



**OFFICE OF THE JUDGE PRESIDENT
WESTERN CAPE HIGH COURT**

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TO : THE LEGAL PROFESSION AND OTHER
STAKEHOLDERS

FROM : HLOPHE, JP

SUBJECT : OFFICIAL LANGUAGE OF RECORD OF THE COURT

IMPLEMENTATION DATE : 28 FEBRUARY 2018

DIRECTIVE

**OFFICIAL LANGUAGE OF RECORD IN ALL COURTS WITHIN THE WESTERN
CAPE**

WHEREAS on 31 March 2017, the Heads of Courts Forum resolved that English must be the official language of record in all courts in the Republic of South;

AND WHEREAS no national directive has been issued by the Office of the Chief Justice as to the application of this resolution;

ACKNOWLEDGING that the dynamics of each Division of the High Court/ Region differ in as far as it relates to predominant languages spoken and therefore the way the different stakeholders are currently applying the relevant directive of English being the official language of record in all courts;

AND WHEREAS the commitment by all the role players to ensure adherence to the national resolution applicable to both criminal and civil cases in all courts, will result in speedier and more efficient adjudication and finalisation of ALL cases.

THE ROLE PLAYERS ARE THEREFORE, HEREBY, DIRECTED TO ADHERE TO THE FOLLOWING:

COURT DOCUMENTS:

ALL court documents submitted to courts in both criminal and civil cases and which will form part of the eventual court record SHALL be submitted in English.

The only limited exception permitted to the said directive will be the submission of witness statements in a language other than English and only if the witness is not sufficiently conversant in English.

COURT PROCEEDINGS:

Court proceedings should as far as possible be conducted in English.

In order to comply, the presiding officer should ideally at pre-trial stage or if not possible, after the witness has been sworn in at trial stage, enquire as follows:

“IN TERMS OF A NATIONAL DIRECTIVE BY THE HEADS OF COURTS, THE OFFICIAL LANGUAGE OF RECORD IS ENGLISH. ARE YOU CONVERSANT IN ENGLISH? DO YOU HAVE ANY OBJECTION TO THE COURT PROCEEDINGS CONTINUING IN ENGLISH?”

Should the witness not have an objection to the evidence being led in English, the court should continue as such. Should the witness not be conversant in English the leading of evidence only may be conducted in any other language. In such cases an interpreter should as far as possible be utilised to interpret the evidence into English.

It is advisable that this enquiry be conducted at pre-trial stage before a matter is certified trial ready. This will enable the administration at the court to make adequate arrangements for interpretation services, if needed, to avoid unnecessary postponements.

In such cases where there is no interpreter available and there is an indication that the matter is to proceed to appeal or review, the presiding officer should, for the purposes of the court record to be in English, order the Administration of the Office of the Chief Justice and/ or the Department of Justice and Constitutional Development to have the portions of the evidence led in any other language simultaneously translated into English whilst it is being transcribed. The translated version of the evidence will form part of the court record.

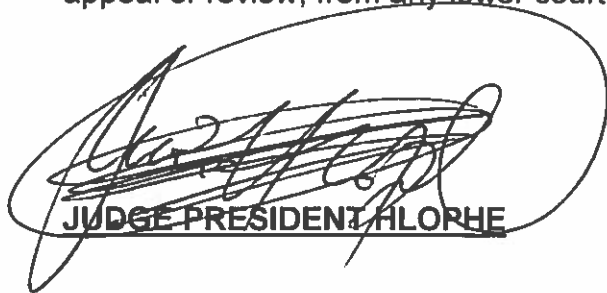
The order should read as follows:

“IN TERMS OF THE HEADS OF COURTS RESOLUTION DATED 31 MARCH 2017 RELATING TO THE OFFICIAL LANGUAGE OF RECORD BEING ENGLISH, THE COURT HEREBY ORDERS THE ADMINISTRATION OF THE OFFICE OF THE CHIEF JUSTICE AND /OR DEPARTMENT OF JUSTICE TO HAVE THE EVIDENCE LED IN ANOTHER LANGUAGE TRANSLATED INTO ENGLISH, SIMULTANEOUSLY TO IT BEING TRANSCRIBED.”

Although evidence may have been led in a language other than in English, the Presiding Officer should render all verdicts/ outcomes/ sentences in English. An interpreter should be utilised for the translation into another language should the parties /accused not be conversant in English.

SUBMISSION OF COURT RECORDS TO THE HIGH COURT:

All records whether criminal or civil submitted to the High Court either by means of an appeal or review, from any lower court will only constitute the English record.



JUDGE PRESIDENT HLOPHE

To be issued to:

The Magistracy;
The National Prosecuting Authority;
Legal Aid South Africa;
Western Cape Bar Association;
Cape Law Society;
NADEL;
BLA;
South African Police Services;
Department of Justice and Constitutional Development;
Department of Correctional Services;
Department of Social Services;
Department of Health;
Any other Court Official not mentioned above