

**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

<p><b>REJOINDER IN TERMS OF RULE 116(2) OF THE RULES OF PROCEDURE OF THE COMMISSION</b></p>
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## INTRODUCTION

1. The **Complainant** will proceed to make use of the abbreviations as formulated in Volume 4, Heads of Argument in Support of Submission on Admissibility.
2. The representatives for the **Complainant** received the respondent **State Party’s** reply in terms of Rule 116(2) of the **Rules**, lodged by the Acting Chief State Law Advisor, Adv. PA Stemmet of the **State Party’s** Department of International Relations and Cooperation (hereafter referred to as the “**Reply**”), from the **Commission** on or about 18 January 2024 and wish to make the following rejoinder.
3. In instances where the **Complainant** has refrained from expressly addressing a specific point articulated by the **State Party** in its **Reply**, said point shall be deemed admitted, contingent upon its alignment with the contents of the **submission** or any other document previously submitted by the **Complainant** in the present case, and provided that it does not pertain to legal arguments.

4. In case any point in the **Reply** contradicts a prior statement, that specific point is denied, and the burden of proof is placed on the **State Party**.
5. For brevity, at this point in time the **Complainant** will only deal with those matters he regards necessary without introducing new issues and respectfully request the **Commission**, if the interest of justice demands it, for the parties to provide supplementary written submissions and/or submit, within a fixed time-limit, any information, documents or material relevant to the examination of the complaint.

#### GENERAL OBSERVATIONS

6. The **State Party** essentially objects to the complaint, without addressing the content of the merits, as follows:-
  - 6.1. The **Commission** does not have the required jurisdiction;
  - 6.2. The **Complainant** failed to comply with Article 56 of the **African Charter**, making the complaint “*vague*” and an “*abuse of process*”;
  - 6.3. The **submission** was late.
7. This rejoinder will deal with the **Reply** as follows:
  - 7.1. Point *in Limine*: Late lodgement of **Reply**;
  - 7.2. The Parole Challenge;
  - 7.3. The Special Remission;

- 7.4. Addressing each one of the objections listed in paragraph 6 *supra*;
- 7.5. *Ad Seriatim* rejoinder;
- 7.6. Condonation for Late Lodgement of the Rejoinder, if required;
- 7.7. The “prayers” by the State Party.

#### **POINT IN LIMINE: LATE LODGMENT OF REPLY**

8. The **submission** was delivered to the **Commission** on 21 February 2023. Apparently, this **submission** had not been sent to the **State Party** by the Secretariat until 5 April 2023.
9. Thus, the **Reply** was originally due by about June 2023. However, the **State Party** claimed that it did not receive the submission and on 21 August 2023 the Secretariat re-submitted it to the **State Party**, implying that the **Reply** was due at about end-October 2023.
10. Upon examination of the **Reply**, it is evident that Advocate Stemmet signed it on 26 October 2023, indicating its readiness for submission to the **Commission** within the stipulated timeframe. Moreover, it is apparent that all attachments utilised were contemporaneous and accessible at the time of signing for lodgement.
11. However, notwithstanding that the **Reply** was ready then already, the **State Party** has failed to comply with the prescribed period of sixty (60) days to lodge.

12. The unexplained delay and failure to submit the **Reply** have necessitated the **Commission** to grant an additional unknown period to the **State Party**, notwithstanding the prior extension granted due to its initial failure to adhere to the submission deadline.
13. Given that the **Reply** was prepared and available, its lodgement could have been promptly executed without necessitating a gracious extension from the **Commission**.
14. On 13 November 2023, the **Complainant's** representative formally notified the **Commission** via letter regarding the **State Party's** failure to submit its **Reply**, and requested that the matter proceed by default in accordance with Rule 118(2) of the **Rules**. Unfortunately, this request to proceed by default was disregarded.
15. The inexplicable extension, in absence of a formal request for condonation, granted to the **State Party** in January 2024 to purportedly submit its **Reply** was unjustified, as the **Reply** was already prepared and could have been submitted within the designated timeframe.
16. Respectfully, the **Commission** is urged to reject the **Reply** due to its failure to comply with the stipulated **Rules**.

#### **AD PAROLE CHALLENGES (ad paras. 16 – 19)**

17. The relevance of these references is brought into question, as the present complaint does not contest the parole proceedings. However, the **Complainant**

respectfully expresses disagreement with the Constitutional Court's decision on this matter and reserves the right to challenge it.

