

2024 elections in a precarious position

Time is running out for Ramaphosa to sign new law allowing independent candidates

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Chief electoral officer Sy Mamabolo wants a decision on the Electoral Amendment Bill as soon as possible.

The storm brewing around the Electoral Amendment Bill, yet to be signed into law by President Cyril Ramaphosa, poses a threat to the 2024 national election.

The Electoral Commission of SA (IEC) says it needs at least six months to accommodate amendments allowing independent candidates. But insiders say it could take about 18 months, making it too late to implement.

There are further complications. Political players say Ramaphosa is delaying to buy time to contain the electricity crisis, with the election only in the second half of next year. There are also threats from civil society to challenge the constitutionality of the new law in court.

Parliament twice asked the Constitutional Court, which ordered the amendments, for extensions. It passed the bill on February 23.

The IEC wants certainty as soon as possible, chief electoral officer Sy Mamabolo tells the FM.

“We would urge the presidency to expedite its consideration of the bill, so that whatever action they may intend to take, it does not affect the electoral process in any negative way.”

What would it take to be election-ready in line with the amendments? “You need time ... which is why it’s so crucially important that the legal framework for the election is determined and settled.”

The commission will need to rebuild its information technology, results and candidate nominations systems, says Mamabolo, and that will take at least six months. Political parties will then need to test the systems and voters will have to be educated to avoid spoiling ballots.

Mmusi Maimane, the convener of Build One South Africa, which has consolidated potential independent candidates into a political party, says it is already late to implement the amendments. He believes Ramaphosa could delay the election by the full three months provided for in the constitution, using the power crisis as an excuse.

But Mamabolo says the courts did not take kindly to a request for postponement of the 2021 election during Covid.

Presidential spokesperson Vincent Magwenya says Ramaphosa is aware of the IEC timelines and the possibility of civil society bodies litigating against the bill.

“That threat still remains. It’s important for the president to carefully consider the constitutionality of the bill and to satisfy himself that the process to consider the bill by parliament was procedural,” he says.

“The risk of delaying preparation for the 2024 polls cannot be laid at the president’s door when he received the bill on February 28 and still has a constitutional obligation to fulfil in terms of evaluating [its] substantive and procedural aspects.”

Ramaphosa still has the options of sending the bill back to parliament or asking the Constitutional Court to determine its constitutionality to avoid further litigation, which would delay the process further.

The Inclusive Society Institute, a civil society body with links to the ANC, has urged Ramaphosa not to sign the bill into law because of what it calls constitutional defects. It says it will go to court if he does so.

Other civil society groups that have rejected the bill include My Vote Counts, the Council for the Advancement of the South African Constitution, Rivonia Circle, the Ahmed Kathrada Foundation and Defend our Democracy.

Asked whether the bill goes far enough in effecting electoral reform in a meaningful way, Mamabolo says it is not his place to judge. He says the amendments make provision for a legislative panel to look into thorough electoral reform before the 2029 election.

“We can’t be in a perpetual discussion about the electoral system on the one hand and then expect a decent-quality election on the other,” he says.

“A balance must be struck between the continuation of public debate and public consultation and parliamentary process, [and] the preparation of a good-quality election.”

For now, aside from being the most hotly contested since 1994 and the 30th anniversary of SA’s messy but stable democracy, the 2024 election is going to be another stress test for the country’s globally hailed electoral body. The stakes have never been higher.