

Translation from Hebrew to English by Adalah

The Supreme Court of Israel released this summary of its decision in H.C. 4112/99, Adalah, et. al. v. The Municipality of Tel Aviv-Jaffa, et. al.) on 25 July 2002.

Summary of the Supreme Court's Judgment Regarding Arabic Text on Signs (H.C. 4112/99)

In its petition to the Supreme Court, the petitioners requested that the Court require the respondent municipalities, all of which contain an Arab-minority population, to ensure that municipal signs be written in Arabic, and not only in Hebrew. The petitioners argued that the current practice, in which most of the signs are only in Hebrew, unlawfully discriminates against and affronts the dignity of the Arab minority, and breaches the statutory provision declaring Arabic, along with Hebrew, an official language of the State of Israel.

The respondent municipalities, joined by the Attorney General, argued that there was no statutory requirement that all municipal signs be written also in Arabic; the decision whether to include Arabic was left to their discretion. In exercising proper discretion, which takes into account, *inter alia*, the public's needs and the special status of the Hebrew language in Israel, the conclusion that must be drawn is that dual-language signs are necessary on main thoroughfares and intersections, on warning and safety signs throughout the city, at public institutions, and also on streets in predominately Arab-populated neighborhoods. There is no general requirement of dual-language signs, they contended, in all areas of the respondent municipalities.

By majority decision (Chief Justice Aharon Barak and Justice Dalia Dorner), the Supreme Court accepted the petition, and required the respondent municipalities to ensure that municipal signs in their communities be in both Hebrew and Arabic.

Chief Justice Barak noted that, the fact that Arabic is an official language (pursuant to the [Palestine] Order-in-Council of 1922) does not oblige all the respondent municipalities to mark all municipal signs also in Arabic. The duty of the respondent municipalities is determined by balancing several considerations, among them fulfillment of the public interest in the provision of proper and safe services and orientation of residents throughout the city; the interest in having simple and clear signs, which do not contain an endless variety of markings and languages; the right of an individual to freedom of language – especially when it is related to a minority group; equality among residents of the state; the special status of the Hebrew language as the principal language in Israel, as part of Israel being a “Jewish and democratic state”; and also the interest in uniformity and national unity by the use of one language. In balancing these considerations, Chief Justice Barak ruled that the respondent municipalities should be required to provide dual-language signs throughout the city. This is necessary, he held, because dual-language signs enable the Arab residents to orient themselves throughout the confines of the cities in which they live, and to benefit from the municipal services equally. Barak emphasized that including Arabic on signs does not prejudice the special status of Hebrew as the principal language in Israel. He added that the inclusion of Arabic on signs combines features that do not necessarily exist in other languages in Israel: Arabic is the language of the largest minority in Israel, which has always been living in the state; the respondent municipalities contain a significant Arab minority (six to nine percent); and Arabic is an official language in Israel. Therefore, President Barak held that:

- 1) From the date of the decision henceforth, new signs or signs that have replaced worn signs must be written in Arabic.
- 2) Old signs on main thoroughfares, at municipal institutions, and in neighborhoods with a significant Arab population will be changed to dual-language signs within two years from the day of the judgment.

3) The other signs in the respondent municipalities will be replaced by dual-language signs within four years from the day of the judgment.

Justice Dorner concurred with the opinion of President Barak that the petition should be granted. She based her decision that the municipalities are required to provide dual-language signs, in Hebrew and Arabic, primarily on the status of Arabic as an official language in Israel. This status was established by the Order-in-Council, which the State of Israel adopted as regarding the status of the Arabic language, and was further reinforced by the Knesset [Parliament] and the Government in many statutes and regulations. Arabic's official-language status is also evident in the Declaration of Independence. In Justice Dorner's opinion, respect for Arabic as the minority's language also follows from a reading of Jewish law sources. Justice Dorner held the belief that the numerous and diverse legal sources indicate clearly that the state's authorities', and the Knesset foremost among them, decided to grant Arabic the status of an official language in Israel. This special status means that the authorities are required to enable the Arab minority to live its life in Israel using its language; in this context, it is entitled to signs written in Arabic. Justice Dorner emphasized that Arabic, which is the minority's language, has the status of the state's second language, which does not derogate from the senior status of the Hebrew language in a "Jewish and democratic state."

Justice Heshin dissented and held that the petition should be dismissed. He argued that it is not possible to find any existing legal source to require the respondent municipalities to add Arabic text on all signs within their jurisdiction. The Order-in-Council of 1922 does not establish this duty; nor does Arabic's status as an official language. The requirement is not derived from the Declaration of Independence, which guarantees every individual the liberty to speak his language, but does not impose a duty on the governing authorities to act in this regard. The requirement also does not arise from the principles of international law. Moreover, the petition lacks a minimal factual foundation: the petitioners did not present, even with minimal proof, that the Arab residents are indeed injured as a result of the lack of signs in Arabic, and that the routine, daily life of these citizens requires the addition of Arabic on the signs.

In Justice Heshin's opinion, the petitioners sought to recognize a new right: The collective right of the Arab public to preserve its independent and separate cultural identity through its language. The purpose of this alleged right is to strengthen the unique characteristics of the Arab minority group and protect it from assimilation, all with the assistance of the various public authorities. Israeli law does not recognize such a right. Under Israeli law, the individual holds the rights; therefore, it is improper for the court to create a new right independently. Recognizing the right alleged by the petitioners is a political decision; the political authorities, and not the court, have the authority to formulate such a right. As long as the ideological aspirations of the petitioners are not translated into statute by the Knesset, the court is unable to assist them, and it would be improper for the court to decide an issue that does not lie within its domain.