



CONSTITUTIONAL ASSEMBLY

MEMORANDUM

TO: ALL MEMBERS OF THE MANAGEMENT COMMITTEE

FROM: EXECUTIVE DIRECTOR

DATE: 15 MAY 1996

Kindly find herewith the following documents received from the Constitutional Court:-

1. Letter from the Registrar of the Constitutional Court
2. Statement by the President of the Constitutional Court
3. Constitutional Court Directions in terms of Rule 15

HASSEN EBRAHIM
EXECUTIVE DIRECTOR

P. O. Box 15, Cape Town, 8000
 Republic Of South Africa

Tel: (021) 245 031, 403 2252 Fax: (021) 241 160/1/2/3, 461 4487, E-mail: conassem@iaccess.za



You've made your mark



Now have your say

THE NEW CONSTITUTION



**THE CONSTITUTIONAL COURT
REPUBLIC OF SOUTH-AFRICA**

Tel. (011) 403-5032
Fax (011) 403-6524

Office of the Registrar of the Constitutional Court
Private Bag X 32
BRAAMFONTEIN
2017

Reference

14 May 1996

FAX NO: (021) 24-1601-3

The Executive Director
The Constitutional Assembly
P.O. Box 15
Cape Town
8000.

Dear Sir

CERTIFICATION OF THE CONSTITUTION ADOPTED BY THE CONSTITUTIONAL ASSEMBLY ON 8 MAY 1996.

I acknowledge receipt of the letter from the Chairperson of the Constitutional Assembly and the certified constitutional text.

I attach to this letter directions given in terms of rule 15 by the President of the Constitutional Court in regard to the procedures to be followed by political parties and other persons wishing to object to the certification of the Constitution. Will you please bring these directions to the attention of all political parties represented or entitled to be represented in the Constitutional Assembly, and let me have confirmation that this has been done.

You will note that in paragraph 4(c) of the directions it is stated that persons, other than political parties, who lodge objections to the certification of the Constitution must deliver a copy of their objections to you. This is to ensure that the objections are brought to the attention of the Constitutional Assembly and all political parties represented or entitled to be represented in the Assembly. Can you please ensure that objections that are received are communicated to such political parties.

I also enclose a public statement dealing with the certification of the new Constitutional text and I would be glad if you would make this statement available to all media representatives, print and electronic.

Yours faithfully

M. S. Niener
M.S. NIENABER
REGISTRAR

CONSTITUTIONAL COURT OF SOUTH AFRICA
Tel (011) 403-3613/Fax: 403-6063
Braamfontein, 2017

CHAMBERS OF
JUSTICE A CHASKALSON

14 May 1996

CERTIFICATION OF THE NEW CONSTITUTION BY THE CONSTITUTIONAL COURT

1. *The interim Constitution of 1993 requires the Constitutional Assembly to draft and adopt a new Constitution which must comply with the 34 Constitutional Principles set out in schedule 4 to the interim Constitution.*
2. *For the new Constitution to be valid and come into effect the Constitutional Court must certify that all its provisions comply with these 34 principles.*
3. *The Constitutional Assembly adopted a new Constitution on the 8th May 1996. The Constitutional Court has now received a request from the Constitutional Assembly to certify that this Constitution complies with the Constitutional Principles.*
4. *In terms of the rules of the Constitutional Court political parties represented in the Constitutional Assembly are entitled to present argument to the Court as to whether or not the Constitution should be certified.*
5. *The Constitutional Court has decided that anyone else wishing to object to the certification of the new Constitution on the grounds that it does not comply with the Constitutional Principles may do so subject to the following conditions:*

- a) *A written objection must be lodged with the Registrar of the Constitutional Court, 2nd Floor, Forum II, Braampark, Braamfontein by not later than 3 p.m. on the 31st May 1996.*
- b) *The written objection must not be more than 1000 words. It must identify -*
 - i) *The particular provision of or omission from the Constitution to which objection is taken.*
 - ii) *The grounds for the objection.*
 - iii) *The relevant Constitutional Principle/s contained in schedule 4 with which the provision or omission does not comply.*
6. *The written objection may be in any of the official languages and must provide the name of the objector and an address to which communications to the objector can be directed. Objectors are required to lodge 25 copies of their objection with the Registrar of the Constitutional Court and to deliver a copy of the objection to the Executive Director of the Constitutional Assembly at 9th Floor, Regis House, cr. Adderley and Church Streets, Cape Town or dispatch a copy by prepaid registered post to him at P O Box 15, Cape Town, 8000.*
7. *The written objection must deal only with the objector's contention that the new Constitution does not comply with the Constitutional Principles. The Constitutional Court has no jurisdiction to consider the wisdom or merit of the terms of the new Constitution and any representations made regarding such matters would be irrelevant.*
8. *The Constitutional Court will consider all written objections lodged with the Registrar in accordance with the provisions set out above. Should it require an objection to be amplified, or written argument to be submitted to it in support of such objection, it will give further directions to the objector concerned.*
9. *A special session of the Constitutional Court will be convened to hear argument in public on whether the Constitution complies with the Constitutional Principles.*

10. Oral argument will be heard on behalf of the following bodies or persons provided that they comply with directions given in terms of the rules of the Constitutional Court:

- a) The Constitutional Assembly.
- b) Any political party represented in the Constitutional Assembly.
- c) Any objector authorised by the Court to present oral argument to it, in terms of written directions given by it after consideration of the written objections lodged in terms of paragraph 5 hereof.

