

"PSM16"



SOUTH AFRICA

National Party Liaison Committee (NPLC) Meeting

Final Minutes

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

1. Opening and Welcome

The chairperson opened the meeting and welcomed all members present.

2. Apologies

The following apologies were noted:

- D Kissoonduth (ACDP)
- B Herron (GOOD)
- W Wessels (VF Plus)

3. Confirmation of Agenda

The items were included on the agenda.

- Voter registration process
- Update on voting district delimitation
- Use of the logo of the Electoral Commission political parties

The ACDP proposed acceptance of agenda with the additional items. The proposal was supported by the ANC.

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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4. Consideration of minutes

The minute of 18 February 2021, was corrected to reflect the apology of Mr. Dlamini from the ANC. The ACDP proposed adoption of the minutes and NFP supported.

5. By-elections

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

The meeting noted the ward list and timetable for 21 April 2021 and 19 May 2021 by-elections. The proclamation date for 21 April by-elections is scheduled for 19 March 2021.

5.2 Voter registration process 13-14 March 2021

Comments by Parties	
EFF	<ul style="list-style-type: none">• The EFF indicated that some IEC Municipal Offices were not open for voter registration.• The party also reported instances during the registration weekend where registration supervisors allegedly refused to register voters indicating that they must produce proof of residence. The party undertook to supply the specific details.• There were also instances of inconsistencies with regard to issuing of proof of application by registration officers. Lack of proof of application may create challenges on voting day in the event a voters name does not appear on the Voters Roll.
DA	<ul style="list-style-type: none">• The party recorded its discomfort with the fact that the registration process is not being finalised at the registration station. This thus limits the role that party agents may play in observing the registration process.• Additionally, the risk exists that the IEC may not finalise the registration process.
ANC	<ul style="list-style-type: none">• The party wished to establish with the local offices of the IEC were open for voter registration?

- Further, whether all registration supervisors were aware that voters do not need to produce proof of address for purposes of registration?

Responses

By way of background. Since the Constitutional court judgement in 2016 in the case of addresses on the voters roll, it has become necessary for the IEC to review its voter registration processes.

- The new registration paradigm must enable the IEC to record a voter's address (or details of a place of residence) and to link the supplied address to a ward in which the voter is ordinarily resident.
- The business processes of the IEC were ill equipped for this obligation. For this reason, the IEC is in the process of procuring new registration devices (VMD) with enabling technology to support the voter registration process.
- The registration process observed ahead of the by-elections represents a period of transition from paper based zip-zip enabled registration to paperless registration facilitated by the VMD.
- The new registration will:
 - Be paperless and thus voters will not be provided with paper receipts as proof of application. Instead, voters will receive electronic confirmation of registration.
 - Enable the registration process to be finalised in the presence of the voter and agents where they are available.
- The chairperson undertook to have the transitional voting process documented and provided to political parties. Mindful that the process will be used for the last time during the registration weekend ahead of the 19 May by-elections. Similarly, a demonstration of the new voter registration process will be organised at a future meeting.
- Confirmation was also provided that the local offices of the IEC are open for voter registration. Unless in cases where they are temporarily closed as a response to implementation of Covid response protocols.
- Parties were requested to submit specific details of matters raised to enable the IEC to attend to aberrations.

6. Cessation of By-Elections ahead of LGE2021

At the last meeting, a document was tabled dealing with the cessation of by-elections ahead of the general elections of municipal councils. The document indicated that there were amendments to the Local Government: Municipal Structures Act that implicated the period of cessation of by-elections. The Bill has now been passed by the National Assembly and will be referred to the President for assent. In terms of that Bill, the period of cessation of casual by-elections and by-elections occurring as a result of dissolution of councils will be the date on which the Act is promulgated.

7. Update on Electoral Laws Amendment Bill

- The Electoral Laws amendment Bill has been approved by the NCOP and will be debated by the National Assembly on 19 March 2021. If approved it will be referred to the President for assent.
- The process of drafting the regulations has commenced and these will be tabled at a future meeting.
- A copy of the latest version of the Bill will be circulated to members.

