

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA
(HELD AT BRAAMFONTEIN)**

CASE NO. CCT 45/23

In the matter between:

MEDIA MONITORING AFRICA TRUST

APPLICANT

and

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

1st RESPONDENT

SPEAKER OF THE NATIONAL ASSEMBLY

2nd RESPONDENT

**MINISTER OF COMMUNICATIONS
AND DIGITAL TECHNOLOGIES**

3rd RESPONDENT

**SOUTH AFRICAN BROADCASTING
CORPORATION SOC LIMITED**

4th RESPONDENT

APPLICANT'S WRITTEN SUBMISSIONS

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INTRODUCTION

1. Under section 13(1) of the Broadcasting Act, 1999 (“**the Act**”), the twelve non-executive members of the Board of the South African Broadcasting Corporation SOC Ltd (“**the SABC**”) “must be appointed by the President on the advice of the National Assembly”.
2. On 20 December 2022, the National Assembly (“**Assembly**”) sent the President the list of twelve names they had chosen, but curiously added a list of three other names “to serve as a reserve pool to cater for any eventuality”.¹ The President failed to act on this advice and appoint the chosen twelve, despite the term of the previous Board having ended on 15 October 2022,² 166 days ago.
3. Over two months later, on 3 February 2023, the President requested advice from the Assembly about, inter alia, the legality of sending him a “reserve pool”.³ The Speaker replied, after legal advice, that “the President should ignore the three names in the reserve pool”, and proceed to appoint the clearly chosen twelve.⁴
4. The President rejected this advice and, on 9 March 2023, replied that he could not constitutionally “ignore the contents of a resolution of the National Assembly”, and asked “that the matter be referred to the Portfolio Committee” to provide him with “a clear, legally accurate record of what precisely the National Assembly has determined with respect to the persons they resolved to advise [him] to consider

¹ President’s answering affidavit, annex “AA2”: Letter from the Speaker to the President, 20 December 2022 (**v4 p377**).

² MMA’s founding affidavit, para 42 (**v1 p17**).

³ President’s answering affidavit, annex “AA3”: Letter from the President to the Speaker, 3 February 2023, para 6.1 (**v4 p378**).

⁴ President’s answering affidavit, annex “AA4”: Letter from the Speaker to the President (**v4 p380**).

for appointment”.⁵ The Assembly has not yet responded to the President, and the Speaker has informed this Court that the Portfolio Committee is awaiting a legal opinion.⁶ Amid this inertia and uncertainty, the SABC still does not have a Board, and will not have one by the time its financial year ends tomorrow.

5. The applicant (“**MMA**”) says that the President has failed to fulfil his constitutional obligation to make appointments he is required to make by legislation, per section 84(2)(e) of the Constitution. He has failed to do so “diligently and without delay”, per section 237 of the Constitution, and indeed has failed to do so at all. This directly implicates, among others, the proper functioning of the SABC and the equal right of South Africa’s people to receive and impart information and ideas under section 16 of the Constitution.
6. MMA thus approached this Court, invoking its exclusive jurisdiction under section 167(4)(e) of the Constitution, for an order declaring that the President has failed to fulfil his constitutional obligation, and directing him immediately to appoint the twelve persons originally chosen by the Assembly. The President opposes.
7. The Court has called for written submissions on the following three questions:
 - (a) Is this Court’s exclusive jurisdiction engaged?
 - (b) In law, can the President decline to give effect to a recommendation of the National Assembly because he considers it to be tainted by illegality?
 - (c) If so, is there an illegality in the present case justifying the President’s failure to make the appointments?

⁵ President’s answering affidavit, annex “AA7”: Letter from the President to the Speaker, 9 March 2023, paras 3 and 5 (**v4 p389**).

⁶ Speaker’s explanatory affidavit, para 19 (**v4 p431**).

8. For the reasons set out below, MMA answers the questions as follows:
 - (a) Yes, this Court's exclusive jurisdiction is engaged.
 - (b) No, the President has no right in law to refuse to make the appointments.
 - (c) No, the President has no reason in this case to refuse to make them.

