

JACOB ZUMA FOUNDATION
STATEMENT ON THE CONSTITUTIONAL COURT JUDGMENT
31 August 2026

The Jacob Zuma Foundation notes today's Constitutional Court judgment on the recusal of Justice Khampepe from chairing the Commission, and sets out its position for the public record.

Section 47(1) of the Superior Courts Act

The Foundation welcomes the Court's affirmation of the position consistently advanced by our Patron, President Jacob Zuma: that section 47(1) applies to judges exercising judicial functions, and should not be extended beyond that context. We regard this as a significant principle and will continue to defend it.

The Recusal Application

On the recusal application itself, our Patron has not prevailed, and the Foundation accepts the outcome. The margin was exceptionally narrow. The Court divided 4-4 on apprehension of bias, with the outcome decided by the casting vote of the presiding judge, Justice Rogers, against our Patron's position. That four judges agreed with our Patron's concern confirms it was not frivolous, fanciful, or without legal foundation.

The Matter Does Not End Here

The conclusion of the recusal litigation does not end the broader concerns already placed before the relevant authorities. On the advice of its legal representatives, the Foundation will now pursue two further processes: a criminal complaint to the South African Police Service concerning the conduct of the Commission's Chairperson toward the evidence leader, including the alleged sharing of notes and alleged coaching on how to respond to the challenge to his role; and a formal complaint to the Judicial Service Commission concerning Justice Khampepe's ethical conduct, based on evidence and material already before the courts.

Our Position

The Foundation respects the Constitutional Court's authority and accepts today's judgment. We regard the outcome as a narrow loss on the recusal issue, not a wholesale rejection of the concerns President Zuma raised, and we welcome the Court's position on section 47(1) as an important affirmation of a principle the

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Foundation has consistently argued. We will now proceed with the SAPS and JSC complaints through the appropriate constitutional, legal and institutional channels.

Issued by:

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