18. The **Complainant** maintains the humble position that should the **Commission** uphold his complaint and rule in his favour, as outlined in PART “B” of the requested relief in accordance with his **submission**, the necessity to pursue a challenge against the parole proceedings would become moot. Such a challenge would then automatically constitute a violation of the **Complainant's** rights as outlined in the **African Charter** without the need to request a declaration.

#### **AD SPECIAL REMISSION (*ad paras. 20 – 24*)**

19. It is inaccurate to suggest that the **Complainant** returned to prison subsequent to the Constitutional Court's rejection of his Application for Leave to Appeal against the judgment of the Supreme Court of Appeal.
20. The **State Party** fails to provide a comprehensive account regarding the special remission granted by President Cyril Ramaphosa, thus denying a complete understanding of the matter.
21. The decision regarding whether the **Complainant** was obligated to return to serve the remaining portion of his contested imprisonment sentence rested with the National Commissioner of Correctional Services, Mr. Makgothi Samuel Thobakgale. He requested the **Complainant** to submit representations

regarding his return to prison in light of the Constitutional Court's dismissal order.

22. It is pertinent to note that both legal teams representing the **Complainant**, including those involved in the parole proceedings and the undersigned, Mr. Reyno De Beer of LFN, submitted representations to the National Commissioner.
23. Enclosed herewith, as the sole relevant representation for the purpose of this complaint, is the representation lodged by the undersigned dated 2 August 2023, along with its accompanying attachments "A" to "C", herein referred to as Annexures "R1" to "R4". The contents therein are self-explanatory and incorporated herein for conciseness.
24. Additionally attached as Annexure "R5" is an electronic communication dated 4 August 2023 received from the office of the National Commissioner, confirming receipt of this representation. Proof of hand delivery provided by The Courier Guy, dated 2 and 3 August 2023 respectively, is also attached as Annexures "R6" and "R7".
25. It is evident from the representation letter that the **State Party**, as a signatory to the **African Charter**, was obligated to respect these proceedings before the **Commission** and had no recourse but to devise a solution to their predicament, leading to the advice given to President Ramaphosa regarding the remission proclamation.
26. Therefore, it is inaccurate for the **State Party** to suggest that the **Complainant** coincidentally fell within the scope of the remission. The factual reality is that the **State Party** had no alternative but to take this action in fulfilment of its

obligations under the ***African Charter*** and within the broader African community.

27. Similarly, the ***State Party*** failed to disclose to the ***Commission*** the vital fact that the ***Complainant*** did not return to prison and that representations were made to the National Commissioner. This lack of transparency extended to the People of South Africa, who were misled about the true circumstances of the case.

#### **AD LACK OF JURISDICTION (*ad paras. 25 – 31*)**

28. The ***Complainant*** denies that the ***Commission*** does not have the required jurisdiction to entertain the complaint.
29. Within the ***submission***, PART “A” serves as the foundation of the ***State Party’s*** jurisdictional objection, wherein urgent relief was initially sought. However, it is crucial to note that the ***Commission*** has already addressed and resolved this matter, rendering it non-contentious.
30. Correspondingly, in a letter dated 25 July 2023, attached herewith as Annexure “R4” and forming part of the representations made to the National Commissioner, the former Executive Secretary to the Commission, Ms. Lindiwe Khumalo, confirmed that while preliminary relief was deliberated upon, it was not granted.

31. Hence, it can be reasonably inferred that the **Commission**, as indicated by Ms. Khumalo, acknowledges that the pursuit of relief outlined in PART “B” remains ongoing and has not become moot.
32. Furthermore, notwithstanding the **Complainant's** absence from re-imprisonment, he continues to bear the label of a convicted criminal. This miscarriage of justice persists as a tool against him, particularly given his opposition to the ANC in the imminent national elections. Consequently, the prejudice and other damages endured by the **Complainant** throughout this ordeal remain pertinent and have not become obsolete.

#### **AD FAILURE TO COMPLY WITH ARTICLE 56 (*ad paras. 32 – 37*)**

33. The **Complainant** denies that he has failed to comply with Article 56 of the **African Charter**.
34. The **State Party** makes the allegations that, resulting from this apparent non-compliance, the complaint is “*vague*” and an “*abuse of process*” as emphasised in paragraphs 38.2 thereof. This is emphatically denied.
35. Properly delineating the background of the complaint serves to directly correlate each of the alleged violated Articles and facilitates a clear connection between these Articles and the sequence of events leading to the filing of this complaint.
36. In customary legal practice, not exclusive to the **State Party** but also observed across various African jurisdictions, the presentation of arguments is typically

eschewed. A mere implication of the violation of relevant Articles suffices for the **State Party** to either admit or refute these allegations.

