



**“Towards a single, effective and fully independent  
Judiciary”**

**RESOLUTIONS OF THE SA JUDGES' CONFERENCE HELD  
AT SUN CITY, NORTH-WEST PROVINCE, SOUTH AFRICA  
ON 4 – 7 DECEMBER 2023**

**PREAMBLE:**

**Whereas** South Africa is founded on among others, the values of the supremacy of the Constitution and the rule of law;

**And whereas** section 125(1) of the Constitution provides that the judicial authority of the Republic is vested in the courts which are independent and subject only to the Constitution and the law;

**And whereas** the independence of the Judiciary is essential for the Judiciary's effectiveness in the discharge of its functions as well as the fulfilment of its role in our constitutional democracy; and

**Noting that Section 165** of the Constitution envisages a Judiciary under one Head, namely the Chief Justice, which operates through Superior Courts and lower courts under a hierarchical Court system; and

**Noting** that, thus far, the Judiciary of South Africa does not have institutional independence, which includes operational and financial autonomy, which impacts negatively on its effectiveness and its efficacy;

**Further noting** the injunction in the National Development Plan for the acceleration of reforms aimed at the implementation of a Judiciary-led Court administration that will enhance administrative and financial efficiency in the Courts.

**Further reaffirming** the Judiciary's commitment and support for the principle of a Judiciary led Court Administration model, aligning as it does closest to the principle of Judicial independence;

**Recognising** that information communication technology and digitisation, when fully and properly implemented, can significantly contribute towards the greater effectiveness and efficacy of the Judiciary and that the current use of information communication technology and digitization is less than optimal;

**Further Recognising that** salaries of Judicial Officers have been reduced in real terms over time as a result of the failure to grant increases that are at least in line with inflation and the need for a specialised framework contemplated by the Constitution for the proper determination of the salaries and benefits of members of the Judiciary;

**Mindful that** an effective system of accountability and transparency in respect of the conduct of Judicial Officers is paramount for the Judiciary to enjoy public confidence and that undue delays in dealing with complaints against Judicial Officers may erode public confidence in the Judiciary;

**Cognisant that** the safety and wellbeing of Judicial Officers are matters of great concern requiring ongoing assessment and measures of intervention; and

**Taking into** account the benefits that mediation offers both to litigants and the administration of justice by way of the expeditious resolution of disputes;

**NOW, THEREFORE, CONFERENCE RESOLVES THAT:**

**1. Single Judiciary**

1.1 The Judiciary reaffirms its support for the establishment of a single Judiciary.

1.2 All steps necessary to establish a single Judiciary, including the migration of the Lower Courts (Regional Magistrates Courts and Magistrates Courts) to the Office of the Chief Justice must be effected without undue delay.



## **2. Independence of the Judiciary**

- 2.1 The Judiciary recommit itself to the principle of judicial independence and calls for full institutional independence which includes a Judiciary-led court administration model, financial autonomy and operational independence; to this end, Conference reaffirmed its support for the ongoing efforts by the leadership of the Judiciary to address and resolve the issue of full institutional independence for the Judiciary with the Executive.
- 2.2 The Judiciary notes with deep disappointment that, for over ten years, the Executive failed to respond to the Judiciary's proposals for a Judiciary-led court administration model and hereby urges the Executive to give the matter urgent attention with a view to finalising the transition to a Judiciary-led administration model that will place the Judiciary at the same level as the other two arms of State and entrench the principle of judicial independence.

## **3. Information Communication Technology (ICT) and Digitization**

The Judiciary, Administration and Information Technology Committee of the Heads of Court must:

- 3.1. Proceed expeditiously with an assessment of the existing ICT system and identify the parameters of necessary system upgrades and required ICT infrastructure resources of the Courts inclusive of the Lower Courts;
- 3.2. Take the necessary steps to expedite the implementation of the national roll out plan of the Court Online System and liaise with the Head of any Division of the High Court or the Supreme Court of Appeal or Constitutional Court with a view to co-opting a member of such Court where this may be necessary.