(A) THIS COURT'S EXCLUSIVE JURISDICTION IS ENGAGED

9. The President agrees that this Court's jurisdiction is engaged, but of course that is not dispositive.⁷ This Court must satisfy itself that, objectively, only this and no other Court may competently consider the application.

10. Section 167(4)(e) of the Constitution provides:

Only the Constitutional Court may... decide that... the President has failed to fulfil a constitutional obligation.

11. The obligation in question is one under section 84(2)(e) of the Constitution, which provides that the President is responsible for "making any appointments that the Constitution or legislation requires the President to make, other than as head of the national executive" (i.e. as Head of State).⁸

12. That the appointments of SABC Board members, under section 13(1) of the Act, are made by the President as Head of State, is demonstrated by the peremptory language ("must be appointed ... on the advice of the National Assembly"), and the fact that they are not made together with the other members of the Cabinet.⁹ Just as when he appoints members of Chapter 9 institutions under section 193(4) of the Constitution, "[n]o discretion can be exercised here and the President acts as Head of State, formalising decisions made in the National Assembly".¹⁰

⁷ President's answering affidavit, para 50 (v4 p362).

⁸ See *President of the Republic of South Africa and Others v South African Rugby Football Union and Others* [1999] ZACC 11; 2000 (1) SA 1 (CC); 1999 (10) BCLR 1059 (CC), paras 144-145.

⁹ Christina Murray & Richard Stacey 'The President and the National Executive' in Stuart Woolman et al *Constitutional Law of South Africa* (Original Service 06-08), Chapter 18, p 5-6. The authors refer to the President's formal appointment of judges "on the advice of the Judicial Service Commission" and of the members of Chapter 9 institutions "on the recommendation of the National Assembly".

¹⁰ *Id*, p 6.

13. Section 84(2)(e) of the Constitution elevates statutory appointment obligations of the Head of State to the status of constitutional obligations. It follows that, if the President has failed to fulfil a statutory appointment obligation as Head of State (i.e. under the Act), then he has thereby failed to fulfil a constitutional obligation.
14. But that is not the end of the enquiry. This Court has held that not just any failure to fulfil any constitutional obligation will engage its exclusive jurisdiction. It needs to be a special kind of constitutional obligation.
15. In ***Von Abo***, Moseneke DCJ held:

[S]ection 167(4)(e) ... should be construed restrictively in order to give full recognition to the power of the Supreme Court of Appeal and the High Court to determine whether conduct of the President is constitutionally valid. On the other hand, the Constitution does contemplate that certain duties are pointedly reserved for the President. This class of obligations is derived from the Constitution itself or from legislation. It includes specified duties that the President as Head of State and head of the national executive must fulfil.

It however remains a complex question whether a specific power exercised by the President under the Constitution or other law amounts to a “constitutional obligation” which only this court may decide. It is neither prudent nor pressing to describe what amounts to a constitutional obligation under section 167(4)(e) any more than I have done. Even so, ready examples of constitutional obligations in section 84(2) vest in the President as Head of State and head of the national executive. These duties may correctly be described as functions the Constitution requires him or her to perform.¹¹

16. Shortly after, in ***Women’s Legal Centre***, Cameron J elaborated as follows:

Section 167(4)(e) itself contains a significant pointer: its agent-specific focus. The provision mentions “Parliament” and “the President”, and them alone. This Court has recently observed that the constitutional duties in the provision are “pointedly reserved” for the actors in question. The wording suggests that the exclusive jurisdiction relates to obligations

¹¹ *Von Abo v President of the Republic of South Africa* [2009] ZACC 15; 2009 (10) BCLR 1052 (CC); 2009 (5) SA 345 (CC), paras 35-36 (emphasis added).

resting on these agents only, in contradistinction to constitutional duties they may bear together with other agents.¹²

17. This application deals with an agent-specific obligation imposed on the President under section 84(2)(e) of the Constitution – to make appointments that legislation requires him to make. The obligation to appoint the non-executive SABC Board members is indeed “pointedly reserved” for the President and nobody else. Only this Court has the power to decide that the President has failed to fulfil this special kind of constitutional obligation.
18. Consequently, this Court’s exclusive jurisdiction is engaged.

