At the Supreme Court in Jerusalem **HCJ 9733/03 – I**
Sitting as the High Court of Justice **HCJ 8102/03**

Before The Honorable Registrar Yig'al Marzel

The Petitioner: **HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger (Reg. Assoc.)**

v.

The Respondents:
1. **The State of Israel**
2. **Israel Defence Forces**
3. **General Security Service**
4. **Israel Police**
5. **Commander of the detention facility referred to as "Facility 1391"**

Application for Order for Additional Particulars

Decision

The facts and proceedings

1. On 30 October 2003, the applicant-petitioner (hereinafter: the Applicant) petitioned this court in a matter relating to the detention facility referred to as "Facility 1391" (hereinafter: the Facility). The petitioner contended that the respondents were operating a detention facility and carrying our secret interrogations. Neither the detainee, his family, or the general public know about the Facility, in violation of domestic and international law. It was also contended that human rights violations and violations of the rights of the detainees were occurring in the Facility, both as regards the detention conditions themselves and the interrogation methods used. The petitioner added that the secrecy of the Facility was related to the violation of human rights in that its secrecy did not enable proper review of the Facility, and created a situation in which the detainees were in a poor psychological state, thinking that nobody knew where the detainees were located. The respondents, in their statement of 30 November 2003, requested that the petition be rejected. They believed that vital security considerations of state security that would be

presented *ex parte* to the court – with the consent of the Applicant – dictated that the location of the Facility be kept secret. Maintaining secrecy, in any event, was not contrary to law. They also contended that the use of the Facility was extremely limited, and was intended for exceptional cases, and for several years, it has only been used for interrogation purposes. In these cases, too, they contended, there was no basis for the contention regarding illegal infringement of fundamental rights of the detainees, or of the detention conditions to which the detainees were entitled by law.

2. Following a hearing on the petition (the Honorable M. Cheshin, D. Beinisch, and E. Chayot, held on 1 December 2003), it was decided to issue an Order Nisi against the respondents "only regarding the secrecy of the physical location of the facility named Facility 1391." The decision of 1 December 2003 also stated that:

> **[T]he Petitioner contends that the Facility itself is not suitable for holding detainees; that the conditions in which the detainees are held in the Facility are improper; and that improper and forbidden interrogation methods are used. In all these matters, the Petitioner petitioned us before exhausting the proceeding in which it submits to the competent authorities specific complaints that deal expressly with each of the aforesaid subjects. It is assumed that the authorities will properly examine the complaints and respond to the Petitioner specifically and substantively. Attorney Shay Nizzan, counsel for the state, notified us that, where the complaints relate to GSS [General Security Service] interrogations, the complaints will be forwarded to the Department for the Investigation of Complaints of Detainees in the GSS (*MAVTAN)*, which is under the control of the head of the Special Functions Department [of] at the State Attorney's Office. The other complaints will be forwarded to the Judge Advocate General, who will determine the manner in which they will be handled and who will handle them. The Petitioner has the right to return to court after receiving the authorities' response.**

In addition, the petitioner requested an interim order requesting Respondent 1 to delineate the government bodies that use the Facility, the use they make of it, and pursuant to what law they do so. The Court held, in its decision of 1 December 2003 that "an interim order will not be given."

3. On 20 May 2003, the respondents filed their response. They noted that it relates – in accordance with the Order Nisi that the Court had issued – "only to the matter of the secrecy of the physical location of the Facility." The response mentioned that the state had substantial and legitimate reasons to keep the physical location of the Facility a secret, and, in any event, the law did not require disclosure of the physical location of every detention facility. Regarding the allegations of violation of human rights in the Facility, the respondents contended that the Order Nisi did not relate to that matter, but explicitly held the opposite. However, the response pointed out that the petitioner's claims were denied in the state's preliminary response, and that the respondents' position was that the conditions in the Facility met all the requirements of law, as did the interrogation methods used there. The state again noted that, in recent years, only a few detainees were held in the Facility; that the detention conditions were identical to those of detainees in other military prisons; and that the interrogators and prison guards were subject to written, binding procedures. It was also noted that, whenever detainees were held in the Facility, the conditions of the Facility and the conditions in which the detainees were being held were reviewed, and that the Facility was even used by judges to hold hearings on extension of detention. The respondents also mentioned that two of the detainees held in the Facility - Mustafa Dirani and Sheikh Obeid – had filed a petition to return them to the Facility, thus indicating that the contentions relating to human rights violations were baseless. The respondents also responded to the Applicant's contentions dealing with the way that the detainees were brought to the Facility, and the means used to conceal the Facility's location from them. On this point, the respondents contended that the detainees were brought to the Facility in a completely normal way, except that the detainees were blindfolded, which was legitimate. The respondents concluded their contentions on this point – and in other matters that are not discussed in the present proceeding – with the conclusion that, "as we have seen from the above details, no substantial right of the detainees is infringed because the physical location of the Facility is kept secret" (Article 40 of the Response). The response discussed other claims made by the Applicant that are relevant to the application before me. Regarding inspection and visits to the Facility, the respondents also mentioned that officials not part of the defence