8. Feasibility of LGE2021 within the 90-day period.

At the last meeting, it was agreed that the matter would be placed on the agenda for substantive discussions following the opportunity afforded to parties to consult. The chairperson outlined the following procedure. All parties will have an opportunity to present their views and thereafter the IEC would share its perspective.

Party Submissions
<p>DA</p> <ul style="list-style-type: none"> • The party reported that it had received an opinion from senior counsel to the effect that the only way elections may be postponed is with an amendment to the Constitution. Additionally that, that amendment would require a super majority support. • The party cautioned that the views and or preferences of parties may not override the obligation of the IEC to prepare for elections in a lawful manner.

- The party further requested the Commission to share with parties any scientific information that it obtains as it relates to Covid-19 projections and or modelling and the impact on the election programme.

ANC

- The party submits that there is no Constitutional provision that allows an election to be held beyond the expiry of the term and that a super majority support would be required to change the Constitution.
- On this understanding, there is no basis for the IEC to lawfully contemplate an election beyond the constitutionally defined period.
- The party further submits that in a case of uncontrollable spike in cases of Covid-19, the IEC may be able to approach the Constitutional Court to demonstrate that it would be impossible to hold elections in those circumstances.

EFF

- The position of the party is that the local government elections must be postponed until 2024. That way all elections can be rationalised to take place at the same time and on the same day.
- The party submits further that political parties have lost time to adequately prepare for the elections and that in the context of Covid-19 they would be constrained from properly campaigning.
- The party requests the IEC to convene a meeting of party leaders to discuss the state of readiness to hold elections.
- Further that the party may approach the Electoral Court to argue that parties have lost ground in preparing for the elections and that on those basis the date of the elections must be postponed.

ACDP

- The ACDP submits that LGE must remain separate from NPE.
- The party accepts that the IEC should hold the elections this year and preparations must proceed.
- If a third wave happens, the IEC can approach the courts requesting a postponement but only for few months and not indefinitely.

UDM

- The UDM supports the call to postpone the elections.

- Further calls on the IEC to convene a meeting of leaders of parties in order to discuss the scenarios involved for holding elections.

VF Plus

- The party submits that the risks of Covid-19 are known and that elections must proceed with health and mitigation measures implemented.
- The party does not support postponing elections owing to Covid-19.
- Further, the party opposes changes to the Constitution.

IEC Perspective

- The IEC is a creature of statute and is thus constrained by the principles of lawfulness, legality and other tenants of democracy.
- On its part, it must stand ready to deliver elections within 90 days whenever they are called by the competent executive authority.
- Constitutionally elections must be held within 90 days of the expiry of the term. The current term of municipal councils end on 3 August 2021.
- Elections must therefore be held by 1 November 2021. There are no Constitutional mechanisms to facilitate an election beyond the 90 days of end of term other than an amendment to the Constitution and the Structures Act.
- There are a number of external dependencies that impact on preparations for municipal elections. Chief among these is the work that the Municipal Demarcation Board (MDB) must do to demarcate wards. While the MDB work has been impacted by Covid-19, the ward demarcation process has now been concluded. The delays have also been accommodated in the IEC critical path. The implications is that an election is no longer possible in the early part of the 90 day period.

Key factors:

- It is notionally possible to hold elections beyond the 90 day period of the expiry of the term. This would however, require an amendment to the Constitution as well as a well as a super majority support because it implicates a foundational principle of the Constitution. Similarly, the structures Act would have to be amended.

- The IEC is preparing for the elections on the basis of the extant scheme.
- The Constitution and law do not demand that a state organ must perform in circumstances of impossibility. However, before the IEC may approach a competent Court for relief, it must demonstrate that it has done everything possible in terms of the law and Constitution. That it has prepared diligently for the elections including considering alternative arrangements and that in spite of these, circumstances are still that owing to Covi-19 cases it may not guarantee that elections may be free and fair.

The Electoral Commission notes the various suggestions that have been made. To this end:

- A special NPLC will be convened to consider concrete and practical measures that may be recommended to leaders of political parties as it relates to holding municipal elections in 2021.
- The Commission will be requested to convene a meeting of political party leaders to consider the recommendations of the NPLC.

