



COUNCIL
FOR THE ADVANCEMENT OF THE
SOUTH AFRICAN
CONSTITUTION

MEDIA STATEMENT

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CASAC welcomes Concourt decision about Adv Menzi Simelane

CASAC welcomes the unanimous decision of the Constitutional Court in *Democratic Alliance v President of the RSA and Others* in which the Court confirmed that the appointment by President Zuma of Adv. Menzi Simelane as National Director of Public Prosecutions (NDPP) was irrational and hence invalid.

The judgment found that the President, on the advice of the Minister of Justice, acted irrationally by not examining the serious prima facie evidence which emerged at the Ginwala Inquiry (whose findings the President had accepted) that Adv Menzi Simelane lacked the requisite honesty and integrity required from the NDPP.

CASAC in particular welcomes the important constitutional principles confirmed by this judgment that the office of NDPP must be “non-political and non-partisan” and that that the Constitution, read with the NPA Act, requires the President to objectively ascertain whether the appointee is a fit and proper person with due regard to their conscientious and integrity to ensure the NPA at all times acts without fear, favour or prejudice.

In terms of this judgment, when deciding on the appointment of a new NDPP, the President has a legal duty to consider whether his chosen appointee will be able to ensure the NPA take decisions to institute criminal prosecution “honestly, fairly and without fear, favour or prejudice”; and that the appointee will not tolerate “any improper interference, hindrance or obstruction of the prosecuting authority by any organ of state”. We call on the President to consider these factors carefully before he appoints a new NDPP to ensure that the credibility and the neutrality of the NPA will be restored.

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