



His Excellency, President Matamela Cyril Ramaphosa

President of the Republic of South Africa

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Your reference

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Date

V Movshovich / D Rafferty
3005347

22 December 2020

Dear Mr President

Promulgation of the Political Party Funding Act, 2018

1. We represent My Vote Counts NPC ("**our client**") in relation to the above matter.
2. We refer to the letter dated 21 January 2020 sent to your Excellency by a number of civil society organisations, including our client, and annexed marked "**A**" ("**the 21 January 2020 letter**").
3. We also refer to the Political Party Funding Act, 2018 ("**the PPFA**") and the Promotion of Access to Information Amendment Act, 2019 ("**the PAIA Amendment Act**").
4. The 21 January 2020 letter set out a number of concerns, including in relation to the promulgation of the PPFA and PAIA Amendment Act.
5. As your Excellency will know, the PPFA and the PAIA Amendment Act were required to be enacted by Parliament under the judgment and order of the Constitutional Court in *My Vote Counts NPC v Minister of Justice and Correctional Services and Another* 2018 (5) SA 380 (CC) ("**the MVC judgment**"). That judgment required Parliament to amend the Promotion of Access to Information Act, 2000 and take any other appropriate measures to provide for the recordal, preservation and facilitation of reasonable access to information on the private funding of political parties and independent candidates within a period of 18 months. Parliament undertook to comply with the MVC judgment by the enactment of PPFA and the PAIA Amendment Act.

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Senior Partner: JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa NG Alp OA Ampofo-Anti RL Appelbaum DC Bayman KL Beillings AE Bennett AP Blair DHL Booyesen AR Bowley JL Brink S Browne MS Burger RI Carrim T Cassim SJ Chong A Christie KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland JJ Daniels JH Davies PM Daya L de Bruyn PU Dela JHB de Lange DW de Villiers BEC Dickinson MA Diemont DA Dingley G Driver HJ du Preez CP du Toit SK Edmundson KH Eiser AE Esterhuizen MJR Evans AA Felekis GA Fichardt G Fitzmaurice JB Forman C Gabriel CP Gaul KL Gawith OH Geldenhuys MM Gibson SJ Gilmour H Goolam CI Gouws PD Grealy JM Harvey MH Hathorn JS Henning KR Hillis XNC Hlatshwayo S Hockey CM Hofheld PM Holloway HF Human AV Ismail ME Jarvis CM Jonker S Jooste LA Kahn M Kennedy A Keyser M Kyle J Lamb A Manie L Marais S McCafferty MC McIntosh SJ McKenzie SI Meltzer CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu S Mogale M Moloi LE Mostert VM Movshovich RA Nelson ZN Ntshona AN Nyatumba L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel GR Penfold SE Phajane TC Phala MA Phillips D Ramjettan GI Rapson Z Rawoot K Rew G Richards-Smith NJA Robb DC Rudman S Rugan WJ Rysbergen M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh J Smit MP Spalding PS Stein MW Straeuli LJ Swaine JM Swanepoel Z Swanepoel A Thakor TK Thekiso A Toefy ZJ Truscott PZ Vanda PP van der Merwe SE van der Meulen CS Vanmali JE Veeran D Venter B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warrington J Watson AWR Westwood KL Williams K Wilson RH Wilson M Yudaken **Chief Operating Officer:** SA Boyd

6. Our client notes, with concern, that despite the PPFA having been assented to and signed by your Excellency on 21 January 2019 it has not yet come into effect as your Excellency has not determined the date that the PPFA will come into operation as required by the PPFA. Similarly, the PAIA Amendment Act was assented to in June 2020, but is yet to come into force.
7. In accordance with, *inter alia*, section 7(2) and 81 of the Constitution, and the findings in the MVC judgment, there are duties placed on your Excellency, as the ultimate functionary in the legislative process, to ensure that legislation is promptly and effectively put in place, particularly when such legislation affects the ongoing fulfilment of the constitutional rights of citizens. Indeed, the MVC judgment required the relevant legislation to be enacted within 18 months of 21 June 2018. The duties in terms of that judgment bind all the State actors involved in the process of bringing legislation to life.
8. Section 237 of the Constitution also states that "*[a]ll constitutional obligations must be performed diligently and without delay.*"
9. Section 81 of the Constitution provides as follows:

"A Bill assented to and signed by the President becomes an Act of Parliament, must be published promptly, and takes effect when published or on a date determined in terms of the Act."
10. Delays in giving effect to legislation undermine constitutional imperatives and rights.
11. The rights of South African citizens to make political choices and to participate in elections, as were found to be implicated in the MVC judgment, and which required the enactment of the PPFA and the PAIA Amendment Act, are being infringed by the delay in coming into force of the legislation. There has been an unreasonable delay in implementation of this critical legislation.
12. In light of the above, our client requests that your Excellency provide the reasons why the PPFA and the PAIA Amendment Act have not yet come into operation and indicate the likely date on which the legislation will become effective.
13. Our client requests that you respond to the above requests, by no later than **22 January 2021**.
14. Our client reserves its right to review any decision by your Excellency in relation to the refusal or failure to give effect to constitutional rights, and the PPFA or the PAIA Amendment Act.
15. We look forward to your response.

WEBBER WENTZEL

in alliance with  **Linklaters**

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Yours faithfully

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