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29 February 2012

### ISR103980.E

Israel: The witness protection program, including the type of protection offered, the requirements and procedures to access the program, and the program's effectiveness

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Becoming Operational

In a 5 November 2008 news release, the Ministry of Public Security reported that the Knesset approved the bill that would make the Israeli Witness Protection program operational (Israel 5 Nov. 2008). The Minister of Public Security was cited as saying that the bill would enable the witness protection program to begin operations in the "second half of 2009" (*ibid.*). *Haaretz*, an Israeli English-language daily newspaper, also indicated that the program was expected to begin operations in 2009 and to be handling its "estimated maximum of 20 witnesses a year" by 2010 (29 July 2008). However, in a December 2009 *Haaretz* article, the head of the protection program said that he was hoping the program would be accommodating the 20 witnesses by 2013 (11 Dec. 2009). A February 2010 article on the Israeli English-language news website Arutz Sheva 7 reported that the program was "in the process of receiving its first witness" (22 Feb. 2010).

*Haaretz* reports that, prior to the Knesset approving the protection program, implementation had been delayed since 2002 when a plan for the program was first drafted (29 July 2008). The initial proposal for the program was reportedly drafted by a committee that included the former Jerusalem region state prosecutor and representatives from the Ministry of Public Security, the State Prosecutor's Office, the Israel Police and the Ministry of Finance (Israel n.d.). According to *Haaretz*, the police had been arguing that the absence of witness protection was hampering their ability to fight organized crime (29 July 2008). The State Prosecutor explained the need for the program by saying that "'threatening witnesses is an expanding phenomenon, as is organized crime'" (qtd. in *Ynetnews* 2 Nov. 2008). The Israeli news website *Ynetnews*, for example, reports that between 1998 and 2002, three state witnesses were murdered; and in 2005, a prisoner who was a key witness in a crime was murdered while in police custody (2 Nov. 2008). Further information on statistics about witnesses could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

#### 2. The Witness Protection Program

The Ministry of Public Security website indicates that the Israel Witness Protection Authority (IWPA) is responsible for protecting witnesses and their families "prior to, during and after the trial" (Israel n.d.). It provides physical protection to witnesses and their families "from the earliest stages of the legal process throughout the trial and until the threat has [passed]" (11 Dec. 2009). To do this, the Authority is composed of professionals in security, law, criminology and social work, and works "in conjunction with the State Advocacy, the Israel Police and the Israel Prison Service, along with other relevant professional bodies" (*ibid.*).

##### 2.1 Confidentiality

The Witness Protection Act of 2008 prohibits the disclosure or publication of the following information:

28. (a) (1) the professional doctrine, operational procedures, other procedures relating to activity of the Authority that the Director determined their disclosure is liable to impair the activity of the Authority or endanger a protected witness, and also rules that were made under sections 10(b), 13, and 22(g);

(2) the identity of employees of the Authority except for the Director, and the identity of persons operating on behalf of the Authority, as shall be specified in the Authority's procedures;

(3) information relating to details of the identity of a protected person or a protection program, and information from the database;

(4) other particulars relating to the Authority, which shall be specified in regulations. (Israel 2008, Sec. 28)

*Haaretz*, describing the program as "highly secretive" (23 Feb. 2010), also reports that, except for the head of the Authority, the names of IWPA employees will remain "classified" (11 Dec. 2009).

## 2.2 Accessing the Program

*Haaretz* reports that acceptance into the program requires "authorization on many levels" to prevent "endangering" the witness and to avoid the "high cost" associated with providing protection services (3 Nov. 2008). The Witness Protection Act explains the authorization process as follows:

14. (a) Where the Police officer is of the opinion, to which the State Attorney agrees, that it is proper to include a threatened witness in the Authority's protection program, he shall forward a recommendation to the Authority (in this section - the recommendation), together with the following documents and particulars, these in addition to the documents and other particulars that shall be specified in the cooperation procedures:

(1) A Police report, which shall include information on the following subjects:

(a) The witness's criminal record and the existing intelligence information about him;

(b) all the particulars relating to the investigation in which the witness is involved and to the nature and importance of his cooperation with the law-enforcement authorities ...;

(c) the nature of the perceived danger to the witness, as assessed by Police officer ...;

(d) all the particulars regarding the suspect about who the witness was interrogated or cooperated with the law-enforcement authorities, and also particulars on who threatened the witness in this context, the existing intelligence information regarding them, the weapons in his possession, and assessment of the danger they pose to the witness;

(e) details of the measures the Police have taken to protect the witness;

(f) a recommendation as to the protection program required;

(2) Particulars of the witness and the witness's declaration ...;

(3) The opinion of the relevant District Attorney regarding the public interest in including the witness in a protection program ....

