

**Isikhokelo Malunga  
Nokusetyenziswa  
Komthetho  
Wokuphuculwa  
Kokufikelela  
Kwiinkcukacha Ka-  
2000**

**ISIXHOSA**

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# **linkcukacha zoQhagamshelwano zeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika**

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# Indlela yokusebenzisa esi siKhokelo se-PAIA

## ICandelo 1

Intshayelelo yeSikhokelo se-PAIA

## ICandelo 2

Uqalisa ngaphi ukufumana iinkcukacha ozifunayo

## ICandelo 3

Usenza njani isicelo sokufikelela kwiinkcukacha

## Icandelo 4

UkuFikelela kwiiNkcukacha kuNgalelwa Nini

## Icandelo 5

Izalathiso ezingundoqo kunye nabanye oovimba ekunokufunyanwa iinkcukacha kubo

AMAGAMA ALUNCEDO .....	6
ULUHLU LWEZIFINYEZO .....	8
ICANDELO 1 .....	9
1.1. Injongo yesi Sikhokelo se-PAIA .....	10
1.2. Imvelaphi ye-PAIA .....	10
1.3. Injongo ye-PAIA nendlela enokusetyenziswa ngayo .....	10
1.4. Indima yeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika .....	11
ICANDELO 2 .....	12
2.1 Ukuqalisa .....	13
2.2. Isikhokelo se-PAIA .....	13
2.3 Imiqulu ye-PAIA .....	14
2.4 Iinkcukacha ezifumaneka lula ezikulawulo lwamaqumrhu karhulumente .....	18
2.5 Iinkcukacha ezifumaneka lula ezikulawulo lweenkampani okanye lwamaqumrhu abucala .....	19

<b>ICANDELO 3.....</b>	<b>20</b>
3. Ndingasifaka njani isicelo se-PAIA?.....	21
3.1 Ngubani ongafaka isicelo se-PAIA?.....	21
3.2 Zithini iindleko zokwenziwa kwesicelo se-PAIA?.....	23
3.3 Ingaba iGosa lezeenkukacha lingandanceda ekwenzeni isicelo se-PAIA?.....	25
3.4 Ngawaphi amanyathelo asemthethweni endinokuwenza xa sikhatywe isicelo sam se-PAIA.....	27
<b>ICANDELO 4.....</b>	<b>31</b>
4.1. UkuFikelela kwinkukacha kuNgalelwa Nini.....	32
4.2. Izizathu eziNyanzekileyo xa zithelekiswa nezo zinokungalelwa malunga nokwalelwa ukufikelela kwinkukacha.....	32
4.3. Izizathu zokwalelwa ukufikelela kwinkukacha.....	33
4.4. Ukungananzwa koMda woLuntu.....	36
<b>ICANDELO 5.....</b>	<b>37</b>
5.1. Oovimba ekuthathelwe kubo.....	38
5.2. Imigaqo ye-PAIA.....	38
5.3. Izilungiso ze-PAIA.....	39
5.4. Izilungiso kwiMigaqo ye-PAIA.....	39
5.5. Ezinye izixhobo eziluncedo ze-PAIA.....	39

# Amagama aluncedo

## IMIQATHANGO

## INGCACISO

Imali yokufikelela

Le yimali ehlawulwayo ngulowo ufaka isicelo kwiqumrhu likarhulumente okanye elabucala elo afuna iinkcukacha kulo, ukuze lihlawulele iindleko zokufumana kunye nokushicilela iirekhodi ezo azifunayo.

*(Ukuze ufumane iinkcukacha ezithe vetshe malunga nemali yokufikelela bona iCandelo 3 lesi Sikhokelo).*

IFomu A

Ifumaneka kwiwebhusayithi yeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika, kunye nakwezinye iwebhusayithi ezahlukahlukeneyo zamanye amaziko. Le fomu isetyenziselwa ukufaka isicelo sokufikelela kwiinkcukacha ezikulawulo lwequmrhu likarhulumente.

*(Ukuze ufumane iinkcukacha ezithe vetshe malunga neFomu A kunye nezicelo zokufikelela kwiinkcukacha zamaqumrhu karhulumente bona iCandelo 3 lesi Sikhokelo).*

IFomu C

Ikwafumaneka nasemaphethelweni oMthetho we-PAIA, kwiwebhusayithi yeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika, kunye nezinye iwebhusayithi ezahlukahlukeneyo zamanye amaziko. Le fomu isetyenziselwa ukufaka isicelo sokufikelela kwiinkcukacha ezikulawulo lwequmrhu labucala.

*(Ukuze ufumane iinkcukacha ezithe vetshe malunga neFomu C kunye nezicelo zokufikelela kwiinkcukacha zamaqumrhu abucala bona iCandelo 3 lesi Sikhokelo).*

ISikhokelo

Sibhekiselela kwesi Sikhokelo se-PAIA esiqulunqwe saze sashicilelwa yiKomishoni yaMalungelo oLuntu yaseMzantsi Afrika njengoko kubonelelwe kwiCandelo 10 le-PAIA ukuze sancede abantu malunga nokusebenzisa kunye nokuqonda lo Mthetho.

