



# Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 7 July 2024

**KINDLY TAKE NOTE THAT OUR WEBSITE HAS CHANGED TO [www.libertyfighters.org](http://www.libertyfighters.org)  
AND ALSO OUR EMAIL ADDRESSES, ENDING WITH .org AND NOT .co.za ANYMORE**

ATTENTION: Justice Dumisani Hamilton Zondi JA  
Chairperson of the Electoral Court  
c/o Ms. Carmen De Wee / Ms. Denisile Nhlapho  
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Dear Justice Zondi

**RESPONSE TO DIRECTIONS DATED 1 JULY 2024: ELECTORAL COURT: REYNO DAWID DE BEER v ELECTORAL COMMISSION OF SOUTH AFRICA & OTHERS (CASE NO. 0027/24EC)**

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**Contents**

INTRODUCTION .....	2
<i>Ad</i> Paragraph 1 .....	3
<i>Ad</i> Paragraph 2.....	5
<i>Ad</i> Paragraph 3.....	6
CLOSING.....	7

**INTRODUCTION**

1. On Monday, 1 July 2024 this court issued new directions in the above-mentioned matter, adding to the ones issued on 27 May 2024.

2. I would like to use this opportunity to respectfully record that I have not as yet received any response to my very important letter dated 7 June 2024 and that I am of the humble view that the content thereof and the subsequent anticipated response will have a direct bearing on the interpretation of my responses to the directions under reference, especially considering the objections levelled against the current lodged opposition.
3. Therefore, the subsequent response to the newly issued directions should not be construed as if I have waived any of my rights in respect of this court having to still address those objections and by providing this response I am reacting to these lawful directions issued by this court in fulfilment thereof and not that I agree that my responses to these new directions can be entertained before this court has attended to those objections first bearing in mind that those objections in themselves have exposed additional complaints against all of the IEC commissioners.
4. I continue to provide my *ad seriatim* response to the directions under reference.

### **Ad Paragraph 1**

5. For easy reference, the question is as follows:-
  1. Is there any document in the African Commission process which is relevant to his complaint which he has not already provided to this court? If there is, please will he provide it, and if it has to be dealt with confidentially to identify which document is confidential and why.
6. Yes, there are pertinent documents from the African Commission on Human and Peoples' Rights (ACHPR) which have not yet been submitted to this court. These documents pertain to a confidential formal decision made during the 78<sup>th</sup> Ordinary Session of the ACHPR, held virtually between 23 February and 8 March 2024, concerning the matter between

Former President Jacob Gedleyihlekisa Zuma and the Republic of South Africa (Case Number 779/22).

7. The outcome of this decision, comprising 12 pages, was specifically conveyed to me by the ACHPR Executive Secretary, Mrs. Abiola Idowu-Ojo. In accordance with the *African Charter on Human and Peoples' Rights* ("African Charter"), this outcome may not be made public until the African Union's (AU) Assembly of Heads of State and Government has approved the ACHPR Activity Report, which is expected to be due around early next year, 2025.
8. I must pause at this juncture to reiterate that the relevant ACHPR decision is valid and does not require "approval" by the AU. Rather, the AU must review it for various administrative and security reasons before it can be publicly circulated. For instance, certain decisions might lead to public unrest or instability in a state, necessitating the implementation of specific measures before informing the public.
9. Therefore, making this decision available in the normal course of proceedings would render it a public document, directly violating the *African Charter*. To respect and adhere to international law, it is of utmost importance that the confidentiality of this decision be maintained by all parties receiving it. Accordingly, a specific directive is respectfully requested, instructing all parties and their representatives not to divulge the content of this decision until the ACHPR notifies us that it may be made public after the AU has approved the ACHPR Activity Report.
10. For now, I will provide the full communication addressed to Chief Justice Raymond Zondo on 26 April 2024, including all relevant ACHPR documentation, to the court in a separate communication. This is pending the court's decision on how it will direct the confidentiality thereof with the other parties.

11. For the record, the IEC Commissioners confirmed in their respective affidavits submitted to the court during these proceedings that they first became aware of the ACHPR proceedings when I lodged my amicus curiae application in the Constitutional Court on 6 May 2024, before the hearing on 10 May 2024. They considered it irrelevant without even requesting access to the confidential decision. Consequently, I am of the respectful opinion, as detailed in my objection letter of 7 June 2024, that the IEC Commissioners have acted with misconduct, incapacity, and/or incompetence in handling such an important revelation in the manner they did.

## **Ad Paragraph 2**

12. For easy reference, the question is as follows:-

2. It appears that the core of his complaint that the commissioners did not, through the Commission, publicize the African Commission process when they became aware of it, and that this had an adverse impact on the freedom and fairness of the elections. Is this a correct characterization? If not, he is invited to provide, in a single paragraph, a correct characterization of the complaint.

13. The answer to this very question must respectfully be understood and interpreted against the backdrop of the objections I have lodged on 7 June 2024.

14. The submission by the court is not entirely correct, especially in connection with the inclusion of the reference to “the Commission”, which is not the entity before this court for investigation purposes.

15. The correct interpretation of my position is that the individual IEC Commissioners have failed in their constitutional duties as representatives of the state through misconduct, incapacity, and/or incompetence by neglecting to consider the obtained information regarding the ACHPR proceedings on 6 May 2024, and where this failure resulted in the

Electoral Commission of South Africa (IEC) itself not addressing this critical aspect as an independent, impartial, and transparent state organ during its presentation before the Constitutional Court hearing on 10 May 2024 – the distinction between the IEC commissioners and the IEC itself (as an organ of state), and their respective roles in the functioning of the electoral body, is of paramount importance.

16. Lastly, it is my firm position that due to the actions of the individual commissioners, the fact that the ACHPR proceedings were never made public by the IEC deprived the public of crucial information. This information could reasonably have influenced their decisions regarding which political party to support. I genuinely believe that if the public had known about the ACHPR proceedings via revelations by the IEC, it would have likely garnered more votes for the MK Party. In this respect the individual IEC commissioners directly interfered with the outcome of the elections which cannot be regarded as free and fair.

### **Ad Paragraph 3**

17. For easy reference, the question is as follows:-

3. The Court reserves the right to dispose of this matter on the papers without referral to oral hearing.

18. I respectfully disagree that the court has the authority to address this complaint without conducting a formal and proper inquiry pursuant to a statutory investigation procedure. I have extensively addressed this specific concern in my objection letter dated 7 June 2024.

## **CLOSING**

19. For the fact that the procedures followed in this court is not as strict as expected in another superior court, I respectfully request this court to condone any non-compliance with the rules or directions and to use its wisdom in directing a “layperson” like myself in achieving a fair outcome of this matter in the interest of the public.
  
20. My rights remain reserved *in toto*.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'Reyno D. De Beer', with a large, sweeping flourish extending to the right.

**Reyno D. De Beer**

Complainant

Also

President: Liberty Fighters Network