



THE FW DE KLERK FOUNDATION

Our Constitution a Reality for all South Africans!

To: Honourable Angela Thokozile Didiza, Speaker of the National Assembly
The Honourable Refilwe Mtshweni-Tsipane, Chairperson of the National Council of Provinces
Honourable Mosa Chabane, Chairperson of the Portfolio Committee on Home Affairs
Honourable Jane Seboletswe Mananiso, Chairperson of the Select Committee on Security and Justice
Honourable Dr Zweli Mkhize, Chairperson of the Portfolio Committee on Cooperative Governance and Traditional Affairs

Per email:

And to:

Re: Urgent follow-up regarding Parliament's consideration of the Electoral Reform Consultation Panel consolidated report: narrowing timeframes, Parliament's legal obligations, and the risk of non-compliance

From: Ms Daniela Ellerbeck
Manager: Constitutional Rights Programme
FW de Klerk Foundation

Date Tuesday, 23 June 2026

Dear Honourable Speaker, Honourable NCOP Chairperson and Honourable Committee Chairpersons

1. I write on behalf of the FW de Klerk Foundation to follow up (in one consolidated communication) on the Foundation's prior correspondence of **5 February 2026, 24**

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February 2026 and **24 April 2026**, together with the subsequent email exchanges, regarding Parliament's consideration of the Electoral Reform Consultation Panel ("ERCP") consolidated report.

2. **The purpose of this letter is to emphasise, respectfully but firmly, that the window of opportunity for meaningful electoral reform before the 2029 national and provincial elections is rapidly closing, and that continued delay now risks frustrating Parliament's legal obligations.**
3. The Foundation's concern arises from:
 - 3.1. The statutory scheme enacted to ensure a genuine post-2024 review of South Africa's electoral system – the Electoral Amendment Act, 2023;
 - 3.2. Parliament's fulfilment of its constitutional role in determining that system; and
 - 3.3. From the **increasingly compressed practical timetable** within which any meaningful reform must now occur if it is to be implemented in time for the 2029 elections.
4. In a constructive spirit, **we seek to underscore the legal and constitutional consequences of further delay, and to urge immediate action** in Parliament's consideration of the ERCP report.

Legal framework and Parliament's obligations

5. Section 23(2)(a) of the Electoral Amendment Act, 2023 created the ERCP and requires it to "independently investigate, consult on, report on and make recommendations" regarding potential reforms of the electoral system for **the election of the National Assembly and Provincial Legislatures after the 2024 elections.**
6. The system, thus, has to be reformed in time for the **2029 election of the National Assembly and Provincial Legislatures.**
7. Both Houses of Parliament are responsible to decide on these potential electoral reforms.¹

¹ Parliamentary Legal Services advised in November 2025 that both Houses are obliged to consider the report and any subsequent recommendations, whether through a joint process or coordinated parallel processes.



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8. The constitutional context is equally important. The Foundation has previously drawn attention to the:

8.1. Foundational values of accountability, responsiveness and openness²; constitutional supremacy and the rule of law³;

8.2. Bill of Rights protection of political rights⁴ and freedom of association⁵;c

8.3. Requirement that **national legislation** prescribe the electoral system for the National Assembly and Provincial Legislatures⁶; and

8.4. National Assembly and the National Council of Provinces' obligation to facilitate public involvement in their respective legislative and other processes⁷.

9. These provisions, taken together, require not merely nominal attention to reform, but a **process that is rational, transparent, participatory and timeous**.

10. The Foundation respectively submits that, due to the above, Parliament's legal obligations are not fulfilled by acknowledging correspondence, conducting preliminary discussions, or **maintaining the matter in an indefinite planning phase**.

11. Parliament's legal obligation is to consider the ERCP report in a way that gives practical effect to section 23 and preserves a real opportunity for Parliament to determine, through lawful and participatory processes, whether and what reforms should be enacted in time for implementation before the 2029 elections.

² Section 1(d) of the Constitution of the Republic of South Africa, 1996 (the Constitution").

³ Section 1(c) of the Constitution.

⁴ Section 19 of the Constitution.

⁵ Section 18 of the Constitution.

⁶ Sections 46(1) and 105(1) of the Constitution.

⁷ Sections 59 and 72 of the Constitution.

