

The Validity of Municipal Agreements in South Africa: A Research Investigation

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1. Introduction

This research report addresses the core question of the investigation: the question of whether agreements concluded through negotiations with municipalities in South Africa remain valid for the duration of the agreed term (typically four to five years). The research has been conducted in the current municipal political context, with particular focus on the dynamics through the lens of academic research, media reports, and relevant court cases to present a comprehensive picture.

The central argument is that while a court case presents a binding precedent for all communities that may follow, a negotiated agreement with a municipality inherent carries risk and is subordinate to the changing political landscape. This instability causes the essential negative consequences for service delivery, economic development, and community trust.

2. The Nature of Municipal Agreements and Political Cycles

The position that an agreement concluded through negotiation remains valid throughout the agreed term is contradicted by the broken track record. The research confirms that political cycles of local government have the primary effect on the validity of these agreements. Academic and practical examples demonstrate that the political cycle of local government elections has the primary effect on the validity of these agreements. A new political party or coalition gained power, is not necessarily bound to the agreements of its predecessors. A study by the Inclusive Society Institute established that coalitions are indeed formed out of necessity rather than ideology, which creates inherent instability. When these coalitions break or when a new coalition is formed after elections, previous agreements and policy priorities are often renegotiated or abandoned. This step represents a cycle of uncertainty where long-term planning and sustainable service delivery remain uncertain.

3. Case Studies: Instability in Action

Various metropolitan municipalities serve as striking examples of how political changes and unstable coalitions lead to the dissolution of agreements and the disruption of governance.

Municipality	Consequence
City of Johannesburg	Five citizen-municipality agreements since 2021, reflecting coalition dynamics 2.
City of Tshwane	The collapse of the DA-led multi-party coalition after ActionSA's withdrawal 4.
Nelson Mandela Bay	Recurring provincial interventions (more than once in a decade) due to political and administrative dysfunction 5.

These examples illustrate a clear pattern: political magistracy within coalitions prevents the implementation of agreements that serve the community or other stakeholders.

Chronic political instability, which has led to serious service delivery disruptions such as water and electricity shortages 3.

A new coalition under ANC and EFF leadership, the agreement and budgetary stability to follow have been achieved.

Despite interventions, the political environment and a broken governance structure indicate that lasting stability or improved service delivery is unlikely to occur.

4. Academic and Regulatory Perspectives

Academic Insights

Research by Pholoma et al. (2024) on Gauteng metropolitan municipalities indicates that unstable coalition governments fundamentally undermine democracy and accountable governance. The study established that the constant turnover of citizen committees and implementing agencies is insufficient to meet, let alone good governance, and good governance, and good governance. The direct consequence of this is delayed decision-making and budgetary insecurity, which makes long-term planning impossible 6.

André Duvenhage (2023) argues that South Africa is a political turning point, where the decline in the ANC's dominance in the 2021 elections has led to 70 "hung councils" in the 2021 elections. He argues that these coalition governments are themselves in crisis situations, which is evident from political instability 7.

The Role of the Court

In contrast to the instability of negotiated agreements, court cases can establish a binding legal precedent for municipalities. The court has a crucial role in ensuring that municipalities are held accountable to their fundamental mandate. In the case of *Afriforum NPC v Ngwathe Local Municipality*, the court established a structural injunction to ensure systematic service delivery failures. The court's decision was a significant intervention by the provincial government to implement and enforce the court's decision. This statement clearly demonstrates that courts can and should intervene when municipal failures constitute a fundamental crisis 8.

The *Grundwetlike Hof's* decision in *Rademan v Moqhaka Municipality* established an important precedent. Although the court decided that a municipality may not be held liable for the payment of arrears, it also established that owners are not obliged to pay for services that are not delivered. Judge Zondo stated clearly: "There is no obligation on an owner, client of a service provider, to pay for a service that is not delivered" 9.

This court case demonstrates that while a negotiated agreement with a municipal road of short duration may indeed, a court decision can set a binding precedent that cannot be overturned by political terms and a winning of all communities in a legal precedent to skip.

5. Conclusion

The research establishes that agreements concluded with municipalities remain valid, yet the political term of the agreement is not guaranteed. The consequences of unstable coalition governments, particularly in South Africa's metropolitan areas, is that the problem persists. Political parties are more focused on maintaining coalitional stability as opposed to the long-

term implementation of agreements or the securing of sustainable service delivery. Accordingly, the court offers a more durable solution through the establishment of a binding precedent that cannot be changed by political instability and short-term thinking. For lasting change and enforceable regulations, the court is the more effective arena for communities. In a court case, a binding precedent is established that cannot be easily overturned by a new municipal government. This is evident in the case where all communities benefit from a legal precedent to skip.

6. References

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Note: This is a direct translation of the Afrikaans document. The document presents a research investigation into municipal agreements in South Africa and their validity in the context of political instability.