IMEMORANDAMU NGOKUPHOKOPHELWE UMTHETHOSIVIVINYWA WOKUXHASWA NGEZIMALI KWAMAQEMBU EZOMBUSAZWE, 2017

1. OKUPHOKOPHELWE UMTHETHOSIVIVINYWA

Uxhaso lukahulumeni lwezimali emaqenjini ezombusazwe amelwe kuzishayamthetho zikazwelonke nakwezezifundazwe luhlinzekwa ngokoMthetho woXhaso lukaHulumeni lweziMali emaQenjini ezoMbusazwe, Nombolo 103 we-1997 ("uMthetho woxhaso lwezimali").

Mhla zi-6 kuNhlaba wezi-2017 iNdlu yesiShayamthetho yanquma ukusungula ikomidi lesikhashana, ngokoMthetho weNdlu yesiShayamthetho 253 (1)(a), ukuze –

> "liphenye liphinde lenze izincomo ngokuxhaswa kwamaqembu ezombusazwe amelwe kuzishayamthetho zikazwelonke nakwezezifundazwe eNingizimu Afrika ngenhloso yokwethula umthetho ochibiyelayo uma kunesidingo kanti, ngokwenza njalo, libheke –
>
> - Indlela yoxhaso lukahulumeni nolwezinkampani ezizimele lwamaqembu ezombusazwe; kanye
> - Nesidingo, nezindlela ezingaba khona, zokulawula uxhaso oluvela ezinkampanini ezizimele ngazo zonke izindlela kanjalo nezikhungo zotshalomali ezingaphansi kwamaqembu ezombusazwe [;]".

IKomidi *lesiKhashana* licele ukuthi umphakathi uphawule ngokuthi uMthetho woXhaso lukaHulumeni lweziMali emaQenjini ezoMbusazwe, Nombolo 103 we-1997 ungaqiniswa kanjani ukuze ukwazi ukuthi uvuleleke ngendlela amaqembu ezombusazwe axhaswa ngayo ngezimali ukuze kuqinisekiswe ukuthi kusebenza kahle. IKomidi lithole amaqoqo ayishumi nesikhombisa labe liqhubeka nokumeka bonke labo abaphawulile ukuthi benze iziphakamiso ngomlomo ngezikhathi zezigcawu zomphakathi ezazibanjwe mhla ziyi-15 kuya ku-17 kuNcwaba wezi-2017.

2. INGXOXO NGOMTHETHOSIVIVINYWA

2.1. Isethulo soMthethosivivinywa wokuXhaswa kwamaQembu ezoMbusazwe, 2017 ("uMthethosivivinywa") uhlose ukuveza isidingo sokusebenzisa lokhu okuyizibopho zomthethosisekelo ezibekwe ngokwesigaba 236 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 ("uMthethosisekelo"). Uphinde uhlose ukuveza igunya lesishayamthetho sePhalamende ngokwesigaba 44 sokushaya umthetho mayelana nezindaba ezifana nokulawulwa kokuxhaswa izinkampani ezizimele kwamaqembu ezombusazwe.

2.2. Umshwana 1 woMthethosivivinywa uqukethe izincazelo.

2.3. Umshwana 2 woMthethosivivinywa uhlose ukusungula isiKhwama samaQembu ezoMbusazwe Amelwe ukuze kuthuthukiswe intando yeningi yamaqembu amaningi ezombusazwe. Lesi sikhwama sihlinzeka lawo maqembu ezombusazwe abamba iqhaza ePhalamende nakuzishayamthetho zezifundazwe. Sifakwa imali esiyabelwa yiPhalamende, imali etholakala ngokomshwana 18 kanye nenzalo engena ngemali etshaliwe ngokomshwna 4(3).

Lesi sikhwama sithathwa njengesikhwama esikhona esasungulwa ngaphansi koMthetho weziMali zikaHulumeni zamaQembu ezoMbusazwe Amelwe, Nombolo 103 we-1997. Bheka umshwana 24 mayelana nalokhu.

2.4. Emshwaneni 3 woMthethosivivinywa kuphakanyiswa ukuthi kumele kusungulwe isiKhwama samaQembu Amaningi eNtando yeningi ukuze uhlinzekele imithombo ezimele yoxhaso lwezimali lwamaqembu ezombusazwe abamba iqhaza ePhalamende nakuzishayamthetho zezifundazwe. Lo mshwana uphinde uvimbele uxhaso lwezimali oluvela ezinhlakeni zombuso kanye nakohulumeni bangaphandle noma ama-ejensi.