¹² *Women's Legal Trust v President of the Republic of South Africa and Others* [2009] ZACC 20; 2009 (6) SA 94 (CC), para 16.

(B) THE PRESIDENT HAS NO RIGHT TO REFUSE TO APPOINT

19. In its early years, this Court held in *Fedsure*:

It seems central to the conception of our constitutional order that the legislature and executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law.¹³

20. More recently, in *Welkom High School*, citing a long line of cases, Khampepe J explained:

State functionaries, no matter how well-intentioned, may only do what the law empowers them to do. That is the essence of the principle of legality, the bedrock of our constitutional dispensation, and has long been enshrined in our law.¹⁴

21. Most recently, in *Law Society*, Mogoeng CJ held:

Our President is never at large to exercise power that has not been duly assigned. Crucially, public power must always be exercised within constitutional bounds and in the best interests of all our people.¹⁵

22. There is no provision, either in the Constitution or in the Act, that empowers the President to review the legality of the Assembly's resolution, or to remit it to them for reconsideration. Only the courts may do that. We elaborate below.

¹³ *Fedsure Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others* [1998] ZACC 17; 1999 (1) SA 374 (CC); 1998 (12) BCLR 1458 (CC), para 58.

¹⁴ *Head of Department, Department of Education, Free State Province v Welkom High School and Another* [2013] ZACC 25; 2013 (9) BCLR 989 (CC); 2014 (2) SA 228 (CC) ("*Welkom High School*"), para 1.

¹⁵ *Law Society of South Africa and Others v President of the Republic of South Africa and Others* [2018] ZACC 51; 2019 (3) BCLR 329 (CC); 2019 (3) SA 30 (CC), para 3.

No such power is expressed or implied in the Constitution

23. Section 79 of the Constitution gives the President a special constitutional power, when presented with a Bill for his assent, to refer it back to the National Assembly for reconsideration if he has reservations about its constitutionality. If, after the process of reconsideration, the President still has reservations, he may refer the Bill to this Court. If not found unconstitutional, the President must assent to it.
24. This is the one and only instance in which the President is empowered to oversee or second-guess the will of Parliament – the will of the people. Most importantly, for present purposes, section 79 is express and exceptional. Its very existence demonstrates that the President has no implied or inherent prerogative to review the legality of the work of Parliament.
25. The Head of State has no constitutional prerogatives apart from those conferred by the Constitution expressly. In ***Hugo***, this Court held that “there are no powers derived from the royal prerogative which are conferred upon the President other than those enumerated in section 82(1) [of the Interim Constitution]” (now section 84(2) of the final Constitution).¹⁶
26. There is nothing in section 84(2) or anywhere else in the Constitution (apart from section 79) that confers on the President any power to review the legality of the work of Parliament or refer it back for reconsideration.

¹⁶ *President of the Republic of South Africa and Another v Hugo* [1997] ZACC 4; 1997 (6) BCLR 708 (CC); 1997 (4) SA 1 (CC), para 8.

No such power is expressed or implied in the Broadcasting Act

27. Section 13(1) of the Act simply states:

The twelve non-executive members of the Board must be appointed by the President on the advice of the National Assembly.

28. It is common cause that this provision gives the President no discretion to decline to appoint any one or more of the twelve persons chosen by the Assembly.¹⁷ But does it nevertheless empower him to review the legality of the “advice” and refer it back to the Assembly, as he has done? It does not do so expressly. Does it, nevertheless, do so by necessary implication?

29. According to a proper interpretation of the Act, the answer must be ‘no’. In ***Cool Ideas***, this Court held:

A fundamental tenet of statutory interpretation is that the words in a statute must be given their ordinary grammatical meaning, unless to do so would result in an absurdity. There are three important interrelated riders to this general principle, namely:

- (a) that statutory provisions should always be interpreted purposively;
- (b) the relevant statutory provision must be properly contextualised; and
- (c) all statutes must be construed consistently with the Constitution, that is, where reasonably possible, legislative provisions ought to be interpreted to preserve their constitutional validity.¹⁸

30. The purpose of section 13, in context, is manifestly to enhance the independence of the SABC Board from the Executive. This is borne out by the following:

¹⁷ President’s answering affidavit, paras 8.1 (v4 p347) and 79 (v4 p368). See also *SOS Support Public Broadcasting Coalition and Others v South African Broadcasting Corporation SOC Ltd and Others* [2017] ZAGPJHC 289 (17 October 2017) (“**SOS Coalition**”), paras 76-77.

