



SUBMISSION

to the

**Secretariat of the Judicial Service
Commission**

on the

**Revised Procedures for Shortlisting,
Interviewing and Recommending
Candidates for Judicial Appointment, etc.**

17 September 2026

Introduction

1. The Catholic Parliamentary Liaison Office (CPLO) welcomes this opportunity to comment on the *Revised Procedures for Shortlisting, Interviewing and Recommending Candidates for Judicial Appointment and Regarding Breaches of Members' Duties of Confidentiality, Law and Ethical Standards* ("the revised Procedures"). The CPLO is an office of the Southern African Catholic Bishops' Conference, tasked with liaising between the Church and Parliament/Government/State Institutions, commenting on issues of public policy, and making submissions on legislation and policy documents.

2. The Catholic Church recognises and upholds the importance of an independent, impartial and professional judicial sector. South Africa has, in general, been well-served by its judiciary since the advent of democracy in 1994, and we further recognise the vital role that has been played in this regard by the Judicial Service Commission.

3. Nevertheless, it is unfortunately the case that there have recently been some high-profile ethical lapses by judges (two of which resulted in impeachment and dismissal, while others are still under enquiry or awaiting the attention of the National Assembly), as well as regrettable instances of politicization of the JSC's selection processes, the attempted pursuit of personal interests by at least one Commissioner and, during the hearings for the position of Chief Justice in 2022, a baseless attempt to malign one of the candidates. It is therefore fitting that the JSC has decided to revise its procedures and to give attention to the ethical standards of its members.

4. We wish to comment in particular on two aspects of the revised Procedures: Shortlisting by the Screening Committee; and Breaches of Confidentiality and Ethical Standards.

4.1. Shortlisting: Over the last few years we have seen at least five judges found guilty of gross misconduct; one has been arrested on a charge of corruption; one is on trial for alleged theft and money laundering before his appointment to the bench; one was involved in an unseemly dispute over state-funded accommodation; and a number of others have come under scrutiny for unacceptably long delays in the finalization of judgments.

The Constitution requires that a candidate must be 'a fit and proper person' for judicial office, and the JSC's own supplementary criteria (dated 10 September 2010) require that he or she must be 'a person of integrity' and someone with the 'necessary energy and motivation', as well as technically competent. Given the number of judges that have fallen short of these criteria, the question must arise as to the thoroughness of the Screening Committee's vetting processes.

It is not enough that candidates themselves affirm that there is nothing in their background or professional life that would render them unsuitable for judicial office or bring the judiciary into disrepute. A more proactive and investigatory approach on the part of the Screening Committee is needed. It appears that the current practice is that public comment, and comment from legal professional bodies, is sought only once candidates have been shortlisted. This gives the impression that the candidate has already met a certain threshold – they deserve to be shortlisted – and this may tend to discourage adverse comment. Perhaps, therefore, the full list of nominations, rather than just the shortlist, should be published for comment.

4.2. Ethical Breaches: There are potentially 16 ‘political’ members of the JSC (ten from Parliament, four presidential appointees, the Justice Minister and a provincial premier). It is of the greatest importance that these members understand that they are not on the JSC in order to advance their party-political interests, but to represent the public interest. Even less should they ever abuse their position to pursue personal interests. Members of the National Assembly and the National Council of Provinces who serve on the JSC represent these institutions, and we therefore strongly support the provision in paragraph 41 of the revised Procedures – that if any political member of the JSC should abuse his or her position, Parliament should be requested to ‘remove, replace or discipline’ the member.

The same applies to JSC members nominated by professional bodies. They must not allow their personal or political interests to interfere with their representative role. Recently, the untenable situation obtained where one of the two representatives of the advocates’ profession was, at the same time, the chairperson of a political party; and was instrumental in the attempt to malign a candidate for the position of Chief Justice, as mentioned earlier. The JSC needs to adopt a more robust approach in such instances, and ensure that the highest ethical standards are maintained by all its members. It should also go without saying that no active party politician should occupy any of the non-political seats on the JSC.

4. Conclusion

We wish the JSC well in its endeavours to improve its procedures and to enforce appropriate ethical standards among its members. There should be no compromise when it comes to upholding the professional and ethical standards of the judiciary and of the processes whereby our judges are chosen.

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