



JUDICIAL SERVICE COMMISSION

ANNUAL REPORT 2021/2022



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA





OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

JUDICIAL SERVICE COMMISSION **ANNUAL REPORT**

2021/2022 FINANCIAL YEAR



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The Honourable Speaker of the National Assembly, Ms Nosiviwe Mapisa-Nqakula, MP and the Honourable Chairperson of the National Council of Provinces, Mr Amos Masondo, MP.

I have pleasure to present to you the Report of the Judicial Service Commission on its activities during the financial year which ended on 31 March 2022 in terms of Section 6 of the Judicial Service Commission Act, 1994 as amended (JSC Act). This report was prepared pursuant to section 6(1) and (2) of the JSC Act, which requires the Commission to submit, within 6 months after the end of every financial year, a written report to Parliament for tabling.

The report is required to include information relating to: the activities of the Commission during the year in question. This includes matters that the Judicial Conduct Committee dealt with during the period under review, all matters relating to the Register of Judges' Registrable Interests as reported by the Registrar of Judges' Registrable Interests and all matters considered by the Commission emanating from the Judicial Conduct Committee and Judicial Conduct Tribunals.



R M M Zondo
Chief Justice of the Republic of South Africa
Chairperson of the Judicial Service Commission

TABLE OF CONTENTS

1. Foreword by the Chief Justice	5
2. Functions and legal mandates of the Commission	7
3. Composition of the Commission	8
3.1. Committees of the Commission	9
3.2. Secretariat of the Commission	9
4. Report on activities of the Commission	10
4.1. Meetings of the Commission	10
4.2. Appointment of Judges	11
4.3. Judges appointed during the Period 01 April 2021 - 31 March 2022	11
5. Report on activities of the Judicial Conduct Committee	23
5.1. Report on complaints against Judges	23
5.2. Composition of the Committee	23
5.3. Consideration of complaints by the Committee	24
5.4. Meetings of the Judicial Conduct Tribunals	26
6. Report on the Register of Judges' Registrable Interests	27
7. Report on other matters	29
7.1. Litigation against the Commission	29
7.2. Budget of the Commission	33
8. Conclusion	34





In 1996, Parliament adopted the Constitution of the Republic of South Africa as the Supreme law in order to, amongst others, heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. Section 165 of the Constitution vests the judicial authority of the Republic in the courts. This section further provides that the courts are independent and subject only to the Constitution and the law.

Section 178 of the Constitution establishes the Judicial Service Commission (JSC) and provides for its composition, powers and functions. The JSC was mandated to interview and recommend candidates for appointment as Judges by the President. Historically, the South African Judiciary has been overwhelmingly white and male and did not provide a true reflection of the racial and gender composition of the country. It is for this reason that section 174(2) of the Constitution requires that the need for the Judiciary to broadly reflect the racial and gender composition of South Africa to be taken into account when appointment of Judicial Officers is considered. The JSC is therefore enjoined to fulfil this constitutional imperative provided in section 174(2) of the Constitution.

At the beginning of our democracy, there were 165 Judges of which 160 were white men, three black men and two white women. We have since made remarkable strides in our endeavor to transform the Judiciary. Currently, the Judiciary is composed of 253 Judges across the country of which 67 are African men, 57 African women, 17 Coloured men, 13 Coloured women, 14 Indian men, 11 Indian women, 42 White men and 32 White women.

We do acknowledge that more still needs to be done to fulfil the constitutional imperatives of the transformation of the Judiciary. We remain committed to continuing with this critical task of ensuring that the constitutional ideal in section 174(2) of the Constitution is realised.

During the period under review, the Commission sadly lost one of its Commissioners Mr Sigogo in August 2021, who was designated by the President in terms of Section 178(1)(f) of the Constitution and represented the attorney's profession. Mr Sigogo was a formidable advocate for transformation in the legal profession. He was not just a legal practitioner but a true leader in the legal profession.

The Commission had an opportunity to welcome new Commissioners, namely Ms N Shabangu-Mndawe who is designated in terms of section 178(1)(j) of the Constitution. Ms N Shabangu-Mndawe replaced Adv J M Maluleke who was appointed as Director-General of the Department of Women, Youth and Persons with Disabilities. The Commission also welcomed Ms N Mapisa-Nqakula the Speaker of the National Assembly. Ms Mapisa-Nqakula is designated by the President in terms of section 178(1)(h) of the Constitution and she replaced Ms T Modise. As a result, the Commission had to bid farewell to two Commissioners, Adv Maluleke and Ms Modise.

I would like to convey my gratitude to my fellow Commissioners and the staff of the Commission for their dedication and diligence in ensuring that the Commission continued to carry out its mandate effectively during the financial year under review.

I, therefore, have pleasure in presenting this Report to Parliament on the activities of the Commission.

R M M Zondo

Chief Justice of the Republic of South Africa

Chairperson of the Judicial Service Commission



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

REPORT OF THE JUDICIAL SERVICE COMMISSION

This is a report on the activities of the Judicial Service Commission
for the period 01 April 2021 to 31 March 2022.

The Commission is a constitutional body established in terms of section 178 of the Constitution of the Republic of South Africa, 1996. The Judicial Service Commission Act, 1994 as amended (hereinafter referred to as the JSC Act), governs the terms and conditions of office of the members of the Commission. The primary functions of the Commission are to:

- (a) interview candidates for appointment as Judges and advise the President as to which candidates to appoint as Judges or, in the case of Judges of the Constitutional Court, provide the President with a list of candidates from whom to make appointments.
- (b) deal with complaints brought against Judges;
- (c) manage the Register of Judges' Registrable interests; and
- (d) advise national government on matters relating to the Judiciary.



3 COMPOSITION OF THE COMMISSION

The Commission comprises 23 members appointed as follows:

SECTION OF THE CONSTITUTION UNDER WHICH DESIGNATED	NAME OF COMMISSIONER
Section 178(1)(a), the Chief Justice, who presides at meetings of the Commission	Deputy Chief Justice R M M Zondo in his capacity of Acting Chief Justice
Section 178(1)(b) of the Constitution, the President of the Supreme Court of Appeal	Madam Justice M M L Maya as President of the Supreme Court of Appeal
Section 178(1)(c) of the Constitution, one Judge President designated by the Judges President.	Madam Justice M Leeuw
Section 178(1)(d) of the Constitution, the Cabinet member responsible for the administration of justice or an alternate designated by Cabinet	Mr R O Lamola in his capacity as Minister of Justice and Correctional Services
Section 178(1)(e) of the Constitution, two practising advocates nominated from within the advocates' profession to represent the profession as a whole, and appointed by the President	Adv D C Mpofu SC Adv J Cane SC
Section 178(1)(f) of the Constitution, two practising attorneys nominated from within the attorneys' profession to represent the profession as a whole, and appointed by the President	Mr L Sigogo Mr E Barnard
Section 178(1)(g) of the Constitution, one teacher of law designated by teachers of law at South African universities	Prof N Ntlama
Section 178(1)(h) of the Constitution, six persons designated by the National Assembly from among its members, at least three of whom must be members of the opposition parties represented in the Assembly	Ms N Mapisa-Nqakula Ms G Breytenbach Mr G M Magwanishe Mr J S Malema Mr N Singh Mr V C Xaba
Section 178(1)(i) of the Constitution, four permanent delegates to the National Council of Provinces designated together by the Council with a supporting vote of at least six provinces	Ms S E Lucas Mr T S C Dodovu Mr K E Mmoiemang Mr A J Nyambi
Section 178(1)(j) of the Constitution, four persons designated by the President as head of the National Executive, after consulting the leaders of all the parties in the National Assembly	Adv T G Madonsela SC Ms H K Matolo-Dlepu Ms D L J Tshepe Ms N Shabangu-Mndawe

3.1 COMMITTEES OF THE COMMISSION

The Commission has established the following Committees to enable it to efficiently discharge its constitutional and statutory mandate:

3.1.1 Screening Committee

The Screening Committee is responsible for compiling a shortlist of candidates to be interviewed by the Commission at its sittings. It is composed of the following members of the Commission:

- (i) President M M L Maya: the Convenor of the Committee;
- (ii) Adv T G Madonsela SC;
- (iii) Ms H Matolo-Dlepu;
- (iv) Adv J Cane SC;
- (v) Mr L Sigogo;
- (vi) Mr A J Nyambi, and
- (vii) Prof N Ntlama.

