

IN THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

(Secretariat of the Commission, based in Banjul, The Gambia)

CASE NUMBER: **779/2022**

In the matter between:-

JACOB GEDLEYIHLEKISA ZUMA

COMPLAINANT

(Former President of the State Party)

AND

REPUBLIC OF SOUTH AFRICA

STATE PARTY

**SUBMISSION IN TERMS OF RULE 116(1) OF THE RULES OF PROCEDURE
OF THE COMMISSION WITH INCORPORATED URGENT RELIEF**

KINDLY TAKE NOTICE that the *supra* mentioned Complainant hereby presents his evidence and arguments on the admissibility of the communication seized by the African Commission on Human and Peoples' Rights ("**Commission**") on its 72nd Ordinary Session held between 19 July 2022 and 2 August 2022, under the *supra* case number.

KINDLY FURTHER NOTICE that the Complainant respectfully requests urgent relief from the **Commission** for the reasons as set out herein and in particular **Volume 4** *infra*.

KINDLY TAKE FURTHER NOTICE that the Complainant respectfully requests the **Commission** for the following remedies in terms of **PART “A”** and **PART “B”**:-

PART “A”

For Urgent Relief:

- 1 That the late filing of the submission in terms of Rule 116 of the *Rules of Procedure of the Commission, 2020* be condoned;
- 2 That the State Party is ordered not to commit the Complainant to imprisonment resulting, directly or indirectly, from any one or more of the court matters referenced in Item 6, **PART “B”** *infra*, pending the final outcome of this complaint;
- 3 That the State Party is prohibited from withdrawing, hindering or obstructing any of the benefits the Complainant are entitled to and those he had been provided with as the former President of the State Party, pending the outcome of this complaint;
- 4 That, giving effect to the requested urgent relief in this **PART “A”**, the **Commission** sets any conditions to either one or both of the Complainant and State Party, grants any additional or alternative urgent relief it deems fit and proper.

PART “B”

In the alternative or addition to the requested urgent relief in terms of **PART “A”** *supra*:

- 5 That it be declared that the Complainant may bring this complaint before the **Commission** in his own personal capacity as well as in the interest of the people of the State Party;

6 That the entire orders by the Constitutional Court of the State Party (“**Constitutional Court**”) granted in the matters of:-

6.1 *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Jacob Gedleyihlekisa Zuma [2021] ZACC 2 (CCT295/20) (28 January 2021) (“Instigating Case”)* – Annexure “**B**” to the original referral dated 19 January 2022;¹ and

6.2 *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma and Others [2021] ZACC 18 (CCT52/21)(29 June 2021) (“Imprisonment Case”)* – Annexure “**C**” to the original referral dated 19 January 2022;² and

6.3 *Zuma v Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State and Others [2021] ZACC 28 (CCT 52/21)(17 September 2021) (“Rescission Case”)* – Annexure “**D**” to the original referral dated 19 January 2022,³

be reviewed in respect of their compliance to the *African Charter on Human and Peoples’ Rights* (“**African Charter**”), and, if found to be in violation, set aside;

7 As a result of setting aside any one or more of the orders as per Item 6 *supra*, or otherwise, that it be declared that the State Party violated the human rights

¹ Vol. 2, pp. 32 - 75

² Vol. 2, pp. 76 - 202

³ Vol. 2, pp. 203 - 309

of the Complainant on one or more grounds as set out in the ***African Charter***, as determined by the ***Commission***;

8 As a result of setting aside any one or more of the orders as per Item 6 *supra*, or otherwise, that it be declared that the State Party violated the peoples' rights of the people of the State Party on one or more grounds as set out in the ***African Charter***, as determined by the ***Commission***;

9 In the alternative or addition to Items 6 to 8 *supra*, that the ***Commission*** refers such requested relief, or the entire complaint, to the African Court on Human and Peoples' Rights;

10 That as a result of the declaration of human rights violation in terms of Item 6 *supra*, the Complainant be awarded compensation in such amount and currency as determined by the ***Commission*** and that it be paid within 30 days after granting of the request;

11 That the compensation award in terms of Item 10 *supra*, that such an amount will increase in line with the annual inflation rate of the State Party over the period the matter was considered until date of final payment;

12 That the compensation award in terms of Item 10 *supra*, read with Item 11 *supra*, bears interest at 15% per annum from date of lodgement of this complaint on 19 January 2022 until date of final payment;

13 That, giving effect to the requested relief in this **PART "B"**, the ***Commission*** sets any one or more conditions to either one or both of the Complainant and State Party, grants any additional or alternative relief it deems fit and proper.

KINDLY TAKE FURTHER NOTICE that the Complainant herewith submits the following complete volumes of records as evidence and argument in support of this complaint:-

- Volume 1** COMMISSION INITIAL RECORD OF LETTER OF INTRODUCTION OF COMPLAINT RELATING TO ALLEGED HUMAN RIGHTS VIOLATIONS WITH INCORPORATED REQUEST FOR URGENT RELIEF; and
- Volume 2** RECORD OF THE ENTIRE INSTIGATING CASE BEFORE THE CONSTITUTIONAL COURT;
- Volume 3** RECORD OF THE ENTIRE RESCISSION CASE BEFORE THE CONSTITUTIONAL COURT; and
- Volume 4** HEADS OF ARGUMENT IN SUPPORT OF SUBMISSION ON ADMISSIBILITY IN TERMS OF RULE 116(1) WITH INCORPORATED URGENT RELIEF

TAKE FURTHER NOTICE, notwithstanding that the matter referenced in **Volume 2** was unopposed, the Complainant does not necessarily agree with neither the statements nor judgment made therein where **Volume 3** *supra*, on the other hand, in particular, applies to all the referenced **Constitutional Court** cases as the one in which the Complainant gives proper testimony of why he did not participate in the first two cases and how continuously his human rights have been violated by the State Party.

RESULTANTLY the **Commission** is respectfully requested to please accept this submission for final seizure and to investigate this matter accordingly.

SIGNED at **PRETORIA** (GAUTENG, REPUBLIC OF SOUTH AFRICA) on this **21ST**
day of **FEBRUARY 2023**.



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