



# Political party funding update

South Africa

*Parties need a substantial amount of funds to run their campaigns for the elections in 2024 yet the Political Party Funding Act is creating problems. The contestation over the Act will only intensify as parties seek easier ways of sourcing funding as they prepare for the most significant poll since the advent of democracy. We suspect however that funds are finding their way into a myriad of different routes to deploy capacity to parties – though we do not believe there is major influence over bread-and-butter policy issues, there may well be over issues like coalition formation modalities.*

*Despite the existence of the Act which came into effect in April 2021, the discourse about the transparency of political party funding continues. Calls for the Act to be amended have surfaced from both stakeholders who want to see it becoming more stringent and those who want it to be relaxed. As strong as the cases for either of these calls are, we do not see significant amendments taking place before the 2024 elections.*

*The contestation about the act centres on four issues: the ZAR100,000 threshold for disclosure; the ZAR15m upper limit that a donor can donate to a party in a year; foreign donations; and donations from the same source of wealth and usage of multiple entities to donate above the upper limit. What is clear is that none of the parties to the contestation will achieve a clear victory over the other. Moreover, amendments aimed at relaxing the act will face a legal challenge from civil society which has been at the forefront of the campaign for transparency on political party funding. As such, for the first time in national and provincial elections, parties' funds will be limited by the Act. For those parties that do not maintain a permanent presence in certain sections of the country, campaigning in these areas will be difficult due to limited resources. The solution for parties would be to seek funding from multiple donors rather than just their traditional donors.*

## The Political Party Funding Act

President Cyril Ramaphosa signed the Political Party Funding Act (PPFA) (6 of 2018) on 22 January 2019. It was promulgated in January 2021 and came into effect on 1 April 2021.<sup>1</sup> The Act regulates both private and public funding of political parties. In particular, the Act legislates three important areas:

- The annual disbursement of public funds to political parties represented in national and provincial legislatures through the Represented Political Parties Fund (it repeals the Public Funding of Represented Political Parties Act, 103 of 1997)
- The establishment of a new Multiparty Democracy Fund which accepts private donations and disburses these to political parties represented in national and provincial legislatures
- The regulation of private funding (donations) to political parties, including requiring the disclosure of all donations above ZAR100,000 by political parties and their donors, and imposing certain restrictions on the source and use of such donations<sup>1</sup>

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**ANALYSTS**

**Nduduzo Langa**

Politics Analyst

[nlanga@krutham.com](mailto:nlanga@krutham.com)

**Peter Attard Montalto**

Managing Director

[peter@krutham.com](mailto:peter@krutham.com)

+44 (0) 796 0095 001

+27 (0) 11 083 5588

**KRUTHAM 2024 BASELINE**

ANC 47 [57.5] (upside risk)  
DA 25 [20.8] (downside risk)  
EFF 12 [10.8] (downside risk)  
ACSA 4 [-] (balanced risk)  
IFP 5 [3.4] (balanced risk)  
Proto 5 [-] (downside risk)  
Other 3 [7.6] (Upside risk)

**TOPICS**

Politics

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The value of the Political Party Funding Act (PPFA) in relation to transparency lies in its demand that political parties must disclose any donation they receive that is above the ZAR100,000 threshold.<sup>2</sup> This includes both monetary and in-kind donations. Importantly, the act also places this disclosure responsibility on donors. It is through this provision that the public can get some indication of the sources of funds that parties utilise to fulfil their duties. As a result of this provision, the Independent Electoral Commission (IEC) publishes declarations of donations made to parties on a quarterly basis.

The Act prohibits parties from receiving more than ZAR15m in donations from one donor in a financial year. It also prohibits political parties from accepting donations from foreign governments or foreign government agencies, foreign persons or entities, organs of state and state-owned enterprises (SOEs).<sup>2</sup> However, political parties can accept donations from foreign entities for the purposes of training or skills development of their members or policy development.<sup>2</sup> The latter is a strange exception considering that it may potentially enable foreign entities to influence parties' policy development processes. This could have serious implications because a party's policies may end up becoming those of a country. That said, parties may not receive more than ZAR5m from foreign entities in a financial year.