¹⁸ *Cool Ideas 1186 CC v Hubbard and Another* [2014] ZACC 16; 2014 (4) SA 474 (CC); 2014 (8) BCLR 869 (CC), para 28.

- 30.1. The primeval purpose of replacing the 1976 Broadcasting Act with the 1999 Broadcasting Act was to convert the National Party's state broadcaster into a public service broadcaster.¹⁹ The 1976 Act afforded the State President an unfettered power to appoint (and remove) the SABC Board members.²⁰ The 1999 Act, by transforming and transferring the power to the multiparty Assembly, signalled a deliberate and decisive break from this arbitrary and authoritarian past.
- 30.2. The Board members must collectively be committed to “fairness, freedom of expression, the right of the public to be informed, and openness and accountability on the part of those holding public office”,²¹ as well as “the objects and principles as enunciated in the Charter of the [SABC]”.²²
- 30.3. The objects of the Act in turn include to “ensure plurality of news, views and information”,²³ and “establish a strong and committed public broadcasting service which will service the needs of all South African society”.²⁴
- 30.4. The statutory Charter of the SABC requires it inter alia to provide “a wide range of programming that... offers a plurality of views and a variety of news, information and analysis”.²⁵

¹⁹ Justine White ‘Independent Communications Authority of South Africa (ICASA)’ in Stuart Woolman et al *Constitutional Law of South Africa* (Original Service 02-05), Chapter 24E, p 1-3.

²⁰ Section 4(2) (and section 5(4)) of the Broadcasting Act, 1976.

²¹ Section 14(4)(b) of the Act (emphasis added).

²² Section 14(4)(d) of the Act.

²³ Section 2(d) of the Act.

²⁴ Section 2(l) of the Act (emphasis added).

²⁵ Section 6(4)(e) of the Act.

- 30.5. Section 3(5)(d) of the Act requires the SABC's programming to "provide a reasonable, balanced opportunity for the public to receive a variety of points of view on matters of public concern".
- 30.6. The Act requires the SABC to have a code of practice that ensures that it complies with: "the equitable treatment of all segments of the population";²⁶ "rights of all South Africans to receive and impart information and ideas";²⁷ "the mandate to provide for a wide range of audience interests, beliefs and perspectives";²⁸ and "a high standard of accuracy, fairness and impartiality in news and programmes that deal with matters of public interest".²⁹
- 30.7. The public service provided by the SABC must inter alia: "provide significant news and public affairs programming which meets the highest standards of journalism, as well as fair and unbiased coverage, impartiality, balance and independence from government, commercial and other interests".³⁰

31. Moreover, section 1(2) of the Act (the interpretation clause) directs as follows:

... the provisions of this Act must be construed and applied in a manner which is consistent with freedom of expression and the journalistic, creative and programming independence of the broadcasters guaranteed by the Constitution.

32. This leads us to the third rider in ***Cool Ideas***, that all statutes must be construed consistently with the Constitution. First, section 192 of the Constitution makes it

²⁶ Section 6(8)(b) of the Act (emphasis added).

²⁷ Section 6(8)(d) of the Act (emphasis added).

²⁸ Section 6(8)(e) of the Act.

²⁹ Section 6(8)(f) of the Act (emphasis added).

³⁰ Section 10(1)(d) of the Act (emphasis added).

a constitutional imperative for broadcasting regulation to “ensure fairness and a diversity of views broadly representing South African society”.