3.1.2 Litigation Committee

The Litigation Committee is responsible for ensuring that all litigation pursued by and against the Commission is handled properly. Its members are:

- (i) Adv T G Madonsela SC: Convenor of the Committee;
- (ii) Adv D Mpofu SC;
- (iii) Ms D Tshepe;
- (iv) Ms H Matolo-Dlepu; and
- (v) Prof N Ntlama.

3.1.3 Rules Committee

The Rules Committee is responsible for ensuring that the rules and procedures of the Commission are up to date. The following are its members:

- (i) Adv D Mpofu SC;
- (ii) Adv J Cane SC;
- (iii) Mr G M Magwanishe.

3.2 SECRETARIAT OF THE COMMISSION

Section 37 of the JSC Act makes provision for the assignment by the Secretary General (SG) of the Office of the Chief Justice (OCJ) of an appropriate number of personnel, one of whom must be designated as the Secretary of the Commission, from the staff in the Office of the Chief Justice to provide administrative support to the Commission.

In terms of section 37(2) of the JSC Act, the Secretary of the Commission, under the supervision, control and direction of the SG of the OCJ, must:

- (a) provide secretarial and administrative services to the Commission, the Committee and any Tribunal;
- (b) cause all records of matters dealt with by the Commission in terms of the JSC Act to be safeguarded;
- (c) maintain a register of all complaints dealt with by the Judicial Conduct Committee;
- (d) perform such functions as may from time to time be prescribed; and
- (e) generally, perform such secretarial and administrative tasks related to the work of the Commission, Committee or any Tribunal, as may from time to time be directed by the Chief Justice.

The Secretariat is made up of the following officials:

- (i) Mr S Chiloane: Secretary of the Commission (01 April 2021 until 28 February 2022);
- (ii) Ms Y van Niekerk: Acting Secretary of the Commission (01 March 2022 until 31 March 2022);
- (iii) Ms K Moretlwe: State Law Adviser;
- (iv) Ms T Phaahlamohlaka: Administrative Officer;
- (v) Ms T Ramonyai: Personal Assistant; and
- (vi) Ms B Ntsendwana: Administrative Officer.



4.1 MEETINGS OF THE COMMISSION

During 2021, the full Commission met on two occasions namely from 12 April 2021 until 23 April 2021 and from 04 October 2021 until 08 October 2021 in Johannesburg. These meetings were convened as part of the Commission's bi-annual sittings to receive a briefing from both the Chief Justice and the Minister of Justice and Correctional Services about matters that affect the courts, to address issues that affect the Commission and to interview and recommend candidates for vacancies that arose in the Superior Courts and advise the President as to which candidates to appoint.

On 09 April 2021 the Tribunal that investigated the complaint that Judge President JM Hlophe had improperly attempted to influence Justices of the Constitutional Court in a case involving President Zuma found Judge President Hlophe guilty of gross misconduct and referred its report to the JSC.

On 25 August 2021 the Commission made a finding in terms of section 20(3) of the JSC Act and found Judge President Hlophe guilty of gross misconduct. The Tribunal report and the record were sent to the Speaker of the National Assembly for further handling as contemplated in section 177(1)(b) of the Constitution. Subsequent to Judge President Hlophe having been found guilty by the Commission, another meeting was scheduled for 13 September 2021 to deliberate on whether to advise the President in terms of section 177(3) of the Constitution to suspend Judge President Hlophe from his duties pending a decision of the National Assembly as contemplated in section 177 of the Constitution.

The Commission could not proceed as it was served with a court application by Judge President Hlophe for a stay of the process for his suspension in terms of section 177(3) of the Constitution, and for a stay of the process for his removal by the National Assembly in terms of section 177(1)(b) of the Constitution. The Commission agreed not to proceed with the meeting pending the outcome of Judge President Hlophe's court application.

As at the end of period under review, the judgment of the High Court in Judge President Hlophe's review application had not yet been handed down.

4.2 APPOINTMENT OF JUDGES

In terms of section 174(6) of the Constitution, the President appoints Judges of all Superior Courts, on the advice of the Commission. In the case of Justices of the Constitutional Court, the Commission is required to submit to the President a list of candidates with three names more than the number of appointments to be made, whereafter the President appoints the Justices from the list as Head of the National Executive, after consulting the Chief Justice and the leaders of parties represented in the National Assembly.

During the period to which this report relates, the Commission advised the President with respect to vacancies that occurred during the year under review as follows:

4.3 JUDGES APPOINTED DURING THE PERIOD 01 APRIL 2021 - 31 MARCH 2022

COURT	CANDIDATES INCLUDED IN THE LIST PROVIDED TO THE PRESIDENT	JUDGES APPOINTED BY THE PRESIDENT
Constitutional Court (Two vacancies)	Judge R S Mathopo Judge M B Molemela Judge F Kathree-Setiloane Judge N Kollapen Judge B Vally	Judge R S Mathopo Judge N Kollapen

COURT	NAMES OF CANDIDATES THE JSC ADVISED THE PRESIDENT TO APPOINT	JUDGES APPOINTED BY THE PRESIDENT
Supreme Court of Appeal (Five vacancies)	Judge Z Carelse Judge T R Gorven Judge W Hughes Judge N P Mabindla-Boqwana Judge S P Mothle	Judge Z Carelse Judge T R Gorven Judge W Hughes Judge N P Mabindla-Boqwana Judge S P Mothle
Electoral Court Two vacancies (Judge Member)	Judge L T Modiba The Commission advised that no appointment be made with regard to the second vacancy at this stage.	Judge L T Modiba The Commission advised that no appointment be made with regard to the second vacancy at this stage.
Electoral Court – Two vacancies (Non-Judge Member)	Prof N P Ntlama-Makhanya Prof M R Phooko	Prof N P Ntlama-Makhanya Prof M R Phooko