IGosa lezeeNkcukacha kunye neSekela Gosa lezeeNkcukacha

IGosa lezeeNkcukacha (elikwabizwa ngokuba yi-IO) ngumntu ogunyaziswe liziko elo lichaphazelekayo ukuba ajongane nezicelo ze-PAIA. Malunga nequmrhu likarhulumente, lo ngumntu oyintloko okanye osebenza njengentloko yequmrhu. Kumasipala, lo iba ngumanejala ngumanejala kamasipala; kwisebe likarhulumente lesizwe iba nguMlawuli Jikelele; kwiqumrhu elifana neKomishoni yaMalungelo oLuntu yaseMzantsi Afrika iba nguMlawuli oyiNtloko, gxebe i-CEO.

ISekela Gosa lezeeNkcukacha (elikwabizwa ngokuba yi-DIO) ngumntu owonyulwe liGosa lezeeNkcukacha leziko elo lichaphazelekayo ukuba ancedise lowo ufaka isicelo ngokuphathelele kwisicelo sakhe seenkcukacha. I-PAIA ayiboneleli ngokonyulwa kweSekela Gosa lezeeNkcukacha kumaqumrhu abucala; kodwa iKomishoni yaMalungelo oLuntu yaseMzantsi Afrika icebisa ukuba kwenziwe njalo ukuze kuqinisekiswa ngokusebenza kakuhle kunye nokulungela ukunceda.

*(Ukuze ufumane iinkcukacha ezithe vetshe malunga nendima yamaGosa lezeeNkcukacha bona iCandelo 3 lesi Sikhokelo).*

Isibheno sangaPhakathi	<p>Abafaki-zicelo baza kusebenzisa iFomu B ye-PAIA xa befaka isibheno kuphela ngakwisigqibo esenziwe ngamagatya karhulumente - elesizwe, elephondo okanye elikamasipala - ngokuphathelele kufikelelo kwiinkcukacha.</p> <p><i>(Ukuze ufumane iinkcukacha ezithe vetshe malunga nezibheno zangaphakathi bona iCandelo 3 lesi Sikhokelo).</i></p>
Umntu onegunya ngokusemthethweni	Inkampani okanye iqumrhu elithathwa njengelona qumrhu okanye njengoyena 'mntu' unamalungelo noxanduva ngokusemthethweni.
UMphathiswa	Xa kuthethwa ngoMphathiswa kuthethwa ngoMphathiswa weSebe lezoBulungisa neeNkonzo zoLuleko.
Umntu ophilayo	Ngumntu ongenguye owomthetho okanye onamagunya ngokusemthethweni njengequmrhu (bona 'umntu onegunya ngokusemthethweni' apha ngasentla).
Iqumrhu labucala	(Likwathathwa ngokuba yinkampani, liziko okanye liqumrhu labucala), lo ngumntu ophilayo okanye onegunya ngokusemthethweni okanye onobudlelane ngokoshishino obandakanyeka okanye obebandakanyeke kulo naluphi na urhwebo, ushishino okanye ubungcali kwaye ngokwesosikhundla nje kuphela.
Iqumrhu likarhulumente	(Likwathathwa ngokuba liziko, lisebe okanye liqumrhu likarhulumente), eli lisebe okanye iziko likarhulumente wesizwe, owephondo okanye okamasipala. Likwaquka naliphi na iziko elithwele umsebenzi noxanduva lombuso ngexesha ebekuqulunqwa ngalo ezi rekhodi kubhekiswa kuzo.
Iirekhodi	Naziphi na iinkcukacha ezirekhodiweyo kungakhathaliseki ukuba zikwesiphi na isimo, kuquka, umzekelo, amaxwebhu abhaliweyo, iividiyo, njalo njalo. Iirekhodi ezifunwayo kwiqumrhu likarhulumente okanye elabucala iza kuba zirekhodi ezikulawulo lwelo qumrhu kungakhathaliseki ukuba lelo qumrhu kusini na eliziqulunqileyo ezo rekhodi.
Imali yesicelo	<p>Imali ekumele ihlawulwe malunga nokwenza isicelo sokufikelela kwiinkcukacha. Malunga nesicelo seenkcukacha kwiqumrhu likarhulumente, kukho imali emisiweyo engama-R35 ehlawulwayo; malunga nesicelo seenkcukacha kwiqumrhu labucala, kukho imali emisiweyo engama-R50 ehlawulwayo.</p> <p><i>(Ukuze ufumane iinkcukacha ezithe vetshe malunga nemali yesicelo kunye nokwaphulelwa bona iCandelo 3 lesi Sikhokelo).</i></p>
Umenzi sicelo	Umenzi sicelo nguye nawuphi na umntu okanye umntu onamagunya ngokusemthethweni owenza isicelo sokufikelela kwiinkcukacha. Umenzi sicelo ukwabhekiselela kumntu owenza isicelo seenkcukacha egameni lomnye umntu.
Iqela / umngeneleli wesithathu	Oku kubhekiselela kuye nawuphi na umntu okanye umntu onamagunya ngokusemthethweni ongenguye umenzi sicelo, kube kungelilo nequmrhu elo ekufakwa kulo isicelo seenkcukacha.

