



CONSTITUTIONAL COURT OF SOUTH AFRICA

Corruption Watch v Speaker of the National Assembly and Others

CCT 333/23

Date of hearing: 6 March 2025

Date of judgment: 1 August 2025

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

On 1 August 2025 at 10h00, the Constitutional Court handed down a unanimous judgment authored by Acting Justice Goosen in an application for direct access concerning the alleged failure of the National Assembly to comply with its constitutional obligation to facilitate a reasonable public participation process in the appointment of new members for the Commission for Gender Equality (CGE).

Corruption Watch brought this application under the Court's exclusive jurisdiction in section 167(4)(e) of the Constitution. This section provides that only this Court may decide that the National Assembly has failed to fulfil a constitutional obligation.

Corruption Watch submitted that the public participation process was defective due to insufficient information on the shortlisted candidates being made publicly available. Furthermore, they submitted that the public input was restricted to 2000 character submissions and; only 14 days were provided for written

submissions. Corruption Watch contended that the opportunity for public participation was unreasonable and inadequate. Furthermore, that the Portfolio Committee misinterpreted the Protection of Personal Information Act (POPIA), leading to unnecessary restrictions on candidate information. In doing so, the Portfolio Committee wrongly concluded that POPIA permits only the sharing of minimal information.

The Speaker, on behalf of the National Assembly, submitted that the opportunity it afforded to members of the public to participate in the recommendation process was reasonable and defended the 14-day period as sufficient, citing past appointment processes. Furthermore, the Speaker submitted that the Portfolio Committee properly considered all public comments before making recommendations and that withholding full CVs of the shortlisted candidates was in line with POPIA, as consent was required before publicly sharing candidates' personal information.

The Information Regulator submitted in an explanatory affidavit, that consent is not required if the processing of that information is necessary for public duties. It supported Corruption Watch in stating that POPIA does not prevent the Portfolio Committee from fulfilling its constitutional mandate to ensure public involvement in legislative and "other processes".

The *Amicus Curiae*, Media Monitoring Africa, submitted that effective media reporting is crucial for transparency and public engagement and also contended that the Portfolio Committee's failure to publish candidates' CVs hindered the media's ability to act as a watchdog and report substantially, ultimately restricting the public's right to access information and meaningfully participate in the appointment process.

The Court held that the mechanisms adopted by the Portfolio Committee to facilitate public involvement in the appointment of Commissioners to the CGE failed to allow for effective public participation. While a court must take due cognisance of what the National Assembly chooses to do to facilitate public involvement, the assessment of what was done is objective. In this instance, the National Assembly acted upon an interpretation of POPIA which was manifestly incorrect, rendering the conduct unreasonable. This, coupled with the short period allowed for public comments and the restriction on such comments, materially affected the appointment process as a whole. In the circumstances, the appointment process conducted by the National Assembly therefore did not comply with the obligations imposed by section 59(1)(a) of the Constitution and is therefore invalid.

On costs, the Court held that, Corruption Watch is entitled to an award of costs, including those of two counsel, payable by the National Assembly. The Commissioners did not oppose the principal relief nor did they seek costs, in these circumstances no order relating to their costs was made.