

Translated from the original Hebrew to English by Adalah

The Supreme Court sitting as the High Court of Justice

HCJ 9416/10

Before: The Honorable Chief Justice A. Grunis
The Honorable Justice H. Meltzer
The Honorable Justice N. Solberg

Applicants: 1. Adalah - the Legal Center for Arab Minority Rights
In Israel
2. The Public Committee Against Torture in Israel
3. Physicians for Human Rights
4. Al Mezan Center for Human Rights

Vs.

Respondents: 1. The Ministry of Internal Security
2. The General Security Service

Petition for an Interim Injunction

Date of the Hearing: 26 Shvat 5773 (06.02.2013)

Counsel for the Applicants: Abeer Baker, Adv.; Hassan Jabareen, Adv.

Counsel for the Respondents: Aner Helman, Adv.

Judgment

Justice A. Grunis

1. Two remedies were requested by the petition before us: one, the cancelation of Article 17 of the of Criminal Procedure (Interrogation of Suspects) Law 5762- 2002 (hereinafter – the law), and the other, to compel the General Security Service (GSS) to make a video recording of the interrogations of individuals suspected of security offenses.

2. The law, which came into force on 4.7.2003, determined various arrangements concerning video and audio recording of interrogations conducted by the Israel Police.

Article 17 of the law stipulates that the obligation to make a video or audio recording of an interrogation will not apply to an individual suspected of a "security offense". The law defined what constitutes a "security offense" through reference to another law. In the principal law, it was stipulated that the exemption will be valid for a period of five years, in other words this was a temporary order. In 2008 the temporary order was extended for an additional four years and was due to expire on 4.7.2012. The present petition was submitted in 2010.

On 4.7.2012, the Knesset passed an amendment to the law which extended the temporary order by three years. (In *Reshumot* [the law registry] it is noted that the amendment was passed on 3.7.2012). The amendment was published in *Reshumot* on 5.7.2012 and, therefore, this temporary order will expire on 5.7.2015.

3. We believe that under the circumstances the petition must be dismissed while retaining the petitioner's claims.

4. It appears that the Ministerial Committee on Legislative Affairs, which in 2012 deliberated the proposal to extend the temporary order, decided that the temporary order would be prolonged by two years, and that during this time the relevant government offices will act to amend the definition of a "security offense" and that, additionally, an study of comparative law will be undertaken in order to make it possible to examine the revision of the arrangement under the law. In a discussion held in the Knesset Constitution, Law and Justice Committee on 3.7.2012, a commitment was made by the representative of the Ministry of Justice that an examination will be conducted regarding alternative procedures and the matter of the definition of a "security offense" will also be examined. The chairman of the committee expressed the view that the government proposed extension for an additional period of two years is insufficient and ultimately a three year extension was decided upon.

5. Under the circumstances described above, while the legal arrangement is being studied, when a half year has passed since the last amendment, and when a new Knesset was just elected, it appears to us that it is necessary to wait until the law is amended in wake of the examination which the representative of the Ministry of Justice committed to in the name of the government. Of course, we assume that a study and an examination will take place as aforementioned. In the framework of the examination it will also be appropriate to consider the issue of documenting GSS interrogations. It is superfluous to state that we do not express any position whatsoever regarding the crux of the matter, we only maintain that in view of what may be anticipated, it is premature to examine the claims of the petitioners regarding core of the issue.

6. The petition is, therefore, dismissed.

Given today, 26 Shvat 5773 (06.02.2013)

Chief Justice

Justice

Justice