

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**Case No: 5019/2021**

In the matter between:

<b>CHAIRPERSON OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE</b>	<b>Applicant</b>
---	------------------

and

<b>PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA</b>	<b>First Respondent</b>
<b>PUBLIC PROTECTOR</b>	<b>Second Respondent</b>
<b>ECONOMIC FREEDOM FIGHTERS</b>	<b>Third Respondent</b>
<b>UNITED DEMOCRATIC MOVEMENT</b>	<b>Fourth Respondent</b>
<b>CONGRESS OF THE PEOPLE</b>	<b>Fifth Respondent</b>
<b>DEMOCRATIC ALLIANCE</b>	<b>Sixth Respondent</b>
<b>VYTJIE MENTOR</b>	<b>Seventh Respondent</b>
<b>CONGRESS FOR THE ADVANCEMENT OF THE SOUTH AFRICAN CONSTITUTION</b>	<b>Eighth Respondent</b>

---

**EIGHTH RESPONDENT'S NOTICE TO ABIDE**

---

**TAKE NOTICE THAT** the Eighth Respondent will abide by the decision of the above Honourable Court in this application.

**TAKE FURTHER NOTICE THAT** the Eighth Respondent, however, attaches to this notice an affidavit which is relevant to the determination of this application.

DATED at **JOHANNESBURG** on this the **15<sup>th</sup>** day of **FEBRUARY 2021**.



---

**WERKSMANS ATTORNEYS**  
Eighth Respondent's Attorneys  
The Central  
96 Rivonia Road  
Sandton  
2196  
Tel: (011) 535 8199  
Fax: (011) 535 8623  
Email: [dsingo@werksmans.com](mailto:dsingo@werksmans.com)  
Ref: **Mr D Singo / PROB20192.306**

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT,  
PRETORIA**

**AND TO: STATE ATTORNEY, JOHANNESBURG**  
Applicant's Attorneys  
Email: [JohVanSchalkwyk@justice.gov.za](mailto:JohVanSchalkwyk@justice.gov.za)  
Mobile: 071 401 6235  
Att: Mr Johan van Schalkwyk  
Ref: 1544/18/P45  
**Care of –**  
**STATE ATTORNEY, PRETORIA**  
SALU Building  
316 Thabo Sehume Street  
Pretoria CBD  
Ref: Mr Isaac Chowe

**AND TO: PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**  
**First Respondent**  
**Care of –**  
**STATE ATTORNEY, PRETORIA**  
SALU Building  
316 Thabo Sehume Street  
Pretoria CBD  
Ref: Mr L Kopman

**AND TO: PUBLIC PROTECTOR**  
**Second Respondent**  
Public Protector House  
Hillcrest Office Park  
175 Lumon Street  
Pretoria

**AND TO: ECONOMIC FREEDOM FIGHTERS**  
**Third Respondent**  
3rd Floor Mineralis Building  
Corner De Korte & De Beer Streets  
Braamfontein  
Johannesburg

**AND TO: UNITED DEMOCRATIC MOVEMENT**  
**Fourth Respondent**  
1<sup>st</sup> Floor CPA House  
101 Du Toit Street  
Pretoria

**AND TO: CONGRESS OF THE PEOPLE**  
**Fifth Respondent**  
4<sup>th</sup> Floor, Marks Building  
90 Plein Street  
Cape Town

**AND TO: DEMOCRATIC ALLIANCE**  
**Sixth Respondent**  
2<sup>ND</sup> Floor Theba Hosken House  
Corner Breed And Mill Streets  
Cape Town

**AND TO: VYTJIE MENTOR**  
**Seventh Respondent**  
149A Murray Street  
Vierlanden  
Durbanville  
Cape Town

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

Case No: 5019/2021

In the matter between:

**CHAIRPERSON OF THE JUDICIAL COMMISSION**

**OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,**

**CORRUPTION AND FRAUD IN THE PUBLIC SECTOR**

**INCLUDING ORGANS OF STATE**

Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**

First Respondent

**PUBLIC PROTECTOR**

Second Respondent

**ECONOMIC FREEDOM FIGHTERS**

Third Respondent

**UNITED DEMOCRATIC MOVEMENT**

Fourth Respondent

**CONGRESS OF THE PEOPLE**

Fifth Respondent

**DEMOCRATIC ALLIANCE**

Sixth Respondent

**VYTJIE MENTOR**

Seventh Respondent


**CONGRESS FOR THE ADVANCEMENT  
OF THE SOUTH AFRICAN CONSTITUTION**

Eighth Respondent

---

**EIGHTH RESPONDENT'S SUPPORTING AFFIDAVIT**

---

L. J.  


I, the undersigned,

**PARMANANDA LAWSON NAIDOO**

do hereby make oath and say that:

- 1 I am an adult male employed as the Executive Secretary of the Eighth Respondent, namely the Council for the Advancement of the South African Constitution ("**CASAC**") – which is erroneously cited above as the "Congress for the Advancement of the South African Constitution" – a public benefit organisation with its business address at Unit 7, Olympia Court, 85 Durban Road, Mowbray, Cape Town. I am duly authorised by CASAC to depose to this affidavit.
- 2 The facts contained herein are within my personal knowledge, save as it may appear otherwise from the context, and are to the best of my knowledge and belief, both true and correct.
- 3 Where I make legal submissions, I do so on the advice of my legal representatives in this matter.

**INTRODUCTION**

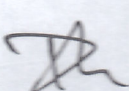
- 4 I have read the founding affidavit of the Applicant ("**Chairperson**"), deposed to by the Honourable Deputy Chief Justice Zondo on 31 January 2021.
- 5 I file this affidavit in support of the urgent application brought by the Chairperson in this Court, in which he seeks an order extending the term of the Commission over a period of three months from 31 March 2021 to 30 June 2021.



