



**JUDICIAL CONDUCT COMMITTEE REPORT  
IN TERMS OF SECTION 10(2) OF  
THE JUDICIAL SERVICE COMMISSION ACT 9  
OF 1994**

**REPORTING PERIOD  
JANUARY - DECEMBER 2023**

## THE JUDICIAL CONDUCT COMMITTEE REPORT

### 1. INTRODUCTION

This report provides an overview of the complaints received and adjudicated by the Judicial Conduct Committee (JCC) during the period of 2023, as mandated by the Judicial Service Commission Judicial Service Commission Act (JSC Act), 1994. The report outlines the grounds for lodging complaints against Judges, the number of complaints received and adjudicated, and their breakdown across the different courts.

### 2. LEGAL FRAMEWORK

Section 8 of the JSC Act provides for the establishment and composition of the JCC.

Section 10 of the JSC Act sets out the objects of the JCC which, as set out in section 10(1), are to receive, consider and deal with complaints against Judges in terms of sections 14 to 18 of the JSC Act. Section 10(2) requires the JCC to report on its activities to the Judicial Service Commission (JSC) at least once every six months.

Section 14(1) of the JSC Act grants any person the right to lodge a complaint about a Judge with the Chairperson of the JCC. Section 14(4) specifies various grounds for lodging complaints against judges on grounds including incapacity, incompetence, misconduct, wilful or grossly negligent breaches of the Code of Judicial Conduct and other conduct that is incompatible with the holding of judicial office including any conduct that is prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts.

### 3. COMPOSITION OF THE JUDICIAL CONDUCT COMMITTEE

The JCC comprises the Chief Justice, the Deputy Chief Justice and four other Judges, two of whom must be women, as contemplated in section 8 of the JSC Act.

During the period under review, the four Judges designated by the Chief Justice, after consultation with the Minister of Justice and Correctional Services, were:

- a) Justice BE Nkabinde, whose term ended on 19 August 2023. She was succeeded by Justice H Saldulker on 28 August 2023.

- b) Justice DH Zondi, whose term ended on 16 August 2023. He was succeeded by Retired Justice CN Jafta on 28 August 2023.
- c) Justice TM Makgoka, whose term ended on 14 September 2023. He was succeeded by Justice JB Shongwe on 15 September 2023.
- d) Justice NP Mabindla-Boqwana whose term ends on 15 December 2024.

#### **4. MEETINGS OF THE JUDICIAL CONDUCT COMMITTEE**

- a. The previous JCC issued 11 rulings during the period under review. This completed the outstanding work by that Committee in respect of matters which were dealt with as appeals in terms of section 18. Out of the eight matters that were referred in terms of section 17, which provides for an inquiry into serious, non-impeachable complaints by the Chairperson or a designated member of the JCC, three rulings were issued. Five matters are, therefore, still outstanding. One matter which the JCC dealt with in terms of section 16 which entitles the JCC to recommend appointment of a Judicial Conduct Tribunal (Tribunal), was referred to a Tribunal and is still pending.
- b. The current JCC convened for the first time on 24 and 25 October 2023, to deliberate on matters referred to it pursuant to sections 16 and 18 of the JSC Act. It dealt with seven matters under section 16 and 19 matters under section 18. Out of these matters, the JCC has issued 14 rulings. 12 rulings are still pending.

#### **5. REPORT ON JUDICIAL COMPLAINTS**

##### **a. Complaints Received, Resolved and Pending**

- i. During the 2023 reporting period, a total of 68 complaints were carried over from 2022. Four complaints had been carried over from previous years. One of the four complaints was adjudicated to finality during the reporting period under review. Out of the 68 complaints, a total of 51 complaints were adjudicated to finality the period under review.
- ii. During the period under review, a total of 116 complaints were received. Out of these complaints, 34 were adjudicated to finality.
- iii. 82 complaints remain pending. However, 63 of these complaints were considered by the Acting Chairperson in terms of section 14(2) of the

JSC Act. Five complaints were referred to the relevant Heads of Court in the Divisions of the Judges complained against for adjudication. Three determinations made in terms of section 14(2) were appealed. One complaint has been referred to a designated member of the JCC in terms of section 17(1)(b). Three have been considered on appeal and the rulings are outstanding. Seven complaints were in the process of preparation for consideration by the Acting Chairperson at the end of the reporting period.

**b. Types of Complaints**

- i. As indicated above, a total of 116 complaints were received during the reporting period of 2023. A discernible trend emerged, indicating a notable increase in complaints concerning litigants' dissatisfaction with court judgments, with 23 such complaints recorded. Of significant concern during this period was the notable rise in complaints alleging judicial misconduct, with 25 dealt with under section 17 of the JSC Act. However, it is noteworthy that eight complaints were dismissed for not meeting the requirements of section 14(4); four complaints were dismissed for non-compliance with section 14(3); six complaints were dismissed for being frivolous or lacking in substance, and three complaints were dismissed as hypothetical in terms of section 15(2)(d) and (e), respectively. Ten complaints were forwarded to the Heads of Court to adjudicate in terms section 14(2) and three complaints were referred for further adjudication in terms of section 16 of the JSC Act for the JCC to consider whether in the event of valid complaints being established findings by the JCC would be likely that the Judges complained against suffer from incapacity, gross incompetence or gross misconduct as envisaged in section 14(4).

## c. Summary of Complaints

<b>Types of Complaints</b>	<b>Complaints Received</b>	<b>Complaints Resolved</b>	<b>Complaints Pending</b>
Complaints falling outside parameters of section 14(4)	10	8	2
Complaints that did not comply with section 14(3)	10	4	6
Complaints Relating to Dissatisfaction with Court Judgments	23	3	20
Complaints found frivolous or lacking in substance	10	6	4
Complaints found hypothetical	25	3	22
Complaints Referred in terms of Section 16	3	0	3
Complaints Referred in terms of Section 17	25	5	20
Complaints Forwarded to Heads of Court for adjudication	10	5	5
<b>Total</b>	<b>116</b>	<b>34</b>	<b>82</b>

d. **Breakdown of complaints by Court**

The complaints received were spread across various courts, as shown in the Table hereunder:

<b>Court</b>	<b>Total Complaints Received</b>	<b>Resolved</b>
Constitutional Court	6	5
Supreme Court of Appeal	4	3
Eastern Cape Division	6	3
Free State Division	1	1
Gauteng Division	49	14
Kwa-Zulu Natal Division	8	0
Limpopo Division	10	3
Mpumalanga Division	1	1
North West Division	1	0
Northern Cape Division	1	1
Western Cape Division	9	1
Labour Court	20	2
Matters referred to a Tribunal	0	0
<b>TOTAL</b>	<b>116</b>	<b>34</b>

## 6. CONCLUSION

The report highlights the significant volume of complaints received and resolved by the JCC during this reporting period. The breakdown of complaints in terms of the courts in which the Judges complained against sit provides valuable insights into areas where judicial conduct issues may be more prevalent, warranting further attention and remedial action.

The designation of three retired Judges as members of the JCC has brought about a marked improvement in its work output as these Judges are, understandably, not

encumbered by judicial responsibilities as Judges in active service who have previously manned the Committee. The JCC is discharging its mandate to deal with complaints diligently and expeditiously and commits to continue doing so.



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ACTING CHAIRPERSON: DCJ MML MAYA