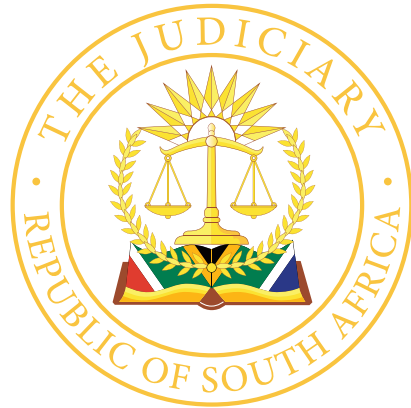




# ANNUAL REPORT

## 2018/19





# THE SOUTH AFRICAN JUDICIARY

ANNUAL REPORT 2018/19

# ABBREVIATIONS

<b>AACC</b>	Association of Asian Constitutional Courts and Equivalent Institutions
<b>APP</b>	Annual Performance Plan
<b>AU</b>	African Union
<b>AVR</b>	Audio Visual Remand
<b>CCOCND</b>	Conference of the Constitutional Control Organs of the Countries of New Democracy
<b>CCJA</b>	Conference of Constitutional Jurisdictions of Africa
<b>DCS</b>	Department of Correctional Services
<b>DOJ&amp;CD</b>	Department of Justice and Constitutional Development
<b>DPW</b>	Department of Public Works
<b>EXCO</b>	Executive Committee
<b>ICT</b>	Information and Communication Technology
<b>IT</b>	Information Technology
<b>JAC</b>	Judicial Accountability Committee
<b>JAIT</b>	Judicial and Administrative Information Technology Steering Committee
<b>JCFMC</b>	Judicial Case Flow Management Committee
<b>JCC</b>	Judicial Conduct Committee
<b>JCOM</b>	Judicial Communications Committee
<b>JCPS</b>	Justice, Crime Prevention and Security
<b>JOC</b>	Judicial Oversight Committee
<b>JP</b>	Judge President
<b>JSC</b>	Judicial Service Commission
<b>KPI</b>	Key Performance Indicator
<b>NA</b>	National Assembly
<b>NBEB</b>	National Bar Examination Board
<b>NCCS</b>	National Council for Correctional Services
<b>NCIC</b>	National Court Infrastructure Committee
<b>NCOP</b>	National Council of Provinces
<b>NEEC</b>	National Efficiency Enhancement Committee
<b>NPA</b>	National Prosecuting Authority
<b>NT</b>	National Treasury
<b>OCJ</b>	Office of the Chief Justice
<b>PEEC</b>	Provincial Efficiency Enhancement Committee
<b>RAF</b>	Road Accident Fund
<b>SAJEI</b>	South African Judicial Education Institute
<b>SAPS</b>	South African Police Service
<b>SCA</b>	Supreme Court of Appeal
<b>SuCA</b>	Superior Courts Act (Act 10 of 2013)
<b>SP</b>	Strategic Plan
<b>UACCC</b>	Union of Arab Constitutional Courts and Councils
<b>UN</b>	United Nations
<b>WCCJ</b>	World Conference on Constitutional Justice



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# PART A

Foreword by the Chief Justice



*Chief Justice Mogoeng Mogoeng*

# FOREWORD BY THE CHIEF JUSTICE

6

Our Constitution assigns responsibilities to the three truly co-equal, not notionally equal, arms of the State, otherwise referred to as the three branches of Government – the Executive, Parliament and the Judiciary. As more aptly stated in Principle VI - one of the principles that guided the constitution-making process this division of the constitutional labour means:

“There shall be a separation of power between the legislature, the executive and the judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness.”

None of these arms or branches is therefore to be immune from the demanding responsibility that flows from the values of accountability, responsiveness and openness on which our democracy rests. Much as the Judiciary is, like the other two arms, to enjoy functional independence that does not absolve it from the indispensable scrutiny for the performance of its core functions.

The Executive is ordinarily held accountable by Parliament whereas Parliament accounts to the voting public. However, neither the Constitution nor any Act of Parliament provides for judicial accountability except in relation to alleged acts of misconduct.

Knowing that with independence comes accountability, and taking cue from comparable jurisdictions like Kenya, the United States of America, Singapore and many others, the South African Judiciary has taken it upon itself to account directly to the people of South Africa.

We do so alive to a preference by some of our people that the Judiciary should, like the Executive and other organs of State, account to Parliament through either the Minister of Justice and Correctional Services or the Secretary-General of the Office of the Chief Justice (OCJ). On this we say no more than that it would be ironic for one arm of the State to account on behalf of another, not even through the Head or Deputy Head of that other arm, and for the latter arm to still be expected to retain a respectable semblance of independence or dignity. Similarly, for the Secretary-General, who is not the Head or a member of the Judiciary, to be made to assume the accounting responsibilities that can only be properly discharged by the Constitutional leadership in the absence of an enabling provision, would, though ordinarily inappropriate or absurd, do violence to judicial dignity and independence. When inevitable tensions rise, typical of a vibrant democracy, between



the Executive and the Judiciary, how then would the Executive be able to account properly on behalf of the Judiciary? How would the practice be reconciled with true judicial dignity and independence regard being had to the provisions of section 165 of the Constitution? Just how familiar is the Executive with the inner and intricate workings of the Judiciary to be functional as the proverbial mouthpiece of the Judiciary?

This is what led to the inaugural Judicial Accountability Session held on 23 November 2018. This was a historic event. It was the first time the Judiciary of the Republic of South Africa, as an arm of State, took it upon itself to account for the performance and for the exercise of power and authority the people of South Africa have endowed it with. Invited to this event were the Heads of the other arms of State, Heads of Court and members of the South African Judiciary from all levels of the court system, members of Cabinet, members of Parliament, heads of all Justice Cluster stakeholder departments and organisations, the organised legal profession, other key roleplayers in the court system and members of the public.

At this event we had the privilege to present the 2017/18 Judiciary Annual Report. We further took the opportunity to highlight measures that the Judiciary would embark upon to ensure that effectiveness and efficiency in relation to court performance becomes a norm.

Additional to the pre-existing Norms and Standards, judicial case management, the practice of giving priority to matters that deserve to be fast-tracked, and several other measures have also been taken. Here they are:

As Heads of Court, we have resolved that Judicial Officers do not always have to write scholarly and reportable judgments. The norm ought to be the delivery of short yet complete judgments immediately after the trial or hearing, unless the complexity or length of the matter does not allow.

The National Efficiency Enhancement Committee (NEEC) and its provincial equivalents, which were set up to enhance the efficiency and effectiveness of the broader justice system, are doing well under the circumstances.

Court judgments are the end-product of the toil and sweat of Judges as functionaries of the State. The State or the Judiciary should own copyright over these judgments. Yet, they are availed to publishers for free, who with the editorial services provided by Judges and Advocates, then package them and sell them back to the State for consumption by all lawyers including the Judiciary, at great expense. The Judiciary buys back its judgments at no discount whatsoever. As the Judiciary, we have for years been asking for funding from those who control the library services budget to have us compile our own judgments so that we may access them at no or minimal cost. It is very difficult to secure the requisite funding for this cost-saving measure which countries like Ghana, Qatar and Singapore have implemented to the benefit of their Judiciaries and all consumers of court judgements. To this end, the Judiciary has established a Law Reporting Committee which seeks to find ways to ensure that our judgments become freely or cheaply accessible to us and others.

The stress on Judicial Officers which, as a result of some of the traumatising cases like rape, murder, difficult divorce matters that we have to handle and attacks of all kinds by aggrieved litigants or similarly-situated people and others, requires the introduction of a judicial wellness or stress-management programme. It cannot be left to an individual Judicial Officer to fend for herself/himself. It is a work-related challenge that requires an institutional response as has been most impressively done by Australia and Singapore. To this end, the Heads of Court are developing such a bespoke programme or system which will hopefully be implemented under the auspices of the Judiciary or the OCJ in the near-future, funding permitting.

One of the priorities of the Judiciary is to introduce court-annexed mediation in all courts where it is reasonably practicable to implement it. The leadership of the Judiciary, with the facilitation of the South African Judicial Education Institute (SAJEI), embarked on a training programme for all available Judicial Officers on a win-win court-annexed mediation system during the month of July in 2018. Pilot projects are running in both the Pretoria and Johannesburg High Court and Magistrates' Court. Plans are underway to appoint a highly-skilled mediator to oversee the implementation of this programme and the training of the trainers.



The Judicial Service Commission (JSC) was established to assist with the selection of potential Judges before the President of the Republic makes appointments that would cause the Judiciary to be reflective of the racial and gender composition of South Africa. More still needs to be done in order to ensure gender representation in the composition of the Judiciary, particularly at the leadership level in the higher courts.

Court automation and the development of modernisation systems are among our priorities. We have set up a committee that has helped us to develop an appropriate court-automation system. The system will help us implement electronic-filing and electronic record-keeping, performance-related data capturing, information dissemination or access to information relating to cases, judgments and all other matters that affect court operations.

In addition to our plans on judicial case management, court modernisation and court-annexed mediation, we continue to innovatively explore other measures for the enhancement of the efficiency and effectiveness of the Judiciary in order to improve court performance. Only trial or hearing-ready matters must be set down. To achieve this, judicial case management and pre-trial conferences that involve and are driven by a Judicial Officer must be fully embraced. The recently promulgated amendments to the Uniform Rules of Court, formally introduce judicial case management and mediation in the South African legal terrain. The process of drafting the amendment was initiated and led by the Judiciary and will greatly assist in ensuring that there is clear movement towards the speedy delivery of quality justice to all.

It took too long to get to this point. We remain convinced that as was the case as at 1965 when the Uniform Rules of Court were drafted, the Judiciary must have full rule-making authority. This would facilitate speedy progress whenever our court rules need to be changed. Judges chair the Rules Board precisely because Judicial Officers are best-placed to handle that process well and with deliberate speed.

Most cases of alleged misconduct against Judges have been speedily finalised, barring of course the Hlophe JP, Motata J as well as the Preller J, Mavundla

J, Webster J and Poswa J matters. These have been the subject-matter of a series of legal challenges that led to inordinate delays that nobody could have done anything about. Some have argued that Judges ought not to be allowed to litigate in such matters. This begs the question, in terms of which law? We have no power, as the Judiciary or the JSC, to deny people their constitutional right of access to courts, just because they are Judges. Such a law does not exist. Criticism that assumes that we could have, but failed to, expedite this process can in the very least only be a consequence of ignorance or frustration.

Sexual offences on gender-based violence cases require an integrated approach by all key stakeholders. What follows are some of the measures that could alleviate the problem:

1. A public awareness campaign on how to report and a focus on what credible assurances are there to minimise the discouraging and humiliating features of reporting and processing these cases to finality.
2. A focused and well-trained unit or cohort of investigating officers that deal only or primarily with sexual offences or gender-based violence. Re-orientation of all front-desk or charge office functionaries to sensitise them to the better and appropriate handling of these cases. Dedicated officers and Magistrates must be available at all times to also receive complaints as a back-up mechanisms, as is done by the French police.
3. Prosecutors that are just as specially equipped to handle these cases with the expertise, sensitivity, professionalism and special competence they deserve.
4. Judicial Officers who are specially trained on the investigation and further handling of these cases with due sensitivity. This must, as in the case with the French experience relating to priority crimes, apply to investigation, prosecution and adjudication as well.
5. Properly trained intermediaries and interpreters to facilitate or ease the appearance and giving of evidence particularly by young complainants

6. Revitalisation of Thuthuzela Care Centres and rendering them even more fit for purpose.
7. All-round resourcing of key players and facilities meant to handle gender-based violence or sexual offences matters.
8. A fresh, sensitive and more responsive approach to domestic violence matters which extends to special training and inappropriate facilities to enhance privacy and keep the alleged perpetrators in check.
9. Key role players in the broader justice system and the criminal justice system in particular, must accept that in working together we must be more deliberate and intentional otherwise nothing much will ever change. Panic responses or knee-jerk reactions to these matters, as if they are new, do not help. The need for an integrated approach cannot, therefore, be over-emphasised.

It must, however, be stressed that the criminal justice system deals only with the symptoms or offshoots of what really lies at the heart of a deeply troubled society. The root causes must, thus, be programmatically attended to if a real and lasting solution is to be found. Broadly speaking, it is no exaggeration to say that we are a sick society. Our sickness is responsible for this atrocious behaviour and must be properly diagnosed for effective medication or treatment to be dispensed and for the sickness itself to be permanently uprooted.