37. Beyond a broad objection, the **State Party** has neglected to elucidate why it contends that the cited Articles were not infringed upon, rendering this objection unsustainable.
38. The **Complainant** has outlined the background, together with directly referring to violations of his fundamental rights enshrined in the **African Charter**, in his original complaint to the **Commission** dated on or about 19 January 2022. For easy reference section (d) paragraph 3 thereof, clearly describes some of these key violations, and quoted:-

“3. *In its judgment of 29 June 2021, attached as Annexure “C”, the State Party's Constitutional Court claimed that the Complainant had committed the crime of contempt of court. This resulted in the committal of the Complainant to a prison of the State Party in order to serve the penalty of 15 months imprisonment; same*

*3.1 without the Complainant being provided with an option to appeal the sentence;*

*3.2 with the procedure resulting in the sentence in question having taken place in his absence;*

*3.3 with the procedure having been flawed by way of*

*3.3.1 the committing court not having required jurisdiction;*

*3.3.2 the committing court acting as court of first and last instance; and*

3.3 [sic.] *the Complainant being factually subjected to imprisonment without trial.*"

39. It is undisputed that the **Complainant** was imprisoned by order of the Constitutional Court, which is the *apex* court of the **State Party** without, *inter alia*, being present and having access to a further appeal process.
40. This alone is clearly in direct violation of Article 7(1)(a) of the **African Charter** and reference was specifically made to the instances of violations and did Justice Jafta<sup>1</sup>, in his dissenting judgment in the **Rescission Case**, even refer to the *Spisso*<sup>2</sup> and *Dissanayake*<sup>3</sup> international cases in terms of the ICCPR where it was found that such actions as committed against the **Complainant** constitute violations of international human rights laws and to be declared as such. It is respectfully submitted that the same legal principles apply to this very complaint as well.

**AD THE SUBMISSION WAS LATE (ad paras. 5 and 38.3)**

41. The **submission** was lodged on 21 February 2023 following formal requests previously made to the **Commission** for an extension of time. It is imperative to clarify that the **submission** was not made in April 2023. The **Commission** is respectfully requested to incorporate paragraphs 8 to 16 *supra*.

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<sup>1</sup> **Rescission Case**, paras. 188 – 191

<sup>2</sup> Vincencio Scarano Spisso v Bolivarian Republic of Venezuela CCPR/119/D/2481/2014 (Spisso) at para. 3.4

<sup>3</sup> Dissanayake v Sri Lanka CCPR/C/93/D/1373/2005 (Dissanayake) at paras. 2.3-2.5

**AD SERIATIM**

42. Paragraph 4 is refuted on the grounds that the original complaint in this matter was not submitted by the Liberty Fighters Network (LFN). However, it is acknowledged that another related case was lodged with the **Commission** by LFN and the undersigned on or about 2 July 2021, which, for reasons unknown, was not addressed by the **Commission**. Consequently, there is a request in Volume 1 of the **submission** to consolidate these two cases as they pertain to the same **Imprisonment Case**.
43. Paragraphs 5 to 8 are deemed incorrect and are thus denied. Contrary to the assertion made, the **submission** was made on 21 February 2023 following formal requests for an extension of time from the **Commission**. It is important to clarify that the **submission** did not occur in April 2023. Additionally, the **Commission** is respectfully urged to incorporate paragraphs 8 to 16 *supra*.
44. Paragraphs 11 and 12 are refuted, and the **State Party** is called upon to provide substantiation. It is respectfully argued on behalf of the **Complainant** that the mistreatment endured at the hands of the **State Party**, including his incarceration without due appearance or recourse to an appropriate local and impartial appellate court, cannot be deemed frivolous or vexatious. The **Complainant** finds it insulting that the **State Party** remains indifferent to the inhumane treatment he suffered, which infringed upon his fundamental rights to freedom, dignity, equality, and security of person, incurring significant personal cost.

45. While the events outlined in paragraph 14 are acknowledged, it is contested that the judgment rendered aligns with the principles delineated in the ***African Charter***.
46. In response to paragraph 15, it is conceded that the ***Complainant*** did not appear before the Judicial Commission; however, it is emphasised that valid reasons for this absence were articulated in his affidavit submitted in the ***Rescission Case*** and can be found in Volume 3.
47. Paragraphs 16 to 19 are contested regarding the legality and ultimate rulings of the courts. However, it is asserted that a detailed response to the parole proceedings is irrelevant to the present complaint, as a successful resolution of this matter would render such proceedings inconsequential.

