Dear Mr Dikgang Stock

During last week’s public hearings, the Committee expressed interest on how the matter between My Vote Count’s and the Minister of Justice and Correctional Services in the Constitutional Court would impact the Political Party Funding Bill process. As the Committee is already aware, the Constitutional Court Judgement delivered on 21 June 2018 was in MVCs favour. This letter seeks to convey to the Committee our understanding as the applicants in this case, as to how the Judgement affects the passage of the Party Funding Bill through Parliament.

In the judgement, the Court confirmed the constitutional invalidity made by the Western Cape High Court in September last year, on the following terms:

1. Information on private donations to political parties and independent ward candidates is essential for the effective exercise of the right to vote.
2. Information on the private funding of political parties and independent ward candidates must be recorded, preserved and made reasonably accessible.
3. The Promotion of Access to Information Act (PAIA) is invalid to the extent of its inconsistency with the Constitution by failing to provide for the recordal, preservation and reasonable disclosure of information on the private funding of political parties and independent ward candidates.
4. Parliament must amend PAIA and take any other measure it deems appropriate 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.

We have considered that the Committee may have to deliberate on the implications of this judgement on the Bill process and thought it might be prudent to share our understanding of this matter with you. We received the notification that the Judgement would be handed down the following day at 10am, as we got back to our seats after our presentation to the Honourable Members of the Committee on 20 June 2018.

Our understanding is that the Court has ruled that in addition to amending PAIA, Parliament may take any other measures it deems appropriate to address the deficiencies outlined by the judgement. Enacting this Bill would thus be part of those measures and would see Parliament fulfilling part of its obligations in terms of the Court’s order.

We commend Parliament for its work thus far that has produced a Bill that is in many respects groundbreaking. The Bill as it stands focuses on political parties and since only political parties contest general elections, we would argue that the Bill is addressing that which is most relevant in our electoral cycle at this present moment. Issues pertaining to PAIA and independent ward candidates therefore, that need to be addressed as per the Judgement can be addressed at a later stage and/or by amending separate legislation.

We hope that the contents of this letter are considered by the Committee, and we are available to answer any other questions that the Committee may have.

Yours Sincerely.



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Ms Janine L. Ogle

National Coordinator

My Vote Counts