11. The public hearing will take place at the Constitutional Court, 33 Hoofd Street, 2nd Floor, Forum II, Braampark. The date provisionally fixed for the commencement of the public hearing is the 1st July 1996.

A Chaakalson

A Chaakalson
President
Constitutional Court
10 May 1996

IN THE CONSTITUTIONAL COURT

CASE NO: CCT/23/96

re: THE APPLICATION TO CERTIFY A NEW CONSTITUTIONAL TEXT IN TERMS OF SECTION 71 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1993.

DIRECTIONS IN TERMS OF RULE 15

The following directions have been given in the above matter by the President of the Constitutional Court in terms of rule 15.

1. The Constitutional Assembly is requested to submit argument to the Constitutional Court in regard to whether the provisions of section 71 of the Constitution of 1993 have been complied with. 25 copies of a written argument directed to showing that each of the Constitutional Principles has been complied with shall be lodged with the Registrar by not later than 4 June 1996.

2. Any political party represented in the Constitutional Assembly that wishes to submit oral argument to the Constitutional Court in terms of rule 15(4) shall inform the Registrar of the Constitutional Court by not later than the 20th May 1996 that it intends to do so, and if it contends that the Constitution has not been adopted in accordance with the provisions of section 71 of the interim Constitution, 1993, it shall lodge in writing with the Registrar of the Constitutional Court an objection to the certification of the Constitution indicating:
 - a) The particular provision of, or omission from, the Constitution to which objection is taken.
 - b) The grounds for the objection.
 - c) The relevant Constitutional Principle/s contained in schedule 4 to the interim

Constitution, 1993, which are said to have been contravened by the provision or omission.

3. Political parties wishing to submit oral argument to the Constitutional Court in terms of rule 15(4) shall lodge 25 copies of their written argument in support of their contentions with the Registrar of the Constitutional Court and deliver one copy to the Executive Director of the Constitutional Assembly by not later than 4 June 1996. The Constitutional Assembly shall lodge written argument in response to such objections by not later than 18 June 1996.
4. Any body or person, other than a political party referred to in rule 15(4), that wishes to object to the certification of the Constitution adopted by the Constitutional Assembly on the 8th May 1996 shall:
 - a) Lodge written objection with the Registrar of the Constitutional Court, by not later than 3 p.m. on the 27th May 1996. The written objection must not be more than 1000 words. It must identify;
 - i) The particular provision of or omission from the Constitution to which objection is taken.
 - ii) The grounds for the objection.
 - iii) The relevant Constitutional Principle/s contained in schedule 4 to the Interim Constitution, 1993, which are said to have been contravened by the provision or omission.
 - b) Set out in the written objection the name of the objector and the address (and fax number if any) to which communications to the objector can be directed.

25 copies of the objection must be lodged with the Registrar of the Constitutional Court and a copy of the objection must also be served on the Executive Director of the Constitutional Assembly at 9th Floor, Regis House, cr. Adderley and Church Streets, Cape Town, or at P O Box 15, Cape Town, 8000. Indigent persons are excused from the obligation to lodge 25 copies, but must lodge one copy of their objections with the Registrar, and send one copy to the Executive Director of the Constitutional Assembly.

5. The Constitutional Court will consider objections lodged with the Registrar pursuant to paragraph 4 above. Should it require the objection to be amplified, or written argument to be addressed to it in support of an objection, it will give further directions to the objector concerned.
6. The Constitutional Court will conduct a public hearing in regard to the question whether the provisions of section 71 of the Interim Constitution, 1993 have been complied with and the date provisionally fixed for the commencement of such hearing is the 1st July 1996.
7. The following bodies and persons will be entitled to address oral argument to the Constitutional Court at the public hearing, provided that they have complied with these directions and any supplementary directions given in terms of rule 15:
 - a) The Constitutional Assembly.
 - b) Any political party represented in the Constitutional Assembly.
 - c) Any objector authorised to do so by the Court in terms of written directions given by it after consideration of the written objections lodged in terms of paragraph 4 hereof.

13 May 1996

M S Nienaber

M S NIENABER

REGISTRAR OF THE CONSTITUTIONAL COURT

Forum II, Braampark

33 Hoofd Street

Braamfontein 2017

To: The Executive Director

The Constitutional Assembly

P O Box 15, CAPE TOWN. 8000

Fax: 021 24-1160

