullingar as a result of the concerns raised.
55. Notwithstanding conduct related transfer, it was the understanding of the deponent on behalf of the Minister (not disputed on affidavit or in exhibited correspondence on

behalf of the Applicant) that the Applicant had, since his transfer, returned to Citywest Reception Centre on the 29th of May, 2026 and sought to further interact with the said staff member. In consequence, it was considered that due to his conduct the Applicant poses a serious risk to the staff member in question and that his conduct is contrary to the public interest. It was contended that these are factors to which significant additional weight should attach in weighing the competing interests relevant to the injunction application.

56. The Court was reminded on behalf of the Minister that it was proposed to deport the Applicant to Egypt which has been designated by the Minister as a safe country of origin pursuant to the International Protection Act 2015 (Safe Countries of Origin) (Amendment) (No. 2) Order 2024 (S.I. No. 327 / 2024).

57. In relation to the report of Dr. Giller, it was acknowledged on behalf of the Minister that whilst the report raises “*certain psychological issues*”, it was contended that it is not apparent that the Applicant has been undergoing treatment for same, nor is any future treatment advised or recommended. It was pointed out that it does not appear that the Applicant is currently taking any medication in relation to his symptoms as outlined in the said report. In addition, in light of the fact that the deportation order has now been made, it was pointed out that the appropriate mechanism by which the Applicant could seek to have this report considered is by way of an application pursuant to s. 3(11) of the Immigration Act 1999 (as amended) but no such application had been made by or on behalf of the Applicant.

ISSUES

58. The issues arising on this application may be summarised as follows:

- i. whether the Applicant should be permitted to further amend his Statement of Grounds to challenge the deportation order and refoulement decision and whether leave should be granted to seek judicial review of those decisions, having regard to the applicable statutory time limit and the substantial grounds threshold;

- ii. whether an interlocutory injunction should be granted restraining the Applicant's deportation pending determination of the proceedings or further order.

LEGAL PRINCIPLES APPLICABLE

59. The proposed challenge to the deportation order and *refoulement* decision is subject to s. 5 of the Illegal Immigrants (Trafficking) Act, 2000 (as amended). The Applicant must therefore satisfy the Court that there are substantial grounds for contending that the decisions are invalid or ought to be quashed. The substantial grounds threshold is a familiar one. It requires grounds which are reasonable, arguable and weighty, and which are not trivial or tenuous. It is not sufficient for an applicant merely to identify disagreement with the impugned decision or to seek to re-run the merits of matters already determined.
60. As the challenge to the s. 50 *refoulement* decision and deportation order is introduced by way of application to amend, there is an obligation on the Applicant to explain delay but, on the authority of *Habte v. Minister for Justice and Equality* [2019] IEHC 47, it is not necessary to show, as has been contended on behalf of the Minister, that substantial grounds for contending that good and sufficient reason for an extension of time must be demonstrated insofar as the application is brought outside the statutory time limit. This is because the proceedings are already in being and, as observed in *Habte*, the jurisdiction to amend is intended to be liberal.
61. Delay remains a relevant factor, however, and the circumstances of the delay, the point at which the Applicant and/or his legal representatives became aware of the relevant decision and the explanation offered for the failure to move sooner are all material to the assessment of whether to grant leave to amend where there has been delay. Principles which guide the grant of leave to amend a Statement of Grounds as identified at para. 32 of the decision of Humphreys J. in *Habte* confirm, in reliance on the decision of the Supreme Court in *Keegan v. GSOC* [2012] 2 I.R. 570, [2012] IESC 29, that simple inadvertence by lawyers acting for the party concerned may be accepted as an explanation for delay (see principles vi at para. 32). The fact that new grounds of

challenge are advanced based on pre-existing facts is not a bar to the amendment being made (see principle viii, para. 32 in *Habte*).

