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A BRIEF ON THE CONSTITUTIONAL COURT OF ZAMBIA

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Zambia Elections Information Centre



Justice, Honour and Integrity

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The Constitutional Court is a new Court which was established under Article 127 of the Constitution of Zambia (Amendment) Act, No. 2 of 2016 (“**the Amendment Act**”), which was assented to by the President of the Republic of Zambia on 5th January 2016. Prior to Amendment Act coming into force, all Constitutional matters were dealt with primarily by the High Court of Zambia, with the possibility of such matters being taken to the Supreme Court on appeal.

The Constitutional Court, as established, is at the same level as the Supreme Court. This means that all decisions of the Constitutional Court are Final and a person dissatisfied with the decision of the Constitutional Court cannot appeal to any other Court.¹

The Constitutional Court has original and final jurisdiction to hear and determine matters in respect of interpretation of any provision of the Constitution, any matters relating to the election of the President and Vice-president as well as any matters relating to appeals on petitions of election of Members of Parliament and Councilors as well as matters to determine whether an issue is a Constitutional issue or not.² However, since the referendum failed, enforcement of violation of Human Rights as enshrined in the Bill of Rights, that is under part three of the Constitution, will be within the Jurisdiction of the High Court in accordance with Article 28 of the Constitution of Zambia.

In terms of its composition, the Constitutional Court is supposed to have at least thirteen (13) Judges, that is the President of the Court, Deputy President and eleven (11) other Judges. The President presides over the Court and in her absence the Deputy President must preside over the Court. In the absence of the Deputy President the most senior Judge may preside over the Court.³

Currently the Constitutional Court only has six Judges that is, Judge Hildah Chibomba as President of the Court and Judge Mugeni Mulenga, Judge Margaret Munalula, Judge Anne Sitali, Judge Enock Mulembe and Judge Palan Mulonda, ordinary judges of the Court. These Judges were appointed on 22 March 2016. At present there is no Deputy President of the Court.

When hearing a substantive matter, the Constitutional Court has to comprise an uneven number of not less three judges except on interlocutory matters. This means that three Judges of the Court can hear and determine a matter. The full bench of the Constitutional Court is five Judges. All decisions of the Court are made by majority decision.⁴

¹ Article 121 of the Constitution of Zambia (Amendment) Act No. 2 of 2016.

² Article 128 of the Constitution of Zambia (Amendment) Act No. 2 of 2016

³ Article 127 and Article 129 of the Constitution (Amendment) Act No. 2 of 2016.

⁴ Article 129 of the Constitution of Zambia (Amendment) Act No. 2 of 2016