THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Democratic Alliance v ActionSA and Others (0016/26EC) [2026] ZAEC 12 (30 October 2026)

Today, the Electoral Court of South Africa, sitting in Bloemfontein, dismissed an application brought by the Democratic Alliance (DA) against ActionSA, the Economic Freedom Fighters (EFF), uMkhonto Wesizwe (MK Party), GOOD, the Electoral Commission of South Africa (Commission) and the Minister of Cooperative Governance and Traditional Affairs. The application concerned the lawfulness of proportional representation (PR) candidate lists submitted by the four political parties for the municipal elections scheduled for 4 November 2026.

The dispute arose after the Commission certified and published the parties' candidate lists on 16 September 2026. The DA contended that ActionSA, the EFF, MK Party and GOOD had deliberately submitted lists containing only one candidate in municipalities where they could reasonably expect to secure more than one PR seat. According to the DA, the parties intended to supplement their lists after the elections, thereby avoiding public scrutiny of their candidates before voters cast their ballots. The DA argued that this conduct was in bad faith, constituted a circumvention of electoral legislation and infringed constitutional rights relating to free and fair elections.

The central issue before the Court was whether political parties were permitted to submit single-candidate PR lists despite expecting to win more than one seat, and whether item 17 of

Schedule 1 to the Local Government: Municipal Structures Act 117 of 1998 permitted those parties to supplement their lists after the elections.

The Court held that the electoral legislation does not prescribe a minimum number of candidates that a political party must include on its PR list. It found that item 17 applies where, following the counting of votes and allocation of seats, a party becomes entitled to more seats than the number of candidates appearing on its list. The Court rejected the DA's interpretation that the provision applies only where a party genuinely or inadvertently underestimated its electoral support. It held that such a requirement was not supported by the wording of the legislation and would amount to introducing conditions that Parliament had not prescribed.

The Court further held that item 17 operates as an exception to the restriction in item 20, which generally prohibits political parties from supplementing or changing their lists until after the first meeting of the municipal council. It found that permitting parties to supplement insufficient lists after elections gives effect to the constitutional requirement of proportional representation and ensures that the allocation of seats reflects the votes cast by the electorate.

Regarding the allegations of bad faith and acting in fraud of the law, the Court found that the DA had failed to establish a factual basis for those allegations. The four parties' reliance on the existing statutory framework did not establish unlawful conduct. The Court consequently found no basis to declare their party lists unlawful or to review and set aside the Commission's decision to publish the lists.

The Court declined to determine the DA's conditional constitutional challenge at this stage, finding that it raised broader questions concerning the validity of the legislative framework governing the supplementation of party lists. That challenge was accordingly postponed indefinitely.

In the result, the Court dismissed the DA's applications for declaratory, review and consequential relief. The application to declare the Commission's decision unconstitutional, unlawful and invalid, together with the conditional constitutional challenge, was postponed sine die. No order was made as to costs.