

SETTING ASIDE THE PUBLIC PROTECTOR'S RECOMMENDATION WELCOMED

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The Centre for Constitutional Rights (CFCR) welcomes today's decision handed down by the Johannesburg High Court regarding the powers of the Public Protector. The decision set aside the Public Protector's recommendation that the Constitution be amended to change the mandate of the South African Reserve Bank (SARB) and further dismissed the Public Protector's recommendation that the Chairperson of Parliament's Committee on Justice and Correctional Services and the SARB submit an action plan detailing how the remedial action recommendation would be implemented.

Pertinently, the Court found that the remedial recommendation fell outside the mandate of the Public Protector's office. The Public Protector too had previously acceded to this point and had offered to pay the costs of the legal challenge, which point the Court made an order of court. This capitulation flies against the Constitution, which calls for public administration to be efficient, economic and effectively using resources. South Africans will pay the costs for today's decision. Yet again, the public purse is being squandered over ill-advised actions possibly geared towards furthering narrow political agendas. That the Public Protector misconstrued so basic a principle as the powers of her office is certainly cause for concern. This certainly does nothing to assuage public confidence in the ability of the Public Protector's office. It must be said that this casts aspersions on the Public Protector's ability and readiness for the office - despite the 16 other reports the body has released since the Public Protector took office in September 2016.

Amid allegations and mounting evidence of State Capture coupled with a supine response from the National Prosecuting Authority (NPA), it is important for bodies such as the Public Protector to be seen as credible voices in the efforts to fight against grand scale corruption and maladministration.

Today's decision is not the end of the ABSA-Reserve Bank apartheid era bail-out saga as the merits of the Public Protector's Report are yet to be considered. Nonetheless, the decision today strengthens South Africa's constitutional democracy by making it apparent that it is only South Africa's Parliament, in accordance with the Constitution, which can affect amendments to the Constitution, with the participation of the public, a point the Public Protector had sorely missed.