ISIHLOMELO A

ULWAZI EKUJONGWA KULO EKUHLOLWENI KWAKHONA KWENDLELA YOBULINGISA KULWAPHULO-MTHETHO YOMZANTSI AFRIKA

1. INTSHAYELELO

Isigqibo saye sathathwa ngexa lee-Lekgotlas zeKhabhinethi, ngoJulayi 2003 nango-2004, sokuphengulula iNdlela yobuLungisa kulwaPhulo-mThetho yoMzantsi Afrika. Olu xwebhu luqulethe iinjongo ezindululwayo, ulwazi ekujongwa kulo kunye neminye imiba ebalulekileyo enxulumene nokuhlola kwakhona okunjalo, equlunqwe ngokungqinelana namagqabantshintshi awenziwa kwi-Lekgotla yeKhabhinethi kaJulayi 2004 kunye namagqabantshintshi kaMongameli Thabo Mbeki, kwintlanganiso ye-JCPS yomhla we-12 Agasti 2004.

2. IINJONGO ZOKUHLOLWA KWAKHONA

Iinjongo zokuHlolwa kwaKhona kweNdlela yobuLungisa kulwaPhulo-mThetho kuku -

- Chonga imimandla yempucuko kwindlela yobulungisa kulwaphulo-mthetho, kuqukwa amashishini, ngokunjalo notshintsho lokumelwa kunye nemiba yokwenza ibe yeyala maxesha, indlela yobulungisa kulwaphulo-mthetho, efuna ingqwalasela;
- Nika iseti ebanzi yezincomo ezinokuthathelwa ingqalelo kwaye ziphunyezwe nguRhulumente ukuze aphuhlise eyona ndlela yobulungisa kulwaphulo-mthetho eyonele ngokungaphaya, esebenzayo kwaye eyoneleyo;
- Phuhlisa imodeli efanelekileyo okanye inkqubo-sikhokelo yokulinganisa nokulandela ukusebenza kwendlela yobulungisa kulwaphulo-mthetho, kuqukwa nemodeli yokuqokelelwa kwedata efanelekileyo nequka konke ukuze ibonise ngokungaphaya ngenzululwazi indlela yobulungisa kulwaphulo-mthetho ngokuphelela kwayo kunye

- Nokunika abenzi migaqo-nkqubo ulwazi olufunekayo ukuze kuhlolwe ukusebenza kwale ndlela yobulungisa kulwaphulo-mthetho ikhoyo ngoku eMzantsi Afrika ngokwesiseko senzululwazi esingaphaya.

3. ISIKOWUPU KUNYE NOLWAZI EKUJONGWA KULO EKUHLOLWENI KWAKHONA

Ukuhlolwa kwakhona kufuneka kube ngendlela ebanzi, ehlanganisiweyo nepheleleyo kodwa enokwenzeka, ethathela ingqalelo iimpembelelo, ukusebenza, ukwanela, ukufaneleka kunye noqoqosho lwendlela yobulungisa kulwaphulo-mthetho, ngongqinisiso olukhethekileyo kuhlahlo lwabiwo-mali lwangoku, iinkqubo, izenzo kunye nemithetho elawula indlela yobulungisa kulwaphulo-mthetho, kuqukwa neempembelelo zeenkqubo ezilandelweyo, ukwakhiwa kombutho kunye nezenzo zolawulo lwendlela yobulungisa kulwaphulo-mthetho kunye nolungelelwaniso nentsebenziswano phakathi kunye nakubadlali ndima bendlela yobulungisa kulwaphulo-mthetho, kwaye kufuneka luquke le miba ikhethekileyo ilandelayo –