**AD “PRAYERS” (ad para. 38)**

48. For the reasons already mentioned *supra*, the ***Complainant*** denies that the ***State Party*** is entitled to its sought relief and to be rejected.

**CONDONATION FOR LATE LODGEMENT OF REJOINDER**

49. The rejoinder was due within thirty (30) days from date of receiving the ***Reply*** on 18 January 2024. Thus, the rejoinder was expected by this past Saturday, 17 February 2024.

50. The rejoinder is only two (2) days late, which is regretted and a sincere apology is extended to the **Commission** and **State Party** alike, for any inconvenience.
51. It is respectfully acknowledged that while the **Complainant** awaited the **Reply** for eleven (11) months, the additional 2-day extension pales in comparison to the numerous concessions granted to the **State Party**.
52. It is pertinent to note that the anticipation of the rejoinder coincided with a weekend, during which the undersigned writer refrains from professional duties to devote time to familial obligations, in adherence to Article 18 of the **African Charter**. Additionally, in consideration of the welfare of his two minor daughters, acting in their best interests aligns with the principles outlined in the *African Charter on the Rights and Welfare of a Child*, prioritising family time.
53. The **Commission** is humbly referred to paragraphs 27 to 39 of Volume 4 of the **submission**, *mutatis mutandis*, incorporated herein.
54. If found to be late within the realm of the **African Charter** and **Rules**, condonation for late lodgement of this rejoinder is then respectfully requested.


## CONCLUSION

55. Paragraph 9 of the **Reply** confirms its function as the **State Party's** opposition to the complaint communicated. Consequently, it is reasonable to infer that the **Reply** constitutes the entirety of the **State Party's** opposition, obviating the need for further submissions by the parties beyond this rejoinder and all previously submitted documents in these proceedings.

56. Given the **State Party's** failure to address the substantive aspects of the complaint, particularly as delineated in Volume 1 of the **submission**, the **Commission** is respectfully urged to consider defaulting in favour of the **Complainant's** version regarding these matters.
57. Regrettably, it must be diplomatically expressed that challenges arose in communicating with the **Commission's** registry, leading to occasional delays in receiving responses. These difficulties made the prosecution of this complaint arduous. Therefore, the **Commission** is respectfully implored to demonstrate flexibility in considering any technical non-compliance with the **Rules**, in the interest of justice. It is pertinent to recognise that the outcome of this complaint holds significant implications not only for our nation but also for the entirety of the African continent and its People.
58. It is respectfully submitted that the **Complainant** has succeeded in establishing a *prima facie* case against the **State Party**.

**RESULTANTLY** the **Commission** is respectfully requested to please accept this rejoinder for final seizure and to investigate, and/or proceed with this matter accordingly.

SIGNED at **PRETORIA** (GAUTENG, REPUBLIC OF SOUTH AFRICA) on this **19<sup>TH</sup>** day of **FEBRUARY 2023**.



Mr. Reyno Dawid De Beer

Complainant's Representative

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# Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 2 August 2023

## **URGENT / CONFIDENTIAL & PRIVATE**

ATTENTION: NATIONAL COMMISSIONER OF CORRECTIONAL SERVICES

Mr. Makgothi Samuel Thobakgale

c/o Ms. Thembi Gwamanda (Personal Assistant)

Poyntons Building, cnr WF Nkomo and Sophie De Bruyn Streets

West Block, PRETORIA

[REDACTED]

[BY EMAIL]

Dear Commissioner

**SUPPLEMENTARY REPRESENTATIONS IN RELATION TO YOUR CONSIDERATION OF  
IMPRISONMENT OF FORMER PRESIDENT, MR. JACOB GEDLEYIHLEKISA ZUMA**

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## INTRODUCTION

1. Liberty Fighters Network (LFN) is a recognised voluntary association without gain and herein represents our principal, former President, Mr. Jacob Gedleyihlekisa Zuma (“Mr. Zuma”), as his duly authorised representative in respect of a complaint lodged on his behalf against the state of the Republic of South Africa (RSA) with the African Commission on Human and Peoples’ Rights (ACHPR), an executive organ of the African Union (AU).
2. **Very Important:** You, Commissioner, and anyone under your authority dealing with this letter and content with attachments, are kindly requested to keep this information provided herein as highly confidential and private and not to be shared in any way to the media or any other person not involved in the *infra* mentioned process without the explicit consent in writing of either writer or anyone else specifically authorised by Mr. Zuma to receive such information. If anyone in possession of this letter and accompanied information with attachments, directly or indirectly divulges the content hereof and/or any private information contained herein outside of this confidentiality and privacy clause, it would be considered as a breach of the confidentiality and/or private information of Mr. Zuma, and anyone else affected by it, and would open such a person to relevant civil and criminal prosecution.