establishment visited the Facility, and that there was nothing to prevent parliamentary review of the Facility, provided that the review properly balanced the various considerations. Such a balance could be attained by inspection made by members of the Knesset who serve on the Secret Services Subcommittee of the Foreign Affairs and Defence Committee. Finally, the respondents contended – on the question of the legality of keeping the physical location of the Facility a secret – that, even if the law required that a detention facility be declared formally, such obligation did not require that the physical location of the detention facility be provided.

4. On 1 June 2004, the Applicant sent the respondents a request for additional particulars to those set forth in the response and the affidavit attached thereto (of 20 May 2004). The respondents responded to the said request by letter (6 July 2004). The Applicant was not satisfied with the answers it received – at least to some of the answers it received – and on 19 August 2004 filed an application with this court for an order to provide additional particulars. The Applicant contended that the particulars that it requested were necessary to explain and clarify the respondent's answer, especially in that in many instances, the respondents responded in general terms and by declarations that were not properly supported. The same day, the Honorable Registrar O. Shaham ordered that the respondents respond to the application, which response was filed on 29 October 2004. In their response, the respondents contended that the answer they gave to the request were sufficient under the relevant circumstances, and that the other matters as to which particulars were requested were not necessary to reach decision on the petition, or the Order Nisi that was issued pursuant thereto, or that it was inappropriate, for other reasons, to provide further particulars. In these circumstances, decision must be made on the application before me, and on the dispute between the sides on the question of the additional particulars.

The normative standard

5. The application before me was filed in accordance with Rule 12 of the High Court of Justice Rules of Procedure, 5744 – 1984, which reads as follows: "Where a litigant did not receive additional particulars that he requested within seven days from the day the letter was sent, or he considers the answers to be insufficient, he may, within fourteen days from the day affidavit response is provided to the Applicant, apply to the court or to the registrar for an order to provide additional particulars, and the court or the registrar may order the giving of the said additional particulars that it deems appropriate and

within the time that it shall set; notification of an application that is filed as stated shall be served on each litigant." More than once, it has been stated that the criterion for deciding an application of this kind revolves primarily around the affidavit filed in response to the petition. The purpose of additional particulars is, therefore, not intended as a means to clarify the truth, but to enable each of the litigants to investigate better the grounds – of law or of fact – set forth in the contentions set forth by the other party (see R. Har-Zahav, *Procedure in the High Court of Justice* 69 (1991)), and, as a result, enable a more efficient hearing and a more precise basis of the dispute that requires decision. This involves, essentially, a dual test, based both on an examination of the relevance of the requested particulars to the dispute as it appears from the contentions of the parties, and on the substance of the particulars, for it must be shown that the particulars are substantial and are liable to advance the hearing and decision on the petition (see HCJ 3189/02, *Meuhedet Health Fund v. Minister of Finance* (unpublished); HCJ 465/02, *Haim Shahak et al. v. Minister of Labor and Social Welfare* (unpublished)). The request for additional particulars is not a questionnaire; its purpose is to clarify and reduce the facts set forth in the petition and the responsive pleading, and not to expand these contentions in a way that covers the whole issue (MHCJ 58/86, *Morgenstern v. Morgenstern, Piskei Din* 40 (2) 246, 248-249). Thus, it is especially important in applications of this kind to confine as far as possible the framework in which the application is heard, not only to restrict the giving of additional details on matters related to the hearing, but also to make the hearing more efficient and to preserve its framework.