The Judiciary is alive and sensitive to the economic challenges in South Africa. It is for this reason that the Heads of Court voluntarily passed a resolution on cost-containment measures, with specific reference to travel and subsistence allowances for Judges and Assessors. Many Judges have, over the years, responded positively to the request that they scale down on official vehicles. Few insist on their entitlement to acquire vehicles worth over R1 million, notwithstanding our pleas and the extremely worrisome economic climate we find ourselves in. We have always said that it is a matter of conscience. The Judiciary will, where feasible, continue to implement the cost-containment measures. It bears emphasis that we are acutely underfunded in comparison to the

other arms of the State. We cannot afford an annual Judicial Colloquium which other jurisdictions, even the most economically-challenged around the world, hold without fail.

In conclusion, the Judiciary noted with appreciation that the establishment of the OCJ continues to add immense value to the functionality and efficiency of the Judiciary. It is one of the most commendable and constructive measures the State has taken towards strengthening our institutional independence. We remain hopeful that more functions that are intimately judicial in character would be offloaded to the Judiciary, consistent with the Constitution and Chapter 14 of the National Development Plan (NDP), 2013 which prescribes the strengthening of judicial governance and the rule of law. Needless to say, the establishment of the OCJ is the first phase as outlined in our preferred Judiciary-led independent court administration model, submitted to the Executive and the Portfolio Committee in 2012, 2013 and 2014. At some point, and however long it may take, the institutional independence of the courts would have to be appropriately resolved, as many progressive constitutional democracies continue to do in Africa and around the world.

I am indebted to the collective leadership of the Judiciary, the Judicial Accountability Committee and all other judicial structures, as well as the OCJ for the cooperation, professional and selfless service displayed in running the administrative affairs of the Judiciary, including the compilation and drafting of this Annual Report.

It is a great honour and privilege to present the 2018/19 Judiciary Annual Report.

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**Chief Justice Mogoeng Mogoeng**

Chief Justice of the Republic of South Africa



## SOUTH AFRICAN JUDICIARY

Section 165 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, which they must apply impartially and without fear, favour or prejudice.

All persons and organs of State are barred from interfering with the functioning of the courts and organs of State, through legislative and other measures, are instructed to assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.

An order or decision issued by a court binds all persons to whom and organs of State to which it applies.

The Chief Justice is the Head of the Judiciary and exercises responsibility over the establishment and

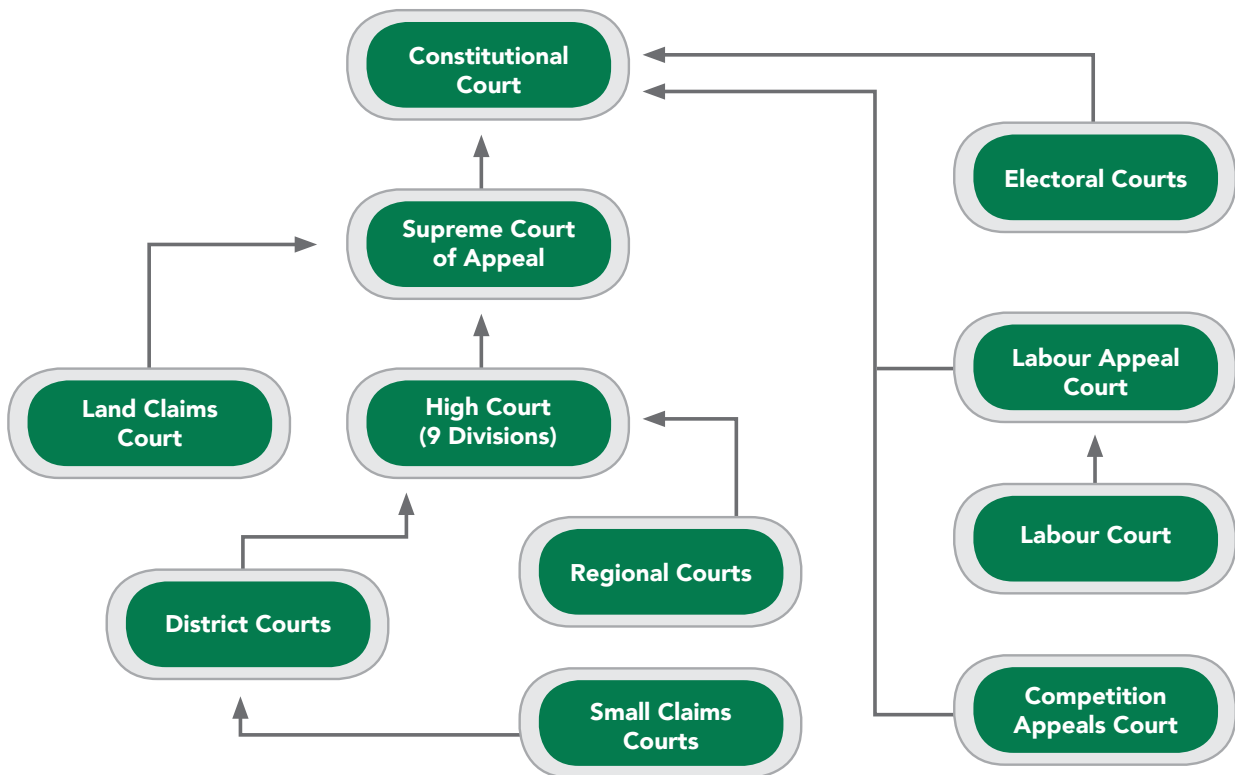
monitoring of Norms and Standards for the exercise of the judicial functions of all courts.

Section 166 of the Constitution lists the courts as follows:

- i. The Constitutional Court.
- ii. The Supreme Court of Appeal (SCA).
- iii. The High Court, including any high court of appeal that may be established by an Act of Parliament to hear appeals from High Courts.
- iv. The Magistrates' Courts and any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either the High Court or the Magistrates' Courts.



The Hierarchical Court Structure for the South African Courts can be graphically depicted as follows:



The Chief Justice is the Head of the Judiciary, as well as the Head of the Constitutional Court. The Superior Court Act (Act 10 of 2013) defines "Head of Court" in context, as the following:

- i. For the Constitutional Court, it is the Chief Justice.
- ii. For the SCA, it is the President of that Court.
- iii. For any Division of the High Court, it is the Judge President of that Division; and for any court of a status similar to the High Court, it is the most senior Judge of such court.

Each Head of Court is further supported by a Deputy.

The overall responsibility of managing judicial functions and for overseeing the implementation of the Norms and Standards vests in the Chief Justice as Head of the Judiciary in terms of section 165 (6) of the Constitution and section 8(2) of the Superior Courts Act (2013).

The Superior Courts Act (2013) stipulates that the management of the judicial functions of each court is the responsibility of the Head of that Court. The Judge President of a Division is also responsible for the co-ordination of the judicial functions of all Magistrates' Courts falling within the jurisdiction of that Division.

The Heads of the various courts manage the judicial functions and ensure that all Judicial Officers perform their judicial functions efficiently.

The OCJ was established to ensure that the Chief Justice can properly execute his mandate as both the Head of the Constitutional Court and the Head of the Judiciary; to enhance the institutional, administrative and financial independence of the Judiciary; to improve organisational governance and accountability, and to ensure the effective and efficient use of resources. The OCJ, as its mission, was thus established to provide support to the Judiciary to ensure effective and efficient court administration services.

The OCJ, led by the Secretary General, therefore provides court administration and support services to the Superior Courts to ensure the effective and efficient administration of the Superior Courts.

This is done by the managing the administration of Superior Courts through the management and funding of the activities and operations of the Superior Courts; as well as the provision of administrative and technical support to the Superior Courts, assisting the Chief Justice in monitoring the overall performance of the Superior Courts and enhancing judicial stakeholder relations.





# PART B

## Strengthening Oversight & Accountability



# STRENGTHENING OVERSIGHT AND ACCOUNTABILITY

## Regulatory Framework in the Judicial Environment

The Judiciary owes its relevance, significance and support not just to the Constitution of the country, its laws and institutions – it also owes its credibility and enjoys admiration due to the strategic priorities it is able to set for itself; the development of a plan to realise its deliverable objectives with firm timeframes, where practicable; and to ensure that South Africa has the fundamentals necessary for the realisation of the right to access to justice.

The following legislative framework is used to develop a reporting mechanism for the South African Judiciary.

## The Constitution

Section 165(2) of the Constitution provides that the Judiciary is independent and subject only to the Constitution and the law. Section 165(6) of the Constitution of the Republic of South Africa read with Section 8(2) of the Superior Courts Act (2013) provides that the Chief Justice is the Head of the Judiciary and exercises responsibility over the establishment and monitoring of the Norms and Standards for the execution of the judicial functions of all courts.

Schedule 6(16)(a) of the Constitution provides that as soon as is practical after the Constitution took effect, all courts including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with the view to establishing a judicial system suited to the requirements of the Constitution.

Section 85 vests the executive authority in the President, which he/she exercises together with other members of the Cabinet.

Section 92(2) of the Constitution provides that members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions.

Section 197(1) of the Constitution establishes national government departments in the public service and it provides that public service “must loyally execute the lawful policies of the government of the day.”

Section 55 mandates the National Assembly to provide for mechanisms to maintain oversight of the exercise of executive authority, the implementation of legislation, and any organ of State. Section 239, the ‘definitions’ section of the Constitution, specifically defines that an organ of State does not include a court or a Judicial Officer. This clearly excludes the Judiciary from the oversight power of the National Assembly.

## Superior Courts Act 10 of 2013

Section 8(3) stipulates that the Chief Justice may issue written protocols or directives, or give guidance or advice to Judicial Officers in respect of Norms and Standards for the performance of judicial functions.

Section 8(4) provides that any function or power in terms of section 8(3) vesting in the Chief Justice may be delegated to any other Judicial Officer.

Section 9 provides that Superior Courts may have recess periods. This is determined by the Chief



Justice in consultation with the Heads of Court in order to enable Judges to do research and to attend to outstanding or prospective judicial functions that may be assigned to them. During each recess period, the Head of each court must ensure that an adequate number of Judges are available in that court to deal with any judicial functions that may be required, in the interests of justice, to be dealt with during that recess period.

In terms of the Regulations in terms of the Superior Courts Act relating to the criteria for determining the number of Judges to be appointed to the SCA and Divisions of the High Court of South Africa, court performance statistics and information relating to the performance of judicial functions is relevant when determining the number of Judges to be appointed at the Court.

### **Norms and Standards for the performance of judicial functions**

In February 2014, the Chief Justice, pursuant to the constitutional imperative contained in section 165 of the Constitution and in section 6 of the Superior Courts Act (2013), enacted Norms and Standards for the performance of judicial functions with the unanimous support of the Heads of Court.

These Norms and Standards seek to achieve the enhancement of access to quality justice for all and to affirm the dignity of all users of the court system by ensuring the effective, efficient and expeditious adjudication and resolution of all disputes through the courts, where applicable.

Section 6 (i – iii) of the Norms and Standards provides that:

- i. The Chief Justice as the Head of the Judiciary shall exercise responsibility over the monitoring and evaluation of the performance of each Judicial Officer as well as the monitoring and implementation of Norms and Standards for the exercise of leadership and judicial functions of all courts.
- ii. Everything reasonably possible should be done to ensure that Judicial Officers have all the resources and tools of trade availed to them to enable them to perform their judicial functions

efficiently and effectively. Reporting is an essential and integral part of ensuring effective monitoring and implementation of the Norms and Standards. All Judicial Officers shall submit data on their performance and the workflow of cases for collating and analysis following upon which a comprehensive report by the Head of Court will be compiled.

- iii. The report must be submitted to the Head of a Court who, in the case of Regional and District Courts, will submit it to the Judge President concerned for further submission to the Chief Justice to assess the functioning and the efficiency of the courts. Each Head of Court shall monitor and evaluate performance of the Judicial Officers serving in his/her Court on a daily basis to ensure optimal utilisation and productivity.