3. On 19 January 2022, LFN lodged this formal complaint on behalf of Mr. Zuma in respect of his belief that the direct imprisonment order dated 29 June 2021 by the Constitutional Court in the matter of *Secretary of the Judicial Commission of Inquiry*<sup>1</sup> under case number CCT52/21, was unlawful and invalid as it was in direct violation of various of his human rights established in terms of the *African Charter on Human and Peoples' Rights* (“*African Charter*”) which the Court was obliged to have considered – especially for the fact that it, *inter alia*, dictates that everyone has a right to a proper appeal process which was not afforded to him.
4. In a letter dated 15 March 2022, received by writer *via* electronic mail on 16 March 2022, the ACHPR Executive Secretary, Ms. Lindiwe Khumalo, (“Ms. Khumalo”) confirmed that this complaint was lodged with it for Mr. Zuma. This letter is attached as Annexure “**A**”.
5. Further, in a letter dated 4 October 2022, received by writer *via* electronic mail on 13 October 2022, Ms. Khumalo confirmed that the complaint lodged for Mr. Zuma was formally seized by it. This letter is attached as Annexure “**B**”.
6. Moreover, in a recent letter dated 25 July 2023, forwarded to writer by electronic mail on 27 July 2023, merely five (5) days ago, Ms. Khumalo confirmed that the ACHPR will now also proceed to consider such complaint at one of its forthcoming sessions. This letter is attached as Annexure “**C**”.
7. Meanwhile, writer noted that formal representations for Mr. Zuma have already been made last week to you, Commissioner, however, the legal team of Mr. Zuma and also the Jacob Zuma Foundation, regretfully, were not aware of these latest international developments for the fact that Mr. Zuma did not want the local court challenges in respect of dealing with the parole matter to be confused with the ACHPR complaint to challenge the legality of the actual direct imprisonment court order.

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<sup>1</sup> 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

8. In line with the representations already made in respect of this very matter before you, Commissioner, writer does not intend that these supplementary representations should make those already lodged as invalid or moot, but that they should respectfully be considered as an alternative in the event that those first representations should fail in any way.
9. As would be explained and argued *infra*, writer is of the humble submission on behalf of Mr. Zuma, that you, Commissioner, in the event that your conclusion, after having considered the first set of representations on behalf of Mr. Zuma, could be one that Mr. Zuma should return to prison, it is then respectfully submitted as an alternative that, as a result of the pending matter before the ACHPR, neither you, Commissioner, nor RSA are empowered at this point in time to make such a decision while the actual imprisonment court order is being reconsidered by this organ of the AU.

## **LEGAL MATRIX**

10. In terms of Article 1 of the *African Charter*, the RSA is obliged to “...*recognize the rights, duties and freedoms enshrined in this Charter [sic] and shall undertake to adopt legislative or other measures to give effect to them.*”
11. The RSA acceded to the *African Charter* on 9 July 1996. A note *verbale* was entered to accompany the instrument of accession – The Parliament of the RSA agreed to the country’s adherence to the *African Charter*, but decided that the instrument of accession should be accompanied by a declaration.
12. This *supra* declaration contains RSA's view that consultation should take place between state parties on a number of issues. These include "*possible measures to strengthen the enforcement mechanisms of the [African Charter]*" and "*criteria for the restriction of rights and freedoms recognised and guaranteed in the [African Charter]*" and bringing the *African*

*Charter* in line with the United Nation's resolutions "*regarding the characterisation of Zionism.*"

13. The *Constitution* of the Republic of South Africa, 1996 ("*Constitution*") provides that "[a]ny international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the *Constitution* or an Act of Parliament".<sup>2</sup>
14. Whilst the *African Charter* specifically has not been enacted into RSA law by national legislation, the *Constitution* does make provision for the application of international law "[w]hen interpreting any legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law."<sup>3</sup>
15. Writer, on behalf of Mr. Zuma, also humbly submits that the *African Charter* is an agreement between the RSA and all other member states and therefore is law in RSA, as no part thereof, is inconsistent with either the *Constitution* or any other Act of Parliament.<sup>4</sup>
16. It is further argued, that if it was anyhow inconsistent to not qualify as law in RSA, the RSA has perempted its right to argue the contrary as its continued participation in the activities and structures of the AU clearly establishes that the *African Charter* is a legitimate international agreement, or instrument, and can therefore not be considered as inconsistent with the *Constitution* for purposes of these representations to you, Commissioner, representing the state.
17. With "*peremption*" it is meant that the RSA, through its actions, has reasonably shown that it accepts that the *African Charter* is consistent with the *Constitution* and can legally not

