



17 October 2018

Hon B Mbete MP
Speaker of the National Assembly
Parliament of the Republic of South Africa
Cc Hon. C Frolick MP
Cc Hon. L Tsenoli MP

Dear Madam Speaker,

PORTFOLIO COMMITTEE ON WATER AND SANITATION CENSORING MEDIA

On 17 October 2018, the NA Portfolio Committee on Water and Sanitation (the Committee) barred the media from the meeting commencing at 16h00, where it is intended to discuss the “[...] *[b]riefing by the Special Investigating Unit on investigations into the Department of Water and Sanitation; Briefing by the National Prosecuting Authority on referred cases related to the Department of Water and Sanitation; and Briefing by the Directorate of Priority Crimes on investigations into the Department of Water and Sanitation*” in Committee Room V227, Second Floor, Old Assembly Building.¹

No where is it indicated in the Z-list that the Committee meeting is a closed meeting.

Section 59 of the Constitution² clearly states that,

“(1) The National Assembly must –

- (a) **facilitate public involvement in the legislative and other processes of the Assembly and its committees;** and
- (b) Conduct its business in an open manner, and hold its sittings, and those of its committees in public but reasonable measures may be taken –
 - (i) **to regulate public access, including access of the media, to the Assembly and its committees;** and
 - (ii) to provide for the searching of any person and, where appropriate, the refusal of enter to, or the removal of, any person.

(2) The National Assembly may not exclude the public, including the media, from a sitting of a committee unless its reasonable and justifiable to do so in an open and democratic society. (Own emphasis added)

Further, **Rule 41(2) of the Rules of the National Assembly** (the Rules) holds that,

“Subject to Section 59 of the Constitution, sittings of the House and in forums in terms of Subrule (1) **must be held in public.**” (Own emphasis added)

The **National Assembly 2004 Guide to Procedure** (Guide to Procedure) interprets “public access” according to section 59 of the Constitution, as parliamentary committee must conduct

¹ 17 October 2018. Parliament of the Republic of South Africa. Z-List. 2 16.

² 1996.

their business in an “open manner in public”. It is only deemed reasonable to exclude the public, including the media, when the following conditions are present when:

- “1. legislation, the Rules or House resolutions provide for the committee or subcommittee to meet in closed session; or
2. the committee/subcommittee is considering a matter which is –
 - a. of a private nature that is prejudicial to a particular person;
 - b. protected under parliamentary privilege, or for any other reason privileged in terms of the law;
 - c. confidential in terms of legislation; or
 - d. of such a nature that its confidential treatment is for any other reason reasonable and justifiable in an open and democratic society.”³

No evidence has been presented to classify the subject matter of the Committee necessary for a closed session, of a private nature, protected under parliamentary privilege or law, or confidential in terms of the law or other reasons.

Further, the Chief Whips of political parties were never informed that this decision had been taken.

It is therefore held, that this Committee will violate the Constitutional rights of the public and the media in being able to hold Parliament, the Executive, officials and Chapter 9 institutions accountable.

I therefore call upon you, as Speaker of the National Assembly, to immediately intervene and halt the proceedings of the Committee and allow the public and media to attend the meeting of the Committee. Further, I request that you confirm that committee meetings may not be closed to the public or media without reasonable and justifiable reasons in an open and democratic society.

Our multi-party system of democratic government, to ensure accountability, responsiveness and openness;⁴ and committee meetings need to reflect these foundational values of South Africa in their proceedings and processes.

I trust you will respond to this issue as a matter of urgency.

Yours faithfully,



John Steenhuisen MP
Chief Whip of the Official Opposition
Parliament of RSA

³ 2004. Parliament of the Republic of South Africa. National Assembly 2004 Guide to Procedure. 243 298.

⁴ Constitution, 1996. Section 1(d).