The hearing framework

6. Under the circumstances, it is seemingly easy to state the framework of the hearing. Not only because the additional particulars must be connected to the response affidavit, but primarily because of the specific Order Nisi given in the case herein. The Court, in its decision of 1 December 2003, expressly stated that the Order Nisi was issued only as regards the secrecy of the physical location of the Facility, and added that all the specific contentions regarding the violation of fundamental rights of the detainees or relating to the detention conditions in the Facility would be reviewed in another manner, and not in the framework of this petition. Ostensibly, then, any contention relating to the secrecy of the physical location of the Facility is open for a request for additional particulars, and a request for additional particulars on any contention unrelated to that issue is

improper. However, study of the specific contentions of the sides in the application before me – which will be presented at length below – reveals that there is no clear, agreed-upon framework of the hearing in our matter: according to the Applicant, there is a clear relationship between the secrecy of the physical location of the Facility and the alleged human rights violations and detention conditions. It so contends both in the petition and in the application before me. If it is proven, therefore, that secrecy leads to violations of the rights of the detainees, such proof will substantiate the contention relating to the lack of justification for this secrecy from the start. The respondents, on the other hand, emphasize that the Order Nisi is clearly limited to the secrecy of the physical location of the Facility, and that the claims regarding the violation of the rights of the detainees are unrelated to the secrecy, so that it was not necessary for them to provide additional particulars regarding these claims. However, the respondents themselves – in the response affidavit – dedicated a substantial amount of space to the contentions made by the petitioner on the violation of detainees' rights in the Facility, and they explicitly mentioned that the petitioner's claims on this point should be rejected because the conditions in the Facility were clearly like those in all the other military detention facilities, and its secrecy did not breach the detainees' rights.

7. I accept the respondent's position, pursuant to which the Order Nisi clearly states that the contentions regarding the specific breaches of detainees' rights and prison conditions are not to be heard in the framework of the present petition. Thus, insofar as the reason for not providing additional particulars was that the entire purpose of the request, and its relevance, only concerned the breaches contended therein, this information was properly not provided. Furthermore, I accept the respondent's position that the petitioner's argument that the secrecy leads to violations of detainees' rights is without sufficient foundation. In any event, the proceeding that the petitioner wishes to hold – to prove the lack of justification for secrecy because of the violation of the detainees' rights – undermines, in my opinion, the Order Nisi that was issued, for the reason that such a proceeding would require discussion of these violations and decision as whether they exist. This is not the framework of the hearing on the petition, and there is, therefore, no basis for providing additional particulars in these matters. Thus, insofar as the additional particulars are needed by the petitioner to show an alleged violation of detainees' rights and of detention conditions – in contravention of the Order Nisi – or to show conversely

that the alleged violations indicate that maintaining the secrecy of the Facility is improper – I believe that it would be improper to order the respondents to provide the information requested. However, as to additional particulars that are needed in the matter of the contention that there is no basis in law or justification for maintaining the secrecy of the Facility, there is, ostensibly, reason to order the respondents to provide the additional particulars, in that this question is being heard in the framework of the petition. On this background, it is necessary to examine each of the various contentions presented by the sides in the proceeding before me.

The additional particulars requested

8. The Applicant wants to know pursuant to which law detainees were held in the Facility before it was declared a military prison. The Applicant contends that this law is relevant at the present time, and, in any event, if persons were being detained unlawfully, for "one of the petitioner's principal contentions is that secrecy leads to illegality" (Article 11(b) of the application), and its improper administration in the past strengthens its position that secrecy is that which led to the past delinquencies and will bring about more of the same in the future. The respondents deny this request. They are of the opinion that the petition and the hearing on it look to the future, and not to past failures – which never occurred. The respondents provided sufficient detail on the normative basis for current use of the Facility, and there are no grounds for the argument that secrecy creates illegality. In this context, I am convinced that the law lies with the respondents. The petition at this time deals with the legality of the secrecy of the Facility now. The Court did not hold that it will adjudicate the question of the legality of the imprisonment of one person or another, nor the legality of the Facility itself as a detention facility, but only the question of the secrecy of the Facility. The line of argument that the Applicant seeks to establish, whereby proof of past illegality will affect the legality of secrecy at the present time, seems an insufficient basis for requiring the respondents to provide additional particulars on the issue. Also, the respondents, in their response affidavit, did not rely on this matter as a foundation for the legality of keeping the Facility's location a secret, and, there is consequently no basis for the request for additional particulars on this matter.

