

## **FXI is vindicated by the ruling of ICASA's monitoring role in respect of the SABC's monitoring of political commentators**

The Freedom of Institute (FXI) is vindicated by the ruling on ICASA's monitoring role in respect of the SABC's blacklisting of political commentators. Independent regulation of broadcasting is strengthened

The FXI welcomes yesterday's landmark High Court judgment affirming ICASA's authority to monitor compliance by the SABC to its legislative Charter. This authority – that the regulator was quick to surrender – has now been reaffirmed by the Court following an FXI legal challenge to ICASA's assertion that it could not decide on a complaint about the alleged blacklisting of political commentators as this would infringe on the editorial independence of the SABC.

The FXI lodged a complaint with ICASA about the reported blacklisting of political commentators in February 2007. In June 2009, ICASA's Complaints and Compliance Committee (CCC) dismissed FXI's complaint against the SABC claiming that the CCC did not have jurisdiction over what it termed an "internal journalistic matter" as this would violate the broadcaster's editorial independence.

The FXI disputed this interpretation and lodged a review application to the High Court to set aside the decision. In his judgement, Judge Claassen stated that the CCC's narrow interpretation of its jurisdiction was "fundamentally flawed". "If correct," the judgement reads, "it would mean that the SABC may with impunity manipulate and distort the preparation of its news and current affairs coverage and publicly lie about it when they are caught out having done so".

Furthermore, Judge Claassen expressed strong criticism of SABC News management and of Dr Snuki Zikalala in particular for manipulating news and current affairs. The SABC Board was also fingered for failing "to take any action when the manipulation and dishonest cover-up was exposed by its own Commission of Enquiry".

The judgment reaffirms the need for the SABC to uphold the "highest standards of journalism", which is "fair and unbiased coverage, impartiality, balance and independence from government, commercial and other interests". It demonstrates that "Dr Zikalala's politically motivated blacklisting" of specific political commentators, as well as the SABC's dishonesty in the attempted cover-up were clear violations of statutory requirements.

The judge referred the matter back to the CCC to determine the complaint afresh. In terms of the judgment, the CCC panel that rehears the complaint must not include anybody who participated in the original decision. ICASA and SABC were ordered to pay FXI's legal costs.

This decision is an important milestone in strengthening ICASA's monitoring role and function as well as a significant victory in ensuring that the public broadcaster fulfils its mandate without political interference.

For more information

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