

### Title:

Senate of the Philippines et al. vs. Eduardo R. Ermita et al.: A Question of Executive Privilege and Congressional Inquiry

### Facts:

The case arose from the issuance of Executive Order No. 464 (E.O. 464) by President Gloria Macapagal-Arroyo on September 28, 2005. E.O. 464 aimed to “ensure observance of the principle of separation of powers, adherence to the rule on executive privilege and respect for the rights of public officials appearing in legislative inquiries in aid of legislation under the Constitution, and for other purposes.” It prohibited officials of the executive branch from appearing in legislative inquiries without prior approval from the President.

This order was a response to the invitations sent by the Senate Committees to various executive officials to appear as resource speakers in public hearings on matters such as the North Luzon Railways Corporation project with the China National Machinery and Equipment Group, allegations of electoral fraud, and the role of the military in the wiretapping scandal, among others. The Senate sought to investigate these matters to aid in legislation.

Following the issuance of E.O. 464, several officials cited the order as basis for non-attendance in the Senate’s inquiries, prompting the Senate and other petitioners, including party-list groups, individual members of Congress, and citizens’ groups, to challenge the constitutionality of E.O. 464 before the Supreme Court, alleging that it violated their rights to conduct inquiries in aid of legislation and to access information of public concern.

### Issues:

1. Does E.O. 464 contravene the power of inquiry vested in Congress?
2. Does E.O. 464 violate the right of the people to information on matters of public concern?
3. Did the implementation of E.O. 464 prior to its publication in a newspaper of general circulation constitute grave abuse of discretion?

### Court’s Decision:

The Supreme Court ruled that:

1. Section 3 of E.O. 464, which necessitates executive officials to secure presidential consent before appearing in legislative inquiries without specifying the reasons for invoking executive privilege, was unconstitutional. It unduly restricted Congress’s power to conduct inquiries in aid of legislation by allowing officials to evade appearance through an implied

claim of privilege not clearly asserted.

2. By restricting access to information that is presumed to be in aid of legislation, E.O. 464 also impairs the public's right to information on matters of public concern.

3. The implementation of E.O. 464 without proper publication constituted grave abuse of discretion, as it denied the public knowledge of an order that significantly affects the public interest.

### ### Doctrine:

The court restated the fundamental doctrines that (1) the legislative power of inquiry is an essential aspect of the legislative function and not subordinate to the executive branch, subject to the proper assertion of executive privilege, and (2) executive privilege cannot be invoked without specifying the basis thereof, nor can it be presumed by mere silence or lack of consent from the President.

### ### Class Notes:

- The Power of Inquiry: The legislative branch holds the intrinsic power to conduct inquiries in aid of legislation, subject to the respondents' rights being respected, as per Article VI, Section 21 of the Philippine Constitution.
- Executive Privilege: The executive branch can invoke executive privilege to withhold information from Congress or the public, but it must specify the grounds for such privilege.
- Publication Requirement: Issuances affecting the public must be published before implementation, as part of due process.
- Balancing Interests: The decision highlights the balancing act between the executive's need to maintain confidentiality on sensitive matters and Congress's authority to conduct inquiries for legislation, as well as the public's right to be informed.

### ### Historical Background:

E.O. 464 was issued in the context of heightened political scrutiny and controversies involving the executive branch. Its subsequent challenge before the Supreme Court underscores the dynamic tension between maintaining executive confidentiality and ensuring legislative oversight and public transparency, pivotal in a democratic setting.