



**COUNCIL**  
FOR THE ADVANCEMENT OF THE  
**SOUTH AFRICAN**  
**CONSTITUTION**

## **MEDIA STATEMENT**

### **CASAC questions legitimacy of SANDF deployment**

**22 May 2015**

The Council for the Advancement of the South African Constitution (CASAC) is deeply concerned about the current deployment of the SA National Defence Force (SANDF) to assist the SA Police Service (SAPS) to maintain law and order in the country.

Following an initial deployment in areas affected by xenophobic violence against migrants, the army has subsequently being utilised in Thembelihle, central Johannesburg and parts of the Cape Flats to deal with matters unrelated to the recent xenophobic attacks. At first the Minister of Defence, Nosiviwe Maphisa-Nqakula stated that the deployment was indeed aimed at dealing with the attacks on migrants.

The Constitution in section 201(3) makes it abundantly clear that when the SANDF is employed, in this case in co-operation with the SAPS, that:

*"...the President must inform Parliament, promptly and in appropriate detail, of –*

- (a) the reasons for the employment of the defence force;*
- (b) any place where the force is being deployed;*
- (c) the number of people involved; and*
- (d) the period for which the force is expected to be employed."*

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The President notified the Speaker of the National Assembly of this deployment in a letter on 23 April which was tabled on 30 April. The letter stated that the President *'had employed 338 members of the South African National Defence Force to assist the South African Police Service (SAPS) to maintain law and order in KwaZulu-Natal, Gauteng and any other area in the Republic of South Africa as the need arises ... for the period 21 April to 30 June 2015'*.

The terms of this are far too broad and would appear not to comply with the constitutional requirement to provide "appropriate detail". It purports to grant authority to the SANDF and SAPS to together be deployed anywhere in the country for a period of almost two and a half months to maintain law and order. The deployment now appears to be part of a general quest to combat crime. Can the same authority outlined in the President's letter of 23 April be sufficient to provide a legal basis for the deployment in such different circumstances?

CASAC Executive Secretary said:

"This is tantamount to handing a blank cheque to the SANDF and SAPS. The vague terms of the deployment means that they are being given a free hand to do as they please without constraint. The broad spread of the deployment to deal with issues unrelated to the recent xenophobic attacks may indicate that we are witnessing elements of a state of emergency by stealth".

Once Parliament has been informed of a deployment of the SANDF it has a responsibility to exercise due oversight over the authority that has been granted. It must ensure that the deployment is within the terms of the constitution and the law and is utilised only for the purpose for which it was specifically authorised. It seems that Parliament has failed to carry out this mandate.

Our collective failure to ensure that the deployment of the SANDF in support of the SAPS should be conducted entirely within the law and only in exceptional circumstances will lead to a weakening of the rule of law and a decay in our constitutional democracy.

Ends.

Further enquiries

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