



## CONSTITUTIONAL COURT OF SOUTH AFRICA

**Minister for Correctional Services & Another v Paul Francious Van Vuren and Another  
In re: Paul Francious Van Vuren v Minister for Correctional Services & Others**

**Case No: CCT 07/10  
[2011] ZACC 9**

**Decided on: 31 March 2010**

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### **Media Summary**

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*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 30 September 2010, the Constitutional Court delivered a judgment in which Mr van Vuren was an applicant and was successful. Paragraph 78(g) of the judgment, ordered the “[t]he Case Management Committee, to the extent that it is statutorily authorised to do so, the Correctional Supervision and Parole Board and the Minister for Correctional Services . . . to consider [Mr van Vuren] for release and placement under community corrections, with immediate effect.”

Pursuant to that judgment, the Minister and Commissioner of Correctional Services (applicants) filed an urgent application to have paragraph 78(g) of the judgment varied. The applicants pointed out that the National Council for Correctional Services (NCCS) considered itself to no longer have jurisdiction for purposes of making a recommendation to the Minister for placement on parole of offenders such as Mr van Vuren because the order excludes it. The applicants argued that it is necessary to include the NCCS in the paragraph in order to enable it to make a recommendation to the Minister. They pointed out that absent a recommendation by the NCCS, the Minister could not consider the placement of Mr van Vuren or any other similarly placed offenders on parole. If the Minister did so, that conduct would amount to unlawful administrative action.

The Constitutional Court held that the applicants did not meet the requirements of rule 42 of the Uniform Rules of Court which specify when a court can rescind or vary a judgment. Further, the Court held that the contention that the implementation of paragraph 78(g) by the Minister will amount to an unlawful administrative action must be rejected. As a result, it held that the judgment handed-down on 30 September 2010 is clear and requires no variation.