



30<sup>th</sup> September 2008

Press Statement

### **Current Constitutional Court Order Prohibits the Closure of Shelters Today**

CoRMSA would like to clarify the current legal position regarding the closure of the Gauteng temporary shelters housing the people displaced by xenophobic violence. The shelters can not be closed today according to the ruling issued in the Constitutional Court on 16<sup>th</sup> September 2008. The ruling stated that a further interim order would be issued by the Constitutional Court and until that is done paragraphs 5 to 8 of the Constitutional Court order of 21<sup>st</sup> August 2008 would still apply. Paragraph 5 (b) orders the Minister of Home Affairs and the MEC for Local Government to “continue to provide shelter on the basis and to the extent it has done up to this point in time” subject to the right of the MEC to consolidate camps, to take down individual shelters where it is clear that they have been evacuated and to move people who are not entitled to be in South Africa to deportation facilities. The MEC for Local Government must however administer the camps “to the best of her administrative ability, taking account of financial and practical considerations”.

Paragraph 5 (c) states that the MEC for Local Government “will not forcefully move any resident from his or her shelter or take down such shelter other than for the purpose of consolidating camps or moving such occupants to facilities pending their repatriation”. Paragraph 5 (d) states that the respondents (including the MEC for Local Government) “Undertake not to harass or intimidate any inhabitant of any of the camps involved”. Paragraph 5 (e) states that the employees and agents of the respondents (including the MEC for Local Government) “shall at all times show respect for the dignity of the residents and sensitivity in connection with the circumstances which led to their displacement”.

No further interim order has yet been issued by the Constitutional Court. Consequently paragraphs 5 (b) to 5 (e) still apply and therefore any attempt to force people from the shelters would be in breach of the Constitutional Court order.

CoRMSA has obtained a copy of a notice provided yesterday to residents in the Rand Airport and Boksburg shelters announcing the closure of the shelters today. In terms of the Constitutional Court order, it would be illegal to close the shelters today.

CoRMSA contacted Provincial Government officials yesterday and was informed that no decision to close the shelters had yet been taken. CoRMSA’s attorneys have also contacted the Provincial Government’s attorneys and have not yet received a substantive response.

CoRMSA recognises the need to resolve the crisis and continues to engage in seeking constructive solutions. CoRMSA is following up a number of options with its partners as well as certain government departments that will allow South Africa to resolve this crisis in a humanitarian way. CoRMSA trusts that the Gauteng Provincial Government will continue to abide by the Constitutional Court's ruling.

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