- Ukuhlolwa kwakhona kwemithetho esele ikhona, izenzo kunye neenkqubo ezisetyenziswayo kuyo yonke imigangatho yendlela yobulungisa kulwaphulo-mthetho;
- Ukuhlolwa kwakhona kohlahlo lwabiwo-mali osele lukhona, abantu kunye neminye imithombo esetyenziswa kwiinkqubo zobulungisa kulwaphulo-mthetho, kuqukwa iindima kunye neemfanelo zabadlali ndima abohlukeneyo kunye nobudlelwane phakathi kwabadlali ndima abohlukeneyo;
- Ukuhlolwa kwakhona kwezenzo kunye neenkqubo zangoku ezinxulumene nolungelelwaniso kunye nentsebenziswano kwicandelo xa lilonke lezobulungisa kulwaphulo-mthetho, ingakumbi phakathi kwamaSebe, kuquka nokusetyenziswa kobuchwepheshe beekhompyutha kunye neendlela ezinxulumene nokuqokelelwa kwedata;
- Ukuhlolwa kwakhona kwezenzo kunye neenkqubo zangoku ezinxulumene nolawulo lwamatyala, kuqukwa nendima

yobuchwepheshe beekhompyutha kunye neendlela ezinxulumene nokuqokelelwa kwedata;

- Ukuhlolwa kwakhona kokusetyenziswa kwezenzo kunye nemithetho yobungqina kunye nenkqubo yolwaphulo-mthetho, kunye nendima yalo kunye neempembelelo ekugqityweni kwamatyala olwaphulo-mthetho;
- Ukuhlolwa kwakhona kwezenzo kunye nemithetho yangoku yebheyile kunye neyokugweba; kunye
- Nokuhlolwa kwakhona kokugcwala ngokugqithisileyo ezintolongweni kunye nonoobangela boko ngaphaya koko, kuqukwa neempembelelo zezenzo kunye nemithetho yeebheyile kunye nokugwetywa, kunye namabanjwa asalindele ukugwetywa, ekugcwaliseni ngokugqithisileyo kweentolongo,

Ngombono woku –

- Chonga iintsilelo kunye neengxaki ekusetyenziswe kwezenzo kunye neenkqubo esele zikhona kwindlela yobulungisa kulwaphulo-mthetho;
- Chonga iintsilelo kunye neengxaki ezinxulumene nohlahlo-lwabiwo-mali, abantu kunye neminye imithombo kwindlela yobulungisa kulwaphulo-mthetho;
- Chonga iintsilelo kunye neengxaki ezinxulumene ngolungelelaniso nentsebenziswano kwindlela yobulungisa kulwaphulo-mthetho, ingakumbi phakathi kwamaSebe, kuqukwa nemiba ejikeleze ukuqokelelwa kwedata kunye neendlela zekhompyutha kwindlela yobulungisa kulwaphulo-mthetho;
- Chonga iintsilelo kunye neengxaki ezinxulumene nokuphathwa kwamatyala kwindlela yobulungisa kulwaphulo-mthetho, kuquka neendlela ezinxulumene nokuqokelelwa kwedata kunye kobuchwepheshe beekhomputha kwindlela yobulungisa kulwaphulo-mthetho;
- Chonga iintsilelo kunye neengxaki ekusetyenzisweni komthetho wobungqina kunye nenkqubo yomthetho kwinkqubo yendlela yobulungisa kulwaphulo-mthetho; kunye

- Chonga iintsilelo kunye neengxaki ezinxulumene namabanjwa alindele ukugwetywa kunye nokugcwala ngokugqithisileyo kweentolongo kwindlela yobulungisa kulwaphulo-mthetho,