62. The applicable principles governing the grant of interlocutory relief in immigration proceedings are those identified in *Okunade v. Minister for Justice*. The Court must first consider whether an arguable case has been established (in this case the higher threshold of substantial grounds has already been established in respect of existing grounds and requires to be determined in respect of the new grounds now sought to be advanced). If that threshold is met, the Court must then consider where the greatest risk of injustice lies, giving appropriate weight to the orderly implementation of measures which are *prima facie* valid, the public interest in the orderly operation of the immigration system, any case-specific public interest factors, and the consequences for the Applicant if required to comply with a measure which may later be found unlawful.
63. The availability and adequacy of damages is also relevant, although in deportation cases damages will frequently provide little or no practical answer to the consequences of removal. The strength or weakness of the underlying case may also be considered where the issues do not require detailed factual investigation or complex legal analysis.

ANALYSIS AND DECISION

Amendment and Delay

64. The first difficulty for the Applicant is procedural. The deportation order and *refoulement* decision were made on the 22nd of April, 2026 and communicated on the 23rd of April, 2026 and are not challenged in the proceedings as currently constituted. The deportation order is presumptively valid. The Minister's evidence is that the decisions were emailed to the Applicant at the email address provided by him and sent by registered post to his solicitors.
65. It follows that, on the Minister's case, both the Applicant and his solicitors were, or ought to have been, in possession of the deportation order and *refoulement* decision when the application for leave was initially moved on the 18th of May, 2026 and by reason of their failure to bring a challenge to the s. 50 decision and the deportation order at that time, they should not now be permitted to amend the proceedings late to enlarge the challenge to include those decisions.

66. I agree with counsel for the Minister that the explanation offered for the delay is not a strong one. It appears, in substance, to be that the Applicant's solicitor did not appreciate that the deportation order and *refoulement* decision had been received and that the position only became clear at a later stage. Acknowledging that the Applicant has been detained in custody in Limerick Prison since early June, 2026, the fact remains that there is no detailed evidence from the Applicant explaining whether and when he received the email sent directly to him. Nor is there a full explanation for why correspondence sent by registered post to the solicitors was not identified and acted upon earlier.
67. The position is further complicated by the fact that Dr. Giller's report, although dated the 29th of April, 2026 and apparently received by the Applicant's solicitors on the 3rd of May, 2026, was not furnished to the Minister before the deportation order was sought to be challenged and was not placed before the Court at the initial leave stage. The explanation given is that receipt of the report came to light following a query from counsel on the 19th of June, 2026. The letter from Dr. Giller dated the 15th of April, 2026, exhibited by the Applicant's solicitor gives some context for the difficulty in obtaining medico-legal reports at an earlier stage. It does not explain the subsequent failure to deploy the report once obtained, but it is relevant to the contention that the Applicant could not reasonably have produced such a report much earlier in the protection process.
68. Putting it mildly, as already observed above, the standard of representation which the Applicant has received from his solicitors in these proceedings is deeply concerning, albeit his own failure to engage with his solicitors in relation to his case may well be a significant contributing factor in this case which it has not been explored beyond evidence that the correspondence was also sent to the Applicant. There is no doubt that there have been unacceptable and troubling shortcomings in the way these successive applications on behalf of the Applicant for international protection, permission to remain and in judicial review proceedings have been presented.
69. I have already observed that I regard these matters as serious. They are relevant both to the application to extend time and to the exercise of the Court's discretion in respect of injunctive relief. It is incumbent on applicants in urgent immigration proceedings

and on their legal advisers, to move with expedition and candour where the relief sought may restrain the execution of a deportation order.