### **Judicial Service Commission Act and Regulations**

The Judicial Service Commission (JSC) is a constitutional body responsible for, amongst other functions, advising the President of the Republic on the appointment of Judges, headed by the Chief Justice as informed by the Constitution and the JSC Act (Act 9 of 1994).

The JSC has powers in terms of the Constitution to determine its own processes. The practice has been that interviews for judicial appointments are conducted in public.

The JSC has established a Judicial Conduct Committee (JCC) to deal with complaints on judicial conduct. The Code of Judicial Conduct aims to assist every Judge in dealing with ethical and professional issues and to inform the public of the judicial ethos of the Republic.

Disclosure of processes relating to complaints, are an example of the balance between judicial independence and dignity, and the overriding principles of transparency and accountability as required by the JSC Act (1994).

In terms of the JSC Act (1994), complaints against members of the Judiciary must be based on, inter alia, the performance of a Judge against set standards.



These performance statistics and information on the performance of judicial functions can only be realised through reporting and accountability.

In terms of Article 10(2) of the Code of Judicial Conduct, a Judge must deliver all reserved judgments before the end of the term in which the hearing of the matter was completed, but may in respect of a matter that was heard in two weeks of the end of that term; or where a reserved judgment is of a complex nature or for any other cogent and sound reason and with the consent of the Head of the Court, deliver that judgment during the course of the next term.

### **Disclosure of Judges' registrable interests**

Judges are legislatively required to disclose their registrable interests to the Registrar of Judges' Registrable Interests to enhance transparency, accountability and public confidence in the Judiciary. The Registrar is the custodian of the register of Judges' Registrable Interest.

The JSC Act (1994) requires the JSC to submit a written report to Parliament for tabling. The report must include, among other things, information regarding all matters relating to the Register of Judges' registrable interests as reported by the Registrar.

Regulation 5 of the Regulations Relating to the JSC Act (1994): Disclosure of Registrable Interests (the Regulations) requires the Registrar to furnish the JSC with the names of those Judges in active service who have disclosed interests of their family members.

Regulation 3 requires newly-appointed Judges to disclose their registrable interests within 30 days of their appointment as Judges.

In 2018/2019, a total of 11 Judges were appointed and they all disclosed their registrable interests within the time prescribed by the Regulations.

The disclosed interests have since been captured in the Register of Judge's Registrable Interests as per section 3(3) of the Regulations and Judges have been provided with individual entries to the Register relating to them.

After making the first disclosure, a Judge may at any time disclose to the Registrar or inform the Registrar of such amendments as may be required (Regulation 3(4)).

However, in March of every year, Judges in active service must inform the Registrar in writing whether the entries in the Register are an accurate reflection of that Judge's registrable interest and, if applicable, make such further disclosures or amendments as may be required.

For the current reporting period that is, 2018/19, there were 251 Judges in active service and 241 of these disclosed their registrable interest on before 31 March 2019, the closing date stipulated in the Regulations.

A total of 10 Judges did not disclose their registrable interests in March but one of these is on long-term sick leave and unable to disclose. The affected Divisions are Gauteng (seven), KwaZulu-Natal (two) and Eastern Cape (one). The ten outstanding disclosures have since been submitted within the grace period provided in the Regulations 3(6).

### **Judges' Remuneration and Conditions of Employment Act (2001) and Regulations**

The Judges' Remuneration and Conditions of Employment Act (Act 47 of 2001), with related Regulations, govern the employment benefits of Judges. The Independent Commission for the Remuneration of Public Office Bearers makes recommendations concerning the salaries, allowances and benefits of Judicial Officers.

### **The South African Judicial Education Institute Act (SAJEI)**

The SAJEI was established in order to promote the independence, impartiality, dignity, accessibility and effectiveness of the Courts through continuing judicial education as provided for in the SAJEI Act (Act 14 of 2008). The Institute commenced with training in January 2012.





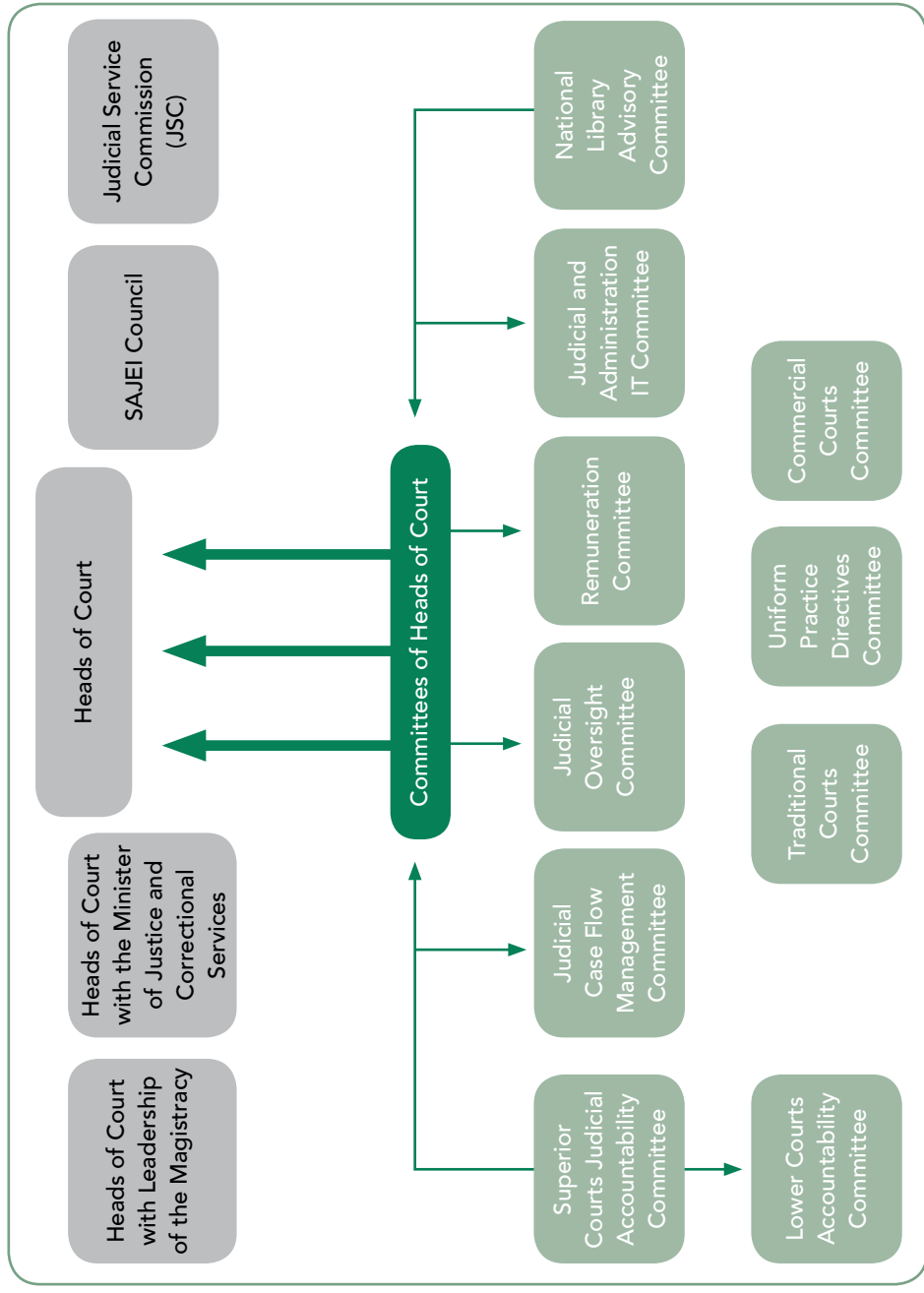
# PART C

## Governance Framework of the Judiciary

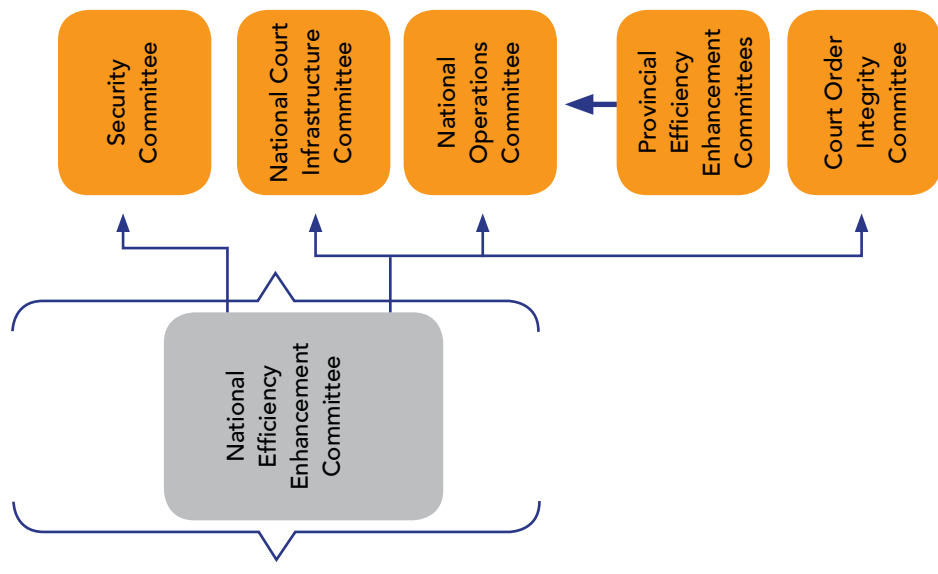


# Governance Framework of the Judiciary

## JUDICIAL GOVERNANCE STRUCTURES



## JUDICIAL GOVERNANCE STAKEHOLDER FORUMS



COMMITTEE	MANDATE AND COMPOSITION	
HEADS OF COURT		
HEADS OF COURT	<p>The Heads of Court meeting allows for the judicial leadership of the Superior Courts to deliberate and to take resolutions affecting the Judiciary and the Courts. The Heads of Court meeting is an important channel for communication between leaders of the Superior Courts and it has, since the enactment of the Superior Courts Act (2013), become increasingly important as the OCJ should provide the research, administrative, financial and other support that it requires for its activities.</p> <p>The Heads of Court have set up subject matter committees that evaluate and recommend national policies and legislation on all aspects of judicial administration in order to fully prepare it for a Judiciary-led court administration. The Heads of Court appoint and mandate Judges to serve on the committees. These Committees are assigned to develop policy on such matters as budget, judicial case flow management, court performance reporting, automation and technology as well as court efficiency on both national and provincial levels.</p>	<p>The meeting is chaired by the Chief Justice. The Head of each of the Superior Courts, or a Judge delegated to attend in their stead, attend the meeting. The Secretary-General of the OCJ, the Chief Executive Officer (CEO) of SAJEI and selected OCJ EXCO members attend the meeting in support of the Heads of Court.</p>
JUDICIAL ACCOUNTABILITY COMMITTEE: SUPERIOR COURTS	<p>The Heads of Court resolved that the Judiciary should be responsible for setting its own performance indicators and targets for the purpose of accountability; for evaluating its performance and identifying areas that require improvement. The Heads of Court resolved to set up a sub-committee on Judicial Planning; Reporting and Accountability to address the following issues, <i>inter alia</i> (a) what Judges should do to improve court performance (b) the most effective way of gathering statistics (c) how the Judiciary should effectively communicate its work to the public (progress made; the challenges and the required resources) (d) how best the Judiciary can ensure that they review their targets on an on-going basis.</p>	
JUDICIAL ACCOUNTABILITY COMMITTEE FOR THE MAGISTRATES' COURTS	<p>At the March 2017 meeting of the Chief Justice and the leadership of the Magistracy, the Chief Justice expressed his wish to receive reports on court performance at the Magistrates' Courts. He requested the leadership of the Magistracy to provide the following information, on court performance at Regional and District Court levels for criminal matters; civil matters or any other matter. He highlighted the need for these reports to address: (a) the number of cases received by all Magistrates' Courts (b) the number of cases finalised (c) the number of cases not finalised (d) the reasons for not finalising the cases (e) the status of backlogs (f) the period of the said backlogs.</p>	

