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CONSORTIUM FOR REFUGEES AND IMMIGRANTS IN SOUTH AFRICA (CORMSA) ON THE CLOSURE AND RELOCATION OF REFUGEE RECEPTION OFFICES IN METROPOLITAN AREAS

1. Background

The Department of Home Affairs (DHA) has commenced a process to investigate the viability of relocating refugee reception centres from metropolitan centres to locations close to borders/border posts. The DHA has however, already indicated in their strategic plan and budget documents that at a policy level this is its eventual intention. This policy has been accelerated in practice by the legally enforced ceasing of the full functioning of three out of the six Refugee Reception Offices (RROs) in South Africa. The closure of offices in Crown Mines/Johannesburg, Gauteng; Port Elizabeth, Eastern Cape; and Cape Town, Western Cape has created an administrative and humanitarian vacuum, where new applicants are being forced to travel long distances to the remaining offices and risk being deported in the process.¹

The rationale behind this transition by the DHA can be understood as twofold. One is the continued court-driven closure of reception offices due to complaints by neighbouring businesses/persons in response to large amounts of refugees gathering outside of refugee offices. The second underlying reason is that the delays in finalisation of asylum seeker status determination due to lengthy administrative processes and limited capacity have created a legal loophole where the asylum process is abused by foreign job seekers as a means to gain a legal status in the country. This has both disadvantaged and delayed the finalising of claims of legitimate asylum seekers whose lives are endangered in their home countries as well completely overwhelming the capacity of the asylum seeker management directorate within Home Affairs to keep up with the hundreds of thousands of applications, amidst continued budget restrictions.

The primary concern raised by non-governmental organisations (NGOs) such as Consortium for Refugees and Migrants in South Africa (CORMSA) is that the transition to having reception offices at the border has in fact already started occurring without making administrative provisions for persons already in the country and cities affected by closures. In addition, the movement of RROs to borders will require extensions of asylum seeker and refugee permits at any Home Affairs office with immigration capacity. This, in turn, requires a significant programme of training and expanding capacity in such offices, as well as the possible need for building new facilities at the borders, which is obviously not possible to do immediately. As such, a more gradual approach as proposed in the DHA strategic plan is necessary and the opening of, albeit interim, RROs in the three metros is essential.

In addition to being part of the mandate of the DHA, it has also been directed by recent court rulings to continue allowing for new asylum applications to be accepted. The following is an extract from the CORMSA website on the ruling:

"On 30 August 2012, Judge Dennis Davis of the Western Cape High Court heard two matters related to the closure of the Cape Town Refugee Reception Office to new asylum applicants. [...] This case was a follow up to an earlier decision. On July 25th Judge Davis ruled that the Department of Home Affairs must serve newcomers in the metropolitan area. He issued an interim order, stressing that the newcomers must be served while a fuller review was pending.

¹ DHA (2012)



The DHA appealed this interim order, saying they should not have to accept newcomers while awaiting a fuller review. Judge Davis ruled that the state could not appeal the interim order from July 25th 2012. He noted that delaying implementation of the order would cause grievous harm to asylum seekers as they would be forced to travel thousands of kilometers to be documented and renew those permits. Undocumented, they would be subject to arrest and deportation. Compared to such harm, the expenses to the DHA of assisting newcomers were negligible. He further held that there was no reasonable prospect that another court would rule differently [...]

Additionally, Judge Davis ruled [...] that even if Home Affairs appealed to the Supreme Court of Appeals they would still have to accept newcomers in the meantime. He found that the alternative would mean parties who had achieved a victory in court could be denied justice via drawn out appeals".²

Thus far, despite civil society having won the three cases against the DHA closure of the RROs, they have remained closed to new applications in Johannesburg since May 2011; in Port Elizabeth since November 2011 and in Cape Town since June 2012.³

Questions to CORMSA

1. The movement of RROs to the borders is in part driven by the massive budget increases required for adequate capacity at RROs to effectively process the huge amount of applications in the current offices. It is increasingly unlikely that these funds will be made available given the economic recession. Is there a more economically viable solution than moving RROs to the border?
2. Would CORMSA still have reasons to be against the movement of RROs to the border if asylum seekers or refugees were able to renew their permits at any DHA office with immigration capacity?
3. What other viable solution can be proposed to the counter-acting litigation from the private sector continually ordering closure and civil society ordering continued operation of Refugee Reception Offices?
4. Does CORMSA disagree that movement of RRO's to the borders will address the continued xenophobic outbreaks and compromise of national security spurred on by the significant abuse of the asylum seeker process by economic migrants?

Questions to DHA

1. Until such time as RROs are established at the border and capacity for refugee permit extension has been established in DHA offices; why has DHA ignored court rulings to keep the three closed offices operating?
2. If the DHA can no longer operate from current closed offices due to private litigation but must continue to provide asylum seeker services, what will be done to address the immediate need of service to asylum seekers already in the country?

² CORMSA

³ Scalabrini Centre of Cape Town (2012)



3. What were the findings of the research into the viability of moving RROs to the border? Will the report be made publicly available and, if not, at least to the Portfolio Committee on Home Affairs?
4. Is the movement of RROs to the border the most economically viable solution to address Security and Humanitarian concerns, particularly given the urgent and legal need to offer services in cities in the interim?

References

CORMSA (2012) High court orders the DHA affairs to abide by interim order to accept new asylum seekers at the Cape Town Refugee Office. [Online on 23-11-2012 from <http://www.cormsa.org.za/2012/09/06/high-court-orders-the-department-of-home-affairs-to-abide-by-interim-order-to-accept-new-asylum-seekers-at-the-cape-town-refugee-office/>]

DHA (2012) Strategic Plan 2012/13 to 2014/15.

Scalabrini Centre of Cape Town (2012) [Correspondence via telephone on 23-11-2012]