70. Nonetheless, to refuse relief because of flagrant examples of poor practice and disregard of established duties of candour, carries with it a risk that the overriding consideration of the interests of justice are obscured. As Humphreys J. stated in *Habte*, it is not the function of the court in considering an amendment application to punish the parties for their mistakes. I must be careful not to determine the amendment and injunction application by reference to default alone where the claims advanced arguably disclose matters of substance bearing on the legality of removal, particularly where issues of mental health, alleged torture or ill-treatment, and potential refoulement are raised. Accordingly, while delay in moving this application remains relevant and weighs against the grant of relief, I will not refuse to entertain the application on delay grounds alone.
71. In terms of issues of prejudice to the Minister in allowing a late amendment to these proceedings, I am also mindful that the delay in including a challenge to the s. 50 decision and deportation order in these proceedings means that expense has been incurred in planning for the Applicant's deportation in a manner which might otherwise not have occurred. As against this, the Minister has been aware since the service of judicial review proceedings upon him that the Applicant had been found to demonstrate substantial grounds to challenge a refusal of protection status and permission to remain.
72. The Minister is also on notice that the Applicant had sought to rely on the failure to obtain a medical report in the context of the process as a basis for rendering the decisions taken in the process unlawful. It follows that the Minister should not be surprised that this challenge would, in the normal course, impact on the enforceability of the deportation order which had been made in the same process. Furthermore, while there have been developments in the form of arrangements to remove the Applicant from the State, the Minister is not prejudice in the defence of these proceedings because this application to amend is made before a Statement of Opposition or any other step in the proceedings has been taken. In these circumstances, I do not consider prejudice to the Minister to be decisive, albeit it remains a factor which weighs against the grant of relief at this remove.

73. Turning then to the substance of the proposed amendments and whether they have sufficient merit that justice requires that the Applicant be permitted to make the expanded complaint he seeks to advance belatedly, I note that the Applicant's challenge in these proceedings as presently constituted rests principally on the contention that the Minister and/or Tribunal failed to lawfully engage with material which was or should have been considered relevant to his underlying claim and to his mental health. He now seeks to expand the claim already made with regard to the protection and permission to remain decisions to also encompass the deportation and *refoulement* decisions. His fundamental position is that these decisions cannot safely stand. This claim is advanced not only because these later decisions are predicated on earlier flawed decision making but also in circumstances where there is now a medico-legal report which may bear materially on both the Applicant's credibility (which was rejected by the Tribunal without the benefit of medical evidence and relevant COI) and risk (which is now substantiated by medical evidence previously unavailable to the Minister in the terms of Dr. Giller's report).
74. In grounding these proceedings in April, 2026, the Applicant referred specifically to his claim that while detained in Libya he was burned on the cheek with hot rods. He sought to rely on contemporaneous and more recent photographs of his face. He accepted that these photographs were not before the Minister at the time of the impugned decision, but maintained that they are relevant to the utility of a medico-legal report and to substantiating his claim.
75. The Minister's *refoulement* consideration exhibited late in support of the amendment application records the Applicant's central claims as summarised above but relies heavily on the fact that his account was rejected as not credible by both the IPO and the Tribunal. It states that the Applicant's legal representatives repeated claims already considered and provided no new information beyond that previously assessed by the IPO and the Tribunal.
76. The reasoning of the Minister in his s. 50 decision is not, in itself, legally objectionable. The Minister was entitled to attach weight to adverse credibility findings made in the protection process. It is not the function of a s. 50 *refoulement* consideration to conduct an unrestricted appeal from the protection decisions. However, the difficulty in the present case is that the Applicant had, before the permission to remain review decision,

notified the Minister that a medico-legal report from Dr. Giller was awaited and would be provided by the 30th of April, 2026. The permission to remain review decision issued on the 10th of April, 2026, and the deportation order and refoulement decision followed on the 22nd of April, 2026 without awaiting that report and this failure to await the report was relied upon in grounding these proceedings from the outset.