COMMITTEE	MANDATE AND COMPOSITION	
MEETING OF THE CHIEF JUSTICE WITH THE LEADERSHIP OF THE MAGISTRACY	The Chief Justice, the Heads of Court with the leadership of the Magistracy meet twice a year which allows for the judicial leadership of the Superior Courts, Regional Courts and District Courts to discuss and make resolutions on matters of mutual interest.	The meeting is chaired by the Chief Justice. The Judges President of the Superior Courts, the Regional Court Presidents and the Administrative Heads of the District Courts are all present at the meeting. The Secretary-General of the OCJ, the CEO of SAJEI, and selected OCJ EXCO members attend the meeting in support of the Heads of Court as well as officials of the Department of Justice and Constitutional Development (DOJ&CD).
JUDICIAL CASE FLOW MANAGEMENT COMMITTEE	The Judicial Case Flow Management Committee (JCFMC) was established in 2011 and serves as a sub-committee of the Heads of Court. Its purpose is to develop the necessary strategies and take the necessary steps to implement management of the flow of civil cases in the Superior Courts by Judges. Its objective is to ensure that the assignment and allocation of cases to a Judicial Officer at the earliest opportunity and that the responsibility of that Judicial Officer to manage the flow of that case in an efficient and effective manner results in the speedy finalisation of cases.	
JUDICIAL OVERSIGHT COMMITTEE	<p>The Judicial Oversight Committee (JOC), which is a Heads of Court sub-committee, was established to assist the Heads of Court in exercising oversight over the OCJ Executive Committee (EXCO) between the Heads of Court meetings. It also acts as advisory body to the OCJ EXCO.</p> <p>The powers of the JOC are to act in accordance with the directives of the Heads of Court and to consider the following in relation to the OCJ: (i) quarterly financial reports (ii) quarterly performance information reports (iii) the Annual Report (iv) strategic plans (v) Annual Performance Plans (APPs) (vi) internal audit reports (vii) the budget of the OCJ as prepared by management. It should also consider reports from the OCJ business units and oversight bodies such as the Audit and Risk Committee and the Auditor-General South Africa and deal with any other issues emanating from the Heads of Court resolutions.</p>	
NATIONAL ADVISORY LIBRARY COMMITTEE	The National Advisory Library Committee was established to review the current library services operations, to make recommendations for improvements and to monitor implementation in order to ensure effective and efficient management of library services in all Courts. The committee reports to the Heads of Court.	<p>This committee is chaired by a Head of Court and its membership is made up as follows: a Judge and Librarian from the Constitutional Court; a Judge and Librarian from the SCA; a Judge and Librarian of each Division of the High Court, a Regional Court President; a Cluster Head (District Courts); an OCJ official, DOJ&amp;CD officials, a representative of the State Attorney; a representative of the South African Law Reform Commission; a State Law Advisor; a representative of Justice College; an official from the Master's Office and representatives of the Lower Courts' libraries.</p> <p>Library services are provided by the DoJ&amp;CD as a shared service since the transfer of the Superior Courts in October 2014.</p>



COMMITTEE	MANDATE AND COMPOSITION
LAW REPORTING PROJECT	The Heads of Court resolved that a Law Reporting Unit for the Judiciary be established in order to curb escalating cost arising out of the commercialisation of the law reports and to provide library services which are easily accessible to the Judiciary. The mandate of this Unit will be to establish in-house law reporting for use by the Judiciary. This will facilitate the institutionalisation of law reporting by the Judiciary and the publication of law reports.
JUDICIAL COMMUNICATIONS COMMITTEE (JCOM)	At the Heads of Court meeting in 2015, the Chief Justice identified the need for the establishment of a committee of Judges to develop a communication strategy for the Judiciary, and to engage directly with communication matters relating to the Judiciary and all other matters relating to its functions, constitutional mandate and independence. A Head of Court leads this committee, supported by the Spokesperson for the Judiciary and officials of the OCJ Communications Unit. The Judiciary newsletter can be found at the following address: <a href="https://www.judiciary.org.za/index.php/news/newsletter">https://www.judiciary.org.za/index.php/news/newsletter</a>
JUDICIARY AND ADMINISTRATION ICT STRATEGY STEERING COMMITTEE (JAIT STRATEGY STEERING COMMITTEE)	The JAIT was established in 2013 to provide direction and oversight over the use of information technology (IT) as a strategic enabler of an effective and efficient Judiciary and its' administration, in order to improve access to justice. The JAIT was tasked to prioritise major IT-enabled initiatives in line with the strategic direction of the Judiciary and its administration and to monitor and evaluate the implementation and business benefits realisation of major IT initiatives on behalf of the Judiciary and its administration. The JAIT reports directly to the Heads of Court.
NATIONAL COURT INFRASTRUCTURE COMMITTEE (NCIC)	At a meeting between the Chief Justice, Heads of the Superior Courts and the leadership of the Magistracy held in October 2016, serious concerns were raised regarding the state of infrastructure at the courts. The meeting resolved that a committee be established to monitor and advise on all infrastructure projects at all courts and that a comprehensive report relating to all infrastructural challenges affecting Superior Courts and Lower Courts nationally be prepared for the Chief Justice. The facilities function (provision and maintenance) has been retained by the DoJ&CD along with all the funding and resources to manage facilities and infrastructure challenges in the OCJ. The Department of Public Works (DPW) is responsible for infrastructure capital maintenance and the budget for such is with that department.
SECURITY SUB-COMMITTEE	The Security Committee was established by the Heads of Court emanating from concerns raised by the Judiciary relating to security at the Superior Courts and of Judicial Officers. The establishment of the Committee was approved by the meeting of the Heads of Court held during April 2016. The Committee is mandated to address the general challenges from the respective Divisions where security, as a service, influences the effective and efficient functioning of the Courts. The Committee must further make recommendations and advise the Heads of Court on matters pertaining to security at the courts.
REMUNERATIONS COMMITTEE	The Remuneration Committee consolidates inputs from the Judiciary on matters concerning the salaries, allowances and benefits of Judges. These recommendations are then considered by the Heads of Court and, on adoption, are forwarded to the Independent Commission for the Remuneration of Public Office Bearers. This Commission annually publishes in the Gazette recommendations concerning the salaries, benefits and allowances of Judges, among other public office bearers, the upper limits of the salaries, benefits and allowances, and the resources which are necessary to enable Judges to perform the office-bearer's functions effectively.

COMMITTEE	MANDATE AND COMPOSITION
TRADITIONAL COURTS COMMITTEE	The Committee was established to deal with: (i) all issues raised on Traditional Courts (ii) how Traditional Courts could benefit the Judiciary (iii) what the Judiciary is currently doing in relation to Traditional Courts.
UNIFORM AND CONSOLIDATED PRACTICE DIRECTIVES COMMITTEE	The Committee is mandated to lead a project relating to the consolidation of all practice directives with a view to developing uniform practice directives.
COMMERCIAL COURTS COMMITTEE	The Committee was established to conduct a research study on Commercial Courts established in various jurisdictions and to recommend the best model for the potential establishment of Commercial Courts in South Africa; to study a model on e-Commerce Courts; Internet Courts and Financial Courts and to recommend how this model could be adopted in the South African context.

### STAKEHOLDER FORUMS

NATIONAL EFFICIENCY ENHANCEMENT COMMITTEE (NEEC)	<p>The NEEC was established to prioritise and improve the efficiency and effectiveness of the justice system to ensure the delivery of quality justice to all. The NEEC brings together, at the highest level, the leadership of the Judiciary, the Executive and other stakeholders, to work together in order to enhance performance and outcomes in the delivery of quality justice. The NEEC addresses the identified shortcomings in the justice system and develop improvement and implementation plans to enhance the level of performance of each stakeholder.</p>	<p>The NEEC is chaired by the Chief Justice and comprises: The Heads of the Superior Courts, the Regional Court Presidents, the Administrative Heads of the District Courts, the OCJ, the DoJ&amp;CD; the National Prosecuting Authority (NPA), the General Council of the Bar, the Law Society of South Africa, Legal Aid South Africa, the Department of Social Development; the South African Police Service (SAPS), the DPW, the Department of Health, the Department of Correctional Services (DCS), the Road Accident Fund (RAF) and the Sheriffs Board.</p>
PROVINCIAL EFFICIENCY ENHANCEMENT COMMITTEE (PEEC)	<p>The PEECs, established in 2013, duplicate the structure of the NEEC at provincial level and are chaired by the Judge President. Represented at the PEEC are the same stakeholders who make up the NEEC membership who are represented by the leadership in provinces. PEECs have been mandated to monitor the following:</p> <ul style="list-style-type: none"> <li>• Challenges: addressing those challenges identified by stakeholders in the provinces.</li> <li>• Addressing NEEC priorities and concerns: priorities and concerns best addressed and attended to by the PEEC will be referred to them by the NEEC for further action and resolution.</li> </ul> <p>These priorities have been expressed through the addition of the following standing items on all PEEC agendas:</p> <ul style="list-style-type: none"> <li>- Training initiatives of all stakeholders. The need for training and in-house training programmes at court or Division level, identified by the NEEC as a priority, should be implemented by the PEEC.</li> <li>- The use of the Audio Visual Remand (AVR) system – monitoring of the use of the AVR system as well as the identification of challenges in the implementation of the system.</li> <li>- Case flow management – challenges and interventions.</li> </ul>	



COMMITTEE	MANDATE AND COMPOSITION
PROVINCIAL EFFICIENCY ENHANCEMENT COMMITTEE (PEEC)	<ul style="list-style-type: none"> <li>- Remand detainees in custody for longer than two years – These reports from the DCS and Legal Aid South Africa are currently shared with all PEECs.</li> <li>- Statistics of court performance by all stakeholders.</li> </ul> <ol style="list-style-type: none"> <li>a. Resources and capacity: identify and address resource and capacity requirements/constraints in the province.</li> <li>b. Improvement plans: develop improvement and implementation plans to enhance the level of performance required of each stakeholder.</li> <li>c. Escalation: Where the PEEC is unable to resolve challenges or constraints identified by stakeholders and any other shortcomings, bottlenecks or efficiencies relating to the proper functioning of the Courts, these should be escalated for the attention of the NEEC.</li> </ol> <p>The PEECs have also been mandated to recommend policy amendments or developments to the NEEC where necessary. At the March 2017 meeting of the NEEC, it was resolved that PEECs will prepare reports annually, on the progress, achievements and challenges experienced by the respective PEECs. The following priorities have been identified following the reports from the PEECs as well as the emphasis from the NEEC on reducing the number of remand detainees at correctional centres.</p> <ol style="list-style-type: none"> <li>1.1 Awaiting trial detainees (ATDs) longer than two years – Statistics on the remand detainees awaiting trials in courts are presented by DCS and Legal Aid at all PEECs. Each PEEC must report on the reduction in the number of ATDs identified as at the beginning of the year. The tracking and reporting on progress made will also indicate the correlation between the number of remand detainees and the backlogs at the various courts.</li> <li>1.2 The AVR utilisation: Statistics are presented by the leadership of the Magistracy at each PEEC. The utilisation statistics must be tracked and reported on to indicate trends. Responsible stakeholders are the Judiciary, the DCS and the NPA.</li> <li>1.3 Infrastructure challenges identified and resolved.</li> <li>1.4 Number of training initiatives, aimed at improving court performance, undertaken by stakeholders.</li> <li>1.5 Court performance progress: Each PEEC must report on areas of improvement in court performance which can directly be ascribed to interventions identified and implemented at the PEEC. This priority will be unique to each PEEC and will be at the discretion of the PEEC chaired by the Judge President.</li> </ol> <p>The PEEC structures have been replicated on District and Regional Court level and are known as the District Efficiency Enhancement Committee (DEEC) and Regional Efficiency Enhancement Committee (REEC).</p>
NATIONAL OPERATIONS COMMITTEE (NOC)	<p>The purpose of the NOC is to establish task teams to carry out the mandate of the NEEC and to develop improvement plans for the implementation of the objectives of the NEEC. The NOC is, furthermore, required to perform an oversight function over the activities of the task teams and the PEECs and report progress to the NEEC.</p>



**COMMITTEE****MANDATE AND COMPOSITION****COURT ORDER  
INTEGRITY  
COMMITTEE**

At the meeting of the NEEC, concerns were raised about the prevalence of fraudulent activities relating to court orders at both the Superior and Magistrates' Courts. This is a serious threat to access to justice and undermines the integrity of the judicial system and the public confidence in the courts. A fraudulent court order in the wrong hands can cause great injustice and harm. In responding to the seriousness of the matter, the NEEC established a Committee to:

1. Identify patterns and processes employed by the perpetrators in an effort to assist the focus of investigations on a national scale.
2. Ensure early detection of patterns of corruption at all stakeholders which negatively impact on the efficacy of the justice system.
3. Advise on steps to capacitate the courts and stakeholders in an effort to eradicate the scourge of fraudulent court orders.
4. Advise on the requirements an automated court system will have on addressing these concerns.