An interesting deduction from the act is that political parties are prohibited from accepting donations that they "know or ought reasonably to have known, or suspected, originate from the proceeds of crime and must report that knowledge or suspicion to the Commission [IEC]."<sup>2</sup> This is an interesting provision given the controversy and corruption allegations against some entities and individuals that have funded some political parties in the past.

### Multiparty Democracy Fund

As already indicated, the PPFA established the Multiparty Democracy Fund (MPDF). The MPDF was set up for the purpose of accepting private donations and distributing them to political parties represented in the National Assembly (NA) and provincial legislatures. It is through this fund that the private sector can fund political parties anonymously, although without the choice of indicating which party the funds must go to. The other alternative is of course keeping donations below the ZAR100,000 threshold. The fund does not accept donations from organs of state, SOEs, foreign governments or foreign government agencies.<sup>3</sup> The funds from the MPDF are distributed to political parties through a formula:

- 1/3 equal (33.3%) representation: a third of the funds is allocated equitably to all parties that hold seats in the National Assembly or any provincial legislature.
- 2/3 proportional (66.6%) representation: two thirds of the funds are allocated in proportion to seats held by a political party in the National Assembly or provincial legislatures.<sup>3</sup>

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<sup>1</sup> IEC. n.d. "Party funding background". *Independent Electoral Commission*. <https://www.elections.org.za/pw/Party-Funding/Party-Funding-Background>

<sup>2</sup> Republic of South Africa. 2019. "Act No. 6 of 2018: Political Party Funding Act, 2018". Republic of South Africa. [https://www.gov.za/sites/default/files/gcis\\_document/201901/42188gon63politicalpartyfundingact6of2019.pdf](https://www.gov.za/sites/default/files/gcis_document/201901/42188gon63politicalpartyfundingact6of2019.pdf)

<sup>3</sup> IEC. n.d. "Multi-Party Democracy Fund". *Independent Electoral Commission*. <https://www.elections.org.za/pw/Party-Funding/Multi-Party-Democracy-Fund>

Since its establishment, the MPDF has struggled to receive donations. Between 1 July 2021 and 30 September 2021, the fund raised just ZAR2,008.<sup>4</sup> Between 1 July 2022 and 30 September 2022, the fund raised just ZAR5,241.<sup>5</sup> During the third quarter of the previous financial year, the fund received no donations at all.<sup>6</sup> Following these disheartening numbers, the IEC committed itself to engaging potential donors. These efforts appear to have paid off as the commission revealed that for the period 1 April to 31 June 2023, ZAR2.5m (ZAR2,488,629) was available to be distributed among represented parties. While this is a significant improvement compared to the earlier performance of the fund, it is still quite small considering that it is shared among parties. In contrast, the Represented Political Party Fund (RPPF) during this same period amassed ZAR350.9m (R350,946,857) for distribution among parties.<sup>7</sup>

**Table 1: Allocation to parties from the Multiparty Democracy Fund (1 April 2021 to 31 March 2022)**

| Political party                 | Proportional allocation<br>ZAR | Equitable allocation<br>ZAR | Total<br>ZAR     |
|---------------------------------|--------------------------------|-----------------------------|------------------|
| African Democratic Party        | 28,082                         | 113,638                     | 141,720          |
| African Independent Congress    | 8,023                          | 57,224                      | 65,248           |
| African National Congress       | 1,945,681                      | 220,790                     | 2,166,471        |
| African Transformation Movement | 16,047                         | 98,283                      | 114,330          |
| Al Jama-Ah                      | 8,023                          | 69,241                      | 77,265           |
| Congress of the People          | 8,023                          | 57,224                      | 65,248           |
| Democratic Alliance             | 694,026                        | 220,790                     | 914,817          |
| Economic Freedom Fighters       | 377,101                        | 220,790                     | 597,891          |
| Freedom Front Plus              | 84,246                         | 200,762                     | 285,008          |
| Good                            | 12,035                         | 69,241                      | 81,276           |
| Inkatha Freedom Party           | 112,328                        | 101,621                     | 213,949          |
| Minority Front                  | 4,012                          | 20,028                      | 24,040           |
| National Freedom Party          | 12,035                         | 77,253                      | 89,288           |
| Pan Africanist Congress         | 4,012                          | 57,224                      | 61,236           |
| United Democratic Movement      | 16,047                         | 78,254                      | 94,301           |
| <b>Totals</b>                   | <b>3,329,721</b>               | <b>11,662,365</b>           | <b>4,992,086</b> |

Source: IEC

## Represented Political Parties Fund

The RPPF provides funding to political parties represented in the National Assembly and provincial legislatures.<sup>8</sup> The RPPF funds are provided annually from the National Revenue Fund.<sup>8</sup> The commission distributes these funds to parties quarterly. The funds are distributed according to a formula:

<sup>4</sup> IEC. 2021. "General Notice 440 Of 2021: Multi-Party Democracy Fund". Independent Electoral Commission.