33. Second, but no less important, section 16(1) of the Constitution affords everyone the right to freedom of expression, including media freedom and the freedom to receive and impart information and ideas. The Act must be construed to enhance rather than encumber the free flow of information and ideas to all South Africans through impartial and independent public service broadcasting.
34. It is for this reason that the (non-binding but convincing) Declaration of Principles on Freedom of Expression in Africa, adopted in 2002 by the African Commission on Human and Peoples’ Rights, declares that the right to freedom of expression entails inter alia the following features (Principle VI):

State and government-controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than the government, in accordance with the following principles:

- public broadcasters should be governed by a board which is protected against interference, particularly of a political or economic nature;
- the editorial independence of public service broadcasters should be guaranteed; ...

35. This feature of freedom of expression is also vital for the meaningful exercise of the right to vote and make political choices,³¹ which South African citizens will do next year in national and provincial elections. In *My Vote Counts 1*, Cameron J held (in a dissenting judgment, but on an issue not reached by the majority) that “only if [political] information is freely imparted, and citizens are kept informed, are their choices genuine”.³²

³¹ Section 19 of the Constitution.

³² *My Vote Counts NPC v Speaker of the National Assembly and Others* [2015] ZACC 31; 2016 (1) SA 132 (CC), para 40.

36. In **SOS Coalition**, Matojane J (as he then was) held:

The SABC is the primary source of political information for the majority of South Africans. They cannot exercise their right to vote meaningfully without access to independent and pluralistic information and opinion.³³

37. It is thus essential to interpret the Act to enhance the independence of the SABC Board from the executive government, of which the President is the head.

38. All of the above militates against any interpretation of the Act that would empower the President to review the work of the Assembly and refer it back to them, as he has done.

39. So, what is the President to do if he believes there is an irregularity or illegality in the appointment process or resolution? We address this question next.

The courts alone are the arbiters of legality

40. In **Kirland**, Cameron J for the majority of this Court held: “The courts alone, and not public officials, are the arbiters of legality”.³⁴ He further held as follows:

Even where the decision is defective – as the evidence here suggests – government should generally not be exempt from the forms and processes of review. It should be held to the pain and duty of proper process. It must apply formally for a court to set aside the defective decision, so that the court can properly consider its effects on those subject to it.³⁵

41. This applies even to the President, as it did in **Economic Freedom Fighters**:

Our foundational value of the rule of law demands of us, as a law-abiding people, to obey decisions made by those clothed with the legal authority

³³ *SOS Coalition*, para 61.

³⁴ *MEC for Health, Eastern Cape and Another v Kirland Investments (Pty) Ltd* [2014] ZACC 6; 2014 (5) BCLR 547 (CC); 2014 (3) SA 481 (CC) (“**Kirland**”), para 64.

³⁵ *Kirland*, para 103.

to make them or else approach courts of law to set them aside, so we may validly escape their binding force.³⁶

42. It is thus not open to the President to review the legality of the work of Parliament, set it aside, and refer it back for reconsideration. Only a court may do that.
43. It does not matter whether the President is making (or believes he is making) the same order as a court would make in any event. Khampepe J made this clear in

Welkom High School:

The rule of law does not permit an organ of state to reach what may turn out to be a correct outcome by any means. On the contrary, the rule of law obliges an organ of state to use the correct legal process... I pause to emphasise that this Court has consistently and unanimously held that the rule of law does not authorise self-help.³⁷

44. In refusing to appoint the twelve persons originally chosen by the Assembly, and instead referring the matter back to them to produce “a legally valid resolution”,³⁸ the President is not upholding the rule of law but subverting it. He is supplanting the rule of law with the rule of Presidential fiat or rule by decree. As Froneman J held in ***Kirland:***

The law does not allow us to uphold the rule of law while at the same time circumvent and undermine it. In the long run, shortcuts of this kind will erode the rule of law as one of the foundational values of our Constitution.³⁹

³⁶ *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* [2016] ZACC 11; 2016 (5) BCLR 618 (CC); 2016 (3) SA 580 (CC), para 75.

³⁷ *Welkom High School*, para 86.

³⁸ President’s answering affidavit, para 53 (**v4 p363**).

³⁹ *Kirland*, para 114.