The Committee was also mandated to look into educating the public on court processes and creating public awareness for the steps taken to eradicate these fraudulent practises.

A Head of Court chairs the Committee. The following members were appointed to the Committee: A representative of the Heads of Court, the chairperson of the National Operations Committee (NOC); a representative of the leadership of the Magistracy, a representative of the SAPS; OCJ officials; a representative of the DoJ&CD; representatives of the organised legal profession and a representative of the NPA.



## Notable achievements, resolutions and actions

23 November 2018 marked a turning point in the history of the South African Judiciary and by extension in the history of the State as a whole. Never before has the Judiciary of this country assumed the responsibility to account for the execution of its constitutional mandate without a middle-man in the true sense of the word. Here lies the significance of this development in its proper context.

The Heads of Court, led by the Chief Justice, took the resolution to present an Annual Report on Judicial Functions and Court Performance for the South African Judiciary for the year ending 31 March 2018. It was a historical event as it is the first time the Judiciary, as an arm of State, took the lead on accounting for its work, and for the power and authority the State has endowed to it. Judiciary Day will, henceforth, be an annual event during which the Chief Justice will, on the behalf of the Judiciary, present the Judiciary Annual Performance Report; and deliver an address on the state of the Judiciary. Like the Executive, whose performance is accounted for primarily by the President, and Parliament whose activities are reported on mainly by the Speaker of the National Assembly, and the Chairperson of the National Council of Provinces, the Judiciary, through the Chief Justice accounted for the performance and other activities of the broader Judiciary of South Africa, to the people of South Africa.

The Judiciary Annual Report presented at the event is a reflection of the progress made by the Judiciary in our quest to fulfil our constitutional obligation of improving access to justice and to expeditiously deliver quality justice to all. The report is aimed at enhancing transparency, accountability in the delivery of justice to all and to enhance the public confidence in the Judiciary. The confidence of the public in an independent Judiciary is paramount for a vibrant and functional democracy. Lack of public confidence in the Judiciary has the potential of eroding the moral authority of the Judiciary. Accountability is therefore important because it is a foundational value of our democracy which is applicable to all, including the Judiciary.

The number of reserved judgments in the Superior Courts is monitored to measure compliance with the set Norms and Standards and the Judicial Code of Conduct. The report on reserved judgments is also a tool for Judges President and all Heads of Court to manage the judicial functions at the specific court.

The Heads of Court, as part of accountability and in an effort to be transparent, have taken a decision that a reserved judgment report, containing a list of those judgments outstanding for a period in respect of six months or longer, will be placed on the Judiciary website. Any requests for further information, such as information on the list of reserved judgments for individual Judges, or judgments outstanding for less than six months, must be referred to the Head of Court concerned. These reports can be found at [www.judiciary.org.za](http://www.judiciary.org.za)

In order to ensure that the courts remain efficient, the Judiciary will be introducing a win-win court-annexed mediation. In July 2018, Judicial Officers from all courts were trained on the practical implementation and benefits of court-annexed mediation as part of a broader judicial case flow management strategy. This training was led by Judge John Clifford Wallace, a Senior Judge and Chief Judge Emeritus of the 9th Circuit United States of America Court of Appeal. Judge Wallace is renowned internationally as one of the leading authorities on case flow management and court-annexed mediation. A pilot project was started in the jurisdictions that Judge President Mlambo presides over before mediation is rolled out.

At the Judiciary Day held in November 2018 the Chief Justice identified the following actions and measures for implementation in the upcoming year as a guideline for the Judiciary.

1. Judicial Officers do not always have to write scholarly and reportable judgments. The norm ought to be the delivery of short yet complete judgments immediately after the trial or hearing, unless the complexity or length of the matter does not allow this to happen.
2. Only trial or hearing-ready matters must be set down. To achieve this, judicial case management and pre-trial conferences that involve and are driven by a Judicial Officer must be fully

embraced and the first phase of this system has been implemented. For this purpose, the draft rules drafted by the JCFMC will facilitate this process.

3. Another mechanism employed to reduce the costs of litigation and to accelerate the pace of litigation was a resolution by the Heads of Court to have English as the language of record. What this means is that every litigant is free to testify in a language of preference but the record of proceedings is itself required to be in English. The Chief Justice indicated that recent experience has borne out the wisdom behind this resolution.
4. Court judgments are produced by Judges as functionaries of the State. Yet they are availed to publishers for free, who with the editorial services provided by some Judges and Advocates, are then packaged and sold back to the State for consumption by the Judiciary. The Judiciary buys back its judgments at no discount whatsoever. The Judiciary have for years been asking for funding from those who control the library services budget to have us compile our own judgments so that we may access them at no cost whatsoever.
5. Gauteng is one of the Divisions that have a much lower number of Judges in comparison to the workload. This contributes to the delays in enrolling and finalising matters notwithstanding the Judge President and colleagues' best endeavours to speed up the finalisation of cases.
6. At NEEC level, the Judiciary have appealed for SAPS to consider arrest and detention only when it is essential to do so. This would reduce the workload of the Magistrates in the remand court, and utilise more hours for trials and applications, thus speeding up case finalisation.
7. The 665 posts for prosecutors, which remain vacant, will weaken court performance even more. Difficult as it is, the Judiciary pleaded for more funding for the NPA so that these posts can be filled and the criminal justice system strengthened.
8. More funding is required for repairs or renovation of the buildings courts occupy. Courts are virtually unsecured. Staff that are not adequately trained or armed are being utilised to provide security services to protect the courts. Sadly, the Judiciary is unable to do anything about it other than to raise it as a concern.
9. The RAF must have its capacity more enhanced so as to make it possible for matters to be speedily resolved instead of waiting until the courts has to settle matters. This would also save huge costs.
10. More vigilance is required in relation to the amounts which RAF and medical negligence claims are allowed to be settled.
11. It bears emphasis that the Judiciary is acutely underfunded in comparison to the other arms of the State. We cannot afford an annual Judicial Colloquium which other jurisdictions around the world hold without fail.
12. A stress-management programme is needed urgently for all Judicial Officers. These Officers experience a great deal of stress as a result of some of the traumatising cases they preside over, such as rape, murder, family violence and matrimonial matters. It cannot be left to an individual to fend for herself/himself. It is a work-related challenge that requires institutional response as was done by Australia and Singapore.
13. At some point, however long it may take, the institutional independence of the Judiciary would have to be appropriately resolved





# **PART D**

## Court Performance

# COURT PERFORMANCE

Throughout the world, the Judiciary remains accountable to the people for the power and authority bestowed upon it. Historically, there was no accounting mechanisms which allowed the Judiciary to report on court performance and other matters related to the exercise of its constitutional mandate. Traditionally, Judges accounted through their judgments with the Executive reporting on court performance and related budget matters.

As our democracy matures and develops and the principle of judicial independence becomes more crystallised, it becomes necessary for the Judiciary to develop its own system of accounting as one arm of the State.

In its initial phases after delinking from the DOJ&CD, reporting on judicial functions was integrated in the planning and reporting processes of the OCJ.

The Chief Justice raised a concern at the Heads of Court meeting held on 2 October 2016 that the then draft OCJ 2017/18 APP, including the OCJ Strategic Plan (2015/16 – 2019/20), contained 'performance indicators', under Programme two (namely; Judicial Support and Court Administration), that relate to court performance. The Heads of Court resolved that the Judiciary, as a self-contained, responsible arm of State, can set 'performance targets' on court performance for the purpose of monitoring its own performance.

The performance of the Judiciary should not be assessed through "executive tools of planning and evaluation" which Parliament as an arm of State is also not subjected to.

As a result, performance indicators and targets relating to judicial functions were delineated from the OCJ planning documents from 2017/18 going forward.

The reporting mechanism developed by the Judiciary will allow the Judiciary to account to the public and give the public, other arms of State and interested stakeholders access to information from such reports when required.

The 2018/2019 APP for the Judiciary has been developed and it defines and identifies performance indicators and targets for the various courts. The performance indicators and targets are measures that allow for monitoring of performance on one or more aspect of the overall functions and mandates of the Judiciary. The performance indicators for the Judiciary are informed by:

- Constitutional provisions, the Superior Courts Act (2013) and legislative mandates and functions.
- Judicial Norms and Standards.
- Strategic and operational priorities.

The performance targets express a specific level of performance that the courts should aim to achieve within a given time period.

The performance targets are informed by:

- The baseline figures based on previous reports/current performance.
- The available resources (budget, human resources, etc).
- The Norms and Standards.

The purpose of the Court Performance Monitoring Report is to provide progressive updates on the implementation of the Judiciary APP with specific reference to monitoring delivery against set quarterly performance targets. The report below provides an overall picture on how the Superior Courts performed for the period April 2018 to March 2019.



# KEY PERFORMANCE INDICATORS

Performance indicators		Performance target 2018/2019
1.1	Percentage of reserved judgments finalised in all Superior Courts	70%
1.2	Percentage of disclosures for serving Judges' Registrable Interests submitted by 31 March	100%
1.3	Percentage of disclosures for newly-appointed Judges' Registrable Interests submitted within 30 days of appointment (if any)	100%

## 2. Constitutional Court

Performance indicators		Performance target 2018/2019
2.1	Percentage of cases finalised	70%

## 3. Supreme Court of Appeal

Performance indicators		Performance target 2018/2019
3.1	Percentage of cases finalised	80%

## 4. High Court

Performance indicators		Performance target 2018/2019
4.1	Number of cases in the High Courts which are on the roll for more than 12 months (Criminal case backlog)	137
4.2	Percentage of criminal matters finalised	55%
4.3	Percentage of civil matters finalised	54%

## 5. Labour Courts and Labour Appeal Court

Performance indicators		Performance target 2018/2019
5.1	Percentage of labour matters finalised	56%

## 6. Land Claims Court

Performance indicators		Performance target 2018/2019
6.1	Percentage of land claims matters finalised	56%

## 7. Competition Appeal Court

Performance indicators		Performance target 2018/2019
7.1	Percentage of Competition Appeal cases finalised	90%

## 8. Electoral Court

Performance indicators		Estimated performance 2016/2017 Performance target 2018/2019
8.1	Percentage of electoral cases finalised	90%

# PERFORMANCE OF THE SUPERIOR COURTS FOR THE PERIOD APRIL 2018 – MARCH 2019

The internally audited Judicial performance information is as follows:

Performance Indicator	Total cases	Finalised	%
<b>PROGRAMME PERFORMANCE INDICATORS</b>			
1. Percentage of reserved judgments finalised in all Superior Courts	4794	3605	75
2. Percentage of cases finalised by the Constitutional Court	490	370	76
3. Percentage of cases finalised by the SCA	231	214	93
Number of applications and petitions for leave to appeal finalised by the SCA	1095	1062	97
4.1 Number of cases in the High Courts which are on the roll for more than 12 months (Criminal Case backlog)	119	65	
4.2 Percentage of criminal cases finalised by the High Court	13140	10666	81
4.3 Percentage of civil cases finalised by the High Court	145127	114650	79
5. Percentage of cases finalised by the Labour Court and Labour Appeal Court	5915	3756	63
6. Percentage of cases finalised by the Land Claims Court	354	219	62
7. Percentage of cases finalised by the Competition Appeal Court	7	4	57
8. Percentage of cases finalised by the Electoral Court	4	4	100

During the period under review, the Superior Courts managed to perform at 70% and achieved 7 of the 10 targets set.

An explanation and description of the indicators is contained on page 33.



# KEY PERFORMANCE INDICATORS OF THE MAGISTRATES' COURTS

At a workshop held in November 2018, facilitated by the JAC for the Magistrates' Courts, the leadership of the Magistracy for both the District Courts and Regional Courts identified and adopted indicators which will allow reporting on the court performance at the Magistrates' Courts. The monitoring and reporting on these indicators will be contained in the Judiciary Strategic Plan.