9. The respondents were asked if it was true that all or some of the interrogators in the Facility belonged to the Intelligence branch. The Applicant contends that the question was asked because of the need to know if the interrogators are empowered to interrogate, in that a secret facility and "secret" interrogators are "two aspects of the same matter"

(Article 12(b) of the application). The respondents contend, in reply, that the information is irrelevant to the petition, in that the petition centers around the physical location of the Facility, and, in any event, the interrogators in the Facility are authorized. In this context, too, I do not agree with the Applicant's argument. We see also on this issue that the Applicant exceeds the boundary lines of the Order Nisi that was issued. The question of whether the interrogators operating in the Facility are authorized is unrelated to the question of the legality of maintaining the secrecy of the Facility and the need to do so. The claim that the secret facility and the secret interrogators are two aspects of the same matter seems to me – as regards the application before me – unfounded and does not justify the Applicant's request for additional particulars. In this context, too, I am of the opinion that the response affidavit does not rely on the authority of the interrogators as a reason for the secrecy of the Facility, and consequently I find no basis for the request for additional particulars on this point.

10. Another question directed to the respondents related to detainees who were previously held in the Facility (Article 14 of the letter of 1 June 2004). It included a demand for additional particulars regarding the number of detainees who had previously stayed in the Facility, how long each detainee was held there, the nationality of the detainees in the Facility, and the special reason for keeping them hidden, and also a specific question regarding the detention of persons detained after 2003. The Applicant argues that this information is important in that the respondents claim that the Facility is intended for special use, and has not been routinely used, so that secrecy is justifiable. The respondents contend, in reply, that the Applicant did not ask a question but submitted a comprehensive questionnaire, the answers to which are, in some instances, confidential, and, in any event, are irrelevant to the petition, in that the Court refused, at the hearing on the application for an interim order, to discuss the use made of the Facility in the past. After studying the material before me, I have concluded that it is proper to grant, in part, the Applicant's application on this issue. The response affidavit explicitly states and emphasizes that the use of the Facility is extremely limited, and there have only been isolated cases in which detainees were held there. Clearly, the question of the scope of use of the Facility affects the legality and constitutionality of its secrecy, for if secrecy violates an individual's rights, the degree and magnitude of use of the Facility is related to the justification and the proportionality of the harm. I do not accept the respondents' position, whereby the refusal to grant the interim order prevents investigation of this matter in the framework of the petition insofar as it is related to the justification for

maintaining the secrecy of the Facility. An interim order is not the hearing on the petition itself; now, the framework of the hearing is that which was set in the Order Nisi. Therefore, to the degree that further detail is required as to the contention presented in the response affidavit, and insofar as it is relevant to clarify the position of the respondents and the facts underlying it, the Applicant's request should be granted. I agree, therefore, that the respondents have the obligation to provide additional particulars on the following points: how many detainees were held in the Facility from the day it was established, and how long each detainee was held in the Facility. This information may be provided without mentioning the names of the detainees or the reasons for their detention, so as not to create a problem regarding the secrecy of the information itself. As for the other particulars that were requested, they seem, on their face, to be irrelevant to the petition or the response affidavit. For example, the questions regarding the occupancy of the Facility on specific dates; the nationality of each of the detainees; the law pursuant to which the detainee was denied his liberty, or the circumstances of his detention – do not justify an order for additional particulars. Regarding the question of the reason why each detainee was held in a facility whose physical location was kept secret, it is clear that this matter – as the respondents argue – is confidential, and I cannot decide this question in the framework of the application before me. It is an integral part of the fundamental issue that can be examined by the panel that will hear the petition, the question being the reasons of state security that require the existence of a facility of this kind.

11. The Applicant also requested additional particulars on the written procedures existing in the Facility, which, according to the respondents, conform to the law and to the practice in other facilities. In part, request was made to learn whether the same conditions exist in all military prisons, including the conditions regarding IDF soldiers brought before military courts; the date that the procedures were formulated; the reasons for the confidentiality of some of the procedures, and the date they commenced. According to the Applicant, these details are necessary in that the respondents raised the matter of the procedures to prove that the secrecy of the Facility does not change its normal character as a detention facility. In response, the respondents argued that these particulars are not necessary to clarify the petition, in that they deal with the detention conditions and these, as stated, are not related to an investigation of the complaint. The fact that this matter is mentioned in the response affidavit does not require the respondents to answer the "questionnaire" regarding the detention conditions. In this context, too, I sustain the Applicant's request in part. I agree with the argument that, as regards the legality and