12. If delay compresses the timetable to the point that meaningful reform becomes practically impossible, the statutory purpose of section 23 is at risk of being defeated.

Prior engagement and history of the matter

13. The Foundation first wrote on 5 February 2026 to the Presiding Officers and to the Portfolio Committee on Home Affairs, **requesting coordinated and urgent processing of the ERCP consolidated report once tabled**, and urging that Parliament facilitate either an appropriate joint mechanism or clearly coordinated parallel processes so that both Houses could discharge their obligations without delay. Those letters also requested that the **matter be accorded scheduling priority**, that referral be made “for consideration and report”, and that **reporting timelines be coordinated with due regard to any downstream demarcation-related processes and institutional lead times**.
14. On 24 February 2026, after the Foundation’s earlier correspondence had been referred in the Announcements, Tablings and Committee Reports (“ATC”), the Foundation again wrote to the Presiding Officers. In that letter, the Foundation noted that the ERCP consolidated report had been referred to the National Assembly’s Portfolio Committee on Home Affairs for consideration and report, but had not yet, at that stage, been referred to the relevant National Council of Provinces committee. The Foundation also **sought publication of the coordinated process and realistic reporting timeframe in the ATC, reiterating that the coordinated involvement of both Houses remained essential if substantive reform before 2029 was to remain possible**.
15. On 24 April 2026, the Foundation addressed further urgent letters to Committee Chairpersons Honourable Mosa Chabane and Honourable Jane Seboletswe Mananiso, with copies to the Speaker and the Chairperson of the National Council of Provinces respectively. Those letters **requested clarity on the status of the Committees’ work on the ERCP report, the planned programme for processing it, the anticipated timelines for briefing, deliberation, public participation and reporting, and the extent to which the processes in the National Assembly and the National Council of Provinces were being aligned**. The same letters reiterated the Foundation’s concern that, with the 2029 elections approaching, the **window for meaningful reform was closing rapidly and that delay risked foreclosing substantive reform altogether**.



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16. The subsequent email correspondence confirms that the matter has remained under consideration but unresolved. The Foundation was informed on 24 April 2026 that the ERCP would brief a joint meeting of the Portfolio Committees on Home Affairs and Cooperative Governance and Traditional Affairs, together with the Select Committee on Security and Justice, on 28 April 2026. Following that meeting, the Foundation sought updates regarding paragraph 4 of its 24 April letters, namely:

- 16.1. The current status of the Committee's consideration of the ERCP consolidated report (including any briefings received and outstanding procedural steps);
- 16.2. The Committee's planned schedule for processing the report (including deliberations, briefings, public participation (if planned) and key milestones, including the expected date of submission the Committee's report to the House);
- 16.3. How those timelines align with the process in the National Assembly, given that Parliament must discharge its obligations coherently across both Houses; and
- 16.4. The expected timeframe for the Committee to finalise its consideration and report to the House.

17. The responses received in June 2026, although appreciated, demonstrate **that key procedural and timing questions remain unsettled.**

Urgency, narrowing timelines, and the risks of inaction

18. **The concern now is that the process appears to have moved too slowly relative to the scale and complexity of the task.**

19. Of particular concern is that, as at the date of this letter, the **contemplated public call for comments on the ERCP report does not appear yet to have opened.** This is despite the indication conveyed to the Foundation on 3 June 2026 that there "*should be public*

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notification of call for comments on the report with sufficient time from late June”, and the subsequent confirmation that the contemplated public comments process related to the ERCP report.

20. The Foundation has consistently emphasised that reforms of the nature contemplated by section 23 may involve multiple sequential and interdependent stages: policy consideration of the ERCP report; any further parliamentary or executive decision-making arising from that report; the drafting of amendment legislation; public participation at all relevant stages; parliamentary processing and enactment; Presidential assent; and, where required, the adjustment of the mandate of the Municipal Demarcation Board or another appropriate authority together with a full demarcation process before the Independent Electoral Commission can adequately prepare for implementation. Those concerns were set out in detail in the Foundation’s February and April letters.
21. The more recent correspondence does not allay those concerns. On the contrary, it suggests that **key procedural architecture remains unresolved**.
22. The remaining window for meaningful electoral reform has become increasingly narrow. **Any further drift now risks leaving Parliament with insufficient time to complete a meaningful reform process before the 2029 elections.**
23. Should this occur, Parliament’s realistic options may be constrained to marginal or technical amendments rather than genuine system-level reform capable of addressing long-standing concerns regarding accountability, responsiveness, representativity and the relationship between voters and elected representatives. The Foundation has raised this concern previously, including with reference to constituency-based or mixed models that would require far more extensive planning and implementation than minor legislative adjustments.
24. **There is a real risk that continued delay may amount not merely to administrative inconvenience, but to a failure to give proper effect to Parliament’s legal obligations under section 23 of the Electoral Amendment Act and its constitutional duties under sections 1, 19, 46(1), 59, 72 and 105(1) of the Constitution, read with section 42(1).**
25. At the least, continued **delay creates a material risk that Parliament will be unable to complete a process that is rationally connected to the statutory purpose for which**