## REGIONAL COURTS

Performance indicators	
1.1	Percentage of criminal judgments reserved in all Regional Courts for a period longer than three months
1.2	Percentage of civil judgments reserved in all Regional Courts for a period longer than three months
1.3	Percentage of criminal matters disposed of within six months from date of plea
1.4	Percentage of criminal case backlogs not yet disposed of within a period of nine months after date matter first appeared on Regional Court roll
1.5	Percentage disposed of civil cases within a period of nine months of date of set-down
1.6	Average Criminal Court recording hours per day Average Civil Court sitting recording per day
1.7	Combined average court recording hours per day

## DISTRICT COURTS

Performance indicators	
2.1	Percentage of criminal judgments reserved in all District Courts for longer than three months
2.2	Percentage of civil judgments reserved in all District Courts for longer than three months.
2.3	Percentage of criminal cases disposed of within six months from date of plea
2.4	Percentage of criminal case backlogs not yet disposed of nine months after first appearance date
2.5	Percentage of criminal cases pleaded within three months from first appearance date
2.6	Percentage of Child Justice preliminary inquiries disposed of within 90 days after date of first appearance
2.7	Percentage of civil cases disposed of within a period of nine months
2.8	Percentage disposed of family cases (maintenance, Children's Court and domestic violence separate indicators due to separate systems) within a period of nine months
2.9.	Average Criminal Court recording hours per day Average Traffic Court recording hours per day Average Civil Court recording hours per day Average Civil Court motions recording hours per day Average Maintenance Court recording hours per day Average Domestic Violence Court recording hours per day Average Harassment Court recording hours per day Average Judicial Inquest Court recording hours per day Average Children's Court recording hours per day Average Equality Court recording hours per day
2.10	Combined average court recording hours



## RESERVED JUDGMENTS

Reserved judgments are monitored to measure the compliance with the set Judicial Norms and Standards and the Code of Judicial Conduct.

The Judicial Norms and Standards, in paragraph 5.2.6, provides that judgments in constitutional, criminal and civil matters should generally not be reserved without a fixed date for handing down. Judicial Officers have a choice to reserve judgments sine die where circumstances are such that the delivery of a judgment on a fixed date is not possible.

Article 10(2) of the Code of Judicial Conduct provides that:

*“A judge must deliver all reserved judgments before the end of the term in which the hearing of a matter was completed, but may:*

- a. *in respect of a matter that was heard within two weeks of the end of that term; or*
- b. *where a reserved judgment is of a complex nature or for any other cogent and sound reason and with consent of the head of the court, deliver that reserved judgment during the course of the next term.”*

The table below shows that as at 31 March 2019 there were a total of 86 judgments reserved for longer than six months since the date of last hearing.

Court name	More than six months
Constitutional Court	1
SCA	1
Competition Appeal Court	0
Labour Court Cape Town	6
Labour Court Durban	2
Labour Court Johannesburg	37
Labour Court Port Elizabeth	0
Land Claims Court	0
Eastern Cape Division, Grahamstown	1
Eastern Cape Local Division, Bhisho	1
Eastern Cape Local Division, Mthatha	1
Eastern Cape Local Division, Port Elizabeth	1
Free State Division, Bloemfontein	0
Gauteng Division, Pretoria	3
Gauteng Local Division, Johannesburg	0
KwaZulu-Natal Division, Pietermaritzburg	9
KwaZulu-Natal Local Division, Durban	13
Limpopo Division, Polokwane	0
Limpopo Local Division, Thohoyandou	0
Mpumalanga Division, Mbombela Circuit Court	0
Mpumalanga Division, Middelburg Circuit Court	2
North West Division, Mahikeng	0
Northern Cape Division, Kimberley	0
Western Cape Division, Cape Town	8
<b>Grand total</b>	<b>86</b>



## DESCRIPTION FOR PERFORMANCE INDICATORS

<b>Indicator Title</b>	Percentage of matters finalised (Constitutional Court)
<b>Short Definition</b>	The indicator measures the percentage of matters finalized (i.e. judgment granted or dismissed) by the Constitutional Court.
<b>Purpose/ Importance</b>	To measure of the performance of the Constitutional Court in relation to the finalization of cases enrolled at the Court
<b>Source/Collection of Data</b>	Court rolls, manual registers, Court judgments and Court Orders
<b>Method of Calculation</b>	$(\text{Number of cases finalised} / \text{total case load}) \times 100$ Case load = Cases brought forward (BF) + New cases
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non- cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the finalisation of Court cases at the Constitutional Court
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Percentage of matters finalised (Supreme Court of Appeal)
<b>Short Definition</b>	The indicator measures the percentage of criminal and civil appeal matters finalized (i.e. upheld or dismissed) by the Supreme Court of Appeal
<b>Purpose/ Importance</b>	To measure of the performance of the Supreme Court of Appeal in relation to the finalisation of criminal and civil appeal matters enrolled at the SCA
<b>Source/Collection of Data</b>	Court rolls, manual registers, Court judgments and Court Orders
<b>Method of Calculation</b>	$\text{No of cases finalised} / \text{Total number of Appeals enrolled} \times 100$
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non- cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the percentage of SCA cases finalised
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Number of matters in the High Courts which are on the roll for more than 12 months
<b>Short Definition</b>	The indicator tracks the actual number of criminal backlog cases (i.e. criminal cases that has been outstanding on the roll for longer than 12 months from date of first enrolment [after the matter has been declared trial ready through pre-trial] in that specific High Court)
<b>Purpose/ Importance</b>	To measure the speedy finalisation of criminal backlog cases at the High Courts
<b>Source/Collection of Data</b>	List of outstanding cases, Court judgments and Court orders
<b>Method of Calculation</b>	Simple count
<b>Data Limitations</b>	Delays due to Joint trials, outstanding warrants of arrest, lengthy trials (multiple charges and multiple accused), postponement of sentencing (postpone sentence section CPA), change of legal representation by accused, "double booking" by legal representatives.
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Cumulative
<b>Reporting Cycle</b>	Annually
<b>New Indicator</b>	Yes
<b>Desired Performance</b>	A reduction in the number of backlog cases identified as backlog cases at the beginning of the financial year.
<b>Indicator Responsibilities</b>	Court Administration Unit
<b>Indicator Title</b>	Percentage of criminal matters finalised at the High Courts
<b>Short Definition</b>	The indicator measures the percentage of criminal matters finalised by the High Court Divisions. These include but not limited to: Automatic Reviews, Section 309C Petitions, Appeals including Full Bench Appeals, Section 105A (plea and sentence agreements), mental health reviews, bail appeals.
<b>Purpose/ Importance</b>	To measure the performance in relation to the finalisation of criminal matters
<b>Source/Collection of Data</b>	Manual registers and Court judgments
<b>Method of Calculation</b>	(Number of criminal matters finalised /total case load) x 100 Total case load = The actual number of cases enrolled during the reporting period plus the cases brought forward from the previous cycle.
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	Yes
<b>Desired Performance</b>	An increase in the percentage of criminal matters finalised.
<b>Indicator Responsibilities</b>	Court Administration Unit



<b>Indicator Title</b>	Percentage of civil matters finalised at the High Courts
<b>Short Definition</b>	The indicator measures the percentage of civil (i.e. trials, opposed/unopposed motions, urgent applications, , reviews, appeals including Full Bench appeals, pre-trial, admissions, Chamber book applications, Admiralty Court, tax Court, Equality Court) matters finalised (i.e. admitted, granted, dismissed, refused, settled and withdrawn) by the High Court Divisions
<b>Purpose/ Importance</b>	To measure the performance of the civil Courts
<b>Source/Collection of Data</b>	Court rolls, manual registers, Court judgments and Court orders
<b>Method of Calculation</b>	(Number of civil matters finalised/ total case load) x100 Total case load = The actual number of cases enrolled during the reporting period
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the percentage of civil cases finalised
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Percentage of reserved judgments finalised in all Superior Courts
<b>Short Definition</b>	The indicator measures the percentage of reserved judgments delivered by the Superior Courts Divisions within three months after the last hearing.
<b>Purpose/ Importance</b>	To reduce the number of reserved judgments and ensuring timely delivery of reserved judgments
<b>Source/Collection of Data</b>	Court judgments, manual register of reserved judgments, data capturing tools and judicial bench Book
<b>Method of Calculation</b>	(Number of reserved judgments delivered within three months/total number of reserved judgments delivered) x100
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non-cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	Speedy delivery of reserved judgments by all Superior Courts (reserved judgments delivered within three months of last hearing)
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Percentage of Labour matters finalised
<b>Short Definition</b>	The indicator measures the percentage of cases, (i.e. trials, opposed/unopposed motions, urgent applications, reviews, pre-trial, admissions, appeals) matters finalised (i.e. admitted, granted, dismissed, refused, settled rule nisi discharged, rule nisi confirmed, withdrawn, matter remitted to CCMA/Bargaining Council, draft order) by the Labour Courts and Labour Appeal Court.
<b>Purpose/ Importance</b>	To measure of the performance of the Labour Court and Labour Appeal Court in relation to the finalisation of labour matters
<b>Source/Collection of Data</b>	Court judgments, Court orders, Court rolls and manual registers
<b>Method of Calculation</b>	(Number of matters finalised/total case load) x100 Total case load = The actual number of matters enrolled during the reporting period
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the percentage of labour matters finalised
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Percentage of matters finalised by the Land Claims Court
<b>Short Definition</b>	The indicator measures the percentage of cases (i.e. Automatic Reviews, Restitution, Extension of Security of Tenure and Land Reform [Labour Tenant]) finalised (i.e. Orders of Magistrate Court Set Aside, Eviction Orders Confirmed, Cases That Should Never Have Been Referred, Settled, judgments Orders, Withdrawn for Settlement) by the Land Claims Court.
<b>Purpose/ Importance</b>	To measure of the performance of the Land Claims Court in relation to the finalisation of matters
<b>Source/Collection of Data</b>	Court rolls, manual registers, Court judgments and Court orders
<b>Method of Calculation</b>	(Number of matters finalised/total case load) x100 Total case load = The actual number of matters enrolled during the reporting period
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non-cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the % of matters finalised
<b>Indicator Responsibilities</b>	Court Administration Unit



<b>Indicator Title</b>	Percentage of Electoral matters finalised
<b>Short Definition</b>	The indicator measures the percentage of matters finalised (i.e. strike offs, withdrawn, granted or dismissed) by the Electoral Court.
<b>Purpose/ Importance</b>	To measure of the performance of the Electoral Court in relation to finalisation of electoral matters
<b>Source/Collection of Data</b>	Court rolls, manual registers, Court judgments and Court Orders
<b>Method of Calculation</b>	(Number of cases finalised/total case load) x100 Total case load = The actual number of cases enrolled during the reporting period
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non-cumulative
<b>Reporting Cycle</b>	Bi-annually and annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the percentage of Electoral cases finalised
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Percentage of Competition Appeal matters finalised
<b>Short Definition</b>	The indicator measures the percentage of competition appeal matters finalized (i.e. upheld or dismissed) by the Competition Appeal Court.
<b>Purpose/ Importance</b>	To measure of the performance of the Competition Appeal Court in relation to the finalisation of competition appeal matters finalised
<b>Source/Collection of Data</b>	Court rolls, manual registers, Court judgments and Court Orders
<b>Method of Calculation</b>	(Number of cases finalised/total case load) x100 Total case load = The actual number of cases enrolled during the reporting period
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non-cumulative
<b>Reporting Cycle</b>	Biannually and annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	An increase in the percentage of competition appeal cases finalised
<b>Indicator Responsibilities</b>	Court Administration Unit

<b>Indicator Title</b>	Percentage of disclosures for Judges' Registrable Interests submitted by 31 March
<b>Short Definition</b>	This is the percentage of disclosures of Judges' financial Interests
<b>Purpose/ Importance</b>	To determine the percentage of disclosures of Judge's financial (Registrable) Interests in accordance with the regulations on Judges Registrable interests (made in terms of section 13 (8) of the Judicial Service Commission Act, 1994)
<b>Source/Collection of Data</b>	Register of Judges' Registrable Interests
<b>Method of Calculation</b>	(Number of judges who disclosed registrable Interest by 31 March/total number of judges) x100
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non-Cumulative
<b>Reporting Cycle</b>	Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	Improved compliance with of section 13 (8) of the Judicial Service Commission Act, 1994
<b>Indicator Responsibilities</b>	Judicial Policy and Research Unit

