

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**CC Case No: 62/2020**

In the matter between:

**THE PUBLIC PROTECTOR** First Applicant

**THE ECONOMIC FREEDOM FIGHTERS** Second Applicant

**AMABHUNGANE CENTRE FOR INVESTIGATIVE  
JOURNALISM NPC** Third Applicant

and

**THE PRESIDENT OF THE REPUBLIC OF  
SOUTH AFRICA** First Respondent

**THE SPEAKER OF THE NATIONAL ASSEMBLY** Second Respondent

**THE NATIONAL DIRECTOR OF PUBLIC  
PROSECUTIONS** Third Respondent

**THE NATIONAL COMMISSIONER OF POLICE** Fourth Respondent

**THE FINANCIAL INTELLIGENCE CENTRE** Fifth Respondent

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**SECOND RESPONDENT'S PRACTICE NOTE**

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## **THE NATURE OF THE PROCEEDINGS**

1. Applications by the First Applicant ('the Public Protector'), the Second Applicant ('the EFF') and Third Applicant ('Amabhungane') for leave to appeal directly to this Court against the judgment and orders of the Full Court of the Gauteng Division of the High Court, Pretoria (*per* Mlambo JP, Keightley and Matojane JJ) dated 10 March 2020 upholding applications brought by the present First Respondent ('the President') and the present Second Respondent ('the Speaker') for judicial review of the '*Report on an investigation into a violation of the Executive Ethics Code through an improper relationship between the President and African Global Operations (AGO), formerly known as Bosasa*' by the Public Protector dated 19 July 2019 number 37 of 2019/20 ('the Report').

## **ISSUE THAT WILL BE ARGUED**

2. Whether the remedial action in paragraphs 8.1.1, 8.1.2, 8.1.3, 9.1, 9.2 and 9.3 of the Report is appropriate as envisaged in section 182(1)(c) of the Constitution.

**PORTIONS OF THE RECORD THAT ARE RELEVANT**

3. We submit the Court should read the judgment of the High Court, the written submission of the parties and those portions of the record specifically referred to in the High Court judgment and the parties' written submissions.

**ESTIMATED DURATION OF THE ARGUMENT**

4. We will require ½ hour to make the oral argument on behalf of the Speaker.

**SUMMARY OF THE SPEAKER'S MAIN ARGUMENT**

5. The remedial action in paragraphs 8.1.1 and 8.1.3 of the Report (and the corresponding supervisory remedial action in paragraphs 9.1 and 9.3 thereof) is ineffective and, hence, inappropriate and inconsistent with section 182(1)(c) of the Constitution.
6. The remedial action in paragraph 8.1.2 of the Report (and the corresponding supervisory remedial action in paragraph 9.2 thereof) infringes the rule or principle against vagueness and the principle of the separation of powers and, hence, is inappropriate and inconsistent with section 182(1)(c) of the Constitution.

**AUTHORITY ON WHICH THE SPEAKER WILL PLACE  
PARTICULAR RELIANCE**

7. We will refer in particular to *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* 2016 (3) SA 580 (CC).

**A M BREITENBACH SC**

**R MATSALA**

Counsel for the Second Respondent

Chambers, Cape Town

28 August 2020