6 The remainder of this affidavit is structured as follows –

- 6.1 First, I detail the interest of CASAC in these proceedings and the lengthy role that it has played to date.
- 6.2 Second, I set out the reasons advanced by the Chairperson for the extension sought and why the application is supported by CASAC.
- 6.3 Third, I set out paragraph-by-paragraph responses to specific allegations contained in the Chairperson's founding affidavit.

#### CASAC'S OVERSIGHT ROLE

- 7 CASAC has been involved in proceedings relating to the Public Protector's Report No. 6 of 2016/17, which was released on 2 November 2016 and entitled "State of Capture" ("**Report**"), since 2017. It was cited as the eighth respondent in the review application brought by the erstwhile President Jacob Zuma ("**Mr Zuma**") to review and set aside certain aspects of the remedial action in the Report.
  - 8 A Full Bench of this Court dismissed Mr Zuma's review application with costs, and directed that a Commission of Inquiry ("**Commission**") be established in line with the remedial action of the Public Protector as per the Report. The Chairperson was appointed to head up the Commission.
- L.J.  


- 9 The Commission was established in 2018 and commenced its duties thereafter. CASAC has consistently monitored the work of the Commission. CASAC remains committed to ensuring that the Commission is making progress and is exercising its invaluable mandate effectively and punctually.
- 10 CASAC exercises this role because of its status as a public benefit organisation but also because of the importance of the work done by the Commission. CASAC, like the broader South African public, takes seriously the allegations of serious corruption and malfeasance perpetrated by senior state officials at the expense of the State. CASAC is committed to ensuring that the work of the Commission is properly finalised for the necessary criminal and recovery processes to begin.
- 11 It is for this reason that CASAC files this affidavit and has also previously filed affidavits in the prior extension applications of the Chairperson that resulted in court orders extending the Commission's terms on 2 October 2018 and 24 February 2020.

#### **EXTENSION APPLICATION**

- 12 In his extension application, the Chairperson explains the work of the Commission immediately after the extension order of 24 February 2020. He also sets out that according to the Commission's schedule, public hearings were scheduled to be held from the last week of March until June 2020.
- 13 This changed when the country was placed under Level 5 lockdown, effective from 27 March 2020. The Commission was therefore unable to hold public hearings. The lockdown also affected the work of the investigative team which



was no longer able to travel across provincial borders to consult. Even when the strictures of Level 5 were relaxed on 1 May 2020, the Commission was unable to hold public hearings because the existing regulations made it impractical to do so.

- 14 Public hearings only resumed towards the end of June 2020 through virtual proceedings.
- 15 CASAC is of the view that the reasons advanced by the Chairperson are a reasonable explanation and justify an extension of the Commission's lifespan. CASAC also acknowledges efforts taken by the Commission to increase productivity and make up for the hours lost during the lockdown. This includes recording the evidence of certain witnesses, conducting hearings on Saturdays, increasing its work hours to hear more evidence and beginning the task of summarising and analysing the evidence presented.
- 16 In his founding affidavit, the Chairperson is explicit that the additional three months would be used for the preparation of the Commission's Report while the evidence is being heard.
- 17 CASAC, like the broader South African public, awaits the Report of the Commission at the end of June 2021 and is grateful to the Commission for the fact that it is going to finalise its work in the next few months.



**AD SERIATIM RESPONSES**

- 18 I now turn to deal with the specific allegations made by the Chairperson in his founding affidavit. I only address those specific paragraphs in the Chairperson's affidavit that, in my view, require a specific response.

**AD PARAGRAPHS 1 - 6**

- 19 I admit the contents of these paragraphs.

**AD PARAGRAPHS 7 - 10**

- 20 The contents of these paragraphs are noted.
- 21 CASAC is not of the view that the final nature of the order of Hughes J, dated 24 February 2020 impedes the extension application of the Chairperson.
- 22 This is because that judgment could not have anticipated and did not take into account the advent of the Covid-19 pandemic and the impact of the resultant restrictions imposed by the national government on the work of the Commission.
- 23 Accordingly, CASAC agrees with the Chairperson's averments that sufficient reasons exist for the granting of a three month extension.

**AD PARAGRAPHS 10 - 21**

- 24 The contents of these paragraphs are noted.
- 25 CASAC acknowledges the measures put in place by the Commission to optimise its operations. It is also clear from the founding affidavit that despite the

implementation of these measures. the Commission has lost three months of public hearings.

- 26 CASAC notes the undertaking by the Chairperson to make improvements and better arrange for the hearing of evidence in the evenings.

**AD PARAGRAPH 22**

- 27 The contents of this paragraph are noted.

- 28 In particular, I note that the Chairperson intends to use "*the months of January to March 2021, which would have been used for the preparation of the report, ... for the hearing of oral evidence.*" The Chairperson also states that "*if this Honourable Court grants the three months' extension sought in this application, April, May and June will be used for the preparation of the report.*"

**AD PARAGRAPHS 23 - 25**

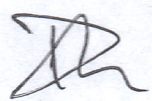
- 29 The contents of these paragraphs are noted.

- 30 CASAC notes the progress made by the Commission in respect of the identified workstreams.

**AD PARAGRAPHS 26 - 31**

- 31 The contents of these paragraphs are noted.

- 32 In the circumstances, CASAC supports the extension application of the Chairperson and the relief sought in the Notice of Motion.

L. J.  




*Staidco*

DEPONENT

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at Rondebosch on 15 FEB 2021, the regulations contained in Government Gazette Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.

7114214 UT  
JAWUKA  
COMMISSIONER OF OATHS  
NAME: LUXOIO JAWUKA  
DESIGNATION: CST  
ADDRESS: CHURCH STREET  
RONDEBOSCH

