

"PSM15"



SOUTH AFRICA

National Party Liaison Committee (NPLC) Meeting

Final Minutes

Date: Thursday, 18 February 2021
Venue: Zoom Online Meeting
Time: 10H00

1. Opening and Welcome

The chairperson opened the meeting and welcomed all members present. He further proposed that the meeting deal with the ICASA presentation before moving into the ordinary agenda items.

2. Apologies

The following apologies were noted:

- B Herron (GOOD)
- W Wessels (VF Plus)

3. Confirmation of Agenda

The agenda was accepted as distributed.

4. Presentation by ICASA: Review of Municipal Elections Broadcasting Regulations

The Chairperson introduced the delegation from ICASA.

Electoral Commission

Ensuring Free and Fair Elections

Commissioners: Mr V.G. Mashinini (Chairperson) | Ms J.Y. Love (Vice-Chairperson) | Dr N.P. Masuku | Mr M. Moepya | Judge D. Pillay
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Councillor Kadi (ICASA) outlined the background of the presentation, and indicated that ICASA has dealt with the submissions from interested parties in developing the draft municipal election broadcast regulations. Further, that interactions with media and political parties have been undertaken through workshops. The presentation will also share the schedule of the regulator aimed at processing the regulations in order for parties to derive the benefits in terms of Electronic Communication Act (ECA).

The Councillor indicated that ICASA has also taken into account the judgement of the Constitutional Court in the New Nation Movement matter, which found that the exclusion of independent candidates in National and Provincial elections is unconstitutional.

Mr Phelelani Khumalo (ICASA) delivered a presentation sent to all NPLC members.

Comments and Queries by Parties	
Party	Response
<p>ACDP</p> <ul style="list-style-type: none"> • Thanked ICASA for informative and well-arranged workshops where all concerns by political parties were addressed. • In 2019 the announcement of the start of PEB schedule and allocations were received at short notice. • The party requested that the schedule for the upcoming elections be forwarded to parties as soon as possible. 	<p>ICASA</p> <p>The allocation principle is dependent on information to be received from the IEC. PEB's cannot be allocated before the finalisation of candidate nomination by the IEC. It takes a week to make a determination once information is received.</p> <p>Parties should start with PEB preparations once they know that they will be participating in the elections.</p>
<p>DA</p> <ul style="list-style-type: none"> • The slides indicate that if the PEB or PA is refused then there is a timeline in which the affected party must give reasons or escalate the matter to the authority. However, there is a missing timeline in which the authority must make a determination whether the 	<p>ICASA</p> <p>The PEB's are sent back to parties within 48 hours. Aggrieved political parties may contact the tribunal that deals with complaints.</p> <p>There is so much work that has been done previously and it is available for parties to reference on ICASA's website.</p>

<p>reasons supplied will stand or not in terms of the refused PA.</p> <ul style="list-style-type: none"> • Request that ICASA commit to dealing with this matter within a short period so that if a party wants to go to court to seek relief they can still do so within the timelines. • To what extent has ICASA considered the change of importance of the broadcasting licences? • This is will play a major role in LGE2021 given that the lockdown regulations will have a detrimental impact on in person political activities. The reliance will be more on information received on airwaves and television. • Equitable/fair treatment should strengthen provisions to be provided for specific guidance to licences in the COVID environment. 	<p>The authority made a promise to respond within 24 hours to inform the parties where they stand with regard to their matters.</p>
<p>ANC</p> <ul style="list-style-type: none"> • Do the small parties with presence in one municipality have access to their regional radio and provincial radio stations rather than on national radio? • How are independent candidates going to be accommodated? • Will TV include both ads and PEB'S, if it is PEB's only how will independents feature on it? 	<p>ICASA</p> <p>If a party is only contesting a local municipality election, they can only access PEB for that region.</p> <p>ICASA is aware of the case of the New Nation movement with regard to Independent Candidates. The regulations are draft and comments from stakeholders are welcome in order to finalise the regulations.</p> <p>The final draft should indicate whether PEB's would be broadcast on both radio and TV.</p>