77. There is therefore a real question as to whether, in the particular circumstances of this case, the Minister was required to engage more directly with the fact that a medico-legal report had been flagged as imminent and was said to be relevant to the Applicant's account and mental health. Reliance is placed in this regard on the decision of Barr J. in *E.L. (Georgia) v. IPAT* [2025] IEHC 690 where he quashed the decision of the Tribunal made without awaiting a medico-legal report which was imminent and *HID, BA v Refugee Applications Commissioner & Ors. (Case C-175/11)* where the court clearly stated that a prioritised procedure must not deprive applicants coming within that category of the guarantees required by Art. 23 of Directive 2005/85, which apply to all forms of procedure.
78. The CJEU stressed in *HID* that an accelerated procedure must allow the exercise of the rights that the Directive confers on applicants for asylum and applicants must enjoy a sufficient period of time within which to gather and present the necessary material in support of their application, thus allowing the determining authority to carry out a fair and comprehensive examination of those applications and to ensure that the applicants are not exposed to any dangers in their country of origin. It also seems to me that question as to whether the Minister was required to engage more directly with the fact that a medico-legal report had been flagged as imminent and was said to be relevant to the Applicant's account and mental health may be even more acute where the underlying claim involves alleged physical ill-treatment, sexual violence, stigma and fear of death on return as in this case which is why I was and remain satisfied that the s. 5 threshold of substantial grounds is met in this case. This is so in respect of the proposed extended grounds, as it was in the grounds pleaded in the case for which leave was originally granted.
79. I emphasise that this does not mean that an applicant can indefinitely delay immigration decision-making simply by indicating that further evidence may be forthcoming. Nor does it mean that the Minister is obliged in every case to await a medico-legal report.

The issue is a narrower one, namely, whether, on the facts of this case and given the short interval between notification that a report was expected and the making of the deportation/refoulement decisions, the decision-making process was legally sustainable. The Applicant also relies on mental health concerns. His affidavit grounding these proceedings stated that he feared a serious deterioration of his mental health if returned to Egypt and believed the medico-legal report would substantially assist his case.

- 80.** It has always been part of the Applicant's case that the decision-making process was flawed by reason of the absence of a medico-legal report. Just as it was flawed when the protection and permission to remain applications were rejected, so too the refoulement and deportation decisions were contaminated as part of a continuum of decision making. It seems to me that on an application of the *Habte* principles, this is not a case where a proposed amendment would introduce an entirely new cause of action or new ground. It does not alter the nature of the proceedings significantly or require the addition of new parties. Furthermore, the fact that the amendment involves a new relief or challenges a different decision has been found not to be a bar to allowing an amendment.
- 81.** The Minister, in response to these applications, points out that although Dr Giller's report raises psychological issues, it is not apparent that the Applicant is undergoing treatment, no future treatment is advised or recommended, and he does not appear to be taking medication. The Minister further says that now that a deportation order has been made, the appropriate mechanism for consideration of the report is a s. 3(11) application, but no such application has been made.
- 82.** There is force in the Minister's position. If the report post-dates the decision or was not placed before the Minister prior to the decision, then the ordinary remedy may well be an application under s. 3(11) rather than a challenge to the deportation order itself. The Applicant cannot lightly convert post-decision material into a ground for quashing a decision made without that material. Nonetheless, the report was not wholly unforeseen. A holding letter had been provided to the Minister on the 30th of March, 2026 stating that Dr Giller's report would be forthcoming by the 30th of April, 2026. The deportation order and *refoulement* decision then issued before that date.