COURT	NAMES OF CANDIDATES THE JSC ADVISED THE PRESIDENT TO APPOINT	JUDGES APPOINTED BY THE PRESIDENT
Free State Division of the High Court (Deputy Judge President)	Judge N M Mbhele	Judge N M Mbhele
Limpopo Division of the High Court (Deputy Judge President)	Judge M V Semanya	Judge M V Semanya
Limpopo Division of the High Court (One vacancy)	The Commission advised that no appointment be made to fill the one vacancy at this stage.	The Commission advised that no appointment be made to fill the one vacancy at this stage.
Eastern Cape Division of the High Court (One vacancy) Mthatha	Due to the withdrawal of the only candidate during the April 2021 interviews the Commission could not advise the President to fill the vacancy.	Due to the withdrawal of the only candidate during the April 2021 interviews the Commission could not advise the President to fill the vacancy.
Eastern Cape Division of the High Court (One vacancy) Mthatha	Ms Lindiwe Rusi	Ms Lindiwe Rusi
Eastern Cape Division of the High Court (Three vacancies) Grahamstown	Prof A Govindjee Mr J G A Laing Adv T V Norman SC	Prof A Govindjee Mr J G A Laing Adv T V Norman SC
Northern Cape Division of the High Court (Deputy Judge President)	Judge M V Phatshoane	Judge M V Phatshoane
Northern Cape Division of the High Court (Two vacancies)	Adv L G Lever SC Adv A P S Nxumalo	Adv L G Lever SC Adv A P S Nxumalo
Gauteng Division of the High Court for secondment to the Land Claims Court (Two vacancies)	Adv S J Cowen SC As only one candidate was short-listed and interviewed, the Commission could not advise the President to fill the second vacancy.	Adv S J Cowen SC As only one candidate was short-listed and interviewed the Commission could not advise the President to fill the second vacancy.
Gauteng Division of the High Court (Deputy Judge President)	Judge R T Sutherland	Judge R T Sutherland

COURT	NAMES OF CANDIDATES THE JSC ADVISED THE PRESIDENT TO APPOINT	JUDGES APPOINTED BY THE PRESIDENT
Gauteng Division of the High Court (Six vacancies)	Judge N P Mali Adv P G Malindi SC Mr N M Manoim Mr M P N Mbongwe Ms M M Munzhelele Adv P D Phahlane	Judge N P Mali Adv P G Malindi SC Mr N M Manoim Mr M P N Mbongwe Ms M M Munzhelele Adv P D Phahlane
Gauteng Division of the High Court (Ten vacancies)	Ms N N Bam Adv A A Crutchfield SC Mr J E Dlamini Mr D Dosio Adv H K Kooverjie SC Adv S Kuny SC Mr M P Khumalo Mr A P Millar Adv C I Moosa Adv J Sy Nyathi	Ms N N Bam Adv A A Crutchfield SC Mr J E Dlamini Mr D Dosio Adv H K Kooverjie SC Adv S Kuny SC Mr M P Khumalo Mr A P Millar Adv C I Moosa Adv J Sy Nyathi
North West Division of the High Court (Two vacancies)	Mr A H Petersen Adv F M M Snyman SC	Mr A H Petersen Adv F M M Snyman SC
Mpumalanga Division of the High Court (Deputy Judge President)	Judge S S Mphahlele	Judge S S Mphahlele
Mpumalanga Division of the High Court (Three vacancies)	Adv T M Mankge Mr T V Ratshibvumo Ms L D Vukeya	Adv T M Mankge Mr T V Ratshibvumo Ms L D Vukeya
Mpumalanga Division of the High Court (Two vacancies)	Mr M B G Langa (Middelburg and Mbombela) Adv J H Roelofse (Mbombela)	Mr M B G Langa (Middelburg and Mbombela) Adv J H Roelofse (Mbombela) The President has not appointed Adv Johannes Hendrickus Roelofse pending the outcome of a review application that has been instituted to challenge the Commission's decision..
KwaZulu-Natal Division of the High Court for secondment to the Land Claims Court (One vacancy)	Mr M T Ncube	Mr M T Ncube
KwaZulu-Natal Division of the High Court (Three vacancies), Durban and Pietermaritzburg	Mr B S M Bedderson Mr M E Nkosi Adv C Sibiya	Mr B S M Bedderson Mr M E Nkosi Adv C Sibiya

COURT	NAMES OF CANDIDATES THE JSC ADVISED THE PRESIDENT TO APPOINT	JUDGES APPOINTED BY THE PRESIDENT
Western Cape Division of the High Court (Two vacancies)	Mr M Francis Adv N Mangcu-Lockwood	Mr M Francis Adv N Mangcu-Lockwood
Western Cape Division of the High Court (Two vacancies)	Dr J D Lekhuleni Mr D M Thulare	Dr J D Lekhuleni Mr D M Thulare
Labour Court (One vacancy)	Adv M T Phehane	Adv M T Phehane

During the period under review, there were 59 vacancies in the Superior Courts in respect of which the Commission had to interview candidates and advise the President on candidates to be appointed as Judges. Of these 59 vacancies, the Commission was only able to advise the President to appoint 57 candidates out of which the President appointed 53 as Judges.

During the period under review, the JSC convened a special sitting from 01 until 05 February 2022 at the Capital on the Park Hotel in Sandton, Johannesburg, to interview the following four candidates (in alphabetical order) who were shortlisted for the position of Chief Justice of the Republic of South Africa:

- Justice M R Madlanga
- President M M L Maya
- Judge President D Mlambo
- Acting Chief Justice R M M Zondo

Following the interviews of the candidates, the JSC, concluded that all four candidates were suitable for appointment but that it was recommending that Justice Maya, President of the Supreme Court of Appeal be appointed as Chief Justice of the Republic. The President, acting in terms of section 174(6), appointed then Acting Chief Justice R M M Zondo as the Chief Justice of the Republic of South Africa with effect from 01 April 2022.



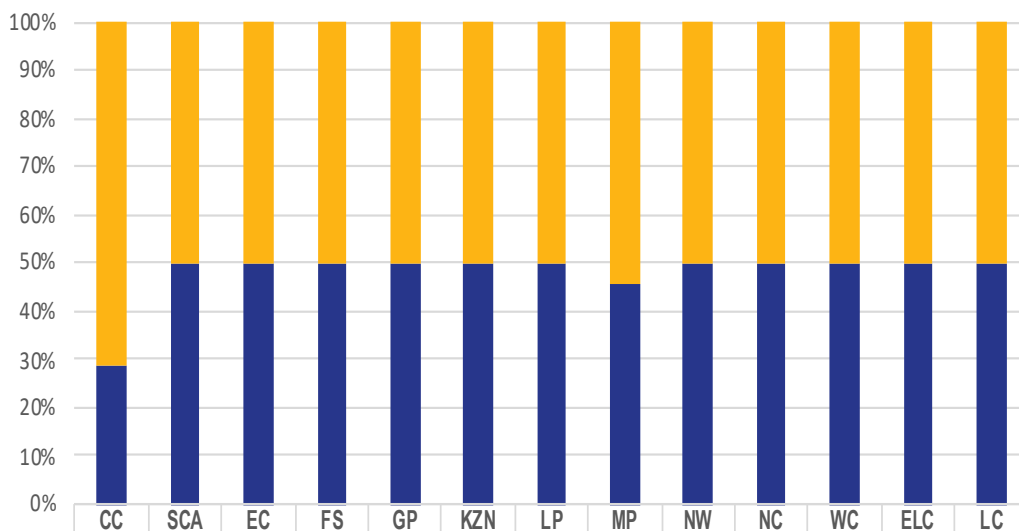


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GRAPH ILLUSTRATING THE JUDGES THAT THE COMMISSION ADVISED THE PRESIDENT TO APPOINT IN TERMS OF SECTION 174(6) AND, IN THE CASE OF THE CONSTITUTIONAL COURT THE LIST OF NOMINEES PROVIDED TO THE PRESIDENT IN TERMS OF SECTION 174(4)(a).

