

Portfolio Committee gives Nedlac time to consider the ULTRA Bill

Section 2(1) of the Upgrading of Land Tenure Rights Act (ULTRA) was declared unconstitutional in 2017 in the case of *Rahube v Rahube*. Section 2(1) made provision for land tenure rights contained in apartheid era land registers to be automatically converted to ownership. Whilst the purpose was to cater for land tenure security, the opposite was often true as the females were often excluded from registration as the owner in these apartheid era registers. By automatically upgrading the registered holder of the right, the Act inadvertently perpetuated apartheid era gender discrimination as there was no process to challenge whether the correct person received ownership via the Act. As such, the Constitutional Court gave Parliament the opportunity to rectify the situation and amend the Bill.

An amended Bill has been drafted by the Department but due to the fact that the Constitutional Court placed a time limit on re-enacting the Bill, it was submitted to Parliament and Nedlac at the same time. This poses a challenge as the Department would have no standing to amend the Bill once it has been submitted to Parliament, thereby negating the value of the Nedlac process. This challenge is not unique to this Bill and something which urgently needs to be addressed. Fortunately, following a written request by the Nedlac, the Portfolio Committee has agreed to stall their process for 1 months' time so as to allow Nedlac the opportunity to complete its work.

This is a welcome development as serious questions remain regarding the procedure set out in the Bill as well as the Minister's discretion in deciding whose rights receive preference in the event of a dispute. Agbiz is currently part of the Business delegation working with the Bill.

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