

RULES GOVERNING PROCEEDINGS

OF

THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF
RACISM AT STELLENBOSCH UNIVERSITY

Introduction

The Commission of Inquiry into Allegations of Racism at Stellenbosch University was appointed by the Vice Chancellor and Rector of Stellenbosch University to conduct an investigation into incidents of racism and harassment related to racism that occurred at Stellenbosch University.

The terms of reference of the Commission, dated 3 June 2022, empower the Commission to determine its own procedures. The Commission has accordingly determined these Rules as the Rules that govern its procedures. The proceedings of the Commission will be conducted in accordance with the Constitution, the Commission's Terms of Reference, any other applicable law and these Rules.

1. Definitions

Unless otherwise stated or the context indicates otherwise, in these Rules—

- 1.1. “Chairperson” means Retired Justice Khampepe in her capacity as Chairperson of the Commission;
- 1.2. “Commission” means the Commission of Inquiry into Allegations of Racism at Stellenbosch University;
- 1.3. “Commission’s Attorney” means the attorney appointed by the Chairperson to assist the Commission in the investigation and with the presentation of evidence and arguments before the Commission in regard to the matters referred to in the Terms of Reference;
- 1.4. “Constitution” means the Constitution of the Republic of South Africa, 1996;
- 1.5. “Evidence” includes but is not limited to any document, affidavit, video, sound recording or oral testimony submitted to the Commission;
- 1.6. “Legal representative” means a practising advocate or attorney;
- 1.7. “Person” includes both a natural and a juristic person;
- 1.8. “Personal information” means all information of a personal and private nature pertaining to an individual including but not limited to private addresses, private telephone numbers, private family information and details of medical conditions;
- 1.9. “Rules” means these rules as amended from time to time;
- 1.10. “Terms of Reference” mean the terms of reference of the Commission signed by the Vice Chancellor and Rector of Stellenbosch University on 3 June 2022; and
- 1.11. “University” means Stellenbosch University.

2. Witnesses presented by the Commission’s Attorney

- 2.1. Subject to anything to the contrary contained in these Rules or to the Chairperson’s directions regarding any specific witness, the Commission’s Attorney bears the overall responsibility of presenting the evidence of witnesses to the Commission.
- 2.2. The Commission’s Attorney may put questions to a witness whose evidence is presented to the Commission including questions aimed at assisting the Commission in assessing the truthfulness of the evidence of a witness. Subject

to the directions of the Chairperson, the Commission's Attorney may ask leading questions.

3. Closed proceedings and confidentiality of witnesses

- 3.1. The Commission will conduct its inquiry by way of closed proceedings.
- 3.2. The identity, personal information and evidence of witnesses will be treated as confidential.
- 3.3. All witnesses must be advised by the Commission's Attorney that their evidence will be treated as confidential.
- 3.4. During the course of the inquiry, neither the Commission nor any other person shall without the written permission of the University—
 - 3.4.1. communicate to any person any matter or information which may have come to his or her knowledge in connection with the inquiry, or allow or permit any other person to have access to any records of the Commission, except in so far as it is necessary for the Commission to perform its functions; or
 - 3.4.2. disseminate or publish the contents or any portion of the contents of any evidence submitted to the Commission.

4. Venue for hearings

- 4.1. The hearings of the Commission will be held at a venue designated for this purpose at the Stellenbosch Institute for Advance Study (STIAS), 10 Marais Street, Stellenbosch.
- 4.2. The Chairperson may, in her discretion, direct that a hearing or certain hearings of the Commission will be held at a venue other than the venue referred to in Rule 4.1. This includes the discretion to make use of a virtual platform for the purpose of a hearing or certain hearings if necessary.

5. Evidence presented to the Commission

- 5.1. The Commission may receive any evidence that is relevant to its mandate, including evidence that might otherwise be inadmissible in a court of law. The

rules of evidence applicable in a court of law need not be strictly applied to the determination of the admissibility of evidence before the Commission.

- 5.2. Anyone who has knowledge of the matters that fall within the Terms of Reference of the Commission may deliver to the Commission's Attorney a statement or affidavit setting out that information for consideration.
- 5.3. Affidavits or statements that are submitted to the Commission should:
 - 5.3.1. be formatted in numbered paragraphs, and
 - 5.3.2. include an index and subject matter headings if the statement or affidavit is more than five pages in length.
- 5.4. Where a person seeks to provide expert evidence to the Commission, his or her evidence must include a summary of relevant qualifications and experience, a summary of the expert's opinion, as well as an explanation of the relevance of the expert's testimony to the work of the Commission.

6. Oral Evidence at the Hearings

- 6.1. Witnesses will be called to give oral evidence before the Commission at the discretion of the Chairperson. The Chairperson's decision to call a witness will be informed by the likely significance of the evidence in advancing the work of the Commission.
- 6.2. A witness appearing before the Commission may be assisted by a legal representative.
- 6.3. The Chairperson or another person who is generally or specifically authorised by the Chairperson to do so, shall administer the oath or affirmation to a witness before the witness may commence giving evidence.

7. Order of evidence of a witness

The order or sequence in which witnesses will be called before the Commission will be subject to the discretion of the Chairperson.

8. Other witnesses

If any person considers that a particular witness should be called to give oral evidence, a written request to this effect should be made to the Commission and shall include the reasons for the request and the likely value of the evidence of the witness. The decision to call the witness is at the discretion of the Chairperson.

9. Practice directions

The Chairperson may issue practice directions from time to time regarding the proceedings of the Commission.

10. Amendment of Rules

The Chairperson may amend these Rules from time to time.

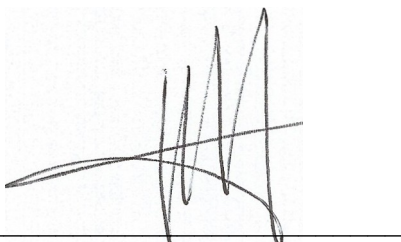
11. Commencement date of the Rules

These Rules shall come into operation upon signature by the Chairperson.

12. Citation of the Rules

These Rules shall be called the Rules of the Commission of Inquiry in Allegations of Racism at Stellenbosch University.

Signed on 10 June 2022.

A handwritten signature in black ink, consisting of several vertical strokes and a horizontal line, positioned above a solid horizontal line.

Justice S S V Khampepe

Retired Justice of the Constitutional Court of the Republic of South Africa

And

Chairperson of the Commission