justification for the secrecy of the Facility, the fundamental question of whether the procedures in the Facility are similar to the procedures in other facilities is relevant. The respondents explicitly stated in their response affidavit that the detainees are provided "the conditions which detainees in other military prisons receive" and later that, "contrary to the contentions set forth in the petition, the fact that the location of the Facility is kept secret does not detract from the rights of persons detained there… as regards the detention conditions" (Article 8 and 13, respectively, of the response). Therefore, I agree that additional particulars should be provided as stated in Article 17(c) of the letter of 1 June 2004, and, therefore, the respondents are requested to set forth "Are these conditions customary in all military prisons? Are these the standard conditions to which IDF soldiers are subject in military prisons?" As regards the other questions set forth in Article 17 of the letter of 1 June 2004, I am not convinced that the respondents should be required to provide additional particulars. The date that the procedures were formulated is not relevant to the petition or to the response affidavit, nor is the question of the secrecy of all or some of the procedures themselves. The Applicant's request to receive the procedures is not a request for particulars, but a request that the respondents prove their contention set forth in the affidavit. An application for additional particulars is not the proper framework for a request of this kind.

12. The Applicant also requested additional particulars on the inspections of the Facility. In part, it wanted to know how many times the inspection resulted in warnings about the specific detention conditions in the Facility (such as chemical toilets, painting of the detention cells, control over running water, failure to provide information of where they were being held). The respondents refuse to provide particulars in this matter. They are of the opinion that the particulars requested are irrelevant to an investigation of the petition, in that an Order Nisi was not issued regarding the detention conditions in the Facility. It was also mentioned that there were indeed instances in which inspections led to improvement in the conditions in the Facility. On this point, I am satisfied that the law is with the respondents. The scope of the hearing and the response affidavit do not involve the specific detention conditions in the Facility or the nature of the criticism. The particulars requested are directed to these detention conditions and not to the question of the secrecy of the Facility or the respondents' position on the legality and necessity for secrecy. Therefore, the request for additional particulars on such matters should be denied.

13. Another group of contentions made by the Applicant relates to the lack of additional particulars regarding the judicial hearings that were held – whether they were held behind closed doors, and why they were held in that manner, if in fact they were. The minutes of the hearings were also requested. The Applicant's reason – as stated before me – is to see if the judges erred and held hearings behind closed doors, and the implications of the secrecy of the Facility on the judges themselves. The respondents oppose providing additional particulars on this matter, arguing irrelevancy. In this matter, too, the respondents are in the right. The request for these particulars is only an attempt to show a connection – even if only a distant connection – between the Facility's secrecy and the decisions reached there. However, the respondents do not contend that any such connection exists, and I believe, in any event, that this issue is not at all relevant to the question of the secrecy of the Facility. I should add that the Applicant's request ostensibly questions the validity of the judicial decisions reached in the Facility, without any factual basis for such a claim. I concur with the position of the respondents in the matter, whereby it would have been better had this claim never been raised in the first place.

14. In its letter, the Applicant requested additional particulars on prisoners' petitions that were filed by Sheikh Obeid and Mustafa Dirani, in which they ostensibly requested to be returned to the Facility because the conditions there were superior to the conditions in other detention facilities. On this point, the respondents argue, as they did on the previous question, that the request deals specifically with detention conditions as to which no Order Nisi was issued and is not included in the framework of the hearing on the petition. The law supports the respondents in this matter. The reason provided by the Applicant in support of its request for additional particulars is that the response affidavit provided partial answers on this issue, and good faith requires that they be completed. Clearly, every litigant must act in good faith, but the failure to delineate each and every contention in and of itself surely does not constitute lack of good faith. In any event, in its application for additional particulars, the Applicant must show the relevancy of the additional details demanded, and not only the lack of such detail. In this context, the Applicant has failed, and so its contention should be denied.

15. Another contention raised by the Applicant is that the respondents did not set forth in proper detail the way in which detainees were brought to the Facility, and particularly the effort taken to prevent the detainees from knowing where they were and the location of

the Facility ("disorientation"). The Applicant contends that such practice is forbidden, in that it unnecessarily harms the detainees and results from the location of the Facility being kept secret. In this matter, too, I accept the position held by the respondents, whereby the additional particulars demanded relate to the Applicant's claims relating to the detention conditions in the Facility and not to the matters to be heard, which is based on the Order Nisi and relate only to the question of the Facility's secrecy. It is evident from the reasons offered by the Applicant that the requested details on this matter are intended to show that the absorption process of detainees in the Facility are improper and unjustifiable. Without taking a position on this matter, the issue is clearly not within the framework of the petition and the application before me is not the appropriate place for its examination.