Number of Judges appointed during 01 April 2021 - 31 March 2022



■ List of Nominees provided to President & Number of Judges that the Commission advised the President to appoint	CC	SCA	EC	FS	GP	KZN	LP	MP	NW	NC	WC	ELC	LC
■ Number of Judges appointed by the President	5	5	4	1	18	4	1	6	2	3	4	3	1
	2	5	4	1	18	4	1	5	2	3	4	3	1

NUMBER OF JUDGES APPOINTED DURING THE PERIOD 01 APRIL 2021 TO 31 MARCH 2022 SPECIFYING GENDER AND RACE

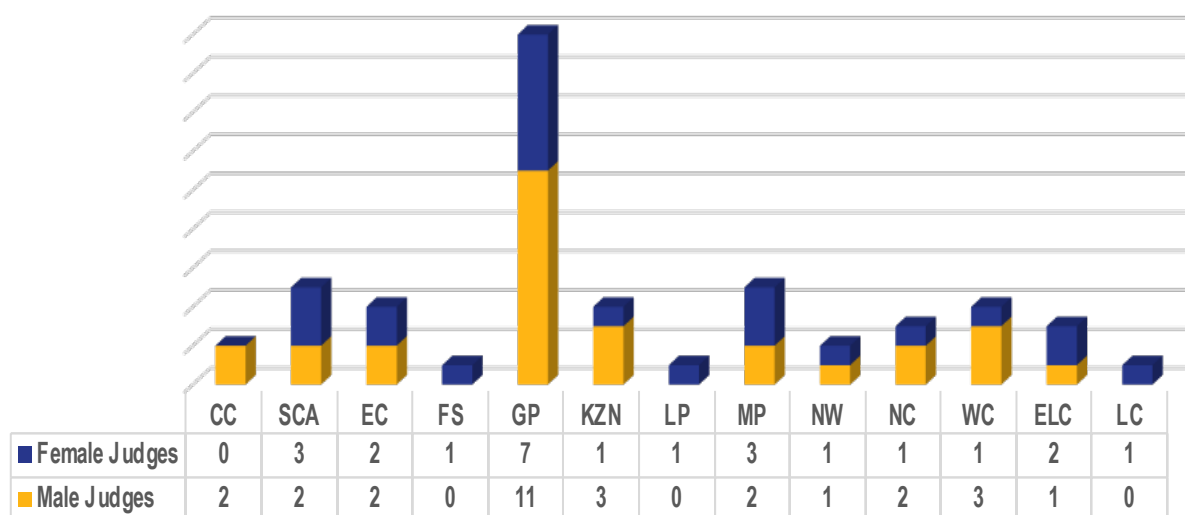
COURT	NUMBER OF CANDIDATES INCLUDED IN THE LIST PROVIDED TO THE PRESIDENT	NUMBER OF JUDGES APPOINTED BY THE PRESIDENT	NUMBER OF FEMALES & RACE	NUMBER OF MALES & RACE
Constitutional Court	5	2	0	1 (African) 1 (Coloured)

COURT	NUMBER OF CANDIDATES THE JSC ADVISED THE PRESIDENT TO APPOINT	NUMBER OF JUDGES APPOINTED BY THE PRESIDENT	NUMBER OF FEMALES & RACE	NUMBER OF MALES & RACE
Supreme Court of Appeal	5	5	2 (Coloured) 1 (African)	1 (White) 1 (African)
Eastern Cape Division of the High Court	4	4	2 (African)	1 (White) 1 (Indian)
Free State Division of the High Court	1	1	1 (African)	0
Gauteng Division of the High Court	18	18	4 (African) 2 (White) 1 (Indian)	5 (White) 5 (African) 1 (Indian)
KwaZulu-Natal Division of the High Court	4	4	1 (African)	2 (African) 1 (Coloured)
Limpopo Division of the High Court	1	1	1 (African)	0
Mpumalanga Division of the High Court	6	5	3 (African)	2 (African)
North West Division of the High Court	3	2	1 (White)	1 (White)
Northern Cape Division of the High Court	3	3	1 (African)	1 (White) 1 (African)
Western Cape Division of the High Court	4	4	1 (African)	1 (Coloured) 2 (African)
Electoral Court	3	3	2 (African)	1 (African)
Labour Court	1	1	1 (African)	0
TOTAL	57	53	24	29

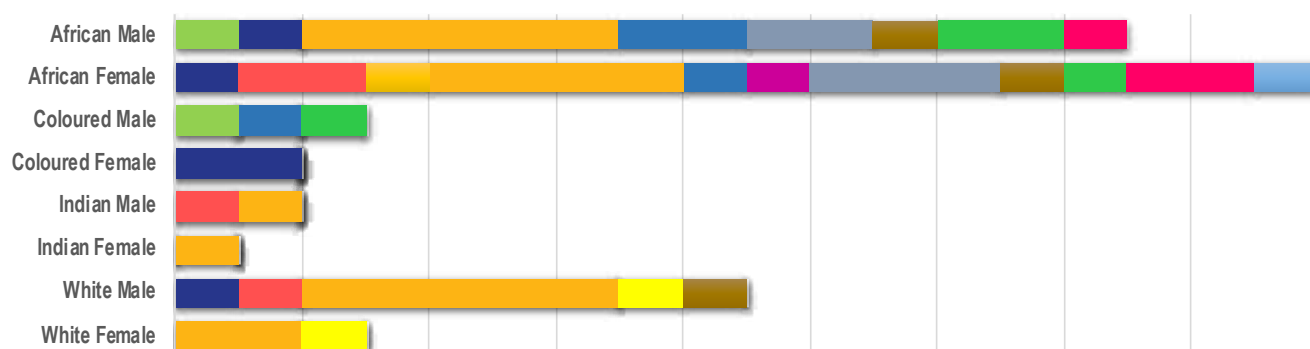


GRAPH ILLUSTRATING NUMBERS AND GENDER OF JUDGES APPOINTED DURING THE PERIOD 01 APRIL 2021 – 31 MARCH 2022

Gender Overview: Appointed Judges during the period 01 April 2021 to 31 March 2022



Racial and Gender Overview: Judges Appointed during 01 April 2021 - 31 March 2022



	White Female	White Male	Indian Female	Indian Male	Coloured Female	Coloured Male	African Female	African Male
CC	0	0	0	0	0	1	0	1
SCA	0	1	0	0	2	0	1	1
EC	0	1	0	1	0	0	2	0
FS	0	0	0	0	0	0	1	0
GP	2	5	1	1	0	0	4	5
KZN	0	0	0	0	0	1	1	2
LP	0	0	0	0	0	0	1	0
MP	0	0	0	0	0	0	3	2
NW	1	1	0	0	0	0	0	0
NC	0	1	0	0	0	0	1	1
WC	0	0	0	0	0	1	1	2
ELC	0	0	0	0	0	0	2	1
LC	0	0	0	0	0	0	1	0

