



COUNCIL
FOR THE ADVANCEMENT OF THE
SOUTH AFRICAN
CONSTITUTION

Media Statement

CASAC BRINGS APPLICATION TO REVERSE 'UNFORTUNATE' ICC DECISION

24 October 2016

CASAC lodged an application in the Constitutional Court today, to reverse the decision of government to withdraw from the International Criminal Court (ICC), on the following basis:

First, the decision is unconstitutional because it infringes the principle of separation of powers: Section 231(2) of the Constitution makes it clear that only the National Assembly and the National Council of Provinces can approve or withdraw from international agreements. Hence, CASAC believes that only Parliament and not the Executive can take South Africa out of an international treaty which it had ratified.

CASAC Executive Secretary, Lawson Naidoo, said:

“This application raises for the first time a question that falls squarely into a sensitive area of the doctrine of separation of powers: Which branch of government, the Executive or the Legislative has the power to withdraw from international agreements?”

Second, the decision to withdraw would undermine both South Africa's reputation in the world, its commitment to international law as well as its respect for human rights at home.

Council for the Advancement of South African Constitution

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Naidoo also said:

“South Africa will no longer participate in the only global mechanism that can effectively hold those accused of the most serious crimes including genocide, crimes against humanity, war crimes and torture accountable for their actions. This can only be described as an unfortunate decision. It strikes a blow against the international protection of human rights and turns South Africa into a safe haven for those whom the Constitutional Court once described as the enemies of all humankind.”

Accordingly, CASAC believes that it is an irrational decision in that it serves no legitimate government purpose and it violates the responsibility of the State to protect, respect, promote and fulfil the rights in the Bill of Rights.

Further enquiries
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