



INCLUSIVE SOCIETY INSTITUTE

Media Release

WRITING OFF OUTSTANDING E-TOLLS UNDER THE GAUTENG FREEWAY IMPROVEMENT PROJECT

The Inclusive Society Institute (ISI), a non-profit organisation that promotes democracy, human rights, and constitutionalism, has considered the legality of writing off the outstanding debt under the Gauteng Freeway Improvement Project (GFIP) in terms of the Constitution's equality provisions. In a letter addressed to Premier Panyaza, the Institute has expressed its concerns regarding the principle of equality and fairness in writing off the debt of those who have infringed the law without providing equitable relief to those who have abided by the law.

Initially, it was presumed by the Institute that a mutually acceptable agreement, accounting for the interests of both the payers and non-payers, could be found in order to establish a fair balance. However, according to the legal opinion obtained by the ISI the question is moot, in that the proposed course of action aimed at writing off the outstanding e-toll debt is deemed unlawful. This means that road users that have accumulated e-toll debt have no option other than to settle such debt to SANRAL.

The legal opinion states that the "South African constitutional law dictates that the South African National Roads Agency Limited (SANRAL) does not have the power to retrospectively excuse non-payment of e-toll fees once incurred". However, this would not impede a future dispensation that may or may not remove e-tolling from Gauteng.

The Institute acknowledges the Premier's similar view on finding a solution for road users that have paid their toll fees and would have preferred such a way out, but it seems, from the obtained legal opinion, not possible. Given the information at the Institute's disposal, whilst it gives the ISI no pleasure to do so, it is morally and ethically obliged to bring this to the Premier's attention in order for him to apply his mind accordingly. It is crucial to ensure that the letter and spirit of the legislation are adhered to and safeguard the government and the public against potential litigation.

The Institute remains ready to discuss and assist in finding solutions to this unfortunate state of affairs. The Institute believes that dismissing the importance of the constitutional principle of transparency and more than a decade of indecision has led to an existential crisis that requires innovative thinking to resolve.

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