

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA
(CONSTITUTIONAL HILL, BRAAMFONTEIN)**

Case No: CCT 115/2012

WC High Court Case No: 21990/2012

In the matter between:

**LINDIWE MAZIBUKO, LEADER OF THE
OPPOSITION IN THE NATIONAL ASSEMBLY**

Applicant

and

**MAX VUYISILE SISULU, MP,
SPEAKER OF THE NATIONAL ASSEMBLY**

1st Respondent

**DR MATHOLE SEROFO MOTSHEKGA, MP,
CHIEF WHIP OF THE AFRICAN NATIONAL CONGRESS**

2nd Respondent

**FIRST RESPONDENT'S AFFIDAVIT
TO COMPLY WITH THE COURT'S DIRECTIONS**

I, the undersigned,

MAX VUYISILE SISULU,

do hereby make oath and state as follows:

1. I am the First Respondent in this matter. My details are as set out in my answering affidavit.

2. The facts deposed to herein are, unless the contrary appears from the context, within my personal knowledge and true and correct. Where I make legal submissions, I do so on the basis of advice given to me by my legal representatives and I believe such advice to be correct.
3. On 30 November 2012 this Honourable Court issued directions which included the following:

"The first respondent is required to file a report with the Registrar of this Court by Thursday 14 March 2013 on the progress achieved in the process of ensuring that motions of no confidence are appropriately provided for in the Rules of the National Assembly."

4. This affidavit is deposed to pursuant to the above direction.

PROGRESS REPORT

5. The National Assembly had its last sitting of 2012 on 22 November 2012. Some committees continued to sit until 9 December 2012.
6. On 7 December 2012, I wrote to the Chairperson of the National Assembly Subcommittee on Review of the Assembly Rules (*"the sub-committee"*). I attach a copy of the letter hereto marked **"MVS1"**. I advised him of the above direction of this Honourable Court, and that the Court *a quo* had *"raised a number of issues that have a bearing on*

the Rules of the House and the report that is required". I accordingly referred both judgments to the sub-committee for processing, and required it to report to the first meeting of the Rules Committee planned for early 2013, in order for the "report to be considered and finalised in good time for submission to the Constitutional Court before the deadline of 14 March 2013".

7. A meeting of the National Assembly Rules Committee (*"the NARC"*) was scheduled for 22 February 2012.
8. In preparation for such meeting of the NARC, the subcommittee met twice, namely on 1 February 2013 and 12 February 2013, to discuss the rule on motions of no-confidence. A copy of the draft minutes of these meetings, as prepared by the Chairperson of the subcommittee, are annexed hereto marked "**MVS2**".
9. To assist the subcommittee in its deliberations, the parliamentary administration conducted research on comparative international practice. A copy of the research document is annexed hereto marked "**MVS3**". This research was presented to the subcommittee for the purposes of considering various options.
10. On 22 February 2013 the NARC meeting took place. Two proposals were tabled: One by the opposition parties (copy attached hereto marked "**MVS4**"), and one by the ANC (copy attached hereto marked

"MVS5").

11. No agreement was reached at the meeting. A further meeting was scheduled for 6 March 2013. I requested the parties to discuss the issue and attempt to achieve consensus. A copy of the minutes of the 22 February 2013 meeting are attached hereto marked **"MVS6"**.
12. On 6 March 2013 the NARC met again. At this meeting, the ANC tabled a new draft (copy annexed hereto marked **"MVS7"**). The members representing the opposition parties indicated that they did not have a mandate pertaining to this new draft and needed to discuss it with their respective parties. A further meeting was scheduled for 12 March 2013. I again instructed the parties to consult with one another and strive to achieve consensus. A copy of the minutes of the 6 March 2013 meeting are annexed hereto marked **"MVS8"**.
13. The political parties met informally on 7 March 2013 and again on 12 March 2013 at 8:30. The NARC meeting was scheduled for 12:30 on the same day. A copy of the draft minutes of the NARC's 12 March 2013 meeting are annexed hereto marked **"MVS9"**. These minutes were compiled urgently to facilitate the timeous filing of this report, and are accordingly in rough draft form only.
14. At the meeting of 12 March 2013, the parties agreed that this progress report should be filed, that consultation amongst the parties should

continue, and that the NARC would reconvene on 19 March 2013.

15. I accordingly request this Honourable Court's leave to file a further supplementary affidavit containing a further progress report subsequent to the 19 March 2013 meeting.

16. The Court will understand that, in order to maintain my impartiality, I have not put forward any proposal of my own, but I have impressed upon the various parties the importance of achieving consensus on the matter.

MAX VUYISILE SISULU

I certify that:

1. The deponent acknowledged to me that:
 - 1.1 he knows and understands the contents of this declaration;
 - 1.2 he has no objection to taking the prescribed oath;
 - 1.3 he considers the prescribed oath to be binding on his conscience.
2. The deponent thereafter uttered the words, "*I swear that the contents of this declaration are true, so help me God*".
3. The deponent signed this declaration in my presence at _____ on this the ____ day of MARCH 2013.

COMMISSIONER OF OATHS