[https://www.gov.za/sites/default/files/gcis\\_document/202108/44910gen440.pdf](https://www.gov.za/sites/default/files/gcis_document/202108/44910gen440.pdf)

<sup>5</sup> IEC. 2022. "Notice 1147 Of 2022: Multi-Party Democracy Fund". Independent Electoral Commission.

[https://www.gov.za/sites/default/files/gcis\\_document/202207/47123gen1147.pdf](https://www.gov.za/sites/default/files/gcis_document/202207/47123gen1147.pdf)

<sup>6</sup> Siviwe Feketha. 2023. "ANC gets lion's share of party funding, while multiparty fund starves for donation". News24. <https://www.news24.com/citypress/politics/anc-gets-lions-share-of-party-funding-while-multiparty-fund-starves-for-donation-20230301>

<sup>7</sup> IEC. 2023. "General Notice 1739 Of 2023: Electoral Commission: Represented Political Party Fund". *Government Gazette*.

[https://www.gov.za/sites/default/files/gcis\\_document/202305/48422gen1739.pdf](https://www.gov.za/sites/default/files/gcis_document/202305/48422gen1739.pdf)

<sup>8</sup> IEC. n.d. "Represented Political Parties Fund". *Independent Electoral Commission*. <https://www.elections.org.za/pw/Party-Funding/Represented-Political-Parties-Fund>

- 1/3 equal (33.3%): a third of the funds is allocated equitably to all parties that hold seats in the National Assembly or any provincial legislature
- 2/3 proportional (66.6%): two thirds of the funds are allocated in proportion to seats held by a political party in the National Assembly or provincial legislatures<sup>8</sup>

The RPPF is a big source of funding for parties, far outweighing the MPDF. The table below (viewed in comparison to the one above) demonstrates this point.

**Table 2: Allocation to Parties from the RPPF (1 April 2021 to 31 March 2022)**

| Political party                    | Proportional allocation<br>ZAR | Equitable allocation<br>ZAR | Total<br>ZAR       |
|------------------------------------|--------------------------------|-----------------------------|--------------------|
| African Christian Democratic Party | 916,482                        | 3,708,678                   | 4,625,160          |
| African Independent Congress       | 261,852                        | 1,867,568                   | 2,129,420          |
| African National Congress          | 63,499,121                     | 7,205,698                   | 70,704,819         |
| African Transformation Movement    | 523,704                        | 3,207,547                   | 3,731,251          |
| Al Jama-Ah                         | 261,852                        | 2,259,757                   | 2,521,609          |
| Congress of the People             | 261,853                        | 1,867,568                   | 2,129,420          |
| Democratic Alliance                | 22,650,202                     | 7,205,698                   | 29,855,900         |
| Economic Freedom Fighters          | 12,307,046                     | 7,205,698                   | 19,512,744         |
| Freedom Front Plus                 | 2,749,446                      | 6,552,050                   | 9,301,496          |
| Good                               | 392,778                        | 2,259,757                   | 2,652,535          |
| Inkatha Freedom Party              | 3,665,929                      | 3,316,489                   | 6,982,417          |
| Minority Front                     | 130,926                        | 653,649                     | 784,575            |
| National Freedom Party             | 392,778                        | 2,521,216                   | 2,913,994          |
| Pan Africanist Congress            | 130,926                        | 1,867,568                   | 1,998,494          |
| United Democratic Movement         | 523,704                        | 2,553,899                   | 3,077,603          |
| <b>Totals</b>                      | <b>108,668,598</b>             | <b>54,252,839</b>           | <b>162,921,437</b> |

