

CONSIDERATION OF THE REPORT OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE AND THE PRESIDENT’S RESPONSE TO THE COMMISSION’S RECOMMENDATIONS

Quarterly Update on Parliament’s Implementation Plan for the National Assembly: Portfolio Committee on Home Affairs

9 June 2023

The Portfolio Committee on Home Affairs (PCHA) update on the *Judicial Commission of inquiry into allegations of state capture, corruption and fraud in the public sector including organs of state and the President’s response to the commission’s recommendations*. The Committee was briefed by its Content Advisor on the findings of the recommendations as part of deliberations on the 2023 State of the Nation Address in February 2023, secondly it formed part of its Annual and Strategic Planning process in March 2023 and in the PCHA meeting with the Department of Home Affairs on 13 June 2023.

No	Recommendation	Status Update	Timeline
2	<p>It is recommended that Parliament should consider whether introducing a constituency-based (but still proportionally representative) electoral system would enhance the capacity of Members of Parliament to hold the executive accountable. If Parliament considers that introducing a constituency-based system have this advantage, it is recommended that it should consider whether, when weighed against any possible disadvantages of, this advantage justifies amending the existing electoral system.</p>	<p>The Electoral Amendment Act (1-2023) was passed by the President on 17 April. The Bill was completed by the PCHA and adopted by the National Assembly on 28 February 2023.</p> <p>Included in the revisions on the Amended Act is a so-called “sunset clause”(section 23) calling for the establishment of an Electoral Reform Consultation Panel within 4 months of the Act passing The Panel is mandated precisely to consider the constituency and other models to improve accountability of Members of Parliament.</p> <p>In addition, the inclusion of Independent Candidates improves access of voters to candidates directly accountable to them rather than to Political Party Structures. This in turn incentivises Political Part to Improve their accountability compared to Independent Candidates.</p> <p>PCHA has embark on the process with the Department of Home Affairs and Electoral Commission to consider the consequential amendments to other legislation implicated in the changes to the Electoral Act. Including its impact on applicable policy provisions, financial implications and the attendant changes. After some consideration the bill is being initiated by the Executive as a general laws amendment bill rather than by the Committee. The former having been established as being more expedient. There is considerable time pressure to pass these consequential amendments to allow enough time for their implementation prior to the next provincial and national elections which could be as early as May 2024.</p>	<p>Electoral Amendment Act (1 of 2023) passed on 17 April.</p> <p>On 23 May 2023, the Minister of Home Affairs, Dr Motsoaledi, issued a gazette inviting members of the public to nominate duly qualified people to serve on the nine-member Electoral Reform Consultation Panel. The closing date for nominations was 5 June 2023. The Panel must be established by 17 August 2023.</p> <p>The Panel must report on its findings within 1 year after the 2024 National Elections. Thereafter the requisite changes must be effected prior to the 2029 National Elections.</p> <p>In the PCHA meeting on 2 June 2023, the DHA indicated it could complete the draft electoral general laws amendment within the 6 weeks that it would have taken Parliament to initiate the bill itself.</p>

3	<p>It is recommended that Parliament should consider whether it would be desirable to enact legislation which protects Members of Parliament from losing their party membership (and therefore their seats in Parliament) merely for exercising their oversight duties reasonably and in good faith.</p>	<p>This recommendation relates to the recommendation for electoral reform in in the context of proportional representation in Parliament. Political parties appoint Members from their party lists according to the proportion of seats won in an election. The constitutional oath of office for all Members of Parliament should serve as a guideline for functions.</p> <p>The recommendation will be referred to the abovementioned Electoral Reform Consultation Panel for consideration in its Electoral System Review.</p>	<p>Electoral Amendment Act (1 of 2023) passed on 17 April.</p> <p>On 23 May 2023 The Minister of Home Affairs, Dr Motsoaledi, issued a gazette inviting the members of the public to nominate duly qualified people to serve on the nine-member Electoral Reform Consultation Panel. The closing date for nominations was 5 June 2023. The Panel be established by 17 August 2023.</p> <p>The Panel must report on its findings within 1 year after the 2024 National Elections. Thereafter the requisite changes must be effected prior to the 2029 National Elections.</p>
	<p>Amend the Political Party Funding Act to criminalise donations to political parties in the expectation of access to contracts</p>	<p>To be considered alongside other consequential amendments in a General Law Electoral Amendment Bill that the DHA have committed to drafting and tabling as required following the approval of the Electoral Amendment Act (1 of 2023).</p>	<p>In its meeting on 2 June 2023, the DHA indicated it could complete the draft electoral general laws amendment within the 6 weeks that it would have taken Parliament to initiate the bill itself (that is by 14 July 2023).</p>
	<p>General Recommendation to Improve Parliamentary oversight over issues of corruption and fraud and to ensure separation of powers.</p>	<p>The issue of fraud and corruption is an ongoing challenge and the question is how state capture occurred under the watch of Parliament despite its work in this regard. This relates to ensuring the independence and separation of powers particularly of the Executive and Parliament. Efforts to improve oversight include receiving quarterly budget and performance reports from the Department of Home Affairs, Electoral Commission, the Government Printing Works and the newly established Border Management Authority. These reports include issues of discipline taken against fraud and corruption but specific engagements on the state capture recommendations have formed part of the PCHA schedule since 2020.</p> <p>Of particular concern during the State Capture inquiry by the PCHA at Parliament during the 5th Parliament were irregularities in the issuing of Permits to foreign nationals. Such concerns formed a part of a Ministerial Review Panel on Visas and Permits which reported in June 2022 and led to significant security changes</p>	<p>PCHA considered the state capture report as part of its Strategic Planning session in April 2023, the Committee programme for the second term 2023 and on a regular basis going forward. This will also form part of its legacy report referred to the 7th Parliament in April 2024.</p>

		in the immigration procedures at the DHA. This added to delays in the issuing of Permits and led to the PCHA planning an oversight visit to the Immigration Permit/Visa adjudication hub at the DHA Head Office in March 2023.	
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