16. The Applicant also requested additional particulars on the position of the respondents in their affidavit, in which they contended that no substantive right of the detainees was violated as a result of the physical location of the Facility being kept secret. In this context, the Applicant requested additional particulars on a number of matters related to the conditions faced by the detainees in the Facility, such as receiving mail; sending mail; meeting with religious clerics; meeting with relatives and friends; meeting with attorneys; meeting with representatives of the Red Cross; meeting with a consul; and initiating legal proceedings and filing court actions. The Applicant contends that not even minimal information on these issues was provided in the response, and that the information is important, for it lies at the basis of the respondents' argument, whereby secrecy of the Facility does not affect the detention conditions in the Facility. The respondents contend that the request seeks facts that are in no way related to the subject of the petition or to the contentions set forth in their response. The question to be heard is legal – the legality of keeping the location of the Facility a secret – and not these and other details on the detention conditions inside the Facility. Furthermore, much work would have to be expended if they are required to provide the information that the Applicant seeks on these points. To remove any doubt, the respondents added that detainees in the Facility met with their attorneys and representatives of the Red Cross, when there were no grounds for preventing such meetings. It was also noted – in their response to the letter of 1 June 2004 – that, during the interrogation period, they have no right to receive and send mail. Indeed, the Applicant's contention can be viewed in two ways. On the one hand, the respondents did explicitly contend in their response affidavit that, "no substantial right of the detainees is infringed because the physical location of the Facility is kept secret."

(Article 40 of the response). This fact is important as regards the question of the legality and justification for keeping the Facility a secret. On the other hand, as stated above, the framework of the hearing on the petition does not include – in light of the clear language of the Order Nisi that was issued – alleged specific violations of rights of the detainees. With this in mind, I am convinced that the response affidavit contains sufficient detail. The respondents declared that, in principle, relatives and friends are allowed to visit – subject to their substantive right to do so by law – outside the walls of the Facility; and that nothing prohibits detainees from meeting with religious clerics, consuls, and representatives of the Red Cross. In this situation, the additional information requested by the Applicant does not relate to the respondent's position on the issue under discussion – the secrecy of the Facility and its significance as regards detainees' contact with persons from outside the Facility – but with specific questions on such contact being made in one case or another. This is not the framework of the petition and these additional particulars are not necessary, in my opinion, to investigate the contents of the response affidavit filed by the respondents. Therefore, this argument, too, should be rejected.

17. The Applicant requested additional particulars as to "Whether Israeli cabinet ministers are permitted to visit the Facility." The respondents contend that this question is inappropriate in an application for additional particulars. The Applicant contends that such particulars are important because, as appears from the response affidavit, only members of the Secret Services Subcommittee of the Foreign Affairs and Defence Committee are allowed to visit the Facility. The respondents argue that the response related only to visits by the legislative branch, whereas the application for additional particulars relates to inspection by the executive branch. In this matter, it seems to me that the detail given by the respondents is sufficient, in that, as appears from Article 12 of the response, two ministers of justice visited the Facility in recent years, and that is sufficient, in my opinion, regarding the framework of the claim and the boundaries of the dispute in this petition, taking into account, as stated above, the sole focus on the question of the Facility's secrecy.

18. The last details that the Applicant requests in the application before me relates to interpretation of the term "place of detention," as appears from the respondents' position. The Applicant interprets the respondents' position on this matter as if there is a distinction between the declaration of a place of detention as such and its physical location, which do not have to be the same, and consequently the physical location of a

facility can change with time, and that there may be a situation in which relatives of the detainee know that the detainee is being held in one facility or another without indicating the facility's physical location. For this reason, the Applicant requested, *inter alia*, to know the previous physical location of the Facility and when it moved. It also requested additional particulars on a detention center that had existed in Gedera, and if it was used for the same purpose as the Facility which is the subject of this petition. The respondents contend that the information sought is irrelevant to the petition. On this matter, too, I am satisfied that the law supports the respondents. In effect, the Applicant seeks to refute the legal position of the respondents, whereby it is possible to distinguish between the declaration of a place of detention as such according to law, and its physical location. The additional particulars that are requested do not involve this legal argument, but relate to its factual foundation. This is not the purpose of an application for additional particulars, especially in that the response affidavit did not raise another set of facts or suffer from a lack of detail that justifies requiring it to provide further particulars in this matter.

19. As a result, the application is sustained in part, as stated in Articles 10 and 11 above. The other contentions and requests of the Applicant are denied. The additional particulars set forth in Articles 10 and 11 will be provided to the Applicant within seven days from the time of service. The clerk's office will serve this decision by facsimile, without delay, to the parties.

Given today, 1 Kislev 5765 (14 November 2004).

[signed]

Yig'al Marzel

Registrar