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<sup>2</sup> s231(4) *Constitution*

<sup>3</sup> s233 *Constitution*

<sup>4</sup> s231(4) *Constitution*

argue the contrary position.<sup>5</sup> Basically, the *Doctrine of Estoppel*, as recognised in both national and international public law, is also an underlying factor.<sup>6</sup>

18. The RSA has also adopted numerous laws, case law and other measures to give effect to the provisions of the *African Charter*. Thus, the RSA legal system is mirroring the protection of rights as provided for in the *African Charter*, thereby advocating the protection of human rights through incorporation of the *African Charter* norms into the national legal system.
19. However, it is the argument of writer for Mr. Zuma that in this particular dispute, the RSA, *via* the Judiciary, has violated his rights in terms of the *African Charter*.
20. The ACHPR controls the conformity of the RSA's actions to the *African Charter* and subsequently has the jurisdiction to entertain his complaint before it.
21. The *Constitution* has also incorporated all, or at least most, of these Articles and therefore the interpretation given to them nationally, should not be much different within the contents of the *African Charter*; meaning, and so writer for Mr. Zuma respectfully argues, that if a violation of those very rights occurred within the context of the *Constitution*, it should be reasonably accepted, *mutatis mutandis*, that a violation of the corresponding right contained in the *African Charter*, likewise occurred.<sup>7</sup>

## CONCLUSION

22. Therefore, it is writer's respectful submission on behalf of Mr. Zuma, that based on the authorities indicated *supra*, you, Commissioner, as a representative of the RSA state, is compelled to allow the ACHPR to first finalise its processes before it pertaining to the complaint lodged which challenges the court order of direct imprisonment, which forms the

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<sup>5</sup> Venmop 275 (Pty) Ltd and Another v Cleverland Projects (Pty) and Another (2014/14286) [2015] ZAGPJHC 176; 2016 (1) SA 78 (GJ) (3 August 2015) *paras.* 25 – 27 (<https://www.saflii.org/za/cases/ZAGPJHC/2015/176.html>)

<sup>6</sup> Yogogombaye v Senegal (File No. 001/2008) [2009] AfCHPR 4; (15 December 2009) *para.* 32 (fn 5)

<sup>7</sup> s7 – 39 (Ch. 2 “Bill of Rights”) **Constitution**

basis of the consideration, and that your decision in relation to whether Mr. Zuma should or should not return to prison ought to be suspended pending the finalisation of such process.

23. As you are most probably aware, Commissioner, only last week the Democratic Alliance (DA), which writer had been informed is one of the predominant entities demanding that Mr. Zuma should return to prison, has obtained a court order to the effect that the RSA should respect international law and structures established in terms of it, like the International Criminal Court (ICC). *In casu*, and on the theme of the proverb "*what is good for the goose is good for the gander*", writer reasonably does not foresee that, *inter alia*, the DA would suddenly turn to be hypocritical and demand that the RSA violates the processes currently pending before the AU under the *African Charter* too.
24. Writer would want you to kindly take note, Commissioner, that if the RSA now, being fully aware of the pending complaint before the ACHPR, decides that Mr. Zuma should be returning to prison, that the possibility is highly likely that the relationship between RSA and the rest of the African community would be tarnished, in that RSA would, by implication, be regarded as aligning itself more with the ICC, a western idealistic construct, at the expense of the AU's structures. The likelihood of RSA being sanctioned by fellow African states, our very neighbours, just like it was concerned to be sanctioned by western countries if it does not submit itself to the ICC, cannot be ruled out.
25. Writer respectfully state that it would be in the interest of justice, the RSA, and the People alike, if you, Commissioner, decides not to make a decision at present that Mr. Zuma return to prison, pending the outcome of the ACHPR processes.
26. The advantages, as a democratic Republic, for our own realm and fellow Africans, to decline making such a decision, outweighs the disadvantages by far and writer, respectfully, cannot foresee that any uncaptured court would intervene to compel you,

Commissioner, to make such a decision, if these AU processes have not been completed.

Approaching a court to do so, would be premature and bound to fail.

27. Your gentle consideration of these representations, coupled with writer's willingness to provide further supporting information or to meet with you, Commissioner, to discuss the content, will be highly appreciated and your response will eagerly be awaited.