## Uluhlu lwezifinyezo

Ezi zifinyezo zilandelayo zifumaneka kwesi Sikhokelo nakwezinye izixhobo eziluncedo ze-PAIA ezidla ngokusetyenziswa

**DIO**

ISekela Gosa lezeeNkcukacha

**IO**

IGosa lezeeNkcukacha

**ODAC**

IZiko lezeeNgcebiso ngeDemokhrasi eSebenza ngokuseLubala

**PAIA**

UMthetho wokuPhuculwa koKufikelela kwiiNkcukacha ka-2000

**PPIA**

UMthetho woKhuselo lweeNkcukacha zokoBuqu No.4 ka-2013

**SAHA**

uVimba weMbali woMzantsi Afrika

**I-SAARC**

IKomishoni yaMalungelo oLuntu yaseMzantsi Afrika

# ICANDELO 1

## Intshayelelo

Eli candelo liquka:

- 1.1 Injongo yesi Sikhokelo se-PAIA
- 1.2 IMvelaphi ye-PAIA
- 1.3 Injongo ye-PAIA kunye nendlela engasetyenziswa ngayo
- 1.4 Indima yeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika

## 1.1. Injongo yesi Sikhokelo se-PAIA

Esi SikhokelosibonelelangoMthethowokuPhuculwakoKufikelelakwiiNkcukacha(i-PAIA) No.2 ka-2000. Esi Sikhokelo se-PAIA siza kuncedisa ekwenziweni kwezicelo zeenkukacha phantsi kwalo Mthetho, size sibonelele ngemizekelo malunga nendlela lo Mthetho obusetyenziswa ngayo kwixa elingaphambili ekuphuculweni kwamalungelo oluntu ngokuthi ubonelele:

- » Ngesishwankathelo se-PAIA ekulula ukusiqonda
- » Ngohlalo lwendlela i-PAIA enokusetyenziswa ngayo ekuphuculeni amalungelo oluntu
- » Ngoluhlu lweendidi zeenkukacha ezinokufunwa kusetyenziswa i-PAIA
- » Ngesikhokelelo esibonisa ngokwenyathelo nenyathelo ukuba ungayisebenzisa njani na i-PAIA ekwenzeni isicelo seenkcukacha
- » Ngesishwankathelo sezinto ezibesisifundo esifunyenwe kwizicelo zeenkukacha ebezifakwe kwixa elidlulileyo kunye namatyala e-PAIA asenkundleni

## 1.2. Imvelaphi ye-PAIA

Xa kwakuqulunqwa uMgaqo-siseko waseMzantsi Afrika emva kokubhidlizwa kombuso wengcinezelo ngeminyaka yowee-1990, imibutho ngemibutho kunye nabantu bagayela ukuqukwa kwelungelo lokufikelela kwiinkcukacha. Kwakukho ithemba lokuba oku kuqukwa kweli lungelo kuMqulu waMalungelo - iSahluko 2 soMgaqo-siseko - kuza kuqinisekisa ukuba inkohlakalo efana neyoMbuso wengcinezelo ayisokuze iphinde yenzeke kwakhona nanjengoko umbuso kunye nemibutho yabucala iza kunyanzeleka ukuba iziphathe ngendlela eselubala nehlonela uxanduva lokunika iimpendulo ngokuthi babonelele ngofikelelo kwiinkcukacha, kwaye ngenxa yoko abasayi kuba nalo issebe lemfihlo abaza kusithela ngalo nelalingunobangela wokubakho kweemeko ezakhokelela ekusekweni koMbuso wengcinezelo.

Ngo-1996 kwathi kwaqaliswa ukusetyenziswa koMgaqo-siseko waseMzantsi Afrika. ICandelo 32 limisele ngelungelo lokufikelela kwiinkcukacha elisebenza kumaqumrhu karhulumente kunye nawabucala. Olu ngelo xesha, yayiluxwebhu lokuqala lwezomthetho kwihlabathi olwalubonelela ngelungelo lokufikelela kwiinkcukacha ezikulawulo lwamaqumrhu karhulumente kunye nawabucala. ICandelo 32 likwathi kufuneka kusekwe umthetho oza kugunyazisa ukusetyenziswa kwelungelo lokufikelela kwiinkcukacha ngokuthi udandalazise iindlela iinkcukacha ezikulawulo lwamaqumrhu karhulumente kunye nawabucala ezinokuthi zifikeleleke ngazo, kwanangokubonelela ngeenkukacha ezithe vetshe malunga nezizathu ezinokubangela ukuba amaqumrhu karhulumente kunye nawabucala ale ukuba kufikelele kwiinkcukacha ezilawulo lwawo.

Ngo-2000, ekugqibeleni uMthetho wokuPhuculwa koKufikelela kwiinkcukacha (i-PAIA) wathi waba ngumthetho ngokwenene, wafezekisa isibonelelo seCandelo 22 soMgaqo-siseko esingokusekwa komthetho wokufikelela kwiinkcukacha.

## 1.3. Ingongo ye-PAIA nendlela enokusetyenziswa ngayo

Injongo ye-PAIA kukuphucula ilungelo lokufikelela kwiinkcukacha, ukukhuthaza ukubakho kokwenziwa kwezinto elubala kunye nokuhlonela uxanduva lokunika iimpendulo eMzantsi Afrika, kunye nokukhuthaza ukubakho kwedemokhrasi evulelekileyo apho bonke abantu baxhotyiswa ukuba bakwazi ukuzibandakanya kurhulumente kwaye bathathe inxaxheba ekuthathweni kwezigqibo eziza kuchaphazela ubomi babo.

