

## **DEMOCRATIC PARTY (DP)**

23 OCTOBER 1995

### **DP SUBMISSION ON ACCESS TO AND PROCEDURES OF THE CONSTITUTIONAL COURT**

In terms of the decision of the Constitutional Committee as its meeting on 19 and 20 October 1995, I submit the attached submission based on work of Theme Committee 5. I'd be grateful if you would ensure that this submission is transmitted to the appropriate task group/drafting committee.

Colin Eglin

#### **ACCESS TO AND PROCEDURES OF THE CONSTITUTIONAL COURT**

- (1) A matter within its jurisdiction may be brought before the Constitutional Court
  - (a) by way of an appeal from the Supreme Court of Appeal with leave of that court or with special leave of the President of the Constitutional Court;
  - (b) by way of direct appeal from any other court presided over by a judge only with special leave of the President of the Constitutional Court;
  - (c) by way of direct access where it is within the exclusive jurisdiction of the Constitutional Court or where the interests of justice so require but only with special leave of the President of the Constitutional Court;
  - (d) at the request of the Speaker of the National Assembly, the President of the Senate, or the Speaker of a provincial legislature acting on the request of not less than 20% of each of the Assembly or Senate, or legislature, as the case may be, or all the members of all parties not constituting the majority party in such body, and with the special leave of the President of the Constitutional Court.
- (2) The granting to special leave to appeal and direct access to the Constitutional Court shall be regulated by a national law or the rules of that Court.