<p>DA</p> <ul style="list-style-type: none"> • We are entering a different campaign strategy due to COVID, however ICASA is silent in terms of social media interactions. Will there be contacts for people dealing directly with this. • Already You Tube is blocking some of the party's content before campaigning even resumes. Request a free flowing process as parties will rely heavily on social media platforms. 	<p>ICASA</p> <p>ICASA does not interfere with the broadcasters' editorial duties. However, the tribunal or the Complaints and Compliance Committee (CCC) can be contacted.</p> <p>The current legislation does not give ICASA the mandate to regulate social media.</p>
<p>EFF</p> <ul style="list-style-type: none"> • What formula is used to allocate slots? If it is done according to current seats of the party, then that is unconstitutional as all parties should be treated the same when going into an election. • There are many queries from parties with regard to timeframes as the previous processes were unfair. • ICASA's is inactive during the election period. • How will ICASA ensure that all parties are treated fairly and that all queries by parties are attended to timeously? • Would like to propose that during elections a representative from ICASA should form part of the meeting in order to assist with issues. • ICASA is giving too much power to the broadcaster; they should look at the sequencing or schedule of airing. 	<p>ICASA</p> <p>The sequencing of PEB's slots will be determined in a draw, parties will draw on the day and whatever time they get will be allocated to them. Once it is done, the information will be published in the gazette.</p> <p>Parties can purchase PAs to access their listeners according to their needs.</p> <p>There are four determinations when it comes to allocation principles, this is included on the presentation. It is not about the number of current seats the party has. The number of current seats only cater for 10% of the overall total. The rest of the determination includes the number of candidates for the party and the level of contestation by the party.</p> <p>Once regulations are published, there is always a contact person from ICASA's compliance and legal department available.</p>

<p>AL-JAMA-AH</p> <ul style="list-style-type: none"> • Support the position of the EFF with regard to levelling the playing field, we cannot have regulations that will support the ruling party. • ICASA should look at community radio stations as they do not follow the regulations and marginalise the local politicians. 	
<p>IEC</p> <ul style="list-style-type: none"> • Request contact details so that parties can be able to contact ICASA directly for any clarity. 	<p>ICASA</p> <p>Indicated that there are FAQ's and the presentation is placed on the ICASA website and can be accessed by parties. The contact e-mail address is Pcokie@icasa.co.za</p>

5. Consideration of Minutes

The following minutes were considered by the meeting as follows:

- 03 December 2020 moved for adoption by the ANC and supported by DA.
- 04 January 2021 moved for adoption by the ACDP and supported by the VF Plus
- 26 January 2021 moved for adoption by VF Plus and supported by the IFP

6. By-Elections

6.1 Postponed By-Elections

The meeting noted that the IEC has circulated the orders of the Electoral Court granting the postponement of the by-elections for 20 January, 03 and 17 February and 03 and 31 March 2021.

6.2 Draft Timetable and Ward list 21 April 2021 and 19 May 2021

The meeting noted that all postponed by-elections for Jan, Feb and March 2021 have been consolidated into 19 May 2021 by-election timetable.

These have to be held within 120 days of the court order. Standard list of ward vacancies that have arisen within the last few weeks are included in the 21 April 2021 by-election timetable.

Proclamation for the 21 April by elections is on 19 March 2021 and voter registration is scheduled for the weekend of 13 and 14 March 2021.

7. Cessation of By-Elections ahead of LGE2021

- The current provisions in the Act effectively regulates that a Municipal Manager calls a by-election. If the Municipal Manager does not proclaim an election, then the MEC must do so.
- As it stands, the Municipal Manager may not call a by-election for a dissolved council within 9 months from the date of the general election of all councils and for a ward within 6 months.
- It must be noted that S 25(6) states that the MEC must also decide that such a by election stands over until the next election.
- The 9 months and 6 months dates are derived by first determining the outer date of the 90 days within which an election must be held. The 9 months and 6 months date periods are then calculated by counting backwards from the outer date.
- The IEC has sponsored amendments to the Municipal Structures Act to the extent that it implicates elections. The Department of Cooperative Governance and Traditional Affairs remains the custodian of the legislation.
- The Bill has been approved by the NCOP and has been referred to the National Assembly for adoption.