2.5. Umshwana 4 woMthethosivivinywa phakathi kokunye uhlongoza ukuthi iKhomishana kumele ifake yonke imali esikhwameni ngasinye ku-akhawunti yasebhange eseceleni kanti kuthi ingayitshala imali engeke ifuneke ngokushesha ukuthi yabelwe amaqembu ezombusazwe iyitshale ku-Public Investment Corporation.

2.6. Umshwana 5 woMthethosivivinywa ubhekana nokuphathwa kwezikhwama ezimbili. Uphakamisa ukuthi umuntu ophethe ehhovisi lokhetho kuKhomishana yoKhetho Ezimele ("iKhomishana") kumele abe ngumgcini mabhuku aphinde abe isiphathimandla sazo zombili izikhwama.

2.7. Umshwana 6 woMthethosivivinywa phakathi kwezinye izinto uhlongoza ukulawula ukwabiwa nokukhokhwa kwemali eya emaqenjini ezombusazwe. Lo mshwana uphinde uhlinzekele ukuthi ukwabiwa kwemali kumele kwenziwe ngendlela ebekiwe encike kulokhu:

(a) ukwabiwa ngokulinganayo kubhekwa lokhu:

(i) izinga elingaguquki esabelweni esincane kuwo wonke amaqembu ezombusazwe amelwe eNdlini yesiShayamthetho noma kuzishayamthetho zezifundazwe; noma

(ii) isilinganiso esikaliwe sawo wonke amaqembu ezombusazwe amelwe eNdlini yesiShayamthetho noma kuzishayamthetho zezifundazwe; kanye

(b) ukwabiwa okulinganayo kubhekwa inani labamele iqembu lelo lezombusazwe eNdlini yesiShayamthetho noma kuzishayamthetho zezifundazwe okufakazelwa isibalo sezihlalo kuzishayamthetho.

Umshwana uphinde uphakamise ukuthi iKhomishana kumele ikhokhe imali eyabelwe amaqembu ngezikhathi ezibekiwe.

2.8. Umshwana 7 woMthethosivivinywa ubeka izinhloso imali yezikhwama ezingasetshenziselwa zona. Umshwana uphinde ubeke nokuthi ikuphi imali engeke yasetshenziselwa khona.

2.9. Umshwana 8 woMthethosivivinywa uhlose ukulawula ukuxhaswa ngqo kwamaqembu ezombusazwe kanti futhi uqukethe izincazelo ezisebenza kuphela eSahlukweni 3 esihlongozwayo.

2.10. Umshwana 9 woMthethosivivinywa uhlose ukuvimbela iminikelo efakwa ngqo emaqenjini ezombusazwe ivela emithonjeni ethile.

2.11. Umshwana 10 woMthethosivivinywa uhlose ukulawula ukuphumela obala ngeminikelo

eyenziwe ngqo eqenjini lezombusazwe. Uhlinzekela ukuphumela obala ngayo yonke iminikelo engaphezulu kwezinga elibekiwe ngendlela ebekiwe. Uphinde uhlinzekele ukuthi iKhomishana kumele ilukhiphe nini lolo lwazi olunjalo.

2.12. Umshwana 11 woMthethosivivinywa uvimbela ukuxhaswa ngqo kwamalungu anoma yiliphi iqembu lezombusazwe.

2.13. Umshwana 12 woMthethosivivinywa ukhuluma ngokuyizidingo okumele iqembu lezombusazwe likunike iKhomishana ezinolwazi oluthile olubekiwe kanye namadokhumenti athile.

2.14. Umshwana 13 woMthethosivivinywa uhlose ukulawula ukuthi amaqembu ezombusazwe amelwe kumele aphendule kanjani ngemali akhokhelwa noma anikwa yona evela ezikhwameni.

2.15. Umshwana 14 woMthethosivivinywa uhlinzekela ngokuthi iKhomishana ingabhekana kanjani nemali engasetshenziswanga ekupheleni konyakamali. Umshwana uphinde uhlinzekele ngokuthi izimali ezingasetshenziswanga ziphathwe kanjani uma kwenzeka iPhalamende noma isishayamthetho sesifundazwe sivalwa.

2.16. Umshwana 15 woMthethosivivinywa ukhuluma ngamandla eKhomishana okuqapha nokuhlola.

2.17. Umshwana 16 woMthethosivivinywa unika iKhomishana amandla okunika inkombandlela eqenjini lezombusazwe ukuze ligweme ukukhipha isijeziso.