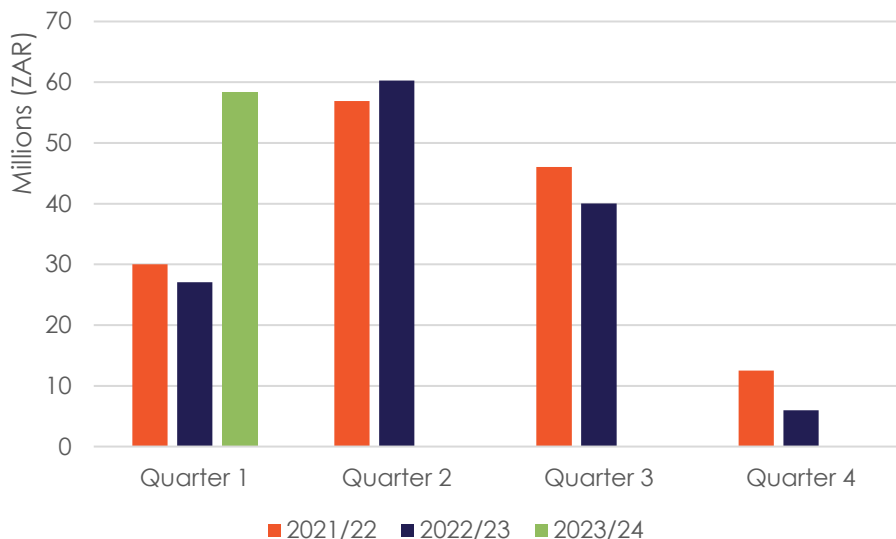
Source: IEC

## Declarations

On 31 August, the IEC released its report on the declaration of funding by parties for the first quarter (1 April 2023 to 30 June 2023) of the 2023/24 financial year. During this quarter, parties received ZAR58,365,321.09.<sup>9</sup> This was the second highest amount declared since the PFPA came into effect, the highest being ZAR60.2m declared in the second quarter of the 2022/23 financial year.<sup>9</sup> It is worth noting that the funds declared by parties are barely enough to run election campaigns. As such, parties are also reliant on funds from the RPPF, donations below ZAR100,000 and other forms of donations.

<sup>9</sup> IEC. 2023. "Electoral Commission issues the Party Funding's First Quarter Disclosure Report for the 2023-24 Financial Year". *Independent Electoral Commission*. <https://www.elections.org.za/pw/News-And-Media/News-List/News/News-Article/Electoral-Commission-issues-the-Party-Funding%e2%80%99s-First-Quarter-Disclosure-Report-for-the-2023-24-Financial-Year?a=AlSDGvpz75ps1usOfX7oilbx9pc8ojsHW+PQosv2voE=>

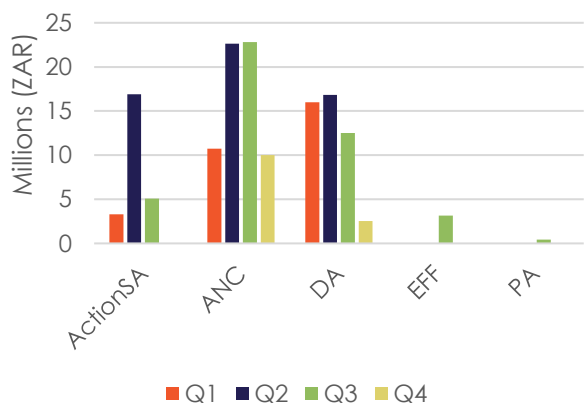
**Figure 1: Declarations from all parties**



Source: IEC

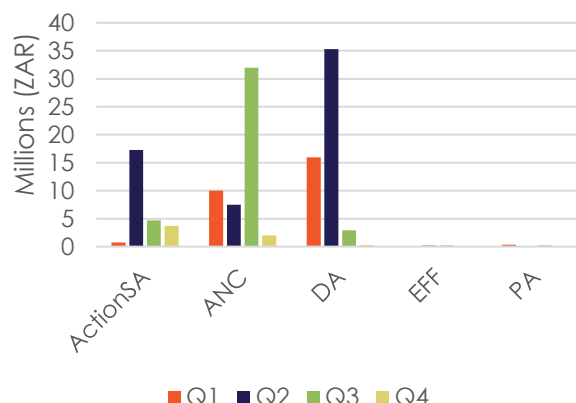
The amounts in the graphs below include late submissions from previous quarters.