How the Bill differs from the current legislation

- In terms of the Bill, a Municipal Manager cannot proclaim a by-election. The responsibility to proclaim by-elections is vest with the MEC responsible for Local Government.

- The MEC may not proclaim a by-election if a general election of municipal councils is to be held within 9 months. The process of cessation of by elections is rationalised at 9 months.
- The MEC may after consultation with the Minister of COGTA also decide that a vacancy that arises before the 9 months of cessation of by-election must stand over until the next general elections of municipal councils.
- Vacancies that arise before the cessation period may still be filled beyond the respective cessation period of 1st February and 1st May 2021. This is so, because the instructive date is date of vacancy and not the by-election date.
- The meeting noted that the legislation does not implicate the filling of PR vacancies.

Comments and Queries by Parties	
Party	Responses
<p>ACDP</p> <ul style="list-style-type: none"> • Request confirmation that those by-elections scheduled for April and May will still go ahead even if the elections are called? 	<p>IEC</p> <ul style="list-style-type: none"> • All the vacancies arose before the effective date for cessation. Therefore, they will proceed even if the date of the general elections were to be announced. Similarly, even if the amendment Bill were to be passed imminently, it would not implicate these by-elections.
<p>EFF</p> <ul style="list-style-type: none"> • What guidelines does the MEC use to make a determination whether by-elections stand or not? 	<p>IEC</p> <ul style="list-style-type: none"> • The law does not give carte blanche authority, but the MEC has to consult with the Minister in the proposed Amendments. • The general approach of the courts, where discretion is applied is there has to be legality in the manner in which the question is treated. Whether the question was regarding the facts being rationally applied to the case. Objective

	<p>and rational factors to be used in arriving at the decision.</p> <ul style="list-style-type: none"> • IEC will update the NPLC on the progress of the Bill. •
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8. Update on Voting District Delimitation

- The MDB handed over the final wards to the IEC for LGE2021 in two batches, 109 municipalities in October 2020 and then 104 remaining municipalities handed in December 2020.
- The IEC is finalising the alignment of split VD boundaries to new wards, updating the Voting Districts delimitation dataset and the network of Voting Stations in relation to changes in human settlement that have occurred since NPE2019. Currently, 1200 VDs have been split by new wards.
- The voting district delimitation exercise is undertaken with the involvement of all parties represented in the Municipal PLCs. The involvement culminate in party representatives signing off on the VD boundaries and location of voting stations for voting district in that municipality.
- IEC has completed the 109 municipalities of batch one and is in the process of aligning the 104 municipalities of batch two. This is planned for completion by end March 2021.

9. Status of the Voters' Roll

- There has been a notable increase in the number of persons who have exited the voters roll owing to death in the period December 2020 and January 2021.
- 95% of voters on the voters' roll have an address or sufficient particulars against their name.
- There are still 1,2 million voters for whom the Electoral Commission still does not have an address. This represents 4% of voters on the voters' roll.
- The voters' roll still reflect in excess of 26 million voters.
- Work on further maintenance of the voters' roll is under way to improve the quality of addresses.

Comments and Queries by Parties	
Party	IEC Response
<p>EFF</p> <ul style="list-style-type: none"> • Political parties involvement in checking and vetting of Voting Stations. • Having access problems to Voting Stations especially in farm areas. 	<p>IEC</p> <p>The choice of Voting Stations is driven in the Municipal Party Liaison Committees. The party representative at Municipal Party Liaison Committee are being consulted on the choice of the voting stations.</p> <ul style="list-style-type: none"> • Maps indicating VD splits by wards have been prepared. • Proposal by the MPLC on resolving the process, and the choice of voting station in each VD. • There are currently 23 000 VDs in the country, it is best that the matter be handled at municipal level. • The discussions with commercial farming entities has begun to look at access to farms, preparations for elections, Civic education, campaigning and access on Voting Day. Still in early stages with engagements and will update the PLC of progress.
<p>ANC</p> <ul style="list-style-type: none"> • The Electoral Act does provide political parties with the right to access voters living in private areas. • We suggest that we meet with the agricultural community in order to sort out the matter. 	<p>IEC</p> <ul style="list-style-type: none"> • A major proposition is that some form of protocol be developed that will apply for election events that take place on commercial farms so that the IEC and political parties can adhere to that protocol or framework. • The farming community raised two issues of concern that due to the nature of some operations, the farms have to be