## **4. Mediation**

The Judiciary calls on all role players and stakeholders, including the Law Reform Commission, to take all reasonable steps to implement Court based mediation and Alternative Dispute Resolution (ADR) systems without delay.

## **5. Accountability**

- 5.1 There should be an investigation into whether the Judicial Service Commission Act can be appropriately amended to streamline disciplinary processes and expand the composition of the Judicial Conduct Committee (JCC);
- 5.2 Consideration should be given to making more extensive use of retired Judges as members of the JCC;

5.3 Any changes made in the above respects should be considered for application, subject to appropriate changes, to the legislation governing complaints against Magistrates.

## **6. The Judicial Code of Conduct/ Norms and Standards**

6.1 It is recommended that the Chief Justice should initiate a review of the Judicial Code of Conduct (Code) with special reference to the timeframes for the delivery of judgments. The special circumstances of Appellate Courts should be taken into account in this regard.

6.2 There should be compliance with section 12(4) of the Judicial Service Commission Act, which requires the Code to be reviewed every three years;

6.3 It is also recommended that the Chief Justice should initiate a review of the Norms and Standards for the Performance of the Judicial Functions so as to ensure that the aspired timeframes for the delivery of judgments are realistic and take account of the special circumstances of Appellate Courts.

## **7. Judicial Officers' Remuneration and Benefits**

### **7.1 *Independent Commission for the Remuneration of Public Office Bearers (IRC)***

The determination of the salaries, allowances and benefits of Judicial Officers should more appropriately be dealt with by an independent body created by national legislation as envisaged by section 219(5) of the Constitution and not by the Independent Commission for the Remuneration of Public Office Bearers (Commission). It is recommended that the Chief Justice considers initiating discussions with the Executive with a view to the establishment of such a structure. Pending the establishment of such an independent body, as an interim measure, the Chief Justice is requested to consider the establishment of a committee comprising members of the Judiciary at all levels to be called the Judiciary Salary and Benefits Committee for purposes of consultation with the IRC as envisaged by section 8(3) of the Independent Commission for the Remuneration of Public Office Bearers Act 92 of 1997.

### **7.2 *Devolution of Judicial Officers' salary and benefits upon death***

It is recommended that the Chief Justice considers the establishment of a Committee that must:

- 7.2.1 Investigate the extension to the children of a Judge who dies without a spouse or life partner the benefits that the surviving spouse of a Judge receives while he or she lives.
- 7.2.2 Investigate the current arrangements of the Magistrates' pension scheme under the Government Employees Pension Fund (GEPF); and
- 7.2.3 Investigate the viability of the Judiciary being members of PARMED.

## **8. Security, Library Services, ICT Services and Infrastructure and Facilities**

All functions relating to the Judiciary and the operations of the Courts that remain with the Department of Justice and Constitutional Development (DoJ&CD) should be transferred to the Office of the Chief Justice without any undue delay. Such functions include those relating to:

- 8.1 The security management functions retained by the DoJ&CD must be transferred to the OCJ with autonomy for the OCJ to have its own budget and necessary human resources for all security needs of the Judiciary and an independent and dedicated specialised security unit must be established for all Courts;
- 8.2 Library Services and the procurement of books, journals etc. and other related resources;
- 8.3 ICT Services including the procurement of ICT resources,
- 8.4 The Rules Board as well as
- 8.5 Infrastructure and Facilities and all procurement of such facilities as required by the Judiciary. In relation to infrastructure projects, the OCJ should be allowed to deal directly with the Department of Public Works and Infrastructure (DPWI), instead of having to go through the DoJ&CD.

## **9. Future Judiciary Conferences/Judicial Colloquia**

Judges' Conferences should be held every two to three years.



**RMM ZONDO**

**Chief Justice of the Republic of South Africa**