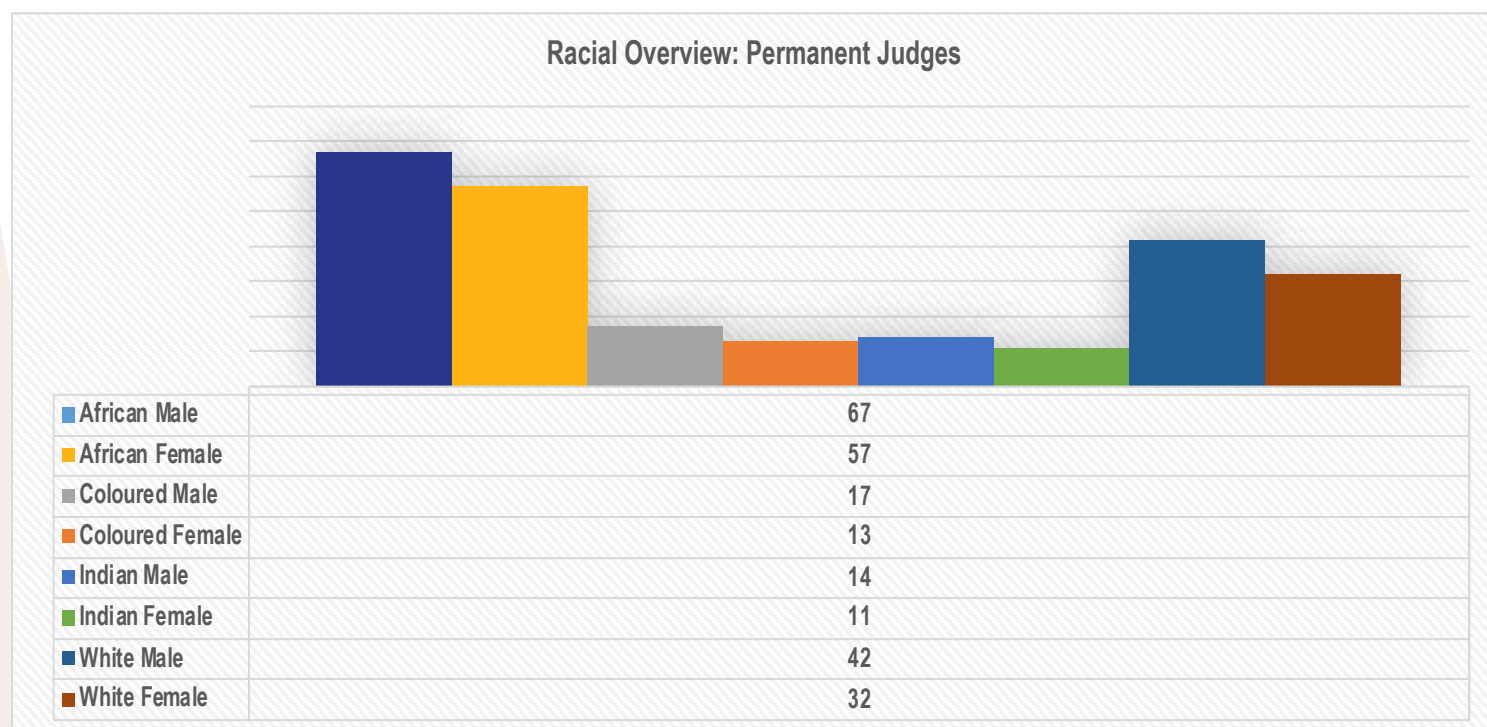


Following the two sittings of the Commission during the reporting period and the subsequent appointments made by the President, the Judiciary, as at 31 March 2022, comprised 253 Judges, namely 67 African males, 57 African females, 42 White males, 32 White females, 17 Coloured males, 13 Coloured females, 14 males of Indian origin and 11 females of Indian origin.

The table below illustrates the breakdown of the Judges in terms of race per Court:

DIVISIONS	AFRICAN		COLOURED		INDIAN		WHITE		TOTAL
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	
Constitutional Court	3	2	1	1	1	0	0	0	8
Supreme Court of Appeal	6	7	1	2	2	1	3	1	23
Eastern Cape Division, Grahamstown	2	2	1	0	2	0	3	0	10
Eastern Cape Local Division, Bhisho	2	0	0	0	0	0	0	2	4
Eastern Cape Local Division, Mthatha	2	3	0	0	0	1	2	0	8
Eastern Cape Local Division, Port Elizabeth	2	1	0	0	0	0	3	2	8
Free State Division, Bloemfontein	4	3	1	0	0	1	2	3	14
Gauteng Division, Pretoria	13	13	0	0	1	1	7	7	42
Gauteng Local Division, Johannesburg	7	5	3	1	4	2	7	9	38
KwaZulu-Natal Division, Pietermaritzburg	3	3	0	0	2	1	4	0	13
KwaZulu-Natal Local Division, Durban	3	2	2	1	1	3	1	1	14
Limpopo Division, Polokwane	3	1	0	0	0	0	1	0	5
Limpopo Local Division, Thohoyandou	2	0	0	0	0	0	0	0	2
Mpumalanga Division, Mbombela	4	2	0	0	0	0	0	0	6
Mpumalanga Local Division, Middelburg	0	2	0	0	0	0	0	0	2
North West Division, Mahikeng	1	2	1	0	0	0	1	1	6
Western Cape Division, Cape Town	6	3	7	6	1	1	5	4	33
Competition Appeal Court	0	0	0	0	0	0	0	0	0
Labour Appeal Court	0	0	0	0	0	0	0	0	0
Labour Court	2	4	0	1	0	0	2	2	11
TOTAL	67	57	17	13	14	11	42	32	253

GRAPH ILLUSTRATING PERMANENT JUDGES DURING THE PERIOD UNDER REVIEW



5 REPORT ON THE ACTIVITIES OF THE JUDICIAL CONDUCT COMMITTEE

Section 8 of the JSC Act provides for the establishment of the Judicial Conduct Committee to receive, consider and deal with complaints against Judges.

5.1 REPORT ON COMPLAINTS AGAINST JUDGES

Section 8 of the JSC Act provides for the establishment and composition of the Committee, comprising the Chief Justice, Deputy Chief Justice, and four other Judges, two of whom must be women. During the period under review, the four Judges designated by the Chief Justice, in consultation with the Minister of Justice and Correctional Services, were:

- (a) Justice B E Nkabinde;
- (b) Justice D H Zondi;
- (c) Justice T M Makgoka; and
- (d) Judge M Victor.