- 83.** As indicated above, in my view, the Applicant has crossed the substantial grounds threshold on the contention that the Minister's decision-making process may have failed to lawfully consider the significance of the pending medico-legal evidence in circumstances where it had been expressly foreshadowed, was expected within a short period and related to matters potentially central to credibility, *refoulement* and mental health. Indeed, I was previously persuaded that substantial grounds have been demonstrated to challenge the decisions made to refuse international protection and permission to remain, in part by reason of the failure to provide for a means by which medical evidence could be obtained for the purpose of the protection claim and/or to await a promised medico-legal report. Logically these same concerns extend to subsequent decisions made in reliance on the preceding process and seemingly adopting the earlier findings made.
- 84.** It is noted that while resisting this application to amend and resisting the application for injunctive relief, the Minister has not engaged at all either in evidence or in submissions in relation to the claims advanced in reliance on s. 23 of the 2015 Act in this case. This complaint is at the heart of the proceedings as instituted and remains core to the proposed amended expanded grounds. I remain satisfied that there is a non-trivial argument that the *refoulement* consideration may have treated the adverse credibility findings as effectively dispositive without adequately considering whether the imminent medico-legal evidence, if available, might bear on the assessment of risk and credibility. I should also record that the exercise of powers under s. 23 of the 2015 Act to establish a panel of medical practitioners available to carry out medical reports as part of the assessment process is arising in an increasing number of cases coming into the *ex parte* leave list in recent months such that, at the first appropriate opportunity, the Chief State Solicitors Office should apply to the judge then assigned to the Asylum List for the purpose of agreeing a timetable to advance proceedings to determine this issue as it is now arising with such frequency as to have the appearance of carrying a systemic significance.
- 85.** At full hearing the Applicant will face real difficulties, including the chronology, the delay, the fact that Dr Giller's report was not actually furnished to the Minister before the decisions now challenged, the availability of s. 3(11) and the statutory safe country designation of Egypt. Nonetheless, I cannot conclude that the proposed grounds are merely trivial or tenuous.

86. It seems to me that the amendments sought to be introduced, while significant and important, are consequential on the grounds advanced in the existing challenge. Insofar as the *refoulement* decision and deportation order rest on a process which precedes them, it seems to me that they must also be vulnerable to challenge on the same grounds. Furthermore, while the report of Dr. Giller was not available to the Tribunal or the Minister before the decisions sought to be impugned in these proceedings were made, the substance of the report supports the case made, for which leave has already been granted, that the medical assessment which had been sought on behalf of the Applicant as part of the determination of the protection claim was relevant to the proper assessment of the Applicant's that claim. The report describes his facial scarring and his psychological symptoms which are described as "*highly consistent*" with the claim he has made.
87. In all the circumstances, and with some hesitation due to the very serious failings in the papers grounding the application for leave, I have concluded that the proposed amended grounds also disclose substantial grounds and that an amendment ought to be permitted having regard to the applicable principles identified in *Habte* and to ensure that the real issues in the case are addressed. I do so without minimising the unsatisfactory features of the delay, the way the medical report emerged and the failure to include the challenge to the s. 50 *refoulement* decision and deportation order at an earlier stage or to even refer to the fact that the decision and order had been made when moving the leave application before me on the 18th of May, 2026.
88. I will grant leave to amend the Statement of Grounds and leave to seek judicial review in terms of the proposed Amended Statement of Grounds.

Injunctive Relief

89. It follows from my conclusion on the amendment application and having previously granted leave in these proceedings, that I am satisfied that the first limb of the *Okunade* test is satisfied in this case. I turn therefore immediately to the second limb of the test, the interest of justice considerations. I must consider, in particular, how the balance of justice is affected by the timing of the application, the late reliance on Dr. Giller's report, the fact that no s. 3(11) application has yet been made, the safe country designation and the public interest evidence relied on by the Minister and weighing all

factors together, including the substance of Dr. Giller's report, I must decide where the greatest risk of injustice lies.

90. Significant weight must be given to the orderly implementation of the deportation order.

The order is *prima facie* valid. The Applicant's protection claim has been rejected. Egypt is designated as a safe country of origin. The Minister has made a *refoulement* decision under s. 50 of the 2015 Act concluding that removal would not breach the prohibition of *refoulement*. Unlike the position in *J.V.V.M. v. Minister for Justice* [2025] IEHC 506, for all the shortcomings in the presentation of these proceedings, the Applicant has not awaited the 11th hour to bring proceedings. Proceedings were instituted in a timely manner to challenge the decision of the Tribunal and the permission to remain decision. Those proceedings remain extant and a Statement of Opposition has yet to be filed. I do not consider this a case of drip-feeding information to the authorities as was considered to have occurred in *J.V.V.M.* on the facts in that case, so much as a failure to effectively administer a file, by reason of whatever exigencies may have applied, no doubt contributed to but seemingly not entirely caused by a lack of client engagement, to ensure proper representation of a client's interests.

