

Expropriation Without Compensation in South Africa

The Congress of the Alliance of Liberals and Democrats for Europe (ALDE) Party convening virtually on 11-12 June 2021:

Takes note of:

- the decision of the ruling African National Congress (ANC) that expropriation of land without compensation should be a “key mechanism available to government to give effect to land reform and redistribution”;
- the Eighteenth Constitution Amendment Bill, which seeks to amend section 25 of the Constitution, and will allow the government to expropriate property for little or no compensation.

Acknowledges:

- property rights is a highly sensitive political issue in South Africa and other countries which are suffering from their post-colonial legacies, which requires serious, thorough and inclusive political debate;
- that property rights have been a core pillar of South Africa’s constitutional democracy since the adoption of the country’s constitution in 1996 and are a cornerstone of liberal democracy;
- evidence of corruption by officials, diversion of the land reform budget to the political elite (widely known as state capture), a lack of political will, and a lack of training and capacity as more serious stumbling blocks than the need to pay compensation, all factors that the government has control over without need for constitutional amendments;
- that South Africa has a history of apartheid and injustice in which a tiny white minority expropriated land from the majority black population. There has been a lasting impact from the 1913 Native Lands Act, which limited black ownership to just 7% of the land, and there are tens of thousands of claimants who are into their third decade of waiting for the rightful return of land that was stolen.

Regrets:

- that property rights in South Africa have come under severe threat from two Parliamentary processes, which if successful, will fundamentally undermine confidence in South Africa’s ability to respect private property ownership rights, threaten international investment, and pose a real danger to economic stability in South Africa and the region;

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- that the clauses on property, public purpose, and public interest are not sufficiently defined in the Bill, which could lead to potential exploitation of the provisions of the Act by officials and politicians.

Calls on:

- the South African government to withdraw the amendment to section 25 of the South African Constitution as presented in the Eighteenth Constitution Amendment Bill and the draft Expropriation Bill;
- political groups in the European Parliament to engage in dialogue with their political partners in South Africa to assist in finding an inclusive and just solution for this pressing issue.

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