(b) Where the Police officer is of the opinion, with the agreement of the attorney in charge, that it is proper to include in the Authority's protection program also a family member of a threatened witness, the said family member shall be included in the recommendation .... (Sec. 14)

Upon receipt of a recommendation for inclusion in the program, Section 15 of the Act further indicates who decides whether the witness shall be included:

15. (a)(1) Where the Authority receives a recommendation under section 14, the Director shall decide whether to include the threatened witness in a protection program; the Director is not to include a witness in the Authority's program unless the danger the witness faces is extremely severe, except in special circumstances and for special reasons that shall be documented.

(2) The Director is not to decline a recommendation under section 14, unless he has heard opinion of the attorney in charge and the Police officer or a person on their behalf, as shall be specified in the cooperation procedures. (*ibid.*, Sec. 15)

Section 15 of the Act also requires the Director to document the reasons for a particular decision (*ibid.*).

## 2.3 Protection Measures

With regard to protection measures, the Act stipulates the following:

17. (a) Where the Director decides to include a witness in a protection program, he shall determine, in accordance with the professional doctrine, and in coordination with all the entities necessary to implement the program, the details of the appropriate protection program for the witness. The Director may determine that all or some of these means may be included in the witness's protection program:

- (1) establish a new identity for the witness;
- (2) relocation of the witness, whether in Israel or abroad;
- (3) financial arrangements to ensure a reasonable standard of living of the witness during the period of the protection program;
- (4) assistance to the witness in obtaining employment, or access to education;
- (5) protecting the witness by security guards or by other suitable means;
- (6) any other means that the director considers to be necessary to ensure the safety of the witness and his integration in the community. (*ibid.*, Sec. 17)

In addition, the Ministry of Public Security website indicates that protection includes the "accelerat[ion]" of the judicial process in which the witness is collaborating with the courts to minimize "the time in which the witness is exposed to danger" (Israel n.d.). In its news release, the Ministry specified that protected witnesses would also receive financial aid (*ibid.* 5 Nov. 2008). *Haaretz* quotes the Director of the international division of the State Prosecutor's Office as saying that, since Israel is a small country, some witnesses would be sent to Scandinavian countries, and that protected witnesses who violate the terms of the program will be "indicted" and required to return the money invested in their protection (3 Nov. 2008). *Haaretz* also quotes the Director of the IWPA as saying that "[t]he [program] cannot work without international cooperation, certainly not in Israel, which is small and where it's hard to hide people" (11 Dec. 2009). The Public Security Ministry website further indicates that persons who are not included in the witness protection program will receive protection from the Israel Police (Israel n.d.). Prisoners who cooperate with authorities will also "enjoy significant improvement in their prison conditions which will include extra privileges and designated cells" (*ibid.*).

## 2.4 Budget

*Ynetnews* reports that, in November 2008, the program's annual budget was expected to be 100 million Israeli new shekels (NIS) or US\$27.4 million (2 Nov. 2008). *Haaretz* reports that the IWPA's budget for 2010 was 30 million NIS (about C\$8 million [XE 16 Feb. 2012a]), and that the annual cost to protect one witness was estimated to be 4 million NIS (about C\$1 million [XE 16 Feb. 2012b]), which did not include expenses related to relocation and protection of family members (*Haaretz* 11 Dec. 2009).

## 3. Recent Changes

Media sources report that the Knesset expanded the powers of the IWPA on 22 February 2010, granting security agents responsible for protecting witnesses the authority to make arrests, operate temporary custody facilities and enter open-access areas to search and secure them (*Arutz Sheva* 7 22 Feb. 2011; *Haaretz* 23 Feb. 2010) when protecting a witness (*ibid.*). The new provision also includes the authority to escort prisoners beyond detention facilities (*ibid.*). Information on the effectiveness of the program or statistics on the number of witnesses protected could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any

particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

### References

Arutz Sheva 7. 22 February 2010. "Knesset Expands Powers of Witness Protection Personnel." <<http://www.israelnationalnews.com/News/Flash.aspx/181090>> [Accessed 2 Feb. 2012]

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*Ynetnews* [Tel Aviv]. 2 November 2008. Tova Tzimuki. "Israeli Witness Protection Program Underway." <<http://www.ynetnews.com/articles/1,7340,L-3504799,00.html>> [Accessed 2 Feb. 2012]

### Additional Sources Consulted

**Oral sources:** Attempts to contact officials of the Embassy of Israel in Canada, and researchers from the University of Haifa, The Hebrew University of Jerusalem, and Tel Aviv University were unsuccessful.

**Internet sites, including:** Al Jazeera; Amnesty International; BBC; Denmark Ministry of Justice; ecoinet; Factiva; Finland Ministry of Justice; Freedom House; Human Rights Watch; International Institute for Counter-Terrorism; INTERPOL; Israel - Israel Police, The Judicial Authority, The Knesset, Ministry of Foreign Affairs, Ministry of Justice; *Jane's Terrorism and Security Monitor*; *The Jewish Chronicle*; Organized Crime and Corruption Reporting Project; United Nations High Commissioner for Refugees; United States Department of State.

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