45. Requiring the President to address any perceived illegality through a proper legal process does not violate the principles of co-operative governance, as he claims. As this Court observed in *Welkom High School*, sometimes the rule of law and the separation of powers will command that the Executive approach the Judiciary to set aside the work of the Legislature:

This [requiring the Executive to approach the courts] would accord with the doctrine of separation of powers, as the Legislature's prerogative to frame a particular legislative scheme cannot be usurped or disrupted by the Executive unless such laws are set aside by a court. In this way, the state can promote and safeguard individual rights whilst still adhering to the rule of law.⁴⁰

46. It is for these reasons that MMA answers 'no' to this Court's question (b).

⁴⁰ *Welkom High School*, para 87 (emphasis added).

(C) THE PRESIDENT HAS NO REASON TO REFUSE TO APPOINT

47. Even if the President had the power, in law, to review the Assembly's resolution (which he did not), he had and still has no reason to do so in the present case.⁴¹
48. The will of the people, through the Assembly, was clear to the President as long ago as 20 December 2022.⁴² They listed twelve people whom they wished to be the non-executive members of the SABC Board. The "reserve pool" was wholly irrelevant and academic, as no "eventuality" had arisen, and the President could and should have appointed the chosen twelve.
49. Nevertheless, two and a half months later, the President asked the Speaker for clarity.⁴³ The Speaker promptly replied that he should simply appoint the clearly chosen twelve.⁴⁴ But the President refused, and referred the matter back to the Assembly for the Portfolio Committee to generate a new resolution.⁴⁵ There was no need or reason for the President to do this, especially considering the pressing financial and operational crisis facing the SABC, of which he was well aware.
50. We are instructed, however, that the position has changed somewhat since MMA filed its replying affidavit. On Monday 27 March 2023, MMA learned that one of the originally chosen twelve, Dr Franz Krüger, has withdrawn his candidacy.

⁴¹ See MMA's replying affidavit, paras 22-32 (**v4 p402-404**).

⁴² President's answering affidavit, annex "AA2": Letter from the Speaker to the President, 20 December 2022 (**v4 p377**).

⁴³ President's answering affidavit, annex "AA3": Letter from the President to the Speaker, 3 February 2023, para 6.1 (**v4 p378**).

⁴⁴ President's answering affidavit, annex "AA4": Letter from the Speaker to the President (**v4 p380**).

⁴⁵ President's answering affidavit, annex "AA7": Letter from the President to the Speaker, 9 March 2023, paras 3 and 5 (**v4 p389**).

51. This means that the President can no longer simply appoint the chosen twelve. The “eventuality” cryptically referred to in the resolution has presumably arisen, rendering the “reserve pool” no longer academic. But it is clear and uncontested that the provision of the “reserve pool” was unlawful. So, what is to be done?
52. In principle, there is, now, a reason or justification for the President to have the “reserve pool” portion of the resolution set aside by a court. But that would not be just and equitable. The SABC has had no Board for almost six months, and its financial year ends tomorrow, 31 March 2023. It is in breach of public finance laws, vital plans to generate revenue cannot be implemented, and the wolf of bankruptcy bays at the door.⁴⁶ The SABC may not survive any further delay. The equal right of everyone in South Africa to receive and impart information and ideas is imperilled.
53. Despite the current “eventuality”, it remains true that the President failed to fulfil his constitutional obligation to appoint the originally chosen twelve. As sought in prayer 4 of MMA’s notice of motion, this should be declared so.
54. In order to save the SABC (and the rights that depend on the proper functioning of the SABC), the appropriate, just and equitable relief is to direct the President, without further delay, to appoint the eleven remaining members of the originally chosen twelve. This will give the SABC a quorate Board,⁴⁷ who can then work to rebuild our public broadcaster and enable it to meet its constitutional mandate.

⁴⁶ See MMA’s founding affidavit, paras 114-115 (**v1 p33**); MMA’s supporting affidavit, paras 17-23 (**v2 p164-166**) and 28-33 (**v2 p167-168**); MMA’s replying affidavit, para 78 (**v4 p418**).

⁴⁷ In terms of section 13(10) of the Act, nine members will constitute a quorum at Board meetings.

