



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME
COURT OF APPEAL

31 March 2011

STATUS: Immediate

CONFEDERATION OF SOUTH AFRICAN TRADE UNIONS / NATIONAL
ECONOMIC DEVELOPMENT AND LABOUR COUNCIL AND OTHERS

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

1. The Supreme Court of Appeal today dismissed an appeal by the Confederation of South African Workers' Union (Consawu) against a judgment of the North Gauteng High Court (Pretoria) in which an application by Consawu to have part of the constitution of the National Economic Development and Labour Council (Nedlac) declared invalid, was dismissed.
2. The majority of the SCA held that clauses 9.3 to 9.6 comply with section 4(d) of the Nedlac Act, 35 of 1994. It held that each of Nedlac's constituencies is authorised in law to determine the procedure and criteria for membership to that constituency itself. In doing so, the court held, the constituencies are exercising original and not delegated powers.
3. Consawu's application for membership to Nedlac had been declined by the organised labour constituency, because in terms of the criteria set by that constituency, Consawu did not meet the required membership threshold of 300 000 members. Consawu contended that it was unlawful for the labour constituency to set such criteria; a contention which the majority of the court rejected.
4. In a minority judgment, Consawu's contentions were upheld. The minority held that Nedlac itself had to exercise the power to determine the procedure and criteria for membership – to grant that power to individual Nedlac constituencies amount to an unlawful delegation of power. The impugned clauses of the Nedlac constitution were thus invalid.

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