

NB TUCHTEN

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South Africa

1 May 2019

Deputy Judge-President PL Goliath
plgoliath@gmail.com

Dear Judge Goliath,

Complaint by Judge Makhubele against Judge Tuchten

- 1 I refer to my letter to you dated 23 April 2019, to which I have not yet received a reply.
- 2 On 28 April 2019, my clerk telephoned your clerk to ask whether you had received my previous letter, which I sent to your personal email. My clerk, Ms Malebo Shongwe, reported back to me that your clerk confirmed that you had indeed received my previous letter and added that you did intend to provide me with information about the course of the enquiry against me but that you were waiting to learn from the JSC Secretariat by when the complainant in my case had been required to reply to my response to the complainant's two affidavits of complaint.
- 3 I want the complaint against me to be resolved by adjudication by the Committee, fairly and promptly. I do not think that the complaint against me should be allowed to linger. The allegations of racism, sexism and the dissemination of hate speech which the complainant made against me in her complaint affidavits have now been reported in the press.¹ My only remedy against this, I think, cynical and baseless attack on my integrity

¹ <https://www.news24.com/SouthAfrica/News/hate-speech-race-and-gender-judge-makhubele-lodges-complaint-against-judge-tuchten-over-prasa-judgment-20190430>

is the decision of the Committee. But for procedural reasons which I do not understand, the progress of the complaint against me appears to have stalled. I shall tell you why I say this.

4 I suspect that the complaint against me was reactionary in nature in that it was made to forestall consideration of a complaint which the complainant anticipated would be lodged against her with the JSC, arising out of the matters I discussed in my judgment in *Passenger Rail Agency of SA v Siyaya Siyaya DB(Pty) Ltd and Others* (Gauteng Division case no. 23484/18). Such a complaint against the complainant was indeed lodged by #Unite Behind with the Secretariat in hardcopy on 14 January 2019.

5 I was told on 23 April 2019 by an advocate whom I consulted about the complaint against me that the complainant had not yet responded to the complaint against her of #Unite Behind.

6 I decided to take matters into my own hands and establish from the Secretariat by when the complainant had been required, firstly, to reply to my response to the complainant's two affidavits of complaint; and, secondly, to respond to the complaint of #Unite Behind.

7 I telephoned the Secretariat on 29 and 30 April 2019. On these occasions, as before in my experience, the Secretariat's landline telephones just rang and were not answered. I got through on two occasions. On the first such occasion, I was told that Ms Bali Mondlane or Monthlane was handling the complaint against me. I left a message for Ms Mondlane to which she did not respond. On the second such occasion, during the morning of 30 April 2019, I was told that Ms Mondlane had left the office but that I would be put through to Ms Mondlane's superior, Mr Gagai. I was not. The telephone just rang.

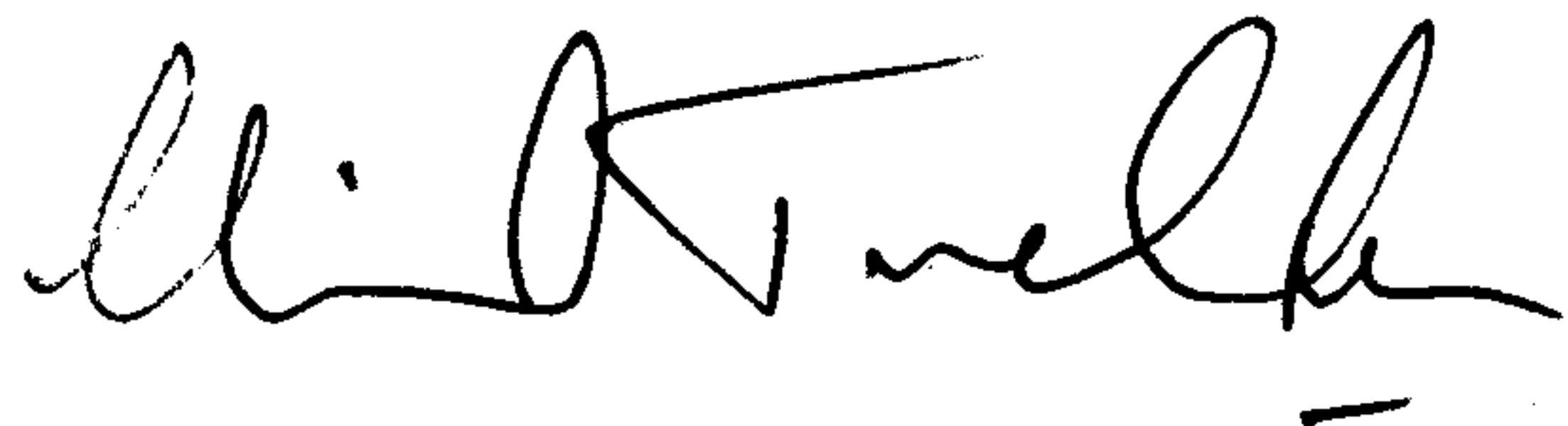
8 I have therefore no recourse but to ask the Committee itself for information. May I therefore please add two questions to the list I submitted to you in my letter dated 23 April 2019:

8.1 By when was the complainant required to reply to my answer to her complaint?

8.2 By when was the complainant required to answer the complaint of #Unite Behind submitted to the JSC on 14 January 2019?

9 I look forward to receiving from you a reply to my two letters.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "M. K. Welch". The signature is written in black ink on a white background. There is a small horizontal line under the end of the signature.

Complaint004