91. Insofar as the application for injunctive relief is concerned, it is noted that a temporary undertaking was granted on two occasions with a threat that the costs of an application to court for injunctive relief would be resisted having regard to the terms of the undertaking granted. The effect of granting an undertaking in these terms without explaining that the undertaking was temporary, that the Minister had an active intention to deport and that an application for an injunction would become necessary if the Applicant wished to seek to have deportation restrained as the undertaking would not be continued, potentially contributed to the failure on the part of the Applicant's solicitors to seek instructions to move immediately to seek injunctive relief when they first became aware of his detention on foot of an extant deportation order. In terms of the management of court resources and orderly planning and preparation, it is desirable that where an undertaking will not be continued, that this is clearly stated so that there is an opportunity to seek court relief in an orderly manner and without the immediate urgency of an expired undertaking which is not being continued, without notice and in the face of proposed imminent deportation.

92. The Minister has also placed evidence before the Court that practical arrangements have been put in place to implement the deportation order, involving expenditure, engagement with the Egyptian authorities and the rostering of GNIB members. My understanding is that arrangements are fully in place for imminent deportation such that it is necessary for me to rule on this application with great urgency. Although the details have not been provided, this signals that significant expense has likely already been incurred in arranging the Applicant's deportation.
93. There are also case-specific public interest factors relied upon by the Minister arising from the Applicant's alleged conduct in IPAS accommodation. The IPAS letter describes allegations of intimidation of a female staff member, attempts to access her car uninvited, threats to damage the car, inappropriate behaviour, and a physical altercation with another resident. Those allegations are serious. While they are not the subject of factual determination by me on this application, they are matters to which some weight may be given in assessing the balance of justice.
94. On the other side of the balance, the Applicant relies on the potential consequences of removal to Egypt before his challenge is determined. His claims involve serious alleged past ill-treatment, sexual violence, stigma, fear of killing or serious harm and deterioration in mental health. If the Applicant were removed and his proceedings later succeeded, the consequences could not readily be cured by damages. In *Okunade*, the Supreme Court acknowledged (at para. 112) that where an applicant can demonstrate that deportation would cause more than ordinary disruption such as a particular risk to the individual or specific risk of irremediable damage then such factors, if sufficiently weighty, could readily tilt the balance in favour of the grant of an injunction or a stay. It was further stated (at para. 113) that where, on an arguable grounds basis, the situation with which the judge of the High Court is faced when considering an interlocutory injunction application in this field is one where there is a credible basis for suggesting that a real risk of significant harm would attach to the applicant on deportation, then it would require "*very weighty considerations indeed to displace the balance of justice on the facts of the case*".
95. The existence of the medico-legal report is important in this context. It is not for me on this application to determine the weight to be attached to that report. Nor is it appropriate to treat it as conclusively establishing the Applicant's case. It is material,

however, that the report bears on issues which may include physical and psychological sequelae of alleged ill-treatment and it was foreshadowed before the deportation and refoulement decisions issued. It is also material that the content of the report provides a credible basis, when combined with other evidence already before the court (such as an articulated suicidal ideation and COI confirming the fact of anal examinations as part of military checks in Egypt not considered by the Tribunal or the Minister in making decisions in the protection and permission to remain process), for suggesting that the Applicant is at real risk, on an arguable grounds basis, of significant harm in the event of deportation to Egypt.