Kunye nokwenza izincomo –

- Iinguqu okanye utshintsho ekufuneka lwenziwe kwizenzo kunye nakwiinkqubo ngokugqitywa kokudluliswa ngokwaneleyo nangokungabizi kakhulu kwamatyala olwaphulo-mthetho;
- Iinguqu okanye utshintsho ekufuneka lwenziwe ngokunxulumene nohlahlo-lwabiwo-mali, abantu kunye neminye imithombo ukuphucula ukwanela kunye nokusebenza kwendlela yobulungisa kulwaphulo-mthetho;
- Iinguqu okanye utshintsho ngokunxulumene nolungelelwaniso nentsebenziswano phakathi kwabadlali ndima abohlukeneyo ukuphucula ukwanela nokusebenza kwendlela yobulungisa kulwaphulo-mthetho, kuquka nokusekwa kwemodeli yokuqokelelwa kwedata equka konke ukuze ibonakalise ngokwenzululwazi ngokungaphaya indlela yobulungisa kulwaphulo-mthetho ngokweendlela zekhompyutha ngokuphela kwazo kunye nangokona kufaneleka, ukuhlanganiswa kunye nemodeli equka konke;
- Iinguqu okanye utshintsho ekufuneka lwenziwe ngokunxulumene nolawulo lwamatyala ukuphucula ukwanela kunye nokusebenza kwendlela yobulungisa kulwaphulo-mthetho; kunye
- Neenguqu okanye utshintsho ekufuneka lwenziwe ngokunxulumene nezenzo kunye nemithetho yobungqina kunye nenkqubo yolwaphulo-mthetho, ibheyile kunye nezenzo zokugweba kunye nemithetho, amabanjwa asalindele ukugwetywa kunye nokugcwala ngokugqithisileyo kweentolongo ukuphucula ukwanela nokusebenza kwendlela yobulungisa kulwaphulo-mthetho.

4. AMANQAKWANA OKUHLOLWA KWAKHONA

Ekuqhubeni kokuhlolwa kwakhona, la manqakwana alandelayo kufuneka afezekiswe:

- IQela lokuHlola kwaKhona kufuneka lilungelelanise imisebenzi yeQela loPhando, omabini enabameli abasuka kubadlali ndima bokuqala nabanganeno, elesibini liquka abaphandi abathembekileyo;
- Ingxelo ebhaliweyo yokuhlola kwakhona equka:
    - Indlela yokwenza kunye nemisebenzi;
    - Izinto ezifunyanisiweyo kwebekuphandwa ngako kunye neziphelo; kunye
    - Neziphelo;
- Intetho eshwankathela ingxelo;
- Intlanganiso yeengxoxo apho iziphumo zokuhlola kwakhona zinokuthiwa thaca khona kwiKhabhinethi;
- Imodeli yokujonga nokuhlola ukusebenza, ukwanela, ukufaneleka kunye noqoqosho lwendlela yobulungisa kulwaphulo-mthetho, kuqukwa nekhadi lamanqaku kunye nenkqubo yokuhlolwa kwakhona kwekota nolonyaka lwendlela yobulungisa kulwaphulo-mthetho, kunye nemodeli yokuqokelelwa kwedata equka konke kunye nemodeli yeendlela zemixokelelwano yekhompyutha; kwaye
- Ukuba kukho imfuneko, inkomfa yokuhlanganisa nokudibana nabathelelani abangundoqo kwindlela yobulungisa kulwaphulo-mthetho, kuqukwa nabameli abavela kumasebe karhulumente, kwizifundiswa kunye nakuluntu.

5. INDLELA ESETYENZISWAYO YOKUHLOLA KWAKHONA

5.1 Izigaba

Ukuhlolwa kwakhona kufuneka kuqhutywe ngezi zigaba zilandelayo:

- Ulungiselelo kunye nesicelo senkxaso;
- Ukuphuhliswa kwemodeli;

- Ukuhlolwa kwakhona; kunye
- Nokunikwa kwengxelo.

5.2 Ukwakhiwa

Ukuhlolwa kwakhona kufuneka kusebenzise le mibutho ilandelayo:

- Iqela lokuHlola kwaKhona lobuLungisa kulwaPhulo-mThetho (iQela lokuHlola kwakhona); kunye
- IQela loLawulo kubuLungisa bolwaPhulo-mThetho kunye neSicwangciso soPhando (iQela loPhando).

5.2.1 IQela lokuHlola kwaKhona lobuLungisa kuLwaphulo-mThetho

IQela lokuHlola kwaKhona liya kuba ngumongo wesikhokelo esiqhubayo sezopolitiko ekuHlolweni kwaKhona.

Iinjongo:

- Ukufumana inkxaso yokuhlolwa kwakhona;
- Ukuhlola, ukongamela kunye nokulawula inkqubo yophando yeQela loPhando;
- Ukunika ingxelo ngenkqubela yokuhlolwa kwakhona; kunye
- Nokuqinisekisa ukukhutshwa kweziphumo zokugqibela ziye kubo bonke abathelelani.

