

Electoral Commission lodges deferral application

Electoral Commission chairperson Glen Mashinini says the Commission has lodged an application at the Constitutional Court for a deferral of the scheduled Local Government Elections.



Source: [SANews.gov.za on Facebook](#)

“This court application is an extraordinary one and presumably unprecedented,” Mashinini said at a media briefing on Wednesday.

Addressing media in Tshwane, Mashinini said the issues at the core of the application have a bearing on the political rights of citizens, as well as the right to life, bodily and psychological integrity, and access to health.

“The application will undoubtedly offer the Constitutional Court another opportunity to contribute to the evolving jurisprudence of our constitutional order. The application is also launched on an urgent basis because there is need for certainty on the preparations for the municipal elections,” Mashinini said.

Mashinini said the Commission and electoral stakeholders are currently in an untenable position, where preparations are proceeding for 27 October 2021 - the scheduled Local Government Elections date - whilst at the same time, they are anticipating the outcome of the Constitutional Court application for a possible deferral of elections to February 2022.

Background

Cooperative Governance and Traditional Affairs (CoGTA) Minister, Dr Nkosazana Dlamini-Zuma, has gazetted the date of 27 October 2021 for the scheduled fifth edition of the Local Government Elections.

Making the announcement on Tuesday, Dlamini-Zuma said this was to comply with Constitutional requirements.

Section 159 of the Constitution, read with the Municipal Structures Act, prescribes that the end of a five-year term of local government elections be held within a period of 90 days.

President Cyril Ramaphosa in April announced that the Local Government Elections will take place on 27 October this year.

Amid the Covid-19 pandemic, the Commission appointed retired Deputy Chief Justice Moseneke to consider whether the country could undertake free and fair elections in October.

The inquiry received over 4,000 submissions from political parties, health experts and the general public, concluding its work and handing the report to the Commission in July.

The report concluded that it was not reasonably possible to or likely that the October local government elections would be held in a free and fair manner.

In balancing the need to secure livelihoods and democratic obligations, the Commission agreed with the Moseneke Inquiry, which also recommended that the Commission approach a court of competent jurisdiction to seek a just and equitable order to defer elections to not later than February 2022.

“The nature of the relief sought by the Commission is largely predicated on the impossibility to perform a constitutional obligation, which is the conduct of constitutionally compliant elections of municipal councils by 1 November 2021, due to the Covid-19 pandemic and the measures that government has instituted to curb the spread of the virus,” Mashinini said.

Nature of legal relief sought

Mashinini said in order to avoid uncertainty about the legal status of current municipal councils, the Commission seeks an order that the municipal councils remain competent until newly elected councils are declared elected.

“This court application affects the rights of all citizens of the country and thus everybody, has an interest in the proceedings that will evolve in the Constitutional Court,” Mashinini said.

In order to facilitate access to the court process, the Commission will immediately place the founding papers on its website as it transmits by electronic means the application to all registered parties, Mashinini said.

He assured South Africans that the Commission is committed to conducting an election in terms of the constitutional standards and it “wishes to do so in the shortest reasonably possible period, whilst preserving the rights to life, bodily and psychological integrity and access to health of citizens of the country”.

Mashinini said the election timetable will be published today.

He said the Commission will undertake the activities that must be performed in terms of the timetable until a competent court orders differently.

The election timetable spans 85 days and lays down key dates and deadlines for various electoral milestones until voting day on 27 October 2021.

According to Mashinini, the current voters' roll stands at 25.7 million registered voters.

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