28. The rights of our principal, Mr. Zuma, remain reserved *in toto*.


Yours Faithfully,

A handwritten signature in black ink, appearing to read 'R. De Beer', with a large, sweeping flourish extending to the right.

**Reyno D. De Beer**

President: Liberty Fighters Network

On behalf of our principal, Mr. JG Zuma

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (+220) 4410505 / 4410506; Cell (+220) 2304361 E-mail: <a href="mailto:au-banjul@africa-union.org">au-banjul@africa-union.org</a> ; Web <a href="http://www.achpr.org">www.achpr.org</a>		

Ref: ACHPR/STC/COMM/.....<sup>204</sup>...../22  
Date: 15 March 2022

Mr. Reyno D. De Beer  
Counsel  
Liberty Fighters Network  
[REDACTED]  
[REDACTED] Pretoria, Gauteng,  
Republic of South Africa  
Phone: [REDACTED] +27 12 023 1976  
Email: [reyno@libertyfighters.co.za](mailto:reyno@libertyfighters.co.za)

Dear Mr. De Beer,

**Subject: Complaint by Jacob Gedleyihlekisa Zuma v Republic of South Africa**


I write with reference to the Complaint submitted on 19 January 2022 against the Republic of South Africa, and to inform you that during its 70<sup>th</sup> Ordinary Session held from 23 February – 09 March 2022, the African Commission on Human and Peoples' Rights (the Commission), considered your request for provisional measures to be granted to Mr. Zuma.

In that regard, the Commission requests that you submit further/evidential information or certified medical records on Mr. Zuma's health status, demonstrating the need for the grant of the Provisional Measures, to enable it make a determination on the matter.

Please accept my best regards.

Sincerely,

  
Ms. Lindiwe Khumalo  
Ag. Executive Secretary to the Commission

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الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (+220) 4410505 / 4410506; Cell: (+220) 2304261 E-mail: <a href="mailto:au-banjul@africa-union.org">au-banjul@africa-union.org</a> ; Web <a href="http://www.achpr.org">www.achpr.org</a>		

Ref: ACHPR/STC/COMM/779/22/...955/22  
Date: 04 October 2022

Mr. Reyno D. De Beer  
Counsel  
Liberty Fighters Network  
[REDACTED]  
[REDACTED] Pretoria, Gauteng,  
Republic of South Africa  
Phone: [REDACTED] +27 12 023 1976  
Email: [reyno@libertyfighters.co.za](mailto:reyno@libertyfighters.co.za)

Dear Mr. De Beer,

**Subject: Communication 779/22 - Jacob Gedleyihlekisa Zuma v Republic of South Africa**

I write to inform you that in accordance with **Rule 115 (5)** of the Rules of Procedure 2020, the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) considered the above-referenced Communication and decided to be seized of it.

It should also be noted that, in line with **Rule 100** of the Rules of Procedure, the above Communication was considered by the African Commission on Human and Peoples' Rights (the Commission) sitting at its 70th Ordinary Session held from 23 February to 9 March 2022. Following its decision at plenary, the Secretariat sent a letter on 15 March 2022 requesting further information to demonstrate the need for the grant of Provisional Measures in the Complaint, but there was no response.

At the 72<sup>nd</sup> Ordinary Session held from 19 July to 2 August 2022, the Commission therefore decided not to grant the request for Provisional Measures, pending a possibility of reconsideration, should the Complainant submit the requested information within 30 days of its decision. This information however has to date not been provided.

Kindly be informed that the Complaint has been registered by the Secretariat as reflected in the subject caption above. Therefore, all future correspondences pertaining to this matter must bear this reference.

ra/ms//LK

Please note that pursuant to **Rule 116 (1)** of the Rules of Procedure 2020, you are further required to submit arguments and evidence on the Admissibility and Merits of this Communication within **sixty (60) days** of this notification.

Please accept my best regards

Sincerely,

  
**Ag. Executive Secretary to the Commission**





Ref: ACHPR/STC/COMM/779/22/...804.../23  
Date: 25 July 2023

Mr. Reyno D. De Beer  
Counsel  
Liberty Fighters Network  
[REDACTED]  
[REDACTED] Pretoria, Gauteng,  
Republic of South Africa  
Phone: [REDACTED] +27 12 023 1976  
Email: [reyno@libertyfighters.co.za](mailto:reyno@libertyfighters.co.za)

Dear Mr. De Beer,

**Subject: Communication 779/22 - Jacob Gedleyihlekisa Zuma v Republic of South Africa**

The Secretariat acknowledges receipt of your letter on 14 July 2023. Please note that the Commission has taken note of the expiry of the deadline for the Respondent State to submit its observations on Admissibility and Merits and will proceed with the consideration of the Communication, in accordance with Rule 118(2) of the Commission's Rules of Procedure (2020).