**Figure 2: 2021/22 declarations (selected parties)**



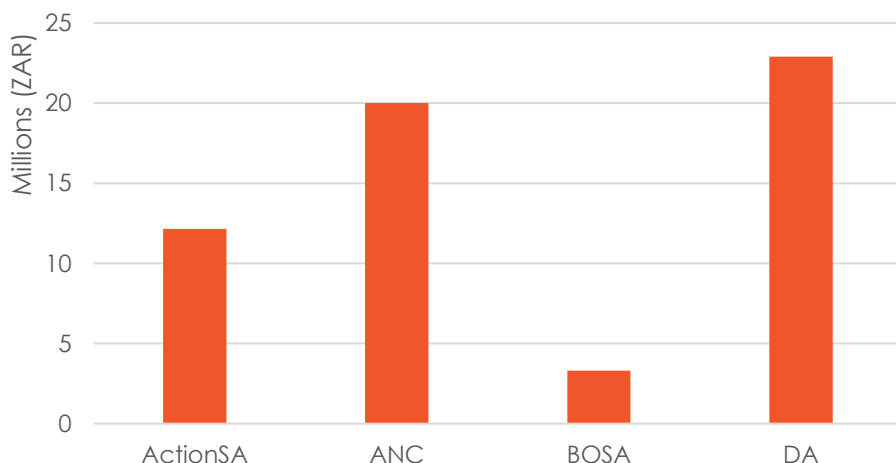
Source: IEC

**Figure 3: 2022/23 declarations (selected parties)**



Source: IEC

**Figure 4: 2023/24 declarations to date**



For the 2021/22 financial year, 12 parties declared donations above the prescribed threshold: three did so in the first quarter; six in the second quarter; 11 in the third quarter; and two in the fourth quarter.<sup>10</sup> As is the case with the RPPF and the MPDF, the Democratic Alliance (DA) and the African National Congress (ANC) receive the lion's share of donations from private donors. While not featuring in the two funds, ActionSA does appear prominently in the declaration reports and therefore is one of the big three recipients of donations. Other parties do not declare funding above the ZAR100,000 threshold as frequently. This however should not be read as a suggestion that these parties do not get donations frequently. While this may be true for many of them, there is a possibility that parties receive donations under ZAR100,000. While these are not declared or published, the IEC receives financial statements from parties. In the 2022/23 financial year, only ActionSA, the DA, the Patriotic Alliance (PA), the ANC, and the Economic Freedom Fighters (EFF) declared donations. For the first quarter of 2023/24 only ActionSA, the DA, the ANC and Build One South Africa (BOSA) declared donations.

### Other avenues for donating

Apart from donating directly to political parties or to the MPDF, donors contribute to the work of political parties in several other ways that are outside the Act. These include donating resources in the form of advisors of a party and its leadership as well as its research units and personnel into public office positions. Donors can also support parties in parliament and legislatures through contributions to their research teams and advisors. This is where we believe much of the funding goes, particularly because it has a direct impact on the quality of the (especially policy) output of parties. A perusal of the policy proposition of some of the least funded parties compared to those who receive much of the funding from various sources indicates this point. Research, consulting work and policy formation work also often happens off balance sheet by funders on behalf of parties, again outside the Act.

It is impossible to track these kinds of funding flows though we believe they are substantial. Of particular note we believe that a large part of the DA's court case agenda is funded by donors covering the cost of advocates.

Proto-parties are raising significant amounts of money from donors though declared little so far suggesting it is channelled through other means.

### Notable donors

There have been some notable donors since the PPFA came into effect. Members of the Oppenheimer family (Rebecca Oppenheimer, Mary Slack, Jessica Slack-Jell, Nicholas Oppenheimer and Victoria Freudenheim) have donated generously to different parties, especially the DA and ActionSA. Entities linked to Patrice Motsepe have also donated to multiple parties including the DA, EFF, IFP, Freedom Front Plus (FF+), and most notably the ANC which has received donations from these entities on various occasions. The ANC has also received funds on multiple occasions from the Chancellor House Trust, the owner of Chancellor House Holdings which is widely regarded as the investment arm of the governing party. The president of the ANC Cyril Ramaphosa has also donated to the party on several occasions. As has been widely reported, the ANC has in the past benefited from donations from Nonkwelo Investment Holdings. This company is currently mired in controversy following revelations that its director Nceba Nonkwelo,

<sup>10</sup> IEC. 2022. "Political Party Funding: Annual Report". *Independent Electoral Commission*. [https://static.pmg.org.za/PPF\\_Annual\\_Report\\_2022Final.pdf](https://static.pmg.org.za/PPF_Annual_Report_2022Final.pdf)

who is the son-in-law of Deputy President Paul Mashatile, is a director of another company that received funds from the Gauteng Partnership Fund.

