



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

NATIONAL ASSEMBLY
OFFICE OF THE LEADER OF THE OPPOSITION

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26 March 2022

Ms N N Mapisa-Nqakula, MP
Speaker of the National Assembly
Parliament of the Republic of South Africa
CAPE TOWN
8001

Dear Madam Speaker,

**MOTION IN TERMS OF SECTION 102 (1) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA,
AS TABLED BY THE LEADER OF THE OPPOSITION**

This letter is written in reference to the Motion of No Confidence in the Cabinet of the Republic, as tabled in terms of Section 102(1) of the Constitution by the Leader of the Opposition, scheduled to be considered by the National Assembly on 30 March 2022.

The Democratic Alliance has serious concerns relating to two matters that impact the consideration and voting of this motion: (1) the conflict of interest that exists by members of the National Assembly who serve in Cabinet as contemplated in Section 102(1) of the Constitution, as well as (2) the voting procedure to be used on a motion of this nature in light of present circumstances, both of which are detailed below.

1. The Conflict of Interest by Members of the National Assembly:

The motion in question requires the National Assembly to vote on its confidence in the Cabinet Ministers of the Republic, excluding the President. Accordingly, it creates a conflict of interest for serving Ministers to participate in this motion and cast a vote in this matter, and violates the principle of the separation of powers between the executive and the legislature.

The intention of Section 102 (1) of the Constitution is to allow the Assembly to force the President to reconstitute the Cabinet if the assembly loses the confidence of Cabinet. It is not in the spirit of Section 102(1) to have the very Ministers whose confidence is being tested, participate in, and vote on, a resolution in which they have a direct stake – including not only their role in the Executive, but also their Ministerial salaries, housing, and other perks and benefits of office, and their continued enjoyment of these.

Accordingly, we demand that yourself as Speaker rule that Ministers of the Cabinet of the Republic of South Africa be recused from the vote on this resolution, and request confirmation of such by Monday, 28 March 2022 at 17h00.

2. The Voting Procedure:

Considering the consequential nature of this motion, the Democratic Alliance believes that the current voting procedure is insufficient as it only requires members to be logged on to a virtual platform for a party whip to count their vote. There is no guarantee that a member on the virtual platform is in fact present and voting when the vote is cast.

Accordingly, the Democratic Alliance hereby requests that a manual Roll-Call voting procedure be used for the vote on this motion.

A roll call vote is parliamentary procedure across the world, and is used in provincial legislatures, including the Gauteng Legislature, on consequential matters. The procedure requested is as follows:

- (1) After the question is put, the Secretary must call each Member present to voice "Yes" or "No" on the question. The results must be recorded for each member.
- (2) Every Member present in the House must vote when the question is put.
- (3) After completion of the roll-call, the tellers must sign the roll-call lists and hand them to the Presiding Officer, who must confirm that the votes as recorded by members are accurately reflected and tallied, and immediately declare the decision on the question.
- (4) If the declaration of the decision is challenged as being factually inaccurate, the Presiding Officer may again put the question and hold another roll-call.

Accordingly, we request that yourself as Speaker rule that a roll-call vote be used for this resolution, and request confirmation of such by Monday, 28 March 2022 at 17h00.

We look forward to a swift response to this matter ahead of this constitutional motion pending before the assembly.

Yours faithfully,



John Steenhuisen
Leader of the Official Opposition

cc: Ms B. Tyawa Acting Secretary to Parliament