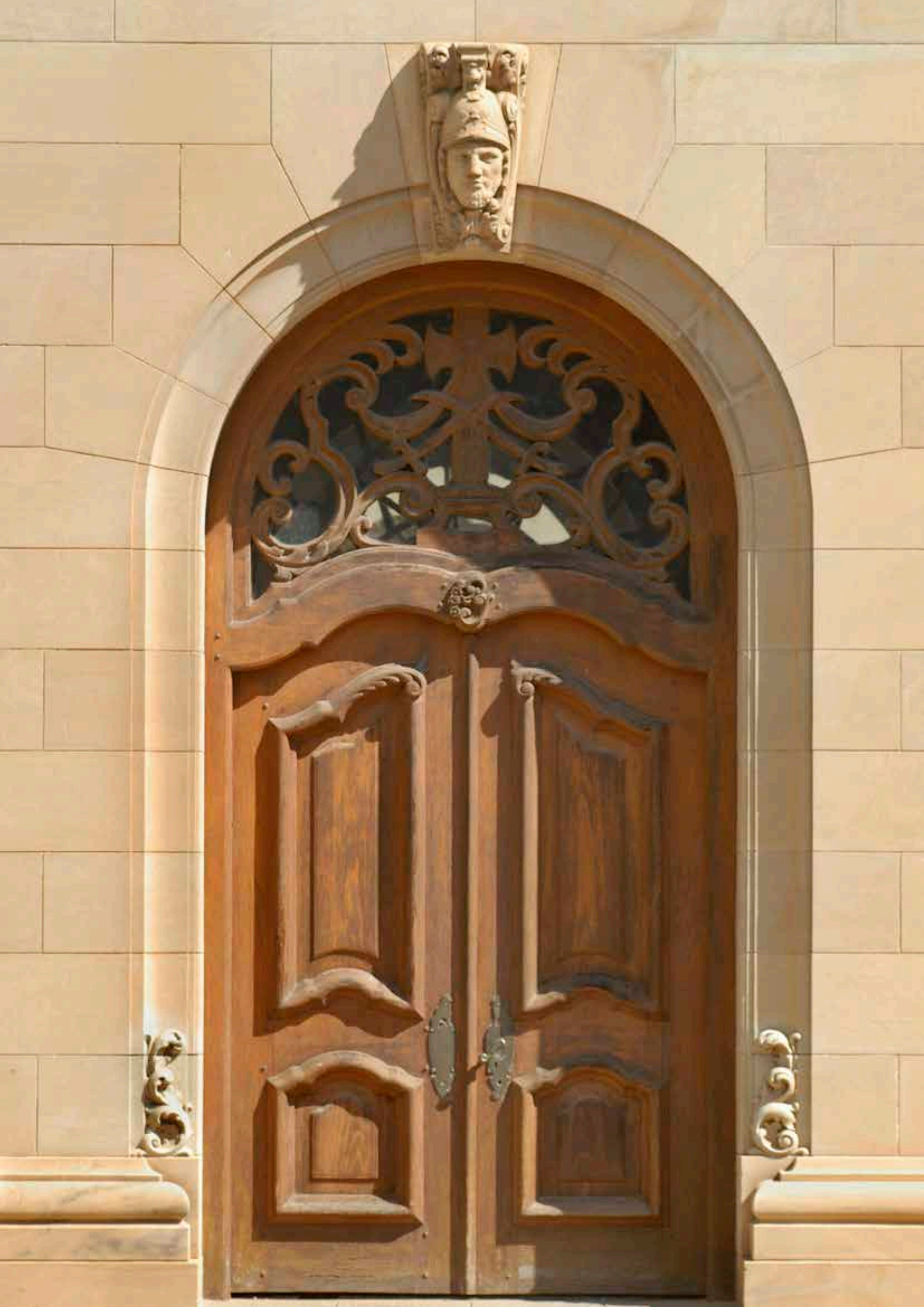
5.2 COMPOSITION OF THE JUDICIAL CONDUCT COMMITTEE

Section 9(1) of the JSC Act provides for the meetings of the Committee to be determined by the Chairperson. During the period under view, the Committee met on two occasions namely on 11 and 12 June 2021 and 10 and 11 December 2021.

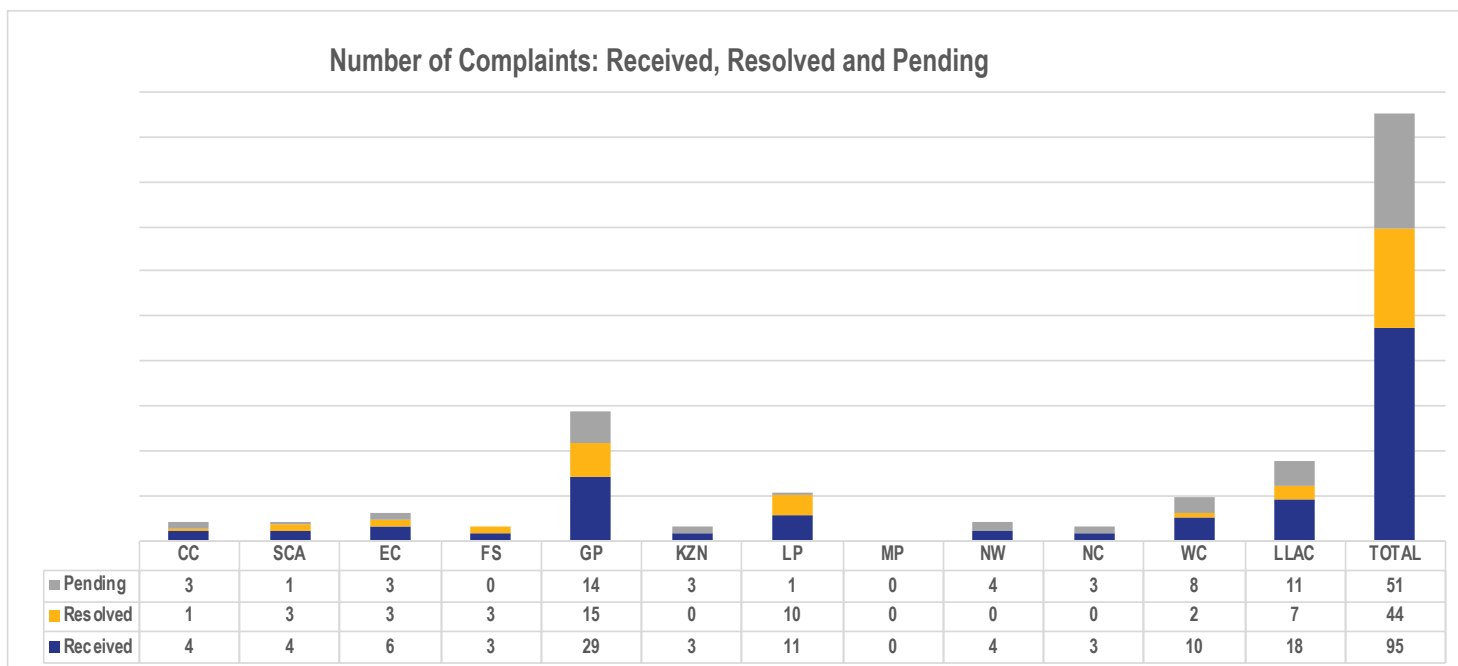
5.3 CONSIDERATION OF COMPLAINTS BY THE COMMITTEE

COMPLAINTS RECEIVED FROM 01 APRIL 2021 - 31 MARCH 2022:

COURT WHERE CERTAIN JUDGES FACED COMPLAINTS	NUMBER RECEIVED	NUMBER RESOLVED	NUMBER PENDING
Constitutional Court	4	1	3
Supreme Court of Appeal	4	3	1
Eastern Cape Division of the High Court	6	3	3
Free State Division of the High Court	3	3	0
Gauteng Division of the High Court	29	15	14
KwaZulu-Natal Division of the High Court	3	0	3
Limpopo Division of the High Court	11	10	1
Mpumalanga Division of the High Court	0	0	0
North West Division of the High Court	4	0	4
Northern Cape Division of the High Court	3	0	3
Western Cape Division of the High Court	10	2	8
Labour Court & Labour Appeal Court	18	7	11
Miscellaneous	0	0	0
Total:	95	44	51



GRAPH ILLUSTRATING NUMBER OF COMPLAINTS RECEIVED, RESOLVED AND OUTSTANDING



For the period under review, the Committee received 95 complaints lodged against Judges. Of this number, 44 complaints were resolved while 51 are still pending.

5.4 MEETINGS OF THE JUDICIAL CONDUCT TRIBUNALS

Section 19 of the JSC Act confers power on the Commission to request the Chief Justice to appoint a Judicial Conduct Tribunal whenever it appears to the Commission on account of a recommendation by the Judicial Conduct Committee or on any other grounds, that there are reasonable grounds to suspect that a Judge is suffering from an Incapacity, is grossly incompetent or is guilty of gross misconduct. A Tribunal was appointed by the Chief Justice to conduct an inquiry into certain allegations of misconduct.

5.4.1 Complaint against Judge T A N Makhubele

This matter is a subject of the previous two years' reports. In the year under review on 16 August 2021, the Tribunal members together with the Evidence leader and Legal representatives of both parties held a virtual meeting to discuss the commencement of the Tribunal. A consensus was reached that the Tribunal will take place on 10 and 11 January 2022.

The Tribunal President was Justice Brand. Subsequently, Judge Makhubele made a formal request for the recusal of the Tribunal President. This was based on the fact that Justice Brand was involved in an arbitration that features in the complaint against her. Following this request, Justice Brand recused himself as a Tribunal President on 07 January 2022. As at the end of the period under review, a new Tribunal President had not yet been appointed.

