

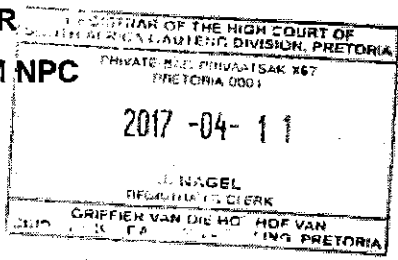
IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 25978/17

In the matter between:

AMABHUNGANE CENTRE FOR INVESTIGATIVE JOURNALISM NPC



First Applicant

SOLE, STEPHEN PATRICK

Second Applicant

and

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

First Respondent

MINISTER OF STATE SECURITY

Second Respondent

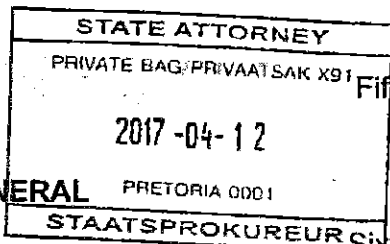
MINISTER OF COMMUNICATIONS

Third Respondent

MINISTER OF DEFENCE AND MILITARY VETERANS

Fourth Respondent

MINISTER OF POLICE



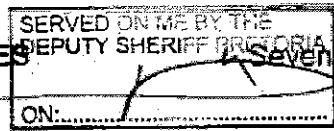
Fifth Respondent

THE OFFICE OF THE INSPECTOR-GENERAL

OF INTELLIGENCE

Sixth Respondent

THE OFFICE FOR INTERCEPTION CENTRES



Seventh Respondent

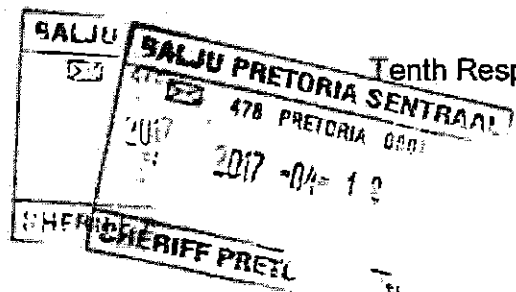
THE NATIONAL COMMUNICATIONS CENTRE

Eighth Respondent

THE JOINT STANDING COMMITTEE ON INTELLIGENCE

Ninth Respondent

THE STATE SECURITY AGENCY



Tenth Respondent

NOTICE OF MOTION

PLEASE TAKE NOTICE THAT the applicants intend to make application to this court for an order in the following terms:

1. It is declared that:

- 1.1. The Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002 ("RICA"), including sections 16(7), 17(6), 18(3)(a), 19(6), 20(6), 21(6) and 22(7) thereof, is inconsistent with the Constitution and accordingly invalid to the extent that it fails to prescribe procedure for notifying the subject of the interception direction;
- 1.2. RICA, including section 37 thereof, is inconsistent with the Constitution and accordingly invalid to the extent that it fails to prescribe the proper procedure to be followed when state officials are examining, copying, sharing, sorting through, using, destroying and/or storing the data obtained from the interceptions;
- 1.3. Section 30(2)(a)(iii) of RICA is inconsistent with the Constitution and accordingly invalid;
- 1.4. RICA, including the definition of "designated judge" in section 1, is inconsistent with the Constitution and accordingly invalid to the extent that

it fails to prescribe an appointment mechanism and terms for the designated judge which ensure the designated judge's independence;

- 1.5. Sections 16(5), 17(4), 19(4), 21(4)(a), 22(4)(b) of RICA are inconsistent with the Constitution and accordingly invalid to the extent that they deal with an application related to a subject who is a journalist or a lawyer;
 - 1.6. RICA and the National Strategic Intelligence Act 39 of 1994 are inconsistent with the Constitution and invalid to the extent that they fail to regulate properly or at all "bulk surveillance" and foreign signals interception undertaken by state officials, including by the National Communications Centre; and
 - 1.7. The bulk surveillance activities and foreign signals interception undertaken by the National Communications Centre are unlawful and invalid.
2. The declarations of invalidity in prayer 1 are suspended for a period of 18 months to allow the constitutional defects to be remedied by Parliament in accordance with the judgment in this matter.
 3. Pending the remedying of the defects, or the expiry of the 18-month period, whichever occurs first, interim reading-in orders are to be granted which provide appropriate and effective interim relief.
 4. The costs of the applicants, including the costs of two counsel, shall be paid

jointly and severally by any respondent opposing the relief sought in this application.

5. Granting further and/or alternative relief.

TAKE NOTICE FURTHER that the founding affidavit of **STEPHEN PATRICK "SAM" SOLE**, together with the annexures thereto and the affidavits filed together therewith will be used in support of this application.

TAKE NOTICE FURTHER that the applicants have appointed the address of the applicants' attorneys, Webber Wentzel, detailed below, at which the applicant will accept notice and service of all process in connection with this application.


TAKE NOTICE FURTHER that should the respondents wish to oppose the order prayed for in the notice of motion, they are required:

- (a) Within 15 days after receipt of this notice of motion to deliver notice to the applicants that they intend so to oppose and, in such notice, to appoint an address within eight kilometres of the office of the Registrar at which they will accept notice and service of all process in these proceedings;
- (b) Within 15 days after having given notice of the intention to oppose the application, to file answering affidavits if any.

If no such notices of intention to oppose are given, the application will be made on

28 July 2017 at 10h00 or so soon thereafter as counsel may be heard.

Dated at Sandton on 10 April 2017.



WEBBER WENTZEL

Applicant's attorneys

90 Rivonia Road, Sandton

Johannesburg, 2196

PO Box 61771, Marshalltown

Johannesburg, 2107, South Africa

Tel: +27 11 530 5232

Fax: +27 11 530 6232

Email: dario.milo@webberwentzel.com

Ref: Dario Milo / Makhotso Lengane

3000547

To:

THE REGISTRAR

High Court of South Africa

Gauteng Division, Pretoria

And To:

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

First Respondent

State Attorney

SALU Building

316 Thabo Sehume Street

Pretoria

0002

MINISTER OF STATE SECURITY

Second Respondent
State Attorney
SALU Building
316 Thabo Sehume Street
Pretoria
0002

MINISTER OF COMMUNICATIONS

Third Respondent
State Attorney
SALU Building
316 Thabo Sehume Street
Pretoria
0002

MINISTER OF DEFENCE AND MILITARY VETERANS

Fourth Respondent
State Attorney
SALU Building
316 Thabo Sehume Street
Pretoria
0002

MINISTER OF POLICE

Fifth Respondent
State Attorney
SALU Building
316 Thabo Sehume Street
Pretoria
0002

THE OFFICE OF THE INSPECTOR-GENERAL OF INTELLIGENCE

Sixth Respondent
 c/o Atterbury road and Lois Avenue
 Menlyn
 Pretoria
 0063

OFFICE OF THE INSPECTOR-GENERAL OF INTELLIGENCE	
Date Received:.....
Date of Doc :.....
Doc Nr :.....
File Nr :.....

THE OFFICE FOR INTERCEPTION CENTRES

Seventh Respondent
 25 Tambach Road
 Sunninghill
 Sandton
 2191

THE NATIONAL COMMUNICATIONS CENTRE

Eighth Respondent
 Musanda Complex
 Delmas Road
 Pretoria
 0181

THE JOINT STANDING COMMITTEE ON INTELLIGENCE

Ninth Respondent
 Parliament
 Parliament Street,
 Cape Town
 8000

THE STATE SECURITY AGENCY

Tenth Respondent
 Musanda Complex
 Delmas Road
 Pretoria
 0181