<b>Indicator Title</b>	Percentage of disclosures for newly appointed Judges' Registrable Interest submitted within 30 days of appointment (if any)
<b>Short Definition</b>	This is the percentage of disclosures of newly appointed Judges' financial Interests submitted within 30 days of assumption of duty
<b>Purpose/ Importance</b>	To determine the percentage of disclosures of Judge's financial (Registrable) Interests in accordance with the regulations on Judges Registrable interests (made in terms of section 13 (8) of the Judicial Service Commission Act, 1994)
<b>Source/Collection of Data</b>	Register of Judges' Registrable Interests
<b>Method of Calculation</b>	(Number of newly appointment Judges who disclosed registrable interests/total number of newly appointed Judges)x100
<b>Data Limitations</b>	None
<b>Type of Indicator</b>	Output
<b>Calculation Type</b>	Non-Cumulative
<b>Reporting Cycle</b>	Quarterly and Annually
<b>New Indicator</b>	No
<b>Desired Performance</b>	Improved compliance with of section 13 (8) of the Judicial Service Commission Act, 1994
<b>Indicator Responsibilities</b>	Judicial Policy and Research Unit





# **PART E**

## Seminars for Judges





## SEMINARS FOR JUDGES

### **The South African Judicial Education Institute (SAJEI)**

In accordance with the SAJEI Act (2008), the Institute is led by a Council consisting of the following members: the Chief Justice as Chairperson, the Deputy Chief Justice as Deputy Chairperson, the Minister of Justice and Correctional Services, a Judge of the Constitutional Court; a representative of the JSC; the President of the SCA; two Judges President and two other Judges; five Magistrates; a Judge who has been discharged from active service; the Director; one advocate designated by the General Council of the Bar of South Africa; one attorney designated by the Law Society of South Africa; two university teachers of law designated by the South African Law Deans' Association; two other members who are not involved in the administration of justice designated by the Minister after consultation with the Chief Justice; and one traditional leader designated by the National House of Traditional Leaders.

For the reporting period SAJEI facilitated a total of 142 judicial education training courses as provided for in the SAJEI Act, covering a total of 3 068 delegates. The training conducted included court-annexed mediation and case management, children's court skills, criminal court skills, family court skills, civil court skills, competition law, case management

and maritime law, judicial management and judicial ethics as well as environmental crimes. These training courses are crucial in that they contribute towards efficient and effective court administration

In terms of terms of Section 5 of the SAJEI Act (2008) the functions of the Institute are:

- a. To establish, develop, maintain and provide judicial education and professional training for judicial officers.
- b. To provide entry level education and training for aspiring Judicial Officers to enhance their suitability for appointment to judicial office.
- c. To conduct research into judicial education and professional training and to liaise with other judicial education and professional training institutions, persons and organisations in connection with the performance of its functions.
- d. To promote, through education and training, the quality and efficiency of services provided in the administration of justice in the Republic.
- e. To promote the independence, impartiality, dignity, accessibility and effectiveness of the courts.
- f. To render such assistance to foreign judicial institutions and courts as may be agreed upon by the Council.



## Conference of Constitutional Jurisdictions of Africa (CCJA)

The Conference of Constitutional Jurisdictions of Africa (CCJA) is an independent institution established by constitutional jurisdictions in Africa to ensure that the Judiciary in each member State supports and deepens democracy by upholding constitutionalism and the rule of law. At the initiative of Algeria, the African Union adopted at the 15th session of the Conference of Heads of State and Government held from 25 to 27 July 2010 in Kampala, Uganda, the decision to create an African constitutional justice space.

The creation of this space meets an imperative to bring together the African mechanisms of constitutional justice in a continental area to enable them to participate in the domain that is theirs, promotion and dissemination of universal values and principles of State law, democracy and human rights, enshrined in the preamble to the Constitutive Act of the African Union.

A preparatory meeting bringing together the presidents of constitutional courts in Africa was held on the sidelines of the second World Conference on Constitutional Justice held in Rio de Janeiro (Brazil) on 16 January 2011, where Algeria drove the process for the establishment of such a conference.

Presidents and representatives of the Constitutional Courts and Councils and equivalent institutions in Africa held the Congress of the African Space Constitutional Justice on 7 and 8 May 2011 at the headquarters of the Constitutional Council of Algeria where they established the Conference of Constitutional Jurisdictions of Africa (CCJA). The headquarters of the CCJA is set in Algiers.

At the fourth Congress of the CCJA in 2017, Chief Justice Mogoeng Mogoeng was elected as its President.

During his term of office as President of the CCJA, Chief Justice Mogoeng Mogoeng oversaw the rapid growth of the CCJA as a continental body as well as its critical role in constitutional issues in the global arena. This can be attested to by the growth in membership. When he took over as President in

April 2017, the CCJA comprised of 35 full members and one member with observer status. To date, the CCJA comprises of 46 full members and three members with observer status. The sharp increase in membership was due to Chief Justice Mogoeng Mogoeng's rigorous work on the continent in which he actively pursued jurisdictions that were not members by urging them to join the CCJA.

Chief Justice Mogoeng Mogoeng not only ensured the increment in membership but also elevated the status of the CCJA in the global stage by ensuring that the CCJA participates in the conferences of all other continental bodies from around the world thereby ensuring that the Africa's voice is heard on constitutional justice matters. This culminated in the CCJA entering into co-operation agreements with three regional bodies, namely with the Association of Asian Constitutional Courts and Equivalent Institutions (AACC), the Conference of the Constitutional Control Organs of the Countries of New Democracy (CCOCND), and the Union of Arab Constitutional Courts and Councils (UACCC).

Chief Justice Mogoeng Mogoeng also served as the President of the Bureau of the World Conference on Constitutional Justice (WCCJ), for a year. It was during his term as the President of the Bureau of the WCCJ that he convinced the global body to consider awarding the hosting of the fifth Congress of the WCCJ in Africa. Indeed, the leaders of the world body agreed and awarded the rights to host the fifth Congress of the WCCJ in Algeria in 2020.

In January 2018, the CCJA - for the very first time since its inception - participated in the Summit of the Heads of States convened by the African Union. It was here that Chief Justice Mogoeng Mogoeng had an opportunity to share the central role that Judiciaries play within Africa with the Heads of States.

In June 2019, Chief Justice Mogoeng Mogoeng will step down as President of the CCJA at the end of his two-year term during of the fifth Congress of the CCJA which will be held in Luanda, Angola under the theme: "The Constitutional Courts and Councils as Guarantors of the Constitution and the Fundamental Rights and Freedoms." The Chief Justice will remain part of the Executive Bureau of the CCJA for the next two years.

## EX OFFICIO, INTERNATIONAL AND OTHER EXTRA-JUDICIAL POSITIONS HELD BY MEMBERS OF THE SOUTH AFRICAN JUDICIARY

Initials and surname	Rank	Court	
1. MR Mogoeng	Chief Justice	Constitutional Court	<ul style="list-style-type: none"> <li>• President of the CCJA</li> <li>• Chancellor of the University of Kwazulu Natal</li> </ul>
2. RM Zondo	Deputy Chief Justice	Constitutional Court	<ul style="list-style-type: none"> <li>• Commission of Inquiry into allegations of State Capture, corruption and fraud in the public sector including organs of State, Chancellor of University of Zululand</li> </ul>
3. Y Mokgoro	Constitutional Court Judge <b>Retired</b>	Constitutional Court	Chairperson of the Inquiry into the fitness of Advocate Nomgcobo Jiba and Advocate Lawrence Sithembiso Mrwebi to hold office of Deputy National Director of Public Prosecutions
4. J van der Westhuizen	Judge <b>Retired</b>	Constitutional Court	Inspecting Judge of Correctional Services
5. M Maya	President of the SCA	SCA	<ul style="list-style-type: none"> <li>• Board membership in the National Bar Examination Board</li> <li>• Board member of the Free State University Law Faculty Board</li> <li>• Judge Moderator for the Advocates' Examinations</li> <li>• President and founding member of the South African Chapter of the International Association of Women Judges</li> <li>• Member of the JSC</li> <li>• Council member: SAJEI</li> <li>• Board member: South African Journal on Human Rights</li> <li>• Member Commonwealth Association of Law Reform Commissions</li> <li>• Patron: Lawyers Against Violence</li> </ul>
6. S Majiedt	Judge	SCA	Chancellor of the Sol Plaatje University in Kimberley
7. N Dambuza	Judge	SCA	Chairperson of the Rules Board



## EX OFFICIO, INTERNATIONAL AND OTHER EXTRA-JUDICIAL POSITIONS HELD BY MEMBERS OF THE SOUTH AFRICAN JUDICIARY

Initials and surname	Rank	Court	
8. BC Mocomie	Judge	SCA	Nominated by the Chief Justice to represent the Judiciary of the Republic of South Africa on the International Hague Network of Judges
9. M Molemela	Judge	SCA	Chancellor of the University of the Free State
10. L Mpati	President of the SCA <b>Retired</b>	SCA	<ul style="list-style-type: none"> <li>Commissioner of the Commission on Inquiry into allegations of impropriety regarding the Public Investment Corporation</li> </ul>
11. KK Mthiyane	Deputy President of the SCA <b>Retired</b>	SCA	Chairperson of the Commission of Inquiry into remuneration and conditions of service in the public service and public entities listed in the Public Finance Management Act (Act 1 of 1999)
12. H Saldulker	Judge	SCA	<ul style="list-style-type: none"> <li>NBEB</li> <li>Judge Moderator for the Advocates Examination</li> <li>Member of the South African Chapter of the International Association of Women Judges</li> <li>Supreme Court of Appeal representative on the Hague Convention</li> </ul>
13. R Nugent	SCA Judge <b>Retired</b>	SCA	Commissioner of the Commission of Inquiry into Tax Administration and Governance
14. D Mlambo	Judge President	Gauteng Division	<ul style="list-style-type: none"> <li>Chairperson of Legal Aid South Africa (ending February 2019)</li> <li>Board member of the Council of Advice Offices of South Africa</li> <li>Board member of the International Legal Foundation</li> </ul>
15. A Jappie	Judge President	KwaZulu-Natal Division of the High Court	Board member of the National Bar Examination Board (NBEB)
16. CJ Musi	Judge President	Free State Division of the High Court	Chairperson of the Independent Commission for the Remuneration of Public Office Bearers

## EX OFFICIO, INTERNATIONAL AND OTHER EXTRA-JUDICIAL POSITIONS HELD BY MEMBERS OF THE SOUTH AFRICAN JUDICIARY

Initials and surname	Rank	Court	
17. F Legodi	Judge President	Mpumalanga Division of the High Court	<ul style="list-style-type: none"> <li>• Chairperson of the Magistrates' Commission (ending 31 March 2019)</li> <li>• Chairperson of the Military Appeals Court</li> </ul>
18. YS Meer	Acting Judge President	Land Claims Court	Extraordinary Professor at the University of Stellenbosch
19. B Ngoepe	Judge President <b>Retired</b>	Gauteng Division of the High Court	Appointed by the Constitutional Court as referee in terms of section 38 of the Superior Courts Act (2013) to report on the matters related to the order in the South African Social Security Agency case
20. HMT Musi	Judge President <b>Retired</b>	Free State Division of the High Court	Designated Judge for the Purpose of the Regulation of Interception of Communications and Provision of Communication-Related Information Act (Act 70 of 2002)
21. FD Kgomo	Judge President <b>Retired</b>	Northern Cape Division of the High Court	Service in terms of section 17L of the South African Police Service Act (Act 68 of 1995) to investigate the complaints against the Directorate for Priority Crime Investigation.
22. A Ledwaba	Deputy Judge President	Gauteng Division of the High Court	<ul style="list-style-type: none"> <li>• Chairperson of the Magistrates' Commission (Starting 1 April 2019)</li> </ul>
23. ZM Nhlangulela	Deputy Judge President	Eastern Cape Division of the High Court	Vice-Chairman for NCCS
24. V Phatshoane	Judge	Northern Cape Division of the High Court	Member of the Sol Plaatje University Council
25. D Pillay	Judge	KwaZulu-Natal Division	<ul style="list-style-type: none"> <li>• Commissioner at the Independent Electoral Commission of South Africa</li> <li>• Extraordinary Professor at the University of Pretoria</li> </ul>
26. J Kollapen	Judge	Gauteng Division	Chairperson of the South African Law Reform Commission



## EX OFFICIO, INTERNATIONAL AND OTHER EXTRA-JUDICIAL POSITIONS HELD BY MEMBERS OF THE SOUTH AFRICAN JUDICIARY

Initials and surname	Rank	Court	
27. LT Modiba	Judge	Gauteng Division	Member of the Special Investigations Unit Tribunal established in terms of Section (2)(1) of the Special Investigating Units and Special Tribunals Act (Act 74 of 1996)
28. A Basson	Judge	Gauteng Division	President of the Taekwondo Africa Federation and the Vice-President of the International Taekwondo Federation
29. T Makhubele	Judge	Gauteng Division	Deputy Chairperson of the Council of University of Limpopo
30. S Mothle	Judge	Gauteng Division	<ul style="list-style-type: none"> <li>• Board member of the NBEB and Judge Moderator for Advocates Examinations</li> <li>• Member of the Judges' Association</li> <li>• An honorary member of the South African Chapter of the International Association of Women Judges</li> </ul>
31. E Steyn	Judge	KwaZulu-Natal Division of the High Court	Chair of the NCCS

32. The Constitutional Court is a member of the CCJA and the Chief Justice attends meetings of the Executive Bureau of the CCJA and Congress of the CCJA.