Ilungelo lokufikelela kwiinkcukacha lilungelo elikhethekileyo nanjengoko lenza ukuba amanye amalungelo abe nokufezekiswa: le yenye yezona ndlela zibalulekileyo enokuthi i-PAIA isetyenziswe ngayo.

### Ukubonelela ngeenkonzozo zikarhulumente

- » I-PAIA isenokusetyenziselwa ukuxhobisa abantu ngeenkukacha abasenokuzisebenzisa ekwenzeni urhulumente asabele kuxanduva lwakhe lokunika iimpendulo ngokuphathelele ekunikezeleni ngeenkonzozo ezisisiseko ezifana nezindlu, amanzi kunye nogutyulo lwelindle.

### Amalungelo woluntu nawezopolitiko angokomgaqo-siseko

- » I-PAIA isenokusetyenziselwa ukuqokelela iinkcukacha abantu abanokuthi bazisebenzisele ukufezekisa amalungelo abo afana nelungelo lokuvota kunye nelungelo lokuhlalanga ngokukhululekileyo.

### Ucalucalulo kunye nokuLingana

- » I-PAIA isenokusetyenziswa njengesixhobo sothethelelo ukuze kuliwe nocalucalulo, njengocalucalulo ngokobuhlanga, ngokwesini, njalo njalo, kumaqumrhu ngamaqumrhu karhulumente nawabucala.

Kubalulekile ukuqaphela ukuba i-PAIA ayinakusetyenziselwa ukufumana iirekhodi eziza kusetyenziswa ezinkundleni zamatyala okuhlala okanye awolwaphulo-mthetho, kuquka nasemva kokuqalisa kweengxoxo ezikumila kunjalo, kwaye ukushicilelwa okanye ukufumaneka kweerekhodi kulungiselelwa imeko enjalo kukhuselwe ngumthetho (*bona iCandelo 7 lalo Mthetho*).

## 1.4. Indima yeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika

IKomishoni yaMalungelo oLuntu yaseMzantsi Afrika (SAHRC) iyagunyaziswa phantsi kwe-PAIA ukuba:

- » ququzelele ukuhlonelwa kwelungelo lokufikelela kwiinkcukacha
- » ikubeke esweni ukuphunyezwa kwe-PAIA ngamaqumrhu karhulumente nawabucala
- » Yenze iziphakamiso ukuze komelezwe lo Mthetho
- » Inike ingxeko ePalamente qho ngonyaka

### UMthetho woKhuselo lweeNkcukacha zokoBuqu

UMthetho woKhuselo lweeNkcukacha zokoBuqu 4 ka-2013(i-PPIA) ulungisa i-PAIA ngeendlela ezininzi kakhulu. Enye yezona ndlela ziphambili apho lo Mthetho uthi uyitshintshe ngayo i- PAIA iphathelelene nendima ye-SAHRC. Phantsi kwe-PPIA, umsebenzi we-SAHRC ngokuphathelele kwi-PAIA uza kugqithiselwa kuMlawuli weeNkcukacha, ekuliqumrhu elitsha elizimileyo neliza kumiselwa ngeenjongo zokubeka esweni i-PPIA kunye ne-PAIA, kwakunye nokujongana nezikhalazo eziphathelelene nokufikelela kwiinkcukacha kunye nokhuselo lweenkcukacha zokobuqu.

Nangani kunjalo, iSAHRC izakuqhubeka nembopheleleko yayo engokoMgaqo-siseko yokuphucula, ukukhusela kunye nokubeka esweni ilungelo lokufikelela kwiinkcukacha ngokufanayo nawo onke amanye amalungelo adandalaziswe kuMqulu waMalungelo.

# ICANDELO 2

## Fumana inkcazelo oyidingayo

Eli candelo liquka:

- 2.1 Indawo apho unokufumana khona izikhokelo namaxwebhu aza kukuncedisa ekwenzeni izicelo zeenkukacha
- 2.2 Abo unokuqhagamshelana nabo xa kunokwenzeka ufune uncdo
- 2.3 Amaqumrhu karhulumente nawabucala anyanzelekileyo ukuba ancedise abo bafuna iinkukacha
- 2.4 Ezinye iinkukacha ezifumaneka lula nje kungadange kufuneke ukuba kwenziwe izicelo ezisesikweni, eli candelo liza kubonelela ngesishwankathelo malunga nokuba oku ungakufumanaphi na

## 1.1 Ukuqalisa

Injongo yoMthetho we-PAIA kukukhuthaza ukuba kubekho imeko apho abantu baseMzantsi Afrika bathi bakwazi khona ukufikelela kwiinkcukacha ezinokwenza ukuba bakwazi ukusebenzisa kwanokukhusela onke amalungelo abo ngendlela esebenzayo. Kodwa ke ngamanye amaxesha ubani usenokungaqiniseki ncam malunga nendawo afanele ukuba aqale kuyo okanye malunga nokuba wenza njani na ukuze akwazi ukufikelela kwiinkcukacha ngokwendlela odandalazisa ngawo uMthetho. UMthetho uyikrobele le ngxaki waze wagunyazisa ukuba kubekho izikhokelo kunye namaxwebhu ashicilelwayo aza kunika umkhombandlela kwabo bazakube befuna iinkcukacha. Eli candelo liza kubonelela ngesishwankathelo sezi zikhokelo kunye namaxwebhu, uxanduva lwabashicileli bezi zikhokelo kunye namaxwebhu, kunye, nokukokona kubalulekileyo, ukuba bafumanekaphi na.