2.18. Umshwana 17 woMthethosivivinywa unika iKhomishana amandla okumisa ukukhokhwa kwemali ngaphansi kwezimo ezithile.

2.19. Umshwana 18 woMthethosivivinywa unika iKhomishana amandla okufuna kubuyiswe imali etholwe ngendlela engemthetho noma echithwe budlabha amaqembu ezombusazwe.

2.20. Umshwana 19 woMthethosivivinywa uhlose ukunika iKhomishana amandla

okukhokhisa izinhlawulo zokuphatha uma kwenzeka kuphulwa noma kuphindwa kuphulwa umthetho.

2.21. Umshwana 20 ukhuluma ngamalungelo anoma yimuphi umuntu ozobuyekeza noma achithe isinqumo esenziwe iKhomishana esenziwe ngokoMthethosivivinywa. Uphinde uhlose ukusungula iNkantolo yoKhetho njengenkantolo ezoba negunya yodwa lokulalela nokuthola nakuphi ukubuyekezwa noma ukuchithwa kwanoma isiphi isinqumo seKhomishana.

2.22. Umshwana 21 woMthethosivivinywa uhlinzekela ukubika kweKhomishana ibika ePhalamende.

2.23. Umshwana 22 woMthethosivivinywa uhlose ukuphakamisa ukuthi izishayamthetho singawaxhasa kuphela amaqembu ezombusazwe ngokwesigaba57(2) kanye nesigaba 116(2) soMthethosisekelo, ngokulandelana. Uphinde uvimbele imikhandlu yomasipala ukuthi ixhase ngezimali amaqembu ezombusazwe kanye nabantu abazimele.

2.24. Umshwana 23 woMthethosivivinywa uhlinzekela izindaba iKhomishana eyenza kuzo imithetho, ngokunikwa imvume yiNdlu yesiShayamthetho kwezinye izindaba ezithile.

2.25. Umshwana 24 woMthethosivivinywa uhlinzekela ukuchithwa koMthetho 103 we-1997, ngaphandle kwalapho uhlinzekele khona ukuhlinzekela kwezinguquko kulo mshwana, okubandakanya ukuthi imithetho eyenziwe ngaphansi koMthetho 103 we-1997 ibe yimithetho engaphansi kwalo Mthethosivivinywa.

2.26. Umshwana 25 woMthethosivivinywa uqukethe isihloko esifishane kanye nokuqala kwawo.

3. IMINYANGO/AMABHODI/ABANTU ABATHINTIWE

Le minyango/amabhodi noma abantu abalandelayo benza izethulo ngomlomo phambi kweKomidi lesiKhashana:

- UMnyango wezeziMali kuZwelonke

- IKhomishana yoKhetho Ezimele
- I-Southern African Catholics Bishops Conference
- I-African National Congress
- I-My Vote Counts
- I-COOL Youth Church
- UMkhandlu wokuThuthukiswa koMthethosisekelo waseNingizimu Afrika
- UMkhandlu woCwaningo wezeSayensi yabantu
- Inqolobane yomlando waseNingizimu Afrika
- I-Right2Know
- I-Corruption Watch
- UHlelo lweNtuthuko yeNtando yeNingi
- Isikhungo soCwaningo lwezindaba zikaHulumeni
- I-Congress of South African Trade Unions

4. KUZOBA NAMTHELELA MUNI KWEZEZIMALI ZOMBUSO

Imithelela kwezezimali uncike kuzinsiza kusebenza ezizodingwa yKhomishana ukuze ilawule esinye isikhwama.

5. INQUBO YEPHALAMENDE

5.1. IKomidi likholwa ukuthi lo Mthethosivivinywa kumele usetshenzwe kulandelwe inqubo eyasungulwa isigaba 75 soMthethosisekelo, 1996 njengoba kungekho okuhlinzekelayo njengoba kusebenza izinqubo ezisesigabeni 74 soMthethosisekelo.

5.2. IKomidi libona ukuthi asikho isidingo sokuthi lo Mthethosivivinywa uyiswe eNdlini yabaHoli beNdabuko kuZwelonke ngokwesigaba 18(1)*(a)* soMthetho wobuHoli beNdabuko noHlaka lokuBusa, 2003 (uMthetho Nombolo 41 wezi-2003), njengoba ingenakho okuhlinzekela lokhu okuphathelene nomthetho wesiko noma imikhuba yemiphakathi esalandela okwendabuko.