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GUIDELINES FOR RECOGNITION OF CRL COMMUNITY COUNCILS

Aims of the guidelines

The Commission for the promotion and protection of the rights of cultural, religious and linguistic Communities has the power to initiate the establishment and recognition of community councils. (Section 4 (e) Act 19 of 2002)

These guidelines are meant to assist the envisaged community councils to apply for recognition as such by the Commission.

1. Constitutional & Legislative framework

Section 31(b) of the Constitution of the Republic of South Africa Act 108 of 1996 (“the Constitution”) provides that: “persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

Giving effect and meaning to this section, section 4(e) of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act 19 of 2002 outlines one of the Commission’s object to recommend the establishment or recognition of community councils in accordance with section 36 or 37.

Section 235 of the Constitution of 1996 deals with general provisions under International law and provides that:

‘The right of the South African people as a whole to self determination, as manifested in this constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self determination of any community sharing a common cultural and language heritage within a territorial entity in the Republic or in any way, determined by national legislation’

2. Definition of Community Council

Is a voluntary association of persons or community organizations based on the principle of freedom of association and which represents a cultural, religious or linguistic community and includes a cultural council envisaged by section 185(1)(c) of the Constitution.

3. Application Requirements and Recognition Procedure

- a. The envisaged community councils must fill the official application form and submit such to the Commission
- b. A community council has to fulfill the aims of the community councils as stipulated by section 38 (1) (a) and (b) -
 - Preserve, Promote and develop the culture, religion or language of the community for which it is recognized; or
 - Advise the Commission on, and assist the Commission in matters concerning the achievement of the objects of the Commission.
- c. Submit, to the Commission, the minutes or decisions taken by the community council for recognition to the commission.
- d. Submission of the application form
- e. The Commission will, within 90 days of receipt, acknowledge and evaluate the applications for recognition.
- f. The Commission will issue a recognition certificate valid for the terms of office of the commission (5 years), however subject to evaluation and renewal on a financial year basis.
- g. The Commission must within 60 days of having received an application for the recognition of a community council in terms of subregulation (1), inform the community council in writing of the Commission's decision regarding the recognition of the Community Council.

4. Recognition criteria

- a. A community must submit a written indication of the manner in which it intends achieving any of the aims listed in section 38 of the Act; and
- b. Proof that the community council has taken a decision to apply for recognition as provided for section 38 of the Act.

5. Responsibilities of Community councils

- a. To preserve, promote and develop the culture, religion or language of the community for which it is recognized; and
- b. To assist the Commission to achieve its objectives in line with the founding act.

6. Application for financial assistance

A Community council recognized in terms of section 37(2) may apply to the commission or any other organ of state for financial assistance. Application for financial assistance will be evaluated according to the funding guidelines and criteria as developed by the CRL Rights Commission. Approval of request will be subject to availability of funds.

7. Reporting by Community council to Commission

- a. Community council will be expected to share experiences and challenges within their locality in relation to cultural, religious and linguistic issues.
- b. Report to the Commission on work done in relation to item 6. and 7.

8. Dispute resolution between recognized Community Councils

In event of conflict between or amongst recognized community councils, the Commission may invoke its powers to appoint an investigating committee.

9. Withdrawal of recognition of Community council

- a. The Commission may in writing withdraw the recognition of community council based on various reasons such as non compliance with the application procedure, if the community council is found to serve no aims and objectives as provided in the Act of the Commission , particularly section 38 and
- b. Prior to the final decision of withdrawal, it is imperative and mandatory that the Commission subscribe to the applicable principles of procedurally fair administrative action affecting any person or Community as outlined in Promotion of Administrative Justice Act 3 of 2000, Section 3.