33. The Constitutional Court is a member of the WCCJ and the Chief Justice in his capacity as the Head of the Constitutional Court attends the meetings of the WCCJ.

34. The South African Judicial Education Institute is a member of the International Organisation for Judicial Training (IOJT)



INKUNO LA YOMBAOSISEKO  
 KGOROTSHENO YA VUMBIWA  
 INKUNO YA MOLAOTHEO  
 CONSTITUTIONAL COURT  
 LEKGOTLA LA DINYWE LA MOLAOTHEO  
 KHOTHE YA NDAYOTSEWA  
 KONSTITUSIONELE HOF  
 KGOROTSHENO YA MOLAOTHEO

# PART F

Judicial Appointments,  
Retirements & Vacancies





## Judicial appointments, retirements and vacancies

Sections 174 to 178 of the Constitution deal with the appointment of Judicial Officers.

The President as head of the national Executive, after consulting the JSC and the leaders of parties represented in the National Assembly, appoints the Chief Justice and the Deputy Chief Justice and, after consulting the JSC, appoints the President and Deputy President of the SCA.

The other judges of the Constitutional Court are appointed by the President, as head of the national Executive, after consulting the Chief Justice and the leaders of parties represented in the National Assembly, in accordance with the following procedure:

- a. The JSC must prepare a list of nominees with three names more than the number of appointments to be made, and submit the list to the President.
- b. The President may make appointments from the list, and must advise the JSC, with reasons, if any of the nominees are unacceptable and any appointment remains to be made.
- c. The JSC must supplement the list with further nominees and the President must make the remaining appointments from the supplemented list.



The President must appoint the judges of all other courts on the advice of the JSC.

The following are Judges appointed during the reporting period:

Initials and Surname	Appointed as:	Court	Appointment date
TM Makgoka	SCA Judge	SCA	01-06-2018
MB Molemela	SCA Judge	SCA	01-06-2018
A Schippers	SCA Judge	SCA	01-06-2018
S Chesive	High Court Judge	Free State Division, Bloemfontein	30-06-2018
PE Molitsoane	High Court Judge	Free State Division, Bloemfontein	30-06-2018
M Opperman	High Court Judge	Free State Division, Bloemfontein	30-06-2018
KQ Hadebe	High Court Judge	KwaZulu-Natal Local Division, Durban	01-06-2018
SB Mngadi	High Court Judge	KwaZulu-Natal Local Division, Durban	01-06-2018
BJ Mnguni	Judge	Competition Appeal Court (for a period of five years)	01-06-2018
B Vally	Judge	Competition Appeal Court (for a period of five years)	01-06-2018
M Victor	Judge	Competition Appeal Court (for a period of five years)	01-06-2018
CJ Musi	Judge President	Free State Division, Bloemfontein	01-12-2018
HB Mbha	Chairperson	Electoral Court	04-12-2018
EF Dippenaar	High Court Judge	Gauteng Division	01-01-2019
SN Mokose	High Court Judge	Gauteng Division	01-01-2019
KJ Mosopa	High Court Judge	Gauteng Division	01-01-2019
B Neukircher	High Court Judge	Gauteng Division	01-01-2019
S Yacoob	High Court Judge	Gauteng Division	01-01-2019

### Judges discharged from active service as from 01 April 2018 to 31 March 2019

In terms of the Constitution, a Constitutional Court Judge holds office for a non-renewable term of 12 years, or until he or she attains the age of 70, whichever occurs first, except where an Act of Parliament extends the term of office.

The Judges Remuneration and Conditions of Employment Act (2001) provides in section 3(2) that a Judge who holds office in a permanent capacity can be discharged from active service on the date on which they attain the age of 70 years, if they have on

that date completed a period of active service of not less than ten years, or who has already attained the age of 65 years and has performed active service for a period of 15 years; that they may at any time be discharged by the President if they become afflicted with a permanent infirmity of mind or body which renders them incapable of performing their official duties; or that they may at any time on their request and with the approval of the President, be discharged from active service.

For the reporting period the following Judges were discharged from active service:

Judge	Date of discharge	Court
1. E Jordaan	16-06-2018	Gauteng Division, Pretoria
2. FHD van Oosten	01-08-2018	Gauteng Local Division, Johannesburg
3. S Alkema	03-09-2018	Eastern Cape Local Division, Mthatha
4. NP Wallis	01-10-2018	SCA
5. JBZ Shongwe	04-12-2018	SCA
6. PW Tshiki	22-12-2018	Eastern Cape Local Division, Port Elizabeth
7. D Chetty	21-01-2019	Eastern Cape Local Division, Port Elizabeth
8. ML Mailula	01-02-2019	Gauteng Local Division, Johannesburg

The following Judges are set to retire in the upcoming reporting period:

Surname and initials	Effective discharge date	Court
Judge CH Lewis	2019	Supreme Court of Appeal
Judge Edwin Cameron	2019	Constitutional Court
Judge WL Seriti	2019	Supreme Court of Appeal
Judge MH Rampai	2019	Free State Division of the High Court
Judge GM Makhanya	2019	Gauteng Division of the High Court
Judge JD Pickering	2019	Eastern Cape Division of the High Court
Judge SSD Moshidi	2019	Gauteng Division of the High Court
Judge WRC Prinsloo	2019	Gauteng Division of the High Court
Judge MW Msimeki	2019	Gauteng Division of the High Court
Judge NM Mavundla	2020	Gauteng Division of the High Court
Judge RD Mokgoatheng	2020	Gauteng Division of the High Court
Judge KGB Swain	2020	Supreme Court of Appeal



## COMPOSITION OF THE SUPERIOR COURTS

DIVISIONS	AFRICAN		COLOURED		INDIAN		WHITE		TOTAL	VACANCIES
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE		
Constitutional Court	4	2	0	1	0	0	2	0	9	2
SCA	7	7	2	0	3	1	5	1	26	0
Northern Cape Division, (Kimberley)	1	3	0	1	0	0	1	0	6	0
Eastern Cape Division, (Grahamstown)	2	1	1	0	0	0	3	1	8	2
Eastern Cape Local Division, (Port Elizabeth)	1	0	0	0	0	0	2	2	5	2
Eastern Cape Local Division, (Bhisho)	1	0	0	0	0	0	1	2	4	1
Eastern Cape Local Division, (Mthatha)	2	2	0	0	0	1	2	0	7	1
Western Cape Division, (Cape Town)	5	3	6	5	2	1	7	3	32	1
North West Division, (Mahikeng)	1	3	1	0	0	0	0	0	5	1
Free State Division, (Bloemfontein)	5	2	1	0	0	1	3	3	15	1
Gauteng Division, (Pretoria)	14	10	0	2	3	0	11	6	46	3
Gauteng Local Division, (Johannesburg)	8	5	3	0	2	2	7	6	33	4
Limpopo Division, Polokwane	3	1	0	0	0	0	1	0	5	0
Limpopo Local Division, Thohoyandou	3	0	0	0	0	0	0	0	3	1
Mpumalanga Division, Nelspruit	1	0	0	0	0	0	0	0	1	
KwaZulu-Natal Division, (Pietermaritzburg)	3	2	1	0	2	1	6	0	15	2
KwaZulu-Natal Local Division, (Durban)	4	2	1	1	1	3	1	1	14	0
Labour Court	3	3		1			3	2	13	1
* Labour Appeal Court										
** Land Claims Court	2			1	1	1			0	
***Competition Appeal Court									0	
<b>TOTAL</b>	<b>68</b>	<b>46</b>	<b>16</b>	<b>11</b>	<b>13</b>	<b>10</b>	<b>55</b>	<b>27</b>	<b>246</b>	<b>22</b>
<b>TOTAL</b>	<b>114</b>		<b>27</b>		<b>23</b>		<b>82</b>			

\*, \*\*, \*\*\* Judges of the above-mentioned courts are seconded from the High Court and therefore their statistics are already included in above table.

# MAGISTRATES COURTS

POST CLASS	African male	African female	Indian male	Indian female	Coloured male	Coloured female	White male	White female	Total
Regional Court President	5	2	0	0	0	1	0	1	9
Regional Magistrate	98	81	14	28	22	12	67	45	367
Chief Magistrate	3	6	1	1	1	1	2	1	16
Senior Magistrate	33	27	7	11	6	5	14	19	122
Magistrate	352	313	54	74	78	74	241	180	1366
<b>Grand total</b>	<b>491</b>	<b>429</b>	<b>76</b>	<b>114</b>	<b>107</b>	<b>93</b>	<b>324</b>	<b>246</b>	<b>1880</b>
<b>Percentages</b>	<b>26%</b>	<b>23%</b>	<b>4%</b>	<b>6%</b>	<b>6%</b>	<b>5%</b>	<b>17%</b>	<b>13%</b>	<b>100%</b>

## SUMMARY:

POST CLASS	Total Black [generic] male	Total White male	Grand total males [All races]	Total Black [generic] female	Total White female	Grand total Females [All races]	Grand total Black [Generic]	Grand total White	Total
Regional Court President	5	0	5	3	1	4	8	1	9
Regional Magistrate	134	67	201	121	45	166	255	112	367
Chief Magistrate	5	2	7	8	1	9	13	3	16
Senior Magistrate	46	14	60	43	19	62	89	33	122
Magistrate	484	241	725	461	180	641	945	421	1366
<b>Grand total</b>	<b>674</b>	<b>324</b>	<b>998</b>	<b>636</b>	<b>246</b>	<b>882</b>	<b>1310</b>	<b>570</b>	<b>1880</b>
<b>Percentages</b>	<b>36%</b>	<b>17%</b>	<b>53%</b>	<b>34%</b>	<b>13%</b>	<b>47%</b>	<b>70%</b>	<b>30%</b>	

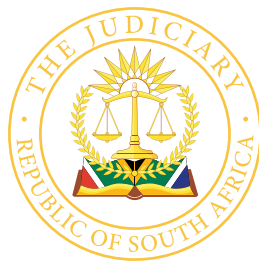
\* Includes all temporary/contract Magistrates

# *In memorium*

*A dedication to the memory of our honourable departed colleagues.*

We remember our dearly departed colleagues and we thank them and their families for serving the people of this great nation with distinction and honour.

Initials and Surname	Rank	Court	Date of death
AP Blignault	Retired High Court Judge	Western Cape Division, Cape Town	16-04-2018
DJ Lombard	Retired High Court Judge	Free State Division, Bloemfontein	05-05-2018
L O Bosielo	SCA Judge	SCA	15-05-2018
NS Page	Retired High Court Judge	KwaZulu-Natal Local Division, Durban	15-07-2018
GA Hatting	Retired High Court Judge	Free State Division, Bloemfontein	13-08-2018
DSV Ntshangase	Retired High Court Judge	KwaZulu-Natal Division, Pietermaritzburg	07-11-2018
PM Nienaber	Retired SCA Judge	SCA	22-01-2019



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