Another notable donor is Martin Moshal who has donated to BOSA, the DA, and ActionSA. Naspers has also donated to the DA and the ANC. The DA has notably been a beneficiary of multiple (especially in-kind) donations from the Friedrich Naumann Foundation.

### Do donors influence parties?

It is a widely held view that donors exercise some degree of influence over parties. While not much explicit evidence is available to back this view, there are several cases which have raised suspicions. These have typically involved entities doing business with government donating to the governing party. Many of these cases were highlighted at the State Capture Commission. The commission heard allegations that former ANC mayor of Johannesburg Geoff Makhubo requested a ZAR50m donation from IT service management company EOH for the ANC during his term as the regional treasurer of the party in Johannesburg in exchange for IT tenders from the City of Johannesburg.<sup>11</sup> This is but one example. Other allegations involve Bosasa, the catering and security firm owned by the late Gavin Watson, businessman Edwin Sodi and recently companies linked to Deputy President Mashatile's son-in-law.

On policy issues more broadly, we believe that the linkage between the ANC and high net individual funders on policy direction was far tighter in the Mbeki era for instance. Presently, funders have some additional access to ministers and the president but this holds little sway. With the DA, we think there is relatively limited involvement in day-to-day policy making or manifesto formulation. However, there are regular and senior level engagements with donors on more structural political questions such as the party's stance on the ANC and what we call "foot in mouth" policy issues like empowerment – more than day to day policy issues.

### Views on the status quo and proposed changes

This year alone there have been several suggestions that the PPFA needs to be amended. The recent debate on the Act was sparked by comments made by EFF leader Julius Malema that the party tells donors (typically businesspeople) to contribute under the ZAR100,000 threshold. This, he stated, is done to protect the donors from being victimised, especially by the Oppenheims.<sup>12</sup> Malema later also alleged that ANC Gauteng Chairperson Panyaza Lesufi threatened business owners who donated to the EFF and suggested that they would be barred from accessing government tenders.<sup>13</sup> In reaction, non-profit organisation (NPO) My Vote Counts (MVC) said Malema's comments were a demonstration of one of the weaknesses of the PPFA. It must be noted that the Act stipulates that if one donor donates amounts less than ZAR100,000 multiple times in one financial year then the accumulative disclosure mechanism is activated.

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<sup>11</sup> "Stop ANC receiving 'dirty money' by changing party funding act, says Zondo".

<sup>12</sup> Zintle Mahlati. 2023. "Dodging the law: Give less than R100 000, Julius Malema tells donors to avoid public disclosure". News24.

<https://www.news24.com/news24/politics/political-parties/dodging-the-law-give-less-than-r100-000-julius-malema-tells-donors-to-avoid-public-disclosure-20230707>

<sup>13</sup> Zintle Mahlati. 2023. "Malema alleges that Lesufi threatened the EFF's business donors". News24. <https://www.news24.com/news24/politics/political-parties/malema-alleges-that-lesufi-threatened-the-effs-business-donors-20230802>

MVC has been at the forefront of demanding transparency in the private funding of political parties. Primary to the organisation's concerns is the undue influence on politics that money can afford donors. The organisation is now leading efforts to strengthen the PPFA. As part of this, in May MVC launched an application in the Western Cape High Court to challenge the constitutionality of some provisions of the PPFA.<sup>14</sup> MVC's application seeks to amend the PPFA to:

- Remove the ZAR100,000 threshold for the disclosure of donations so that all private donations are declared
- Reduce the upper annual limit of ZAR15m per donor
- Demand the disclosure of financial information pertaining to the expenditure of private donations
- Limit donations from people or entities who are related to donors, to prevent the circumvention of the upper limit.<sup>14</sup>