Ewe, esinye sezona zixhobo zinobuganga kakhulu ubani anokuthi azisebenzise ukuze akwazi ukufikelela kwiinkcukacha kukuba enze isicelo esisesikweni sokufumana iinkcukacha esenziwa ngokwemigaqo yoMthetho we-PAIA, nto leyo esi sikhokelo esiza kukuncedisa kuyo. Kodwa khumbula, eli ayikokuphela kwenyathelo onokulithatha xa ufuna iinkcukacha. Ezinye iinkcukacha ziyafumaneka nje lula ungadanga wabe wenze isicelo se-PAIA esisesikweni. Kwezinye iimeko, umthetho ufuna ukuba amaqumrhu karhulumente nawabucala azikhuphe ezinye iinkcukacha zaziwe luluntu. Eli candelo likwabonelela ngesishwankathelo sokuba ezi nkcukacha ungazifumanaphi na.

I-PAIA ulungiselelwe ukuba ube ngumthetho wokuxhobisa nowokunceda bonke abemi boMzantsi Afrika. Wenzelwe ukuba ube ngumthetho okulula ukuwuqonda nonokusetyenziswa nangubani na. Ubani akadingi gqwetha ukuze abe wenza isicelo sokufumana iinkcukacha. Esi sikhokelo sishicilelwe ngeenjongo zokuncedisa abemi boMzantsi Afrika abasuka kwiinkalo ngeenkalo ukuze bakwazi ukuwaxhamla amalungelo abo angokomgaqo-siseko.

## 2.2. Isikhokelo se-PAIA

ICandelo 10 le-PAIA lifuna ukuba iKomishoni iqulunqe ize ishicilele isikhokelo ekulula ukusiqonda esiza kuncedisa ekufumaneni iirekhodi namaxwebhu kwanokuba ubani akwazi ukulixhamla ilungelo lakhe lokufumana iinkcukacha. Isikhokelo ekubhekiswa kuso ngamanye amaxesha ngokuba 'siSikhokelo seCandelo 10'.

Sikubonelela ngazo zonke iinkcukacha ozidingayo ukuze ufikelele kuzo naziphi na iirekhodi, kumaziko agcina amaxwebhu ombuso, ndawonye neenkukacha zoqhagamshelwano zeenkampani ngeenkampani zabucala. IKomishoni ikwagunyaziswa ukuba isihlaziye esi sikhokelo qho emva kweminyaka emibini, ubuncinane.

### 2.2.1 Sifumanekaphi esi Sikhokelo

Esi sikhokelo sifumaneka ngazo zonke iilwimi ezisemthethweni zaseMzantsi Afrika: isiNgesi, isiBhulu, isiNdebele, isiXhosa, isiZulu, iSepedi, iSesotho, iSetswana, iTshivenda kunye neXitsonga. Iikopi sesi sikhokelo zingafumaneka kuzo zonke ii-ofisi zamaphondo zeKomishoni (iinkcukacha zoqhagamshelwano zee-ofisi zingafumaneka ekupheleni kwesi Sikhokelo). Ukongeza, iikopi zingafumaneka nakwiwebhusayithi yeKomishoni ([www.sahrc.gov.za](http://www.sahrc.gov.za))

## 2.3 Imiqulu ye-PAIA

Ukongeza kwiSikhokelo seCandelo 10 se-PAIA esiza kuqulunqwa yiKomishoni, i-PAIA ikwafuna ukuba onke amaqumrhu karhulumente, ndawonye namaqumrhu abucala ngobuninzi bawo, akhuphe uxwebhu oluqulethe iinkcukacha malunga nendlela enokusetyenziswa ngayo i-PAIA ukuze kufikelelwe kwiirekhodi zawo.

### 2.3.1 Imiqulu ye-PAIA elungiselelwe amaqumrhu karhulumente

ICandelo 14 le-PAIA lifuna ukuba onke amaqumrhu karhulumente ashicilele uxwebhu ngeelwimi ezintathu ezisemthethweni, ubuncinane, ezincedisayo abo bafuna iinkcukacha bakwazi ukwenza izicelo zokufumana iinkcukacha kwiqumrhu elo. Uxwebhu olo kufuneka ubuncinane luqulathe ezi nkcukacha ziluncedo zilandelayo:

IIMFUNO	INGCACISO
Ugunyaziso	Isimo kunye nemisebenzi yequmrhu likarhulumente
Iinkcukacha zoqhagamshelwano	Idilesi yeposi neyesitalato, iinombolo zefowuni nezefeksi kunye nedilesi ye-imeyile, ukuba ikho, yegosa lezeenkukacha kunye nezamasekela gosa lezeenkukacha amaqumrhu karhulumente.
Isikhokelo se-PAIA iCandelo 10	Inkcazelo yesi Sikhokelo equlunqwe yiKomishoni yaMalungelo oLuntu yaseMzantsi Afrika kunye nendlela onokufikelela ngayo kuso.
Iindidi zeerekhodi ezikhoyo	Iinkcukacha ezaneleyo zokuncedisayo ekuququzeleleni ufikelelo kwiirekhodi ezikulawulo lwequmrhu likarhulumente. Iqumrhu likarhulumente kufuneka lichaze imixholo yeerekhodi elineenkukacha zazo.
Iinkcukacha ezifumaneka lula ngaphandle kwesicelo	Ezinye iinkcukacha ziyafumaneka nje lula umntu engadange wabe wenza isicelo sokufikelela kuzo ngokwe-PAIA. Uxwebhu lwequmrhu likarhulumente kufuneka lubonise ukuba zeziphi iinkcukacha ezifumaneka ngaphandle kwesicelo.
Iinkonzo zequmrhu likarhulumente	Inkcazelo yeenkonzo ezifumanekayo kwiqumrhu likarhulumente nendlela uluntu olunokufikelela ngayo kwezo nkonzo.
Intatho-nxaxheba yoluntu	Inkcazelo yalo naliphi na ilungiselelo okanye isibonelelo kumntu sokuba enze igalelo, anikele intetha okanye athathe inxaxheba okanyeancedise ekuqulunqweni komgaqo-nkqubo; okanye ukuba negunya okanye ukwenziwa kwemisebenzi liqumrhu likarhulumente
Uncedo	Inyathelo onokulithatha ukuba igosa lezeenkukacha liyakwalela ukuba ufikelele kwiinkcukacha.

### 2.3.2 Ungayifumanaphi le miqulu elungiselelwe ukusetyenziswa ngamaqurhu karhulumente

Onke amaqurhu karhulumente kufuneka ekwenze kwaba lula ukuba ukwazi ukufikelela kumamaxwebhu awo. Kufuneka ekwenze oko, ubuncinane, ngezi ndlela zilandelayo:

- » Ngokwenza iikopi zifumaneke kwi-ofisi nganye yequrhu elo likarhulumente ngexesha lomsebenzi;
- » Ngokuthi uxwebhu olo lufumaneke kwiwebhusayithi, ukuba ikho, yequrhu likarhulumente elo Njengoko kuchaziwe apha ngasentla, uMthetho woKhuselo lweeNkcukacha zokoBuqu 4 ka-2013 (i-POPI) wenza uhlehlengiso kwi-PAIA ngeendlela ezininzi. Enye yezo ndlela iphathelele kumaxwebhu eCandelo 14 wamaqurhu karhulumente. Phantsi kwe-POPI, la maxwebhu akusafuneki ukuba angeniswe kwiKomishoni yaMalungelo oLuntu yaseMzantsi Afrika, kodwa kufuneka afumaneke kwi-inthaneti kwaye enziwe afumaneke kuye nabani na ofuna ikopi.

### 2.3.3 Imiqulu ye-PAIA elungiselelwe amaqurhu abucala

Amaqurhu abucala nawo kufuneka equlunqe uxwebhu ngokokwecandelo 51 le-PAIA. Ngokwangokunje, ayingawo onke amaqurhu abucala ekunyanzelekileyo ukuba alithobele eli candelo.<sup>1</sup> Ngoko ke usenokufumanisa ukuba eli qurhu onqwenela ukufuna kulo iinkcukacha alinalo uxwebhu elinokukunika lona. Oku akuthethi ukuba iqurhu elo alibophelekanga ngokwe-PAIA. Usenako ukwenza isicelo seenkcukacha kweli qurhu kwaye lisanyanzelekile, ngokusemthethweni, ukuba lisiqwalasele isicelo sakho. Umgao wokwenziwa kwesicelo seenkcukacha ngokwe-PAIA awukajiki, lisamile, nokuba iqurhu elo kucelwa kulo likhululwe ekuthini liqulunqe uxwebhu lweenkcukacha.

#### NGAWAPHI AMAQURHU ABUCALA ANGANYANZELEKANGA UKUBA ASHICILELE IMIQULU YEENKCUKACHA?

Indlela uMthetho obhalwe ngayo, yindlela efuna ONKE amaqurhu abucala ukuba aqulunqe amaxwebhu eenkcukacha. Nangani kunjalo, eli lungiselelo lisaxhomekeke kwisakhono soMphathiswa sokukhulula amaqurhu abucala athile ekubeni awashicilele amaxwebhu. Ngokwakalokunje, uMphathiswa uwakhulule ONKE amaqurhu abucala ekuthini aqulunqe amaxwebhu de kube ngumhla woku-1 kuJanuwari 2016 NGAPHANDLE kokuba iqurhu elo liwela kolu luhlu ludweliswe apha ngezantsi.

<sup>1</sup> Oku kwatshintsha ngomhla wama-31 kweyoMnga ka-2015 xa onke amaqurhu abucala kwakufanele ukuba abe noxwebhu ngokokwecandelo 51 le-PAIA.

Ezi nkampani zilandelayo kufuneka ziqulunqe amaxwebu e-PAIA ukuba ziqeshe abantu abangaphezu kwama-50 kula mashishini alandelayo okanye zinengeniso engaphezu kwesi sixa-mali sibaluliweyo:

USHISHINO	INGENISO NGONYAKA
Ezolimo	R2 million
Ezemigodi neeKwari	R7 million
Ezemveliso	R10 million
Ezombane, iRhasi naManzi	R10 million
Ezokwakha	R5 million
Ezeempahla kunye noSishino ngeeMoto kunye neeNkonzo zokuLungiso	R15 million
Urhwebo lwentengiso ngezxa, ii-Arhente zoShishino kunye neeNkonzo eziManyeneyo	R25 million
Ezokudla nendawo yokuhlala kunye nolunye urhwebo	R5 million
Ugcino noNxibelelwano	R10 million
Ezemali neeNkonzo zoShishino	R10 million
Iinkonzo zoLuntu, eziKhethekileyo nezokoBuqu	R5 million

UMphathiswa ukwabalule ukuba zonke iinkampani ezingachazwanga njengee-'nkampani zabucala' phantsi kwecandelo 1 loMthetho weenkampani, uMthetho nombolo 71 ka-2008, kufuneka ziqulunqe uxwebhu leCandelo 51.