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section 23 was enacted, and that is capable of yielding meaningful reform in time to be operationalised before the next national and provincial elections.

Requests

26. Considering the above, the Foundation respectfully, but firmly, urges Parliament to take the following steps as a matter of urgency:

26.1. Parliament should immediately settle, and formally communicate, the process between the National Assembly and the National Council of Provinces by which the ERCP will be taken forward. The continuing uncertainty is itself prejudicial to transparency, legal certainty and effective planning.

26.2. **The contemplated public call for comments on the ERCP report should be issued urgently.** Given Parliament's obligations under sections 59 and 72 of the Constitution to facilitate meaningful public involvement, it is essential that this stage now be moved from anticipation to implementation.

26.3. Parliament should publish, without further delay, a clear roadmap and timetable for the remainder of the process that, *inter alia*, identifies⁸:

26.3.1. The anticipated public participation process;

26.3.2. Any colloquium or further stakeholder engagements;

26.3.3. The broad sequence and timeline of committee deliberations;

26.3.4. The anticipated form of committee reporting – i.e. will the houses consider a single report or separate reports etc.;

⁸ This is reinforced by the indication, in the June correspondence, that a technical team has already been tasked with developing a roadmap and that public communication is contemplated once internal planning has been completed.

26.3.5. The manner in which the processes of both Houses will be aligned; and

26.3.6. The expected milestones for finalisation of Parliament's consideration of the report.

26.4. Importantly, in the compilation of such a roadmap, Parliament should expressly factor demarcation-related timelines and institutional readiness into its programme. The Foundation has repeatedly raised the need to account for potential changes to the powers or mandate of the demarcation authority, as well as the lead time required for a full demarcation process where applicable. These concerns were also part of the rationale for involving the Portfolio Committee on Cooperative Governance and Traditional Affairs in the initial joint engagement on 28 April 2026. Any roadmap that does not incorporate these downstream timelines risks being unrealistically compressed from the outset.

26.5. **Both Houses should ensure that the matter is treated as one of genuine institutional priority.** Section 23 was enacted to enable a comprehensive post-2024 review of the electoral system. **If the report is not processed with urgency now, Parliament may inadvertently render that review incapable of bearing meaningful legislative fruit before 2029.** In our respectful submission, that **would be inconsistent with the purpose of the statute and with Parliament's constitutional obligations to act accountably, responsively, openly and rationally.**

Conclusion

27. The Foundation reiterates its respect for Parliament's institutional role and for the discretion of the relevant parliamentary structures in determining the most appropriate internal mechanism for dealing with the ERCP report. However, the Foundation also considers it necessary, **in the public interest and in the interests of constitutional fidelity**, to state plainly that **the process has reached a point at which urgency can no longer be deferred.** There is now a **material risk** that if Parliament does not act decisively and transparently, the opportunity **for meaningful electoral reform** before the 2029 elections will be lost.



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28. The Foundation, therefore, respectfully calls upon the Presiding Officers, the relevant Committee Chairpersons and the relevant parliamentary officials, to take urgent steps to settle the process, publish the roadmap, initiate public participation, and ensure that Parliament's consideration of the ERCP consolidated report proceeds on a coordinated, lawful and genuinely timeous basis. Failure to do so risks not only practical loss of the reform window, but also non-compliance with the obligations imposed by section 23 of the Electoral Amendment Act and the Constitution.

29. We remain available to provide any further information or assistance that may be of value as Parliament discharges its responsibilities in this matter of national constitutional and democratic importance.

Sincerely,

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