The last point relates to a loophole MVC has argued can be exploited to donate more than ZAR15m. In 2022, the organisation decried the fact that the Act does not consider that entities may be related.<sup>15</sup> This means an individual serving as a director of multiple companies can use them to donate above the ZAR15m limit. MVC added that family members and friends can donate money from the same source of wealth. After the release of the 2022/23 second quarter declarations, the NPO noted that Victoria Freudenheim and Jessica Slack-Jell who donated ZAR8m each to ActionSA are members of the Oppenheimer family and their donations were more than ZAR1m over the threshold, should they have been viewed as coming from the same source.<sup>15</sup> MVC also noted that Fynbos Kapitaal and Fynbos Ekwitiet both of which donated ZAR15m to the DA, one in the first and the other in the second quarter of 2022/23 have Michiel Le Roux listed as their director. MVC would rather have donors donating to the MPDF if they want to help strengthen democracy.<sup>15</sup> The Organisation Undoing Tax Abuse (Outa) has also called for the strengthening of the PPFA.

In July, ActionSA announced that it was in the process of filing papers to oppose aspects of MVC's application, with the removal of the ZAR100,000 being chief among these. The party argued that "the papers filed by MVC will serve to entrench a system of political incumbency in South Africa through disincentivising private fundraising."<sup>16</sup> It is worth noting that since the party currently has no representation in the National Assembly or provincial legislatures, it does not benefit from the MPDF and the RPPF. As such it is heavily dependent on donations. Among the party's main donors are its president Herman Mashaba and his entity Black Like Me. Victoria Freudenheim has also notably donated to the party. The party also stated that "many donors choose to donate below the ZAR100,000 disclosure threshold out of a real and justifiable fear of experiencing reprisal from the ANC or DA. Removing this disclosure threshold will dissuade many from

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<sup>14</sup> My Vote Counts. 2023. "My Vote Counts Launches Legal Challenge to Strengthen Political Party Funding Act". *My Vote Counts*. <https://myvotecounts.org.za/announcement/my-vote-counts-launches-legal-challenge-to-strengthen-political-party-funding-act/>

<sup>15</sup> My Vote Counts. 2022. "6th set of party funding disclosures highlights continued weaknesses in the PPFA". *My Vote Counts*. <https://myvotecounts.org.za/6th-set-of-ppfa-disclosures/>

<sup>16</sup> ActionSA. 2023. "ActionSA Opposes Ill-Considered Case of My Vote Counts" *ActionSA*. <https://www.actionsa.org.za/actionsa-opposes-ill-considered-case-of-my-vote-counts/>



contributing to new emerging parties like ActionSA and leave such parties to compete with established parties".<sup>16</sup>

Meanwhile, the ANC has on several occasions called for the PPFA to be reviewed. Notably, at its 2022 December national conference (which was concluded in January 2023), the party reiterated this call and tasked home affairs minister Aaron Motsoaledi with the responsibility to review the law. The ANC reportedly wants the threshold for declarable donations to be increased from ZAR100,000 to ZAR250,000 or ZAR500,000.<sup>17</sup> The governing party also wants the ZAR15m upper limit a donor can donate to a party per year to be increased to between ZAR50m and R100m or be removed. The ANC's views are largely motivated by its well-documented financial struggles which have seen the party failing to pay its staff on several occasions. The party has argued consistently that the disclosure requirements deter donors who do not wish to have their donations revealed publicly.

## Our view

The central argument advanced by those in favour of strengthening the PPFA (largely civil society) is that such a move would improve transparency of political party funding which is the primary reason for the existence of the act. The interest in transparency comes from the idea that the funding of parties by private individuals and entities renders them vulnerable to the influence of these funders, especially with regard to policy direction and state contracts (for those parties that are or could be in power at any government level). The concern here is that when the interests of the voting public are in contrast with those of party funders, parties especially at government level would prioritise those of funders. In South Africa, this concern has been augmented by the revelations from the State Capture Commission whose chairperson took issue with the connection between the granting of government tenders and the funding of the governing party.

The central argument made by those either in favour of the status quo or relaxation of the act (mainly political parties) is that the PPFA narrows the pool of donations available to parties as some donors do not wish to have their donations made public. This limits the ability of parties to fulfil certain obligations and implement their political programmes. The question is therefore what is more important: the survival of a political party or transparency? These two interests do not have to compete as both are important for the prosperity of any democracy. The obvious solution is that donors who wish to remain anonymous can donate to the MPDF. However, some donors wish to fund specific parties, mostly for ideological reasons.

