**MEDIA STATEMENT**

**SELECT COMMITTEE ON SECURITY AND JUSTICE HOLDS PUBLIC HEARINGS ON PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST TERRORIST AND RELATED ACTIVITIES AMENDMENT BILL**

**Parliament, Thursday, 8 December 2022 –** The Select Committee on Security and Justice held public hearings on the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill.

Committee Chairperson Ms Shahidabibi Shaikh said the committee heard from several organisations – Freedom for Religion (FoR SA), Cape Independence Party and Sussex Terrorism Extremism Research (Stern).

The Bill seeks to provide for the alignment with international instruments adopted upon the implementation of the Act; offences related to terrorist training; the joining and establishment of terrorist organisations; the possession and distribution of publications with unlawful terrorism related content; the removal of or making inaccessible publications with unlawful terrorism-related content; and offences related to foreign travel and attempts to leave the republic under certain circumstances.

It further seeks to provide for matters related to the Director of Public Prosecutions, in respect of the investigation and prosecution of certain offences; the issuing of warrants for the search and cordoning off of vehicles, persons and premises; and provide a direction requiring the disclosure of a decryption key and the effect of a direction to disclose a decryption key.

During the hearings, FoR SA raised concerns regarding the definition of “terrorist activity” in the Bill and recommended that the definition be narrowed. FoR SA argued that an unintended consequence is to criminalise voices of those opposing the government and could limit the rights of religious freedom and freedom of expression and association. The department responded that this was not the Bill’s intention. The department agrees that freedom of religion, expression and association are rights protected in terms of the Constitution, but they are not without limitations, in terms of section 36 of the Constitution. Any limitation of these rights must be justified and comply with all the requirements in section 36.

The Cape Independence Party’s main challenge with the Bill concerns “self-determination”. It objects to the removal of Section 1(4), as it will create confusion and possibly lead to individuals and organisations protecting or promoting self-determination being classified as terrorists. The department responded that Section 235 of the Constitution recognises the collective right of the South African people to self-determination. Communities have rights to pursue self-determination in line with the collective right.

Stern’s main submission was that in the original amendment Bill, a clause was proposed dealing with the “Prohibition of publication with unlawful terrorism-related content”, which created an offence related to the publishing, distribution, or circulation of content “intended to directly or indirectly encourage or otherwise induce the commission, preparation or instigation of any offence under this Act”. Stern wanted the select committee to return this clause to the Bill.

Stern was of the view that: “This is an important tool for deterring the publication of such material, which has been used to radicalise young South Africans to violent extremist causes and incite them to commit terrorist acts in South Africa.” The department’s response was that during the public participation process, when the Bill was served before the Portfolio Committee on Police, the department carefully considered all submissions raising concerns about the constitutionality of the clause and possible infringement on the right of freedom of expression, and agreed to propose to the portfolio committee that the clause be deleted. It is the department’s view that prosecution of publications with terrorist-related content can be prosecuted under Section 14 of the principal Act.

Today, the second day of public hearings, the committee was to receive a presentation from Dear South Africa, but they were unable to attend. The department, therefore, responded to Dear South Africa’s written submission, the International Committee of the Red Cross and a submission made by a member of the public.

Ms Shaikh welcomed the stakeholders’ inputs, as they “gave members a clear understanding of the concerns with the Bill”. The committee will continue with its deliberations on the Bill over the next few days.

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE SELECT COMMITTEE ON SECURITY AND JUSTICE, MS SHAHIDABIBI SHAIKH.**

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