Ukwakhiwa:

Ummeli omnye wesebe okanye umbutho ngamnye kule ilandelayo:

- ISebe lezobuLungisa noPhuhliso loMgaqo-siseko;
- INkonzo yamaPolisa oMzantsi Afrika;
- ISebe leeNkonzo zoLuleko;
- ISebe leeNkonzo zeNtlalo;

- ISebe lezobuLungisa noPhuhliso loMgaqo-siseko;
- IGunya-baNtu lezoTshutshiso; kunye
- noNondyebo

UMphathiswa weSebe lezobuLungisa noPhuhliso loMgaqo-siseko uyakusebenza njengoSihlalo weQela loPhando.

5.2.2 IQela loLawulo kubuLungisa bolwaPhulo-mThetho kunye neSicwangciso soPhando

IQela loPhando liya kuba ngumongo womsebenzi wophando ekufuneka wenziwe.

Iinjongo:

Kwiipharamitha zezi njongo zingasentla kunye nolwazi ekujongwa kulo lokuHlolwa kwaKhona kweNdlela yobuLungisa kulwaPhulo-mThetho:

- Ukuhlola kwakhona iinkqubo-zikhokelo zomthetho, izenzo, iinkqubo, uhlahlo lwabiwo-mali kunye nemithombo kwindlela yobulungisa yolwaphulo-mthetho;
- Ukuphengulula izenzo, iinkqubo kunye nolawulo kulungelelwaniso nentsebenziswano kwindlela yobulungisa kulwaphulo-mthetho xa lulonke;
- Ukuqhuba uphando oluyimfuneko lokuqala nolunganeno;
- Ukwenza ingxelo ngokuhlola kwakhona xa kuceliwe ukuba kwenziwe oko; kunye

Nokwenza izincomo zokuphuculwa kokwanela, ukusebenza, ukufaneleka kunye noqoqosho lwendlela yobulungisa kulwaphulo-mthetho, ukuvelisa onke la manqakwana akhankanywe ngasentla.

Ukwakhiwa:

Iqela kufuneka libe no:

Mmeli ovela kwisebe okanye kumbutho ngamnye karhulumente elandelayo:

- ISebe lezobuLungisa noPhuhliso loMgaqo-siseko;
- IGunya-baNtu lezoTshutshiso;
- IJaji okanye uMantyi owonyulwe yiJaji eNkulu (Chief Justice) emva kokudibana noMphathiswa wezobuLungisa noPhuhliso loMgaqo-siseko;
- INkonzo yamaPolisa oMzantsi Afrika;
- ISebe leeNkonzo zoLuleko;
- EzoBalo zoMzantsi Afrika (Statistics South Africa);
- IBhodi yezoNcedo ngomThetho (Legal Aid Board); kunye

Neqela labaphandi abathembekileyo, kuqukwa nabavela kwiKomishini yoTshintsho yomThetho yaseMzantsi Afrika.

UMlawuli-Jikelele weSebe lezobuLungisa noPhuhliso loMgaqo-siseko uyakusebenza njengoSihlalo weQela loPhando.

ISebe lezolawulo kufuneka lisekwe ukuze linike inkxaso kumaQela oPhando kunye nawokuHlola kwaKhona. Isebe lezolawulo kufuneka ime kwi-Ofisi yeSebe lezobuLungisa noPhuhliso loMgaqo-siseko.

6. IIMFUNEKO ZEMITHOMBO YOKUHLOLA KWAKHONA

6.1 Amaxesha amiselweyo

Ingxelo yokugqibela kufuneka isiwe kuMongameli, kunyaka ukusukela kumhla wokuqala, neengxelo zexeshana, xa ziceliwe.

6.2 UHlahlo lwabiwo-mali

Kucingelwa ukuba uhlahlo lwabiwo-mali okungenani le-R10m luyakufuneka, oluya kunikwa nguNondyebo.