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**“CoRMSA welcomes the ZEP High Court Judgement”.**

CoRMSA welcomes the High Court of South Africa (Gauteng Division, Pretoria)’s Judgement on the Zimbabwean Exemption Permit (ZEP) declaring the Minister’s decision to cancel the ZEP “unlawful, unconstitutional and invalid”. CoRMSA will be engaging their legal member organisations and the Helen Suzman Foundation in studying and summarising this Court Judgment for better understanding and further engagement. CoRMSA would like to thank and appreciate its member organisations and the Helen Suzman Foundations for their extensive and dedicated efforts in making sure that the right to documentation and regularisation of people becomes a practical reality.

CoRMSA’s mandate is to protect and promote the human rights of asylum seekers, refugees, and migrants in South Africa, the region, and globally. This Court judgment comes as a relief to over 170 000 ZEP holders’ anxiety with regard to their regularisation status in the country. The ZEP Holders Permit will now have another 12 months to remain in the country, without fear of arrest, detention, and deportation after the court ordered the Department of Home Affairs to conduct a proper public consultation and participation process as democratically required by law. This Court challenge and its outcome is a clear indication that our democratic justice system holds authorities accountable and is steadfast in upholding the rule of law accordingly. No one is above the law when due diligence and process must be followed and adhered to, says Thifuluheli Sinthumule.

Central to this matter is that in November 2021, the Cabinet, through Hon Motsoaledi’s leadership, announced that the ZEPs that regularised over 170 000 Zimbabweans, which were due to expire in December 2021, would not be extended. The legality of this cabinet’s decision became a legal contention issue. On that note, the Helen Suzman Foundation and CoRMSA saw a significant need to challenge this cabinet’s decision factually based on the South African Constitution, Section 172(1) (a) provides that a Court must declare that any law or conduct that is inconsistent with the Constitution is invalid to the extent of its inconsistency. Also based on the Promotion of Just Administrative Justice Act (PAJA) sections (3) and (4) compel any administrator to comply and follow the procedural fair process when making an administrative decision. In this case, the Minister of Home Affairs did not follow and adhere to what is required by the law. This is confirmed by the honourable Court Order in the judgment stating that the Department of Home Affairs’ decision to end the ZEP is declared unlawful, unconstitutional, and invalid and that DHA is to reconsider the matter, following a fair process that complies with the requirement of sections 3 and 4 of PAJA.

This Court decision means that ZEP holders would remain regularised and can continue with their daily lives without anxiety, with full protection of the law up until such time that has been stipulated by the court. It should be noted and taken seriously that this is not the first Court battle that Home Affairs has lost this year in relation to the denial of access to documentation for migrants in South Africa. All these cases involve DHA’s resources and funds that could have been directed for a good course in addressing the socio-economic challenges facing our marginalised communities. This is a clear indication that the DHA is not willing to address the documentation challenges in the country for people to be regularised. This Court challenge could have been avoided if Home Affairs were serious about addressing access to documentation in the country.

CoRMSA strongly believes that this judgment will set a strong precedent and message to all authority leaders vested with powers to decide the fate of everyone within the South African border that no one is above the law and that the rule of law does not work nor favour one’s personal emotions and attachments. End.

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