



CONSTITUTIONAL COURT OF SOUTH AFRICA

The State v Thunzi and Another (II)

Case No: CCT 81/09

Date of Judgment: 2 December 2010

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court

On 2 December 2010, the Constitutional Court delivered a judgment regarding the parallel legislation governing the use of dangerous weapons in the territories of the former Transkei, Bophuthatswana, Venda and Ciskei (TBVC) states.

This matter is a follow-up to Thunzi (I) where in the course of considering the matter, it appeared that there was a substantial issue as to whether there was a constitutional obligation on Parliament to establish uniform legislation on the use of dangerous weapons in the former TBVC states. Skweyiya J found that the matter called into question the constitutionality of the existence of the multiple Dangerous Weapons Acts that continued to operate in South Africa and the former TBVC states. The Court then issued directions setting the matter down for further hearing on the issue.

In the papers filed before the Constitutional Court it became clear that the applicants, the Minister for Justice and Constitutional Development, the Speaker of the National Assembly and the Chairperson of the National Council of Provinces (Parliament) all agreed that Parliament has an obligation to rationalise the multiple legislation. Parliament further indicated that the process of rationalisation had begun and that the necessary legislation would be introduced in Parliament's legislative programme for 2011. All notices triggering the operation of the offending provisions in the different pieces of legislation had already been withdrawn. The factual situation is thus that parallel legislation exists regulating the use of dangerous weapons in the former homelands, but none of the provisions are operational.

Froneman J, writing on behalf of the Court noted Parliament's undertaking to rationalise the legislation in the 2011 legislative session. He found that in these circumstances it was not in the interests of justice to consider whether there was a constitutional obligation to rationalise the parallel legislation governing the use of dangerous weapons in the former TBVC states.

The matter has been postponed to Tuesday 29 November 2011, in order to allow parliament to rationalise the legislation as undertaken.