



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

## **Media Statement**

### **Supreme Court of Appeal Judgment**

13 October 2017

CASAC welcomes the judgment of the Supreme Court of Appeal today dismissing the appeals by President Zuma and the National Prosecuting Authority (NPA) against the decision of the NPA to withdraw the fraud, corruption and racketeering charges against the President.

In a comprehensive, reasoned and scathing judgment the SCA poured scorn on the manner in which the NPA sought to justify Adv Mokotedi Mpshe's decision in April 2009. The court was moved to say " ... it beggars belief that the present regime at the NPA, on its own version of events, saw fit to defend Mr Mpshe's decision as being rational ... The manner in which the affidavits were drawn and the case conducted on behalf of the NPA was inexcusable".

This judgment strikes another blow against the credibility and integrity of the NPA, and its capacity to exercise its mandate without fear, favour or prejudice. The suitability of Mr Abrahams to continue to hold office as the National Director of Public Prosecutions must now be seriously questioned; his tenure continues to bring the NPA into disrepute. President Zuma has deliberately weakened institutions of governance, especially those in the criminal justice sector for his personal benefit. An overhaul of the NPA would be in the interests of the prosecuting body, the rule of law and the people of South Africa.

Since he is clearly directly conflicted in the matter, little faith can be placed in the President to initiate steps to suspend and remove Mr Abrahams. However, it must be noted that Parliament has the authority in terms of s.12(7) of the NPA Act to take action to remove Mr Abrahams from office. We call on Parliament to exercise its powers in this regard.

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South Africa has been weighed down by this saga for many years, and whilst the SCA has itself acknowledged that this judgment is unlikely to signal the “end of the contestations concerning the prosecution of Mr Zuma”, we certainly hope that it is the beginning of the very end. The Courts have in the course of this litigation often remarked that the merits and strength of the case against Mr Zuma are not in question.

In conceding before the SCA that Mr Mpshe’s decision was indeed irrational, President Zuma is now seeking to rely on making further representations to the NDPP to review the decision to prosecute. We draw attention that s.179(5) of the Constitution provides the NDPP with the discretion to hear such representations but does not oblige him to do so. In view of the history of this saga we believe it is in the public interest and the interests of justice for the charges to be prosecuted forthwith. Any representations or prejudicial conduct by the prosecuting body can be made before the trial court which would be the appropriate forum to hear such matters.

Further enquiries

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