### 2.3.4 Ungayifumanaphi le miqulu elungiselelwe ukusetyenziswa ngamaqurhu abucala

Onke amaqurhu abucala ekufuneka equlunqe uxwebhu kufuneka eqinisekisele ukuba uyawafumana loo maxwebhu. Ubuncinane, kufuneka ekwenze oko ngezi ndlela zilandelayo:

- » Ngokwenza ukuba ikopi ifumaneke ukuze ihlolwe kwi-ofisi nganye yelo qurhu labucala, ngexesha lomsebenzi. Iqurhu labucala lisenokungabizi mali ngokuhlola;
- » Ngokwenza ukuba uxwebhu lufumaneke kwiwebhusayithi yawo.

### 2.3.5 Indlela amaqurhu abucala ekulindeleke ukuba athobele ngayo

Kukho isikhokelo esisebenzayo samagosa ezeenkukacha eenkampani zabucala afuna ukusebenza ngokuthobela iCandelo 51 le-PAIA kwiwebhisayithi yeKomishoni yaMalungelo oLuntu yaseMzantsi Afrika ([www.sahrc.org.za](http://www.sahrc.org.za)). Oku kuquka umfuziselo onokuzikhuphelelela wona lowo onokusetyenziswa ngamagosa ezeenkukacha njengomkhombandlela

Ngokwecandelo 51, intloko yequmrhu labucala kufuneka:

- » Iluhlaziye rhoqo naluphi na utshintsho kuxwebhu olo;
- » Yenze ukuba uxwebhu lufumaneka ngokwendlela ekufunwa ngayo nguMthetho kwii-ofisi zenkampani nakwiwebhusayithi yayo;
- » Ihlomele ifomu yesicelo (iFomu C ye-PAIA) kuxwebhu ize yenze ukuba iifomu zesicelo zifumaneka kwiwebhusayithi nakuzo zonke ii-ofisi zenkampani.

Uxwebhu olo kufuneka ubuncinane luqulathe ezi nkukacha zilandelayo:

IMFUNO	INGCACISO
Iinkukacha zoqhagamshelwano	Idilesi yeposi neyesitalato, iinombolo zefowuni nezefeksi kunye nedilesi ye-imeyile, ukuba ikho, yegosa lezeenkukacha amaqumrhu lenkampani yabucala.
Iinkukacha ezifumaneka lula ngaphandle kwesicelo	Ezinye iinkukacha ziyafumaneka nje lula umntu engadange wabe wenza isicelo sokufikelela kuzo ngokwe-PAIA. Uxwebhu lwequmrhu labucala kufuneka lubonise ukuba zeziphi iinkukacha ezifumaneka ngaphandle kwesicelo.
Iirekhodi ezifumaneka ngokwenza isicelo	UXwebhu lweCandelo 51 kufuneka ludwelise iindidi zeerekhodi ezifumaneka ngokwenza isicelo kuphela.
Umgqo we-PAIA	Yenza uyilo lwemigqo ye-PAIA ekufuneka ilandelwe xa kusenziwa isicelo sokufikelela kwiinkukacha kwinkampani yabucala (o.k.k. iFomu C).
Iinkukacha ngenkampani	Kuquka iinkukacha zentloko yenkampani okanye i-CEO yenkampani (ngokwe-PAIA, iGosa lezeenkukacha lenkampani yabucala yi-CEO okanye intloko).
Iimali	Chaza umenzi-sicelo kunye neemali ezihlawulwayo ngokwe-PAIA (bona iCandelo 3 malunga neenkukacha ezithe vetshe)
Uncedo	Ngawaphi amanyathelo akhoyo anokusetyenziswa ngumenzi-sicelo ukuba isicelo sakhe sokufumana iinkukacha sikhatywe.
Iinkukacha ezithe vetshe	Naziphi na iinkukacha ezithe vetshe ngokuphathelele kwisicelo sokufikelela kwiinkukacha.

## 2.4 Iinkcukacha ezifumaneka ngaphandle kwesicelo eziphantsi kolawulo lwamaqumrhu karhulumente

Njengoko kuchaziwe kwintshayelo yeli candelo, ayizizo zonke iinkcukacha ezidinga ukuba kwenziwe isicelo esisesikweni ukuze kufikelelwe kuzo. Amaqumrhu aliqela karhulumente anyanzelekile, ngokwemithetho eyahlukileyo, ukuba enze ukuba iinkcukacha ezithile zifumaneke eluntwini. Nangaphezu koko, amaziko amaninzi aza kuzibhengeza iinkcukacha ezingakumbi engacelwanga ngelizama ukuthobela ukusebenza ngokuselubala kunye nokusabela kwixanduva lokunika iimpendulo kunye nokwenzela uluntu undlela lula. Ukuze kube nokuphuculwa ukubhengeza iinkcukacha ngokuzithandela kunye nokuququzelela ukufikelela kwiinkcukacha, iCandelo 15 le-PAIA lifuna ukuba onke amaqumrhu karhulumente ashicilele uluhlu, olwaziwa ngokuba 'siSaziso seCandelo 15' okanye 'isaziso sokubhengeza ngokuzithandela', kwazo zonke iinkcukacha eziphathelelene nequmrhu elo nezinokufumaneka kuye nabani na nanini na ngaphandle kwesicelo.