9. Access to Farms for Political Campaigns

The Commission has been in consultation with the Farming / Agricultural organisations on how the voting and campaigning process is to be extended to the farming community. Following the consultations a pledge which sets out principles agreed to will be signed with organisations representative of the farming community.

A detailed presentation on access to farms for campaigning was delivered to the meeting where the following were emphasised.

- The law guarantees reasonable access for representatives of political parties and contestants for campaign purposes.
- Access cannot be granted on a partisan basis.
- Reasonableness requires that consideration should also be given to the nature of the operation and the legitimate physical security concerns of the farming community.

- Covid-19 measures must be observed.
- A localised mechanism to deal with accusation of refusal to grant access must be explored.

Following responses by parties, it was agreed that members may submit written representation for consideration in finalising the pledge.

10. Party Funding Matters

The meeting noted that the online dummy system will no longer be available from 26 March 2021. The system will be cleaned up, and go live, and be made available on 01 April 2021.

A list of items that political parties must comply with will be forwarded to parties in writing as from 01 April 2021. I.e. Duties of Political Parties contained in Chapter 4 of the Act

11. Status of Delimitation

- A presentation on the status of the delimitation process was delivered to the meeting.
- The alignment of split voting districts is underway to align the network of voting districts to the new wards determined by the MDB.
- The project will be completed by end of March and then the final status will be reported.
- There is a provision in the Structures Bill that might impact the demarcation and delimitation process in 3 municipalities in the Western Cape. This is so because the Bill introduces and sets a minimum number of councillors in a municipal council at 10. The three municipalities all have less than 10 councillors. To give effect to the amendment the number of ward in these municipalities must be increased.

Party
<p>ANC</p> <ul style="list-style-type: none"> • Requested the slide shows on the ward numbers and the names of the three municipality in WC that will be affected. • Is delimitation not taking place in Northern Cape and Free State?

DA

Reference to TCR or section 12 to populate new VDs or are we going to only rely on TCR and the registration weekend to do so.

EFF

Request a report indicating the list of VDs affected by the splits.

- The IEC will provide the summary of split voting districts to the NPLC.
- Three municipalities concerned are Laingsburg, Ladysmith and Prince Albert.
- The delimitation process in both Free State and Northern Cape are on scheduled for completion by the project end date.
- The presentation will be availed to the NPLC
- Changes of VD's will also be provided to the NPLC

12. Use of IEC Logo

In terms of Section 21A of the Electoral Commission Act, no person may use the logo of the Commission without prior authorisation. Contravening of this provision is punishable on conviction by a fine, imprisonment or both.

13. Other Matters

The meeting was informed that the CEO will be promoting an elections course at Wits School of Governance.

- The course will be run over four months looking at four different modules.
- The course content will deal with both the theoretical aspects of elections as well as practical operations.
- Legislation, policymaking, electoral campaign and the use of data.
- Party activists and election teams may benefit from attendance.
- Further details on the course will be distributed to the members.

14. Date of the Next Meeting

The date of the next meeting is 22 April 2021.

15. Closure

The meeting concluded at 12:32

Signed on: _____

(Mr. S. Mamabolo) (Chairperson) _____
Chief Electoral Officer

Action List

Nr	Item Point	Action Point	Due Date	Responsible	Status
1	5.2(a)	Case regarding the Presiding Officer who refused voters to register during registration weekend.	ASAP	EFF	
	5.2 (b)	Current registration system	ASAP	IEC	
2	7	Latest version of the Electoral Laws Amendment Bill.	ASAP	IEC	Done
3	8	Meeting to consider points for discussion during the meeting with leaders of Political Parties.	ASAP	IEC	WIP
4	11	Summary of split VD	ASAP	IEC	WIP

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
R Tlaeli	ACDP
G Haskin	ACDP
T Mhlongo	AIC
B Hofmeyr	ANC
M Dlamini	ANC
G Hendricks	AL JAMA-AH
V Coetzee	COPE
T Abell	DA
W Horn	DA
M Tshwaku	EFF
S Shabane	GOOD
C Sibisi	NFP
B Msomi	UDM
P De Necker	VF Plus
P Ackermann	VF Plus

