

Authority:

Governmental Freedom of Information Unit

Country / State:

Israel

Case title:

Moshav Shitufi Har Shemesh v Israel Tax Authority — Disclosure of Tax Authority Algorithms

Official citation:

Administrative Petition No. 35819/08/23

Date of decision:

2023

Relevant law:

Freedom of Information Law, Section 6(a) — written administrative guidelines

Section 7(e) — no obligation to process or create new information

Section 8(1) — unreasonable allocation of resources

Section 8(3) — information does not exist or cannot be located

Section 8(4) — information already publicly available

Section 9(a)(1) — national security exemption

Section 9(b)(1) — harm to public authority functioning

Section 9(b)(4) — internal consultations

Section 9(b)(8) — harm to enforcement capabilities

Decision:

The court rejected the petitioner's claim that software specification documents embedded in the Tax Authority's system constitute "written administrative guidelines" under Section 6(a). It ruled that these are technical programmer instructions, not legal or administrative guidance. The court accepted that no consolidated specification document currently exists and that the Freedom of Information Law does not oblige the authority to reconstruct or reverse-engineer one. It further held that disclosure of development materials such as emails and

meeting summaries would be burdensome, potentially misleading, and in some cases exempt under Section 9(b)(4).

Key words:

Right to information, exemptions, algorithms, software specifications, enforcement, administrative guidelines, new technologies.

Case Summary:

1. Facts

The petitioner requested specification documents, flowcharts, algorithm-related materials, mathematical formulas, and source code from the Tax Authority's software systems. The Tax Authority refused, arguing that such documents were not administrative guidelines under Section 6 and that the request was barred by multiple exemptions, including unreasonable resource allocation, national security, and harm to enforcement.

The petitioner argued that specifications function as administrative guidelines that must be disclosed, and that the authority was obliged to reconstruct them if necessary.

2. Decision

The court sided with the Tax Authority, finding that specifications are technical tools, not administrative rules. Since no consolidated specification document exists, the requested information is legally considered "nonexistent" under Section 8(3). The court held that authorities are not required to create new information through reverse engineering or complex retrieval processes. It also found that development materials such as drafts, emails, and internal consultations are not subject to disclosure and locating them would be an unreasonable burden.

Note (Optional):

FREEDOM OF INFORMATION — clarification that technical software specifications are not administrative guidelines; balancing transparency and the protection of enforcement, national security, and internal deliberations in the digital era.

Resources:

Link to the resolution

https://www.gov.il/BlobFolder/dynamiccollectorresultitem/35819-08-23/he/verdict_35819-08-23.pdf