55. For these reasons, MMA's answer to this Court's question (c) is 'no'. Even now, there is no reason or justification for the President to have referred the resolution back to the Assembly, nor even for him to approach a court to do so.
56. Considering the urgency of resolving this sustained and self-created crisis, this Court should direct the President immediately to appoint the eleven remaining non-executive members to the Board of the SABC. We respectfully submit that it may elect to do so by issuing an order to this effect and thereafter furnishing its reasons.⁴⁸ This, we submit, is what the interests of justice demand.

CONCLUSION

57. We submit that the relief set out in the notice of motion is competent, appropriate, just and equitable.

Adv BEN WINKS

Adv JABU CHANZA

Ms DEBORAH MUTEMWA-TUMBO (Pupil)

Johannesburg

30 March 2023

⁴⁸ See, for example, *South African Informal Traders Forum and Others v City of Johannesburg and Others*; *South African National Traders Retail Association v City of Johannesburg and Others* [2014] ZACC 8; 2014 (6) BCLR 726 (CC); 2014 (4) SA 371 (CC), paras 1-2.

APPLICANT'S LIST OF AUTHORITIES

Legislation

1. Broadcasting Act, 1999
2. Broadcasting Act, 1976 (repealed)

Case law

3. *Cool Ideas 1186 CC v Hubbard and Another* [2014] ZACC 16; 2014 (4) SA 474 (CC); 2014 (8) BCLR 869 (CC)
4. *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* [2016] ZACC 11; 2016 (5) BCLR 618 (CC); 2016 (3) SA 580 (CC)
5. *Fedsure Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others* [1998] ZACC 17; 1999 (1) SA 374 (CC); 1998 (12) BCLR 1458 (CC)
6. *Head of Department, Department of Education, Free State Province v Welkom High School and Another* [2013] ZACC 25; 2013 (9) BCLR 989 (CC); 2014 (2) SA 228 (CC)
7. *Law Society of South Africa and Others v President of the Republic of South Africa and Others* [2018] ZACC 51; 2019 (3) BCLR 329 (CC); 2019 (3) SA 30 (CC)
8. *MEC for Health, Eastern Cape and Another v Kirland Investments (Pty) Ltd* [2014] ZACC 6; 2014 (5) BCLR 547 (CC); 2014 (3) SA 481 (CC)
9. *My Vote Counts NPC v Speaker of the National Assembly and Others* [2015] ZACC 31; 2016 (1) SA 132 (CC)
10. *President of the Republic of South Africa and Another v Hugo* [1997] ZACC 4; 1997 (6) BCLR 708 (CC); 1997 (4) SA 1 (CC)
11. *President of the Republic of South Africa and Others v South African Rugby Football Union and Others* [1999] ZACC 11; 2000 (1) SA 1 (CC); 1999 (10) BCLR 1059 (CC)
12. *SOS Support Public Broadcasting Coalition and Others v South African Broadcasting Corporation SOC Ltd and Others* [2017] ZAGPJHC 289 (17 October 2017)
13. *South African Informal Traders Forum and Others v City of Johannesburg and Others; South African National Traders Retail Association v City of*

Johannesburg and Others [2014] ZACC 8; 2014 (6) BCLR 726 (CC); 2014 (4) SA 371 (CC)

14. *Von Abo v President of the Republic of South Africa* [2009] ZACC 15; 2009 (10) BCLR 1052 (CC); 2009 (5) SA 345 (CC)
15. *Women's Legal Trust v President of the Republic of South Africa and Others* [2009] ZACC 20; 2009 (6) SA 94 (CC)

International law

16. *Declaration of Principles on Freedom of Expression in Africa*, African Commission on Human and Peoples' Rights, 32nd Session, 17-23 October 2002, Banjul, The Gambia

Literature

17. Christina Murray & Richard Stacey 'The President and the National Executive' in Stuart Woolman et al *Constitutional Law of South Africa* (Original Service 06-08), Chapter 18
18. Justine White 'Independent Communications Authority of South Africa (ICASA)' in Stuart Woolman et al *Constitutional Law of South Africa* (Original Service 02-05), Chapter 24E