

Court overturns Icasa's election broadcast regulations amendment

In February, the Independent Communications Authority of South Africa (Icasa) released an Amendment to the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014.



Source: www.unsplash.com

The Regulations are applicable to broadcasting service licensees during the election period, including Political Parties and Independent Candidates contesting the upcoming national and provincial elections.

On 19 March 2024, the Democratic Alliance brought an urgent application before the High Court of South Africa, Gauteng Local Division, Johannesburg challenging, amongst others, the constitutionality and validity of the amendment to Regulation 4(2) of the Regulations on the basis that the amended Regulations constitutes a limitation to their rights enshrined in sections 16(1)(b) and 19(1)(c) and (2) of the Constitution of the RSA, 1996.



Icasa to allocate Party Election Broadcast (PEB) slots to political parties and independent candidates

17 Apr 2024



On 28 March 2024, the Court delivered a judgment in which it upheld the challenge by the Democratic Alliance and set aside the amended Regulation 4(2), directing that Regulation 4(2) be reinstated in its pre-amendment form, to read as follows:

“(2) A (political party or independent candidate) that intends to broadcast a PEB must submit same to the broadcasting service licensee at least five (5) working days prior to the broadcast thereof.”

The effect of the judgment is that Political Election Broadcasts will be submitted and processed in accordance with the above-stated Regulation 4(2). Upon consideration of the effect of the Court Order, Icasa has identified the need to effect certain consequential amendments to the Regulations, specifically the amendment of Regulations 4(7) and 4(19) to align the Regulations with the Court Order.

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