96. The Minister submits that the Applicant's proper course is to make a s. 3(11) application. There is considerable force in that submission. However, I am dealing with this application in the context of an extant judicial review challenge in which leave has been granted on grounds connected with the timing and treatment of the medico-legal evidence. If the Applicant were deported before the proceedings are determined, the practical utility of the proceedings would be significantly impaired.
97. I am also conscious that the delay and procedural failures in this case are substantial and I have already addressed these at some length above but they remain relevant to the exercise of a discretion to grant injunctive relief. The Applicant and his solicitors were, on the Minister's evidence, notified of the deportation order and refoulement decision in April. The report was apparently received on the 3rd of May, 2026 but not acted upon until June. These matters weigh against the grant of discretionary relief.
98. However, the Court's assessment is ultimately one of risk of injustice. Where there is an arguable case that removal may proceed on the basis of a decision-making process which did not lawfully engage with imminent medico-legal material relevant to alleged serious harm and mental health, and where removal may render the proceedings largely nugatory and where there is a credible basis, on an arguable grounds threshold, for suggesting a real risk of significant harm upon a forced return of the Applicant to Egypt without the medico-legal evidence being assessed and it being determined that it was lawful to proceed to deport the Applicant notwithstanding this evidence, then I am satisfied that the balance of justice favours preserving the *status quo* for a short period pending an expedited substantive hearing.

- 99.** Notwithstanding my serious reservations about the manner in which the Applicant's protection claim has been presented on his behalf by his solicitor's office, I have concluded that the risk of injustice in the event of removal of the Applicant to Egypt is not outweighed by the public interest in the orderly operation of the international protection scheme, the case specific factors which arise here relating to the Applicant's personal conduct or the litany of errors on the Applicant's side in the presentation of his protection claim. The safe country designation is relevant at a level of generality but it cannot provide a solid basis for concluding that Egypt is safe for the Applicant in circumstances where there exist substantial grounds for concern that there has been a failure to consider in accordance with law within the international protection system whether, notwithstanding the safe country designation, Egypt is a safe country for the Applicant having regard to his particular circumstances and in terms of his eligibility for international protection (as required under s. 33 of the 2015 Act).
- 100.** Having weighed all matters, including the public interest in respecting orders made and the orderly implementation of immigration control, the safe country designation, the allegations concerning the Applicant's conduct, the delay and the potential consequences of removal, I am satisfied that the least risk of injustice lies in granting a temporary injunction restraining deportation pending determination of the proceedings or further order, subject to expedited directions.
- 101.** I do not propose to grant an open-ended injunction. The appropriate order is a tightly controlled interlocutory restraining order, coupled with directions for an early hearing date and liberty to apply. The Applicant should be required to prosecute these proceedings with expedition. If any s. 3(11) application is to be made relying on Dr Giller's report, it should be made promptly and should not be held in abeyance pending the determination of these proceedings.

CONCLUSION

- 102.** For the reasons set out above, I will permit the Applicant to further amend his Statement of Grounds and will grant leave to seek judicial review of the deportation order and refoulement decision on the grounds identified in the amended Statement of Grounds presented on this application.

- 103.** I will also make an interlocutory order restraining the deportation of the Applicant pending determination of these proceedings or further order.
- 104.** The interlocutory order is granted on the particular facts of this case and should not be understood as suggesting that the mere notification of an anticipated medico-legal report will ordinarily require the Minister to defer deportation or *refoulement* decisions. The decisive features here are the proximity of the expected report when the Minister's decisions were made, the nature of the allegations, the potential relevance of the report to credibility and risk underpinning both the Tribunal's and the Minister's decisions, the fact that removal before determination may deprive the proceedings of practical utility insofar as the Applicant's claim for international protection is concerned coupled with the extent to which the report provides a credible basis for suggesting a real risk of significant harm to the Applicant in the event of deportation to Egypt.
- 105.** I will hear the parties as to the precise form of order, including directions for an expedited hearing, liberty to apply, and any undertaking or condition considered appropriate in light of the Applicant's present circumstances and the public interest matters raised by the Minister. In advance of such a hearing, I signal that it seems to me that the necessity for this application may have been avoided had the Applicant's case been properly presented in a timely manner with the result that the expense incurred in making arrangements for deportation might have spared the taxpayer. Accordingly, I would like to be addressed on whether and to what extent I should take the serious failings in the proper presentation of the Applicant's claim and the lack of proper candour and completeness at leave stage into account as conduct which should be reflected in my ruling on costs on these applications.