



**Submission to the
Portfolio Committee on
Home Affairs
on the
Draft Refugees Amendment Bill, 2015:
Amendment of section 21 of Act 130 of 1998,
as amended by section 13 of Act 33 of 2008**

17 July 2015

1. Introduction

The Catholic Parliamentary Liaison Office welcomes the opportunity to comment on the Refugees Amendment Bill of 2015. We applaud the effort to bring the Refugees Act in line with the Constitutional Court's decision in the Chipu Case in September 2013. All legislation must be consistent with the Constitution, and the Refugees Act is no exception.

This Amendment does well to balance the privacy and security issues surrounding asylum applications with concerns around transparency, and we welcome it.



2. The Amendment

The Amendment in question creates a mechanism by which third parties may attend asylum hearings. This was needed following a court case, *Mail and Guardian Media Limited and Others vs MJ Chipu and Others CCT 13/12 [2013]*, in which the Constitutional Court ruled that the policy of not allowing third parties (such as the media) to attend Refugee Appeals Board hearings under any circumstances was unconstitutional. The Court gave a two year deadline to amend the Act, and in the meantime a temporary reading-in was made, which gave effect to the Court's decision. The Amendment effectively makes this temporarily read-in amendment permanent, and brings the Refugee Act in line with the Constitution.

3. Deadlines

We are slightly concerned about the length of time taken to arrive at this stage. The legislative amendment in question is not long, complex or particularly controversial. The Chipu Case was decided on the 27th September 2013, well over a year ago. The original court order provide for a 2 year grace period, and this time frame has nearly expired. Consequently, we urge that no further delays take place, so that the Amendment can be passed in time for the deadline of 27 September 2015.

4. Implementation of the Refugees Amendment Act of 2008

We have one further concern. According to the explanatory memorandum, “[T]he Refugees Amendment Act, 2008 (Act No.33 of 2008), which dissolves the Refugee Appeal Board and establishes the Refugee Appeals Authority, has not come into operation as yet”.

This is extremely worrying. The Refugees Amendment Act was signed into law in 2008, yet it has still not been implemented in 2015.

Such a long delay is highly problematic, and needs urgent attention from the relevant parties. Failing to implement legislation creates a lack of policy certainty, and could potentially hinder



or delay access to the system for legitimate asylum seekers, who deserve to have their cases swiftly and effectively dealt with. A well regulated, efficiently administered refugee and asylum system is in everyone's interest, and implementing the legislation at hand is a first and essential step towards such a system.

For further information please contact:

Mayibuye Magwaza

Researcher

mayibuye@cpllo.org.za