

**Constitutional Litigation Unit**

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PBO No. 930003292  
NPO No. 023-004



Our Ref: MKekana17/12/13IR  
Your Ref:

13 December 2017

**For the Attention of:**

**Adv Pansy Tlakula, Chairperson of the Information Regulator of South Africa**

SALU Building,  
316 Thabo Sehume Street,  
Pretoria  
*Per email:* [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za)

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**ACCESS TO INFORMATION REQUESTS REGARDING INTERNATIONAL INTELLIGENCE SHARING AGREEMENTS**

Dear Adv Tlakula,

1. I am writing in the course and scope of my work at the Legal Resources Centre, regarding an access to information request lodged with both the Department of Justice and Constitutional Development and the State Security Agency on 13 June 2017.
2. The records requested in the above-mentioned request relate to the following:
  - 2.1 All agreements, memoranda of understanding and/or other arrangements with foreign countries concerning the sharing between South Africa and/or its agencies and any other country and/or its agencies of information and intelligence.
  - 2.2 All policies, guidelines, opinions, reports and memoranda concerning:
    - 2.2.1 The circumstances in which South Africa may share information and intelligence with another country and/or its agencies.
    - 2.2.2 Any limitations on the sharing of information and intelligence with other countries and/or its agencies.
    - 2.2.3 The circumstances in which South Africa and/or its agencies may request or otherwise acquire from another country and/or its agencies information and intelligence.
    - 2.2.4 Any limitations on the acquisition (whether by request or otherwise) of information and intelligence from another country and/or its agencies.

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National Office:  
Cape Town:  
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Constitutional Litigation Unit:

J Love (National Director), T Wegerif (Deputy National Director), K Reinecke (Director: Finance), EJ Broster  
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N Fakir (Director), AF Ashton, ZP Khumalo, KS Kropman, LJD Limacher, APN Mehlo, SP Mkhize  
SG Magardie (Director), MJ Bishop, G Bizos SC, C du Toit, NMR Kekana, LK Siyo, ER Webber, WC Wicomb

- 2.2.5 Any limitations on South Africa's retention, use, or dissemination of information and intelligence requested or otherwise acquired from another country and/or its agencies, including the use of such data or data derived from it in civil, criminal, administrative, or other proceedings.
- 2.2.6 The circumstances, if any, in which South Africa and/or its agencies may request or otherwise acquire information and intelligence from another country.
- 2.3 Any request for any order or direction sought in terms of the Regulation of Interception of Communications and Provision of Communication- Related Information Act 70 of 2002, including but not limited to section 16 thereof, relating to the LRC and/or any of its members, and any order or direction obtained in terms thereof.
3. The request is currently at the internal appeal stage, with an internal appeal having been lodged with the State Security Agency on 6 December 2017. This follows after the Department of Justice and Constitutional Development transferred it to the Department of International Relations and Cooperation, which in turn transferred the request to the State Security Agency.
4. Noting that non-responsiveness to Promotion of Access to Information requests is endemic in government, that transfers of requests are an increasingly common trend, and that refusals based on the grounds contained in section 41 of PAIA are broad and relatively untested, we make the following request of your office:
- 4.1 To engage with the State Security Agency regarding the scope of the grounds in section 41 of PAIA towards ensuring an appropriate balance between the right to access publically held information and national security; and
- 4.2 To encourage the State Security Agency to respond to the internal appeal lodged by the Legal Resources Centre on 6 December 2017.
5. The LRC would appreciate an opportunity to engage with yourself on these issues in person.

Yours faithfully,



**Mosima Kekana**  
**Legal Resources Centre**