

MAUBANE MPHAHLELE
INC

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10 January 2017

To: African National Congress
Chief Albert Luthuli House
54 Pixley Seme Street
Johannesburg

The National Executive Committee
African National Congress
Johannesburg
ATTENTION: Mr. Ace Magashule
ANC Secretary General

COPY Ms. Jessie Duarte
ANC Deputy Secretary General

By Hand

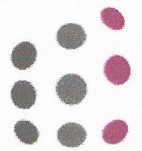
Dear Sirs / Madams,

AN URGENT WARNING AGAINST INTENTION BY THE ANC NATIONAL EXECUTIVE COMMITTEE TO REMOVE MR JACOB GEDLEYIHLEKISA ZUMA FROM POSITION OF EXECUTIVE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

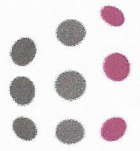
1. We are acting on instructions from TransformRSA (hereinafter referred to as "Our Client") to address this letter to you and to direct your attention to the following matters of immense concerns and public interest: -

1.1. Our Client is a non-governmental organisation representing and acting on behalf of members of the public who have direct material and vested interests in the above matter, pursuant to the provisions of the Constitution of South Africa governing both election and removal of a President of South Africa from office. Responsible citizenship and activism on matters of national importance are key focus areas of Our Client's mandate, aimed at promoting openness and transparency in public administration, the rule of law and a steadfast observance of good governance standards as set out the Constitution of the Republic of South Africa (Act 108) of 1996 ("the Constitution"), as amended and other laws of South Africa.

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- 1.2. Our Client is a registered legal entity duly incorporated in accordance with the laws of South Africa under the name "MANOVISION NPC" with a Registration Number 2016/315273/08.
- 1.3. Based on the mandate bestowed upon Our Client by its constituent members, Our Client believes it is entitled to direct this letter to the National Executive Committee (hereinunder to be referred to as "the NEC" or "ANC NEC") of the African National Congress (or "the ANC").
2. Our Client has become aware, on and about 1 January 2018, of a scheduled ANC NEC meeting to be held on 10 January 2018, to discuss, inter alia, an intended removal of Mr. Jacob Gedleyihlekisa Zuma (hereinafter to be referred to as "Zuma" or "President Zuma") from the position of Executive President of South Africa.
3. Our Client has a vested and material interest in the matter as a Non-Governmental Organisation representing a certain constituency, acting in public interest. It is hence the view that its constituent members in particular and the broader general public's rights stand to be materially affected by any NEC decision to remove President Zuma from office, as such a conduct by the NEC would be inconsistent with the letter and spirit of the Constitution of South Africa (Act 108) of 1996, as amended, given the potential instability such a removal would create across the country.
4. Notwithstanding the constitutional prohibition of an arbitrary removal of the country's President without clearly defined legal parameters and procedures followed, Our Client is made aware that any such a decision by the NEC to remove Zuma would find no expressed authority from the ANC Constitution either.
5. Be pleased to take note therefore that should it be factually established that the intention of removal of Zuma from position of President of South Africa is on the agenda of the ANC NEC, the NEC should take serious regard to the following factual and legal aspects:



- 5.1. While it is common cause that the ANC is a governing party of South Africa by virtue of a mandate it obtained after winning the last general elections in 2014, the NEC was not, and never was, an appointing authority on any person to the office of the President of the Republic of South Africa, irrespective of the fact that Zuma was its preferred candidate for that position before and after the general elections.
 - 5.2. The procedures for election and removal of President of South Africa are clearly set out in the Constitution, and it is not our intention in this letter to recount each and every constitutional provision, other than reminding the NEC that you are not an appointing nor a removal authority about any person holding or due to hold position of President of South Africa.
6. Be further pleased to take note of the recent *EFF and others* Judgment of the Constitutional Court (hereinafter to be referred to as "the ConCourt" or "the Court") in which it was held that: -
- 6.1. A number of critical administrative actions and determination of rules should be taken prior to a formal procedure in setting in motion a removal of a President in terms of the applicable provisions of the Constitution. Parliament had, as held by the ConCourt, not yet defined the legal concepts in the Constitution on the conduct of the President nor developed the rules for executing any motion for removal of a President.
 - 6.2. Parliament is named by the Constitution, as re-affirmed by the ConCourt, as the sole authority for the purpose of election and removal of a President of South Africa from office. No other authority is permitted to perform these tasks.
 - 6.3. The ConCourt has, as in its previous judgments, underlined the supremacy of the Constitution, the doctrine of separation of powers and the rule of law as the cornerstone of constitutional order in South Africa.



7. Be further pleased to note that, against the above brief background, it is an instruction of Our Client that: -
 - 7.1. The NEC possesses no legal authority to make any determination, deliberate and to make a decision to remove any person from position of President of South Africa once such a person had assumed that high office.
 - 7.2. Any attempt by the NEC or any structure under the control of the ANC to remove President Zuma from office would be, *ab initio*, unlawful and unconstitutional.
 - 7.3. As a general rule, the Constitution of the Republic is the supreme law of the Republic. Therefore, any decision ever made by the ANC or its NEC to remove Zuma shall be, *ab begino*, unlawful, unconstitutional, and therefore stand to be declared invalid by a competent court of law.

8. In the light of the aforesaid, we are on instruction from Our Client to demand:
 - 8.1. An unequivocal and unconditional undertaking by the ANC and the NEC that there shall, forthwith, be no intention to discuss, deliberate and/or decide on the removal of President Zuma from office by the ANC in general or the NEC in particular.
 - 8.2. An unqualified assurance that the NEC of the ANC and/or any of the constituent structures of the ANC, its allies, partners and/or associate organisations shall, forthwith, desist from any and/or all attempts to discuss, deliberate and/or decide on the removal of President Zuma from office.

9. We therefore request your written response to the above aspects and your written answers to the demands put to you in subparagraph 7.1 and 7.2 above before **16h00** (South African Time) on Friday **12 of January 2018**, failing which Our Client will consider the legal options at its disposal.



MAUBANE MPH AHLELE
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We await your prompt response and reply hereto.

This letter is written on a without prejudice basis

Yours faithfully,

MAUBANE MPH AHLELE INC.
Mabitsela Maubane