



NCOP MEMBERS TRAINING

1 FEBRUARY 2023

Cllr. S Janda
SALGA NEC Member

“Developing an effective Municipal Support and Intervention Mechanism”

Chairperson and Deputy Chairperson of the NCOP

Honourable Members of the NCOP

Members of the SALGA NCOP Delegation

Secretary to Parliament

Secretary to the NCOP

Other Members of the Public Service

It is a distinct honour to contribute to this NCOP Members Training by presenting a SALGA Perspective on Section 139 Interventions with a particular focus on *Developing effective Municipal Support and Intervention Mechanisms*.

Honourable Chairperson,

As SALGA, we join the increasing list of stakeholders that remain concerned about the rising tide of Section 139 Interventions and in particular the courts becoming the final arbiter. What is more concerning is national and provincial governments that are increasingly encroaching into the powers and functions of local government, instead of working collaboratively in the spirit of cooperative governance and providing the necessary ongoing support as defined in Section 154 of the Constitution.

Honourable Chairperson

This prompts me to remind us of President Nelson Mandela who said in his Address to the Constitutional Assembly on the occasion of the adoption of the new Constitution in Cape Town on the 8th of May 1996, and I quote ***“You, the representatives of the people, had decided that open and accountable government will be reinforced by co-operative governance among all tiers. And thus, we strike out along a new road, in which the preoccupation of elected representatives, at all levels of government, will be how to co-operate in the service of the people, rather than competing for power which otherwise belongs not to us, but to the people”.***

This message, is befitting as we gather on this occasion under the banner of the NCOP to ensure that the institutional integrity of local government is not only preserved, but strengthened to expedite our developmental mandate. It is our respectful view, that local government has a key role to play in ensuring that the intent of the Constitution, as stated in the preamble, is achieved. It is in all our hands to ensure that the intention of establishing *“a society based on democratic values, social justice and fundamental human rights”* come to fruition.

Honourable Deputy Chairperson, we wish to take a practical approach in contributing towards this discussion and highlight

the following problems statements with a view to be solution-driven:-

- In under a year since the 2021 local government elections, a municipal council, was dissolved (Ditshobotla Local Municipality). It should be noted that the problem of this municipality preceded the 2021 elections and yet we expected that the elections will solve these problems, the same way in which it was thought that the by-elections held since the dissolution of the Municipal Council, will solve the deep rooted problems of that municipality;
- A long list of Municipalities are currently subjected to Intervention – some of whom had Interventions invoked more than once – others having been subjected to intervention 5 times already;
- Municipalities are often worse off during and after the Intervention. A case in point is Emfuleni Municipality in Gauteng. This municipality will on 13 June this year celebrate 5 consecutive years of intervention and yet their bank account has been attached whilst under the administration of provincial government, with municipal workers not being paid;
- Support to municipalities from provincial and national government is fragmented; and
- Monitoring of municipalities has been inconsistent.

These are but some of the problem statements and there are many more that could be added to the list.

As indicated Chairperson, we want to be solution driven and with due regard to the legislative framework and related requirements for Section 139 interventions, the following should be key questions of the NCOP as a key oversight structure during an Intervention:-

- Are **detailed analysis or assessment** conducted of the Section 139 Interventions, including the ongoing **status of the implementation** of the Interventions and where applicable the implementation of the Financial Recovery Plans?
- If the municipality was under Intervention, under the direct authority of the Provincial Government, how has the Municipal Council & Administration **contributed to the intervention not producing the desired outcomes?**
- What are the **legislative obligations** that the affected municipalities continues to fail to execute?
- Is there a **link** between the legislative obligations to be assumed by the Administrators and their **terms of reference?**
- How will a continued Intervention **produce** a different and much more desired outcome?

Honourable Chairperson, these are critical questions that the NCOP must be seized with during every intervention if we want to:-

- **Maintain and sustain the rendering of a service;**
- Where necessary, **prevent** the Municipal Council from taking **unreasonable action**;
- **Maintain economic unity**;
- **impose a recovery plan** aimed at securing the municipality's ability to meet its obligations; and
- hold Provincial Government **accountable** on every step throughout the lifespan of the Intervention.

Honourable Chairperson,

In addition to defining a more actively involved NCOP during an intervention, we are in full support of a new approach to pro-actively strengthen support and monitoring of municipalities. We therefore suggest an approach that would:-

1. Allow for the use of the current reporting mechanisms to introduce an **Early Warning System** for municipalities. It is a known fact that municipalities have excessive legislative **reporting** requirements with approximately **75 legislative reporting requirements** with monthly, quarterly and annual deadlines. All these reports could

inform that basis of municipal data that feed information into the Early Warning System;

2. This Early Warning System, which should preferably be a live online platform, would place a municipality in the position to conduct **ongoing self-assessment** and in so doing:-

a. **identify under performance and where necessary self-correct;**

b. **Identify targeted support** and seek such support from either provincial or national government, **SALGA or even other appropriately capacitated municipalities.**

Whilst central to this approach is a municipality to do ongoing self-assessment and correction, this approach would also create sufficient scope for both provincial and national government to monitor municipalities and where necessary, provide ongoing targeted support. This approach, in our view, would avoid the hap-hazard and un-structured invocation of Section 139 with no real benefits.

Honourable Chairperson,

Whilst the Early Warning System will result in the early detection of challenges and define appropriate support to be directed to

municipalities, we must also be alive to the ELEPHANT in the room. It is known that the political undertones and under currents linked to municipal challenge should not be under-estimated. It is our respectful view and suggestion that Political Peer Review and Support Mechanisms be created to address political issues with municipalities and relevant strategic partners, to likewise pro-actively counter political challenges that quite often emerge.

In addition hereto, a municipality that has governance issues could be supported by initiating mentorship programmes to complement the municipal skills development, coaching, and capacity building.

When a municipality experiences multiple issues, which require the inputs of multiple or multi-disciplinary or multi-sectoral support to intervene, it is suggested that a united front is presented by a range of roleplayers, well-coordinated under key workstream interventions.

Honourable Chairperson,

This would be our contribution to the conversation in this segment of the programme. We cannot do this alone, as SALGA and this can also not be done alone by the NCOP. We therefore equally call upon not only the NCOP, national and provincial spheres of government but all other roleplayers, to execute our

respective obligations to capacitate and support local government in achieving its constitutional goals. Let me also hasten to add that this must, of course, be done without compromising or impeding the ability and right of municipalities to exercise their powers or perform their functions.

I thank you.