	<p>secured from both a biosecurity perspective and general safety from crime. As a result, certain restrictions may be imposed on farm access.</p> <ul style="list-style-type: none"> • However, if protocols are agreed to, access may be possible by pre-arrangement. • Draft protocols will be presented to the NPLC for comment.
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10. Update on Electoral Laws Amendment Bill

The Electoral Laws Amendment Bill was passed by the National Assembly in December 2020 and referred to the NCOP. It has been published for public comment by the select committee on Security and Justice. The period for public comments closed on 29 January 2021. Substantive submissions and comments are broadly in three areas. The first relates to section 16 of the Electoral Act:

- Ability for any person to access a segment of the voters roll;
- Section 16(5) authorises the CEO to redact certain digits of the voter’s identity number in order to safeguard the privacy of voters.
- The Commission has agreed to a redrafted Section 16 (2) in order to strike a balance between access to the voters’ roll and safeguarding the privacy rights of voters.
- The voters’ roll made available under section 16(2) is subject to the Protection of Personal Information Act.
- The request for access to the voters’ roll must be for a defined purpose and it is an offense for any person to use the information obtained from the roll for purposes other than those defined.
- Section 16(5) is introduced to make it peremptory for the Chief Electoral Officer to redact certain digits of the voter’s identity number to protect the personal information of voters.
- The Voters’ Roll at voting stations during registration and on voting day will still contain the full identity number and information of the voter.

- Section 47(7) of the Municipal Electoral Act has been redrafted to make it clear that voters who do not have an address are still entitled to vote. That their manner of voting must still comply with the requirements in section 47. The redrafting should remove perceptions that section 47(7) amounts to impermissible delegation of legislative authority to the Electoral Commission.

Comments and Queries by Parties	
Party	IEC Response
<p>DA</p> <ul style="list-style-type: none"> • How do we reconcile S16(2) with S16(5), isn't that contradictory? 	<p>IEC</p> <ul style="list-style-type: none"> • The consideration was to balance the two competing guaranteed rights. Right to access to information and right to privacy. By removing S16(2) the Bill may be breaching the right to access to information. However, the redraft removes unfettered access and links this to a purpose. • Section 16(5) is concerned with protecting the personal information of voters as demanded by POPIA.
<p>EFF</p> <ul style="list-style-type: none"> • Would like to have a look at the amendments and read the redraft. 	<p>IEC</p> <ul style="list-style-type: none"> • Document will be shared with members.

11. Feasibility of LGE2021 within the 90 day period

The matter has been deferred to the next meeting as it is a substantive matter in which legal input should be obtained.

12. Party Funding Matters

- Thanked all parties for attending and that all sessions were attended by accounting officers of all parties.

- The next phase will be training with unrepresented parties. The Commission also wrote to provincial legislatures to set up interaction.

13. Date of the Next Meeting

The date of the next meeting is 18 March 2021.

14. Closure

The meeting was concluded at 13:16

Signed on: _____

(Mr. S. Mamabolo) (Chairperson) _____

Chief Electoral Officer

Name	Organization/ Political Party
S Mamabolo	IEC
M Sheburi	IEC
A Henning	IEC
M Mosery	IEC
G Mahlangu	IEC
G Abrahams	IEC
L Maphanga	IEC
R Raath	IEC
B Heuvel	IEC
S Murphy	IEC
K Tshoke	IEC
K Molefe	IEC
A Mushwane	IEC
T Lubbe	IEC
D Kisoonduth	ACDP
G Haskin	ACDP
B Hofmeyr	ANC
T Mhlongo	AIC
N Jeku	ATM
G Hendricks	AL JAMA-AH
V Coetzee	COPE
T Abell	DA
W Horn	DA
M Tshwaku	EFF
C Sibisi	NFP
T Nontenja	UDM
P De Necker	VF Plus
P Ackermann	VF Plus
P Kadi	ICASA

Z Matthews	ICASA
P Khumalo	ICASA
H Makola	ICASA
M Dzebo	ICASA
L Mokoena	ICASA
P Cokie	ICASA