The contention over the Act centres on four issues:

- **Reduction or increase of the ZAR100,000 threshold**

The ZAR100,000 threshold is already a compromise on the part of those who demand transparency. As such, we would suggest that this be kept unchanged since increasing it would further entrench opaqueness. On the other hand, eliminating it completely would be an administrative burden on the IEC which would have to collate statements from all parties (including very small donations) and publish them. It is sufficient that the IEC already receives financial statements from parties even though these are not made public. For

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<sup>17</sup> Kgothatso Madisa. 2022. "ANC tables plans to change political party funding law". TimesLive. <https://www.timeslive.co.za/politics/2022-01-20-anc-tables-plans-to-change-political-party-funding-law/>

those that donate under ZAR100,000 with the intention of dodging declaration, that the Act provides for accumulative disclosure is sufficient.

- **Upper limit for donors in a financial year**

That one donor cannot donate more than ZAR15m to a party does not sit well with some parties. This limit precisely seeks to prevent donors from wielding undue influence on parties. As mentioned earlier, donors can bypass this through using multiple entities or friends and associates to make donations. Eliminating it completely is out of the question while increasing it to anything between ZAR50m and ZAR100m will augment the influence of donors over parties, as seven civil society organisations argued.<sup>18</sup> We must indicate that while this provision eliminates the “bidding war” for influence over parties, there is not much it does to stamp out such influence. Beyond disclosure, which enables voters to make informed decisions, the provision and the rest of the Act certainly cannot prevent donors from influencing parties especially on policy issues. This is because there is no price for influence. As such, no threshold would be helpful in this regard. The only solution would be prohibiting private funding of parties, which is unfeasible.

- **Foreign donations**

The restrictions on foreign donors are fairly important because parties can be used by foreign entities, individuals or governments to pursue certain agendas even if these are not in the interest of citizens. Particularly vulnerable to this are opposition parties. As such, foreign funding of parties should be prohibited completely. If this is a stretch, reducing the ZAR5m upper limit per financial year could somewhat make up for not prohibiting foreign funding. Lastly, it is crucial that the provision that enables foreign entities to donate to parties for the purpose of policy development is removed.

- **Using multiple entities to donate and wealth from the same source**

It would be quite difficult to restrict family members or friends from donating to political parties on the basis that their donations would be from the same source of wealth and therefore should be subjected to the ZAR15m upper limit. This would amount to casting doubt on their urgency and depriving them of an important part of the right to political participation, which is contributing financially to political formations of their choice. While discomfoting, there is not much scope to carry out these restrictions without potentially encroaching on the rights of others. Moreover, proving that wealth used to make donations emanates from the same source would be a cumbersome exercise. However, the funding of parties by entities linked to one individual or one another could be restricted. This could be done by ensuring that donations from entities that share at least one common board member or executive are considered as coming from the same source.

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<sup>18</sup> My Vote Counts. 2022. “Civil Society Rejects Attempts to Undermine the Political Party Funding Act”. My Vote Counts. <https://myvotecounts.org.za/civil-society-rejects-attempts-to-undermine-the-political-party-funding-act/>

## Conclusion

While both the arguments in favour of strengthening or relaxing the PPFA are persuasive, it is clear that no one party will fully have its way. This is because both transparency and the existence of political parties (which rely significantly on private donations) are essential for the success of democracy. As such both sides will have to accept those amendments that contrast with their positions. While public bias will obviously be in favour of greater transparency, parties (especially the governing party) will be in favour of relaxing the Act to enlarge the pool of potential funds and funders. While this would push parties to amend the Act, the interest of civil society means that any amendment in this regard would be subjected to a legal challenge. That said, we do not see any significant amendments taking place before the 2024 election. The amendments that could take place relate to the inclusion of independent candidates as recipients of donations. This is a consequence of the enactment of the Electoral Amendment Act. For the first time in national and provincial elections, parties' funding will be constrained by the PPFA. For those parties that do not maintain a permanent presence in some parts of the country, campaigning in these areas will be difficult due to limited resources.

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