Igosa lezeenkukacha lequmrhu likarhulumente kufuneka ukuba lenze isaziso sokubhengeza ngokuzithandela sequmrhu likarhulumente, lize lenze ukuba sifumaneke kuzo zonke ii-ofisi zequmrhu likarhulumente kwanangokulipapasha kwiGazethi kaRhulumente. Isaziso sokubhengeza ngokuzithandela kufuneka sihlaziywe qho ngonyaka.

Isaziso sokubhengeza ngokuzithandela sequmrhu labucala siqulethe iindidi zeerekhodi kunye nenkcazelo yezo rekhodi zifumaneka ngaphandle kwesicelo:

- » Ezihlolwayo ngokwayo nayiphi na imithetho ngaphandle kwe-PAIA;
- » Ezithengwayo okanye zikhutshelwe kwiqumrhu likarhulumente, kunye
- » Nakwiqumrhu likarhulumente simahla

Isaziso sokubhengeza ngokuzithandela kufuneka sichaze indlela yokufikelela kwiirekhodi ezifumaneka ngaphandle kwesicelo. Akukho mfuneko yakwenza isicelo esisesikweni sokufikelela kwiirekhodi ezithile ukuba ezo rekhodi sele zibhengeziwe ngokuzithandela kwaye ziyafumaneka ngaphandle kokwenza isicelo esisekiweni. Kwiimeko ezininzi, kuye kufuneka intlawulo ukwenzela ukuba kusetyenzwe ngesicelo esisesikweni kwaye oku kungathatha ukuya kutsho kwiintsuku ezingama-30. Kusenokuphetshwa oku xa unokuqale uqonde kuqala kwisaziso sokubhengeza ngokuzithandela ubone ukuba ezi nkcukacha uzifunayo azisele zifumaneka ngaphandle kokwenza isicelo kusini na.

Nangona kunyanzelekile ukuba iqumrhu likarhulumente lipapashe isaziso sokubhengeza ngokuzithandela, oko 'ayikokuzithandela'. Isaziso sibizwa ngokuba 'sisaziso sokubhengeza ngokuzithandela' kuba senza isaziso sazo zonke iinkcukacha eziye zabhengezwa ngaphandle kwesicelo, kungekuba oko kwenziwa ngokokubona kwegosa lezeenkukacha malunga nokuba kupapashwe uluhlu olululo okanye hayi na.

## 2.5 Iinkcukacha ezifumaneka ngaphandle kwesicelo eziphantsi kolawulo lwamaqumrhu abucala

Akwahlukanga ncam okwenzeka kweli candelo leenkukacha ezifumaneka ngaphandle kwesicelo kwiqumrhu labucala koko kwenzeka kumaqumrhu karhulumente. Ngaphambi kokwenza isicelo seenkcukacha esisesikweni ngokwe-PAIA nekunokwenzeka ukuba sifune imali kunye nexesha elingangeentsuku ezingama-30 ulindile, kubalulekile ukuba uqale uqonde kuqala ukuba zeziphi iinkcukacha ezisele zibhengeziwe nezisele zifumaneka ekungekho mfuneko yakwenza isicelo esisesikweni ngazo.

Intloko yequmrhu labucala isenokuseka uluhlu lweenkcukacha ezisele zifumaneka kwiqumrhu labucala ngaphandle kokuba ufake isicelo esisesikweni. Olu luhlu lubizwa ngokuba 'sisaziso secandelo 52' okanye 'isaziso sokubhengeza ngokuzithandela.'

Ngokungafaniyo nemeko amaqumrhu karhulumente ajamelene nayo apho igosa, ngokwe-PAIA, kufuneka lishicilele isaziso sokubhengeza ngokuzithandela, igosa lezeenkukacha lequmrhu labucala alinyanzelekanga ukuba likwenze oko. Njengoko isitsho iPAIA, "usenokushicilela, ngokuzithandela, uluhlu olo. Lo ngumahluko omkhulu kakhulu phakathi kwesaziso secandelo 52 lamaqumrhu karhulumente kunye nesaziso secandelo 15 samaqumrhu abucala.

Isaziso sokubhengeza ngokuzithandela sequmrhu labucala siqulethe iindidi zeerekhodi kunye nekcazelo yezo rekhodi ezifumaneka ngaphandle kwesicelo:

- » Ezihlolwayo ngokwayo nayiphi na imithetho ngaphandle kwe-PAIA;
- » Ezithengwayo okanye zikhutshelwe kwiqumrhu likarhulumente, kunye
- » Nakwiqumrhu likarhulumente simahla.

Isaziso sokubhengeza ngokuzithandela kufuneka sichaze nendlela yokufikelela kwiirekhodi ezithi zibhengezwe ngokuzithandela nezifumaneka ngaphandle kwesicelo esisesikweni.