The Commission has also taken note of the information on the imminent return of the Complainant to prison, but also notes that no evidence justifying urgent treatment of the case has been presented to the Commission, nor has a formal request for the granting of Provisional Measures in terms of the Rules of Procedure been filed. In this respect, kindly be informed that the Commission will deal with the Communication in the normal cause accordance with its Rules of Procedure and intends to consider it on Admissibility at one of its forthcoming sessions.

Please accept my best regards.

Sincerely,

Ms. Lindiwe Khumalo

Ag. Executive Secretary to the Commission

ra/prc/LK

**Subject:** RE: URGENT/CONFIDENTIAL/PRIVATE - SUPPLEMENTARY REPRESENTATIONS IN RELATION TO YOUR CONSIDERATION OF IMPRISONMENT OF FORMER PRESIDENT, MR. JACOB GEDLEYIHLEKISA ZUMA

**From:** "Gwamanda, Thembi" <[REDACTED]>

**Date:** 2023/08/04, 12:26

**To:** Reyno De Beer <reyno@libertyfighters.co.za>

Dear Mr De Beer

I hereby acknowledge receipt with thanks.

Kind regards

---

From: Reyno De Beer <reyno@libertyfighters.co.za>

Sent: Wednesday, 02 August 2023 09:11

To: Gwamanda, Thembi <[REDACTED]>

Cc: Reyno De Beer <[REDACTED]>

Subject: URGENT/CONFIDENTIAL/PRIVATE - SUPPLEMENTARY REPRESENTATIONS IN RELATION TO YOUR CONSIDERATION OF IMPRISONMENT OF FORMER PRESIDENT, MR. JACOB GEDLEYIHLEKISA ZUMA

**ATTENTION:** NATIONAL COMMISSIONER OF CORRECTIONAL SERVICES

Mr. Makgothi Samuel Thobakgale

c/o Ms. Thembi Gwamanda (Personal Assistant)

Poyntons Building, cnr WF Nkomo and Sophie De Bruyn Streets

West Block, PRETORIA

Dear Commissioner

***KINDLY FIND ATTACHED*** a letter containing supplementary representations for our principal, former President, Mr. Jacob Gedleyihlekisa Zuma, with Annexures "A" to "C".

***KINDLY*** confirm receipt by return email.

--

**PS: Kindly note the Important/Disclaimer Notice underneath our signature for your information.**

Kind Regards,

**Reyno De Beer**

President: Liberty Fighters Network

Landline: +27 (0) 12 023 1976

Mobile: [REDACTED]

Telegram News Channel: [@libertyfightersnews](#)

Facebook: [libertyfightersnetwork](#)

Twitter: [@LFN\\_SouthAfrica](#)

YouTube: [Reyno De Beer, Liberty Fighter #1](#)

Website: [www.libertyfighters.co.za](#)

Email: [reyno@libertyfighters.co.za](mailto:reyno@libertyfighters.co.za)

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\*\*\*\*\*

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\*\*\*\*\*



"R7"

**Subject:** The Courier Guy | 3MCZ4B | Delivered  
**From:** The Courier Guy <support@thecourierguy.co.za>  
**Date:** 2023/08/03, 11:32  
**To:** [REDACTED]



Track parcel

Hi Reyno De Beer

Your shipment (3MCZ4B) has been **delivered** successfully.

**Status:** PIN entered successfully

**Parcel count:** 1

**Service level:** LOF

**Collection:**

**Address:**

Liberty Fighters Network

[REDACTED]

[REDACTED]

Pretoria

0182

GP

South Africa

**Collection instructions:**

Hoot at gate.

**Contact person:**

Reyno De Beer

**Contact email:**

[REDACTED]

**Contact number:**

[REDACTED]

**Delivery:**

**Address:**

National Commissioner of Correctional Services  
Poyntons Building  
cnr WF Nkomo and Sophie De Bruyn Streets  
West Block  
Pretoria  
Pretoria  
0002  
GP  
South Africa

**Delivery instructions:**

Deliver to PA of National Commissioner: Correctional Services

**Contact person:**

Ms. Thembi Gwamanda

**Contact email:**

[REDACTED]

**Contact number:**

[REDACTED]

For any queries regarding your shipment, please contact us directly at [support@thecourierguy.co.za](mailto:support@thecourierguy.co.za)

Kind regards,  
The Courier Guy