5.4.2 Complaints against Judge M K Parker

Since the establishment of the tribunal to investigate the complaint against Judge Parker, the Tribunal has not commenced due to Judge Parker's state of health.

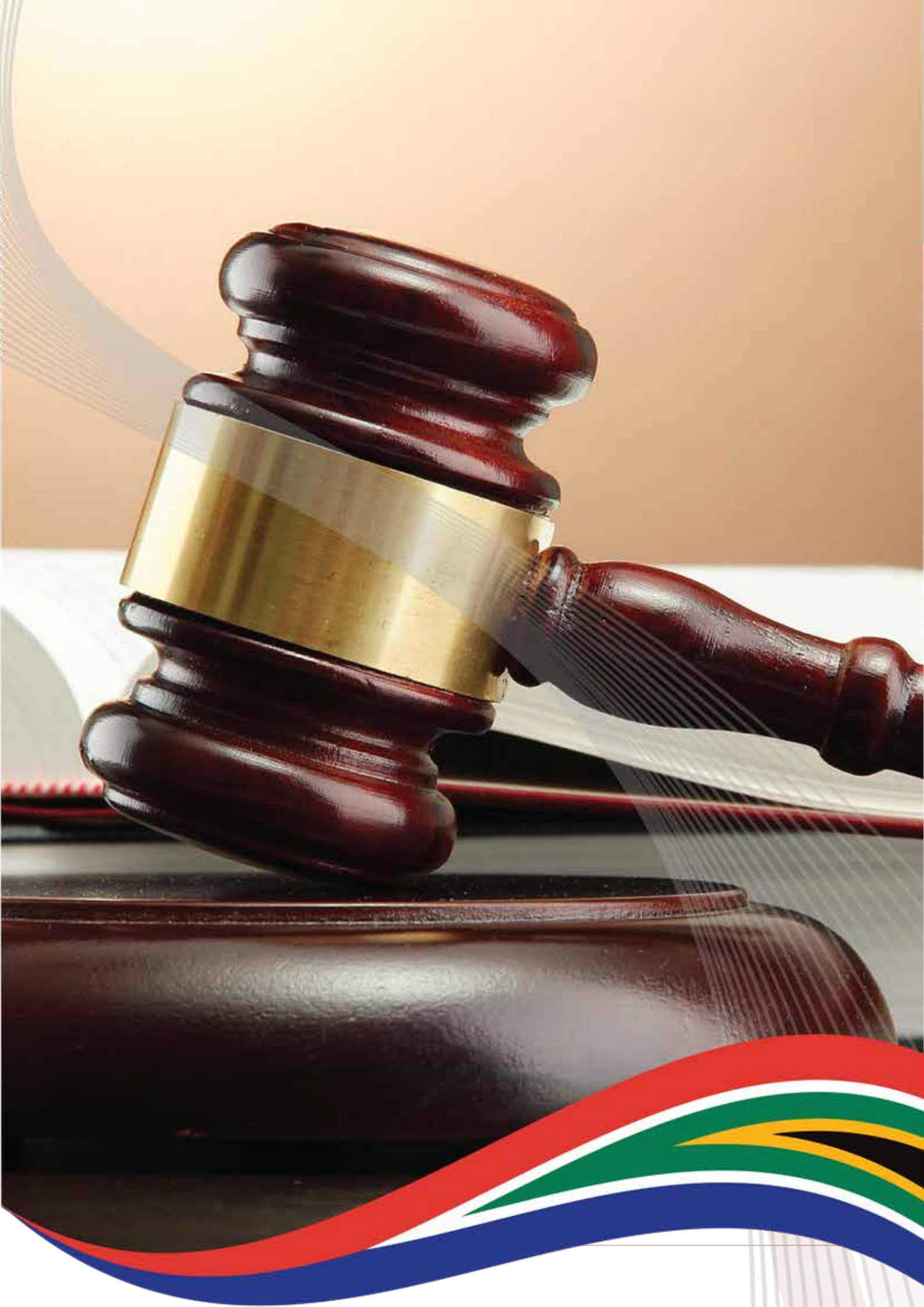
6 REPORT ON THE REGISTER OF JUDGES' REGISTRABLE INTERESTS

In terms of Regulation 3(2) of the Regulations on Judges' Registrable Interests, newly appointed Judges are required to disclose their registrable interests to the Registrar within 30 days of their appointment. The Registrar is required to enter the particulars of a disclosure by a Judge in the Register of Registrable Interests and thereafter cause a copy of all entries relating to that Judge to be communicated to the Judge (Regulation 3(3)). In 2021/2022, thirty-seven (37) Judges commenced active service. The Judges disclosed their registrable interests within 30 days of appointment as prescribed by the regulations and the disclosed information has been entered into the Register and copies of entries made to the Register were provided to the Judges in terms of the Regulation 3(3).

Section 13(3) of the JSC Act requires every Judge to disclose to the Registrar particulars of all his or her registrable interests and those of her or his immediate family members where applicable. The disclosure is done annually.

In the 2021/2022 financial year there were two hundred and fifty-three (253) Judges in active service and all the Judges disclosed their registrable interests in March 2022 as prescribed by the Regulations. Regulation 5 of the Regulations Relating to the Judicial Service Commission Act, 1994: Disclosure of Registrable Interests requires the Registrar to include in his annual report to the JSC the names of those Judges in active service who have

disclosed interests of their family members. The interests of Judges' immediate family members are registrable if the Judge wishes to disclose those interests and the immediate family member in question consents to such disclosure. In the 2021/2022 financial year, eleven (11) Judges made disclosures relating to immediate family members. The interests disclosed with respect to family members are recorded in the confidential section of the Register in terms of the applicable Regulations.



7 REPORT ON OTHER MATTERS

7.1 LITIGATION AGAINST THE COMMISSION

During the 2021/2022 financial year, the following matters were either initiated or were pending in the courts. A brief summary of the update on the litigation against the Judicial Service Commission is as follows:

7.1.1 Freedom Under Law versus Judicial Service Commission and Another

Date of initiation: 10 July 2020
Reason for pending: Judgment reserved, 02 February 2022

Overview of the matter:

Freedom Under Law launched an application in the Gauteng Division of the High Court, Johannesburg, to review and set aside the decision of the JSC taken on 10 October 2019 in which it, amongst others, rejected the recommendation of the Judicial Conduct Committee, which found Judge N J Motata guilty of misconduct and imposed a fine of around R1.1 million.

Freedom Under Law also asked the Court to replace the JSC's decision with a finding that Judge Motata is guilty of gross misconduct or suffering from some form of incapacity as stipulated in section 177(1)(a) of the Constitution.

The JSC opposes the application. The parties have filed all the papers. The matter was heard on 02 February 2022 and judgment was reserved.

7.1.2 Maseko A A v Molemela JA and Others

Date of initiation: 08 November 2021
Reason for pending: Hearing set down for 15 June 2022

Overview of the matter:

Mr A A Maseko launched an application in the Gauteng Division of the High Court seeking to "replace the decisions of the Judicial Conduct Committee (JCC) as per Molemela JA and the Appeal Committee constituted by Khampepe ADCJ, Zondi JA and Dambuza JA.

Mr Maseko is aggrieved by the JCC's decision to dismiss his complaint and appeal that he had lodged against the late Judge Steenkamp. The JCC is opposing this matter.

Counsel was appointed to represent the Judicial Conduct Committee. Mr Maseko set the matter down in the unopposed roll on 11 March 2021 despite the JSC having filed an answering affidavit. On this day, Mr Maseko failed to appear before Court and the matter was struck off the roll.

Mr Maseko re-enrolled the matter for hearing on 08 November 2021. This matter was referred to the Office of the DJP for case management, which was done on 06 December 2021. The matter was set down for hearing on 15 June 2022 (period outside reporting cycle).

7.1.3 WL Seriti and MT Musi v JSC and Others

Date of initiation: 01 July 2021
Reason for pending: Notice to oppose was filed on 07 July 2021, date of hearing awaited

Overview of the matter:

This matter is a sequel to the decision of the Gauteng Division of the High Court, Pretoria, reviewing and setting aside the findings and conclusions of the Commission of Inquiry into Allegations of Fraud, Corruption, Impropropriety or Irregularity in the Strategic Defence Procurement Package (Arms Deal Commission).

As a result of the decision of the Gauteng Division of the High Court, Pretoria, Shadow World Investigations and Open Secrets lodged a complaint against Judge Seriti and Judge Musi with the JCC, contending that the two Judges committed gross misconduct in their handling of the Arms Deal Commission.

In response, Judge Seriti and Judge Musi brought an application in the Gauteng Division of the High Court for an order declaring that the definition of "judge" in section 7(1)(g) of the JSC Act, does not include a retired Judge, but that, if the court concludes that the word includes a retired Judge, it should declare section 7(1)(g) of the JSC Act, unconstitutional and invalid.





The purpose of the order to insulate the two (2) Judges (who are now retired Judges) from being subjected to disciplinary procedures of the JSC. In essence the two Judges contend that, once a Judge is retired from active service, he or she may no longer be subjected to disciplinary procedures provided for in the JSC Act.

The JSC is opposing this application. The matter is pending before the Gauteng Division of the High Court.

7.1.4 Hlophe M J v JSC and Others

Date of initiation: 14 September 2021
Reason for pending: Hearing set down for 15 June 2022

Overview of the matter:

A Judicial Conduct Tribunal (Tribunal) which conducted an inquiry into allegations that Judge President Hlophe had improperly attempted to influence Justices of the Constitutional Court in 2008 in a matter involving Mr Jacob Zuma found Judge President Hlophe guilty of gross misconduct on 09 April 2021. The Commission met on 25 August 2021 to consider the findings of this report as contemplated in section 20 of the JSC Act. The Commission found Judge President Hlophe guilty of gross misconduct and referred the matter to the National Assembly to perform its functions in terms of section 177(1)(b) of the Constitution.

Judge President Hlophe launched an urgent application in the Gauteng Division of the High Court for an order to stay the process for his suspension by the President under section 177(3) of the Constitution as well as to stay the process of impeachment by the National Assembly which process is regulated by section 177(1)(b) of the Constitution.

Judge President Hlophe further sought an order declaring the decision of the JSC taken at the meeting held on 25 August 2021, to be unconstitutional and invalid. Additionally, he also sought the decision of the Tribunal to be reviewed and set aside. Hlophe JP abandoned the urgent application relating to the stay of the process of suspension following the JSC's decision not to recommend to the President at that stage that he be suspended.

In March 2022 a Full Bench of the Gauteng Division of the High Court dismissed Judge President Hlophe's application.



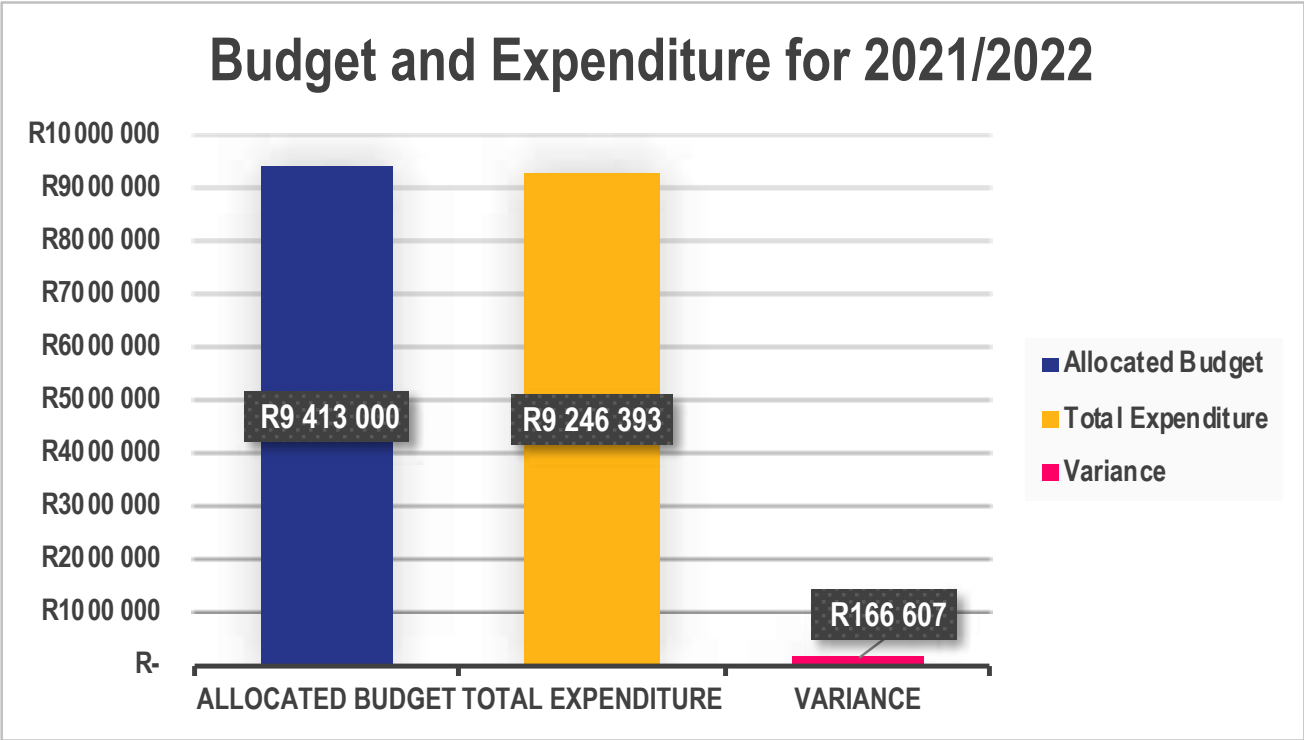
7.2 BUDGET OF THE COMMISSION

The Commission was allocated a total budget of R9,413 million in the 2021/2022 financial year. The total budget for the Commission consists of R3,604 million for compensation of employees and R5,809 million for goods and services. The total expenditure at the end of the financial year was R9,247 million.

The 2021/2022 JSC Budget and Expenditure report is illustrated in the table below:

ECONOMIC CLASSIFICATION	ALLOCATED BUDGET	EXPENDITURE	VARIANCE
Compensation of Employees	R3 604 000	R3 437 649	R166 351
Goods and Services	R5 809 000	R5 808 744	R256
Transfers and subsidies	-	-	-
Purchase of Capital Assets	-	-	-
Total	R9 413 000	R9 246 393	R166 607

The 2021/2022 JSC Budget and Expenditure report is illustrated in the table below:



8 CONCLUSION

The Commission has continued to discharge its constitutional and statutory mandate in regard to the appointment of Judges by the President. Transformation of the Judiciary continues to be central to the Commission’s role when considering candidates for judicial appointment. Focus on this constitutional imperative will continue until the Judiciary fully reflects the racial and gender composition of the people of the Republic of South Africa.



HIGH COURT
HOOGGEREGSHOF
INKUNDLA EPHAKAMILEYO

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