

## **[Public figure surveillance case]**

Supreme Court Decision 96Da42789 decided July 24, 1998

Regarding Clandestine Collection of Personal Information for the Purpose of Surveillance by a Government Agency

### Facts

The previous Defense Security Command (DSC) was reported to have conducted its operations beyond the scope of its activities set forth in the relevant laws such as the collection of information related with the Army, investigation of crimes under the jurisdiction of the military court.

What DSC did secretly was gathering and classifying information continuously about some civilians so as to monitor their assembly and association activities, private relations, etc. by means of clandestine following, watching, investigation by questioning and so on.

### Legal Issue

DSC argued that secret collection and classification of information about civilians are necessary for national security because their target is, in general, public figures related with the army and the national security.

The public figures should be treated differently from common people in that the secrets and freedom of their private life could be restricted in a certain manner.

## Reasoning

Article 10 of the Constitution provides that "all citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals," while Article 17 provides that "the privacy of no citizen shall be infringed," and thereby guarantee the right that no citizen's privacy will not be violated or made public. It goes further positively to ensure the right to self-determination of personal information in this highly information-based society.

In some cases, the secrets and freedom of public figure's private life could be restricted in a certain manner, and the disclosure of their privacy would be exempted from torts liability. It is grounded that such public figures are the object of the citizen's right to be informed thus contributing to the public interest. However, the government agency's gathering information is not related with the citizen's right to know, but oriented to covert collection of information about some civilians for the purpose of surveillance of their activities. In this case, the government agency shall not be exempted from torts liability only because they are public figures.

## Conclusion

The Supreme Court held that the government agency (DSC) did wrong by infringing upon the fundamental rights guaranteed by the Constitution even

though the victims